City of Santa Fe

AGENDA

REGULAR MEETING OF THE GOVERNING BODY JUNE 24, 2020 CITY COUNCIL CHAMBERS

SPECIAL PROCEDURES FOR GOVERNING BODY MEETING

Attendance: In response to the State's declaration of a Public Health Emergency, the Mayor's Proclamation of Emergency, and the ban on public gatherings of more than five (5) people, the Governing Body meeting will be conducted virtually.

Viewing: Members of the public may view the meeting through the Government Channel on Comcast Channel 28 and Comcast HD928 or may stream the meeting live on the City of Santa Fe's YouTube channel at https://www.youtube.com/user/cityofsantafe. The YouTube live stream can be accessed at this address from most smartphones, tablets, or computers.

The video recording of this and all past meetings of the Governing Body will also remain available for viewing at any time on the City's YouTube channel at https://www.youtube.com/user/cityofsantafe. Staff is available to help members of the public access pre-recorded Governing Body meetings on-line at any time during normal business hours. Please call 955-6521 for assistance.

Radio Broadcast: The meeting can be heard on radio station KSFR 101.1.

Agenda: The agenda for the meeting will be posted at https://www.santafenm.gov.

Written Comments: The public may submit written comments on any of the items to be considered on the Consent Agenda, Discussion Agenda, Public Hearings or Petitions From the Floor through 8:00 a.m. the day of the meeting via the virtual comment "button" at santafe.primegov.com/portal/search.

Petitions from the Floor: The Governing Body will also take public comment for "Petitions from the Floor" by telephone message, through 8:00 a.m. the day of the meeting. Telephone messages must identify the submitting party's name and address and may be left at 505-955-6520. These comments will be distributed to the Governing Body for review prior to the meeting.

To provide live public comment during petitions from the floor, send your name, email address, telephone number by 8:00 a.m. the day of the meeting, to petitionsfromthefloor@santafenm.gov. A Zoom Meeting invite will be sent the day of the meeting to the email address provided. If you do not have a smartphone, tablet, or computer, call 505-955-6520 by 8:00 a.m. the day of the meeting and leave a telephone message with your name and address. The City Clerk's office will return your call on the day of the meeting to provide Zoom call-in information.

City of Santa Fe

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REGULAR MEETING OF THE GOVERNING BODY JUNE 24, 2020 CITY COUNCIL CHAMBERS

Public Hearings: The Governing Body will also take public comments for the public hearings listed on the Evening Session Agenda by telephone message, through 8:00 a.m. the day of the meeting. Telephone messages must identify the submitting party's name and address and may be left at 505-955-6520. All comments will be distributed to the Governing Body for review prior to the meeting.

To provide live public comment during the public hearings, send your name, email address, telephone number and the agenda item(s) you wish to comment on by 8:00 a.m. the day of the meeting to publiccomment@santafenm.gov. A Zoom Meeting invite will be sent on the morning of the meeting to the email address provided. If you do not have a smartphone, tablet, or computer, call 505-955-6520 by 8:00 a.m. the day of the meeting and leave a telephone message with your name, address and the agenda item you wish to comment on, and the City Clerk's office will return your call on the day of the meeting to provide Zoom call-in information.

AFTERNOON SESSION - 5:00 P.M.

1. **CALL TO ORDER**
2. **PLEDGE OF ALLEGIANCE**
3. **SALUTE TO THE NEW MEXICO FLAG**
4. **INVOCATION**
5. **ROLL CALL**
6. **APPROVAL OF AGENDA**
7. **APPROVAL OF CONSENT CALENDAR**
8. **APPROVAL OF MINUTES**
   a) Regular Governing Body Meeting – June 10, 2020
9. **PRESENTATIONS**

10. **CONSENT CALENDAR**

a. Request for Approval of Amendment #1 with Denora-MIOX, Inc. to Provide On-Site Disinfectant Solution Generation Units through December 2020 in the Amount of $428,239.21 Inclusive of NMGRT. (Jonathan Montoya, Source of Supply Operations Manager, jmmontoya@santafenm.gov, 955-4373)

b. CONSIDERATION OF RESOLUTION 2020-____. (Councilor Romero-Wirth and Councilor Abeyta)
A Resolution to Re-Establish the Santa Fe Water Conservation Committee. (Christine Chavez, Water Conservation Manager, cychavez@santafenm.gov, 955-4219)

c. Request Approval of Contracts Awarded Through RFP 20/16 to Use Department of HUD Community Development Block Grant (CDBG) Funds to Support Community Development Activities, as Follows (Total $799,810): (Alexandra Ladd, Affordable Housing Director, agladd@santafe.nm.gov, 955-6346)

SFPS – Adelante	$27,000.00
Coming Home Connection	$20,000.00
SF Habitat for Humanity	$90,000.00
Homewise	$200,000.00
Housing Trust	$150,000.00
Interfaith Shelter	$30,000.00
SF Civic Housing Authority	$100,000.00
Youth Shelters	$15,000.00
Youth Shelters	$25,000.00

d. Request for Approval of Amendments to Extend the Term of Performance on Four (4) Housing Contracts Through June 30, 202. 1 (Alexandra Ladd, Director, Office of Affordable Housing, agladd@santafenm.gov, 955-6346):

1) Amendment #1 to Mortgage Principal Reduction Contracts
a) Habitat for Humanity – (AHTF) – Contract Amount $80,000 (Current Balance is $40,000)
b) Housing Trust – (AHTF) – Contract Amount $157,500 (Current Balance - $76,000)

c) Homewise (CDBG) – Contract Amount $188,000 (Current Balance - $163,308.61)

2) Amendment #4 to Home Repair Contract
a) Homewise Home Repair (CDBG) – Contract Amount $ 75,000 (Current Balance - $ 25,716.44)

e. CONSIDERATION OF RESOLUTION NO. 2020-____. (Mayor Webber) A Resolution Establishing a Framework for the Closure of Streets to Vehicular Traffic for a Certain Period During 2020. (John Romero, Acting Public Works Department Director, jjromero1@santafenm.gov, 955-6638; Randy Randall, TOURISM Santa Fe Director, rrandall@santafenm.gov, 955-6209)

11. **DISCUSSION/ACTION**

a. Request for Approval of Contract to Establish a New Agreement for Time and Attendance Software Subscriptions with Reseller IMMIX Technology. IMMIX Technology GSA Contract GS-35F-0265X Expires on March 2, 2021 and are Requesting a New 3-Year Contract to Go to June 30, 2023. (In the amount of Year 1: $122,433.42, Year 2: $127,903.49 and Year 3: $133,179.71 for Total Compensation of $383,516.62). (Joshua Elicio, ITT Director, juelicio@santafenm.gov, 955-5576)

b. City of Santa Fe Employee Benefits Presentation by Aon. (Bernadette Salazar, Human Resources Director, bjsalazar@santafenm.gov, 955-6591)

c. Request for Approval of Renewal for Fiscal Year 2020/2021 Comprehensive Insurance Program Coverages, in the Amount of $3,034,268.06 for Annual Premiums; AJ Gallagher. (Bradley Fluetsch, CFA, Planning and Investment Officer, bjfluetsch@santafenm.gov, 955-6885)

12. **MATTERS FROM THE CITY MANAGER**

13. **MATTERS FROM THE CITY ATTORNEY**

a. EXECUTIVE SESSION

1. In Accordance with the New Mexico Open Meetings Act, Specifically NMSA 1978, Section 10-15-1, Part (H)(7), Discussion of Pending or Threatened Litigation, Including but not Limited to, a Settlement with the County of Santa Fe Regarding Payment of Certain Capital Costs for the Regional Emergency Call Center (RECC). (Erin K. McSherry, City Attorney; ekmcsherry@santafenm.gov, 955-6512)

2. In Accordance with the New Mexico Open Meetings Act, Specifically NMSA 1978, Section 10-15-1, Part (H)(8), Discussion of the Acquisition and Disposition of the Santa Fe Estates Property. (Erin K. McSherry, City Attorney; ekmcsherry@santafenm.gov, 955-6512)

14. **EXECUTIVE SESSION ACTION ITEMS**

a Approval of a Settlement Agreement with the County of Santa Fe to Resolve Payment for Certain Capital Costs Pursuant to the Second Amended Joint Powers Agreement Between the Parties for the Operation of the Regional Emergency Call Center (RECC) and the Memorandum of Agreement (MOA) Between the City and the County for Public Safety Radio Communications Motorola Dispatch Consoles and Site Equipment. (Marcos Martinez, Senior Assistant City Attorney, mdmartinez@santafenm.gov, 955-6502)

b Approval of Amendment #1 to the Termination Agreement Entered Into Between the City of Santa Fe and Santa Fe Estates in December of 2019, to Extend the Duration of the Agreement. (Andrea Salazar, Assistant City Attorney, asalazar@santafenm.gov, 955-6303)

15. **MATTERS FROM THE CITY CLERK**

16. **COMMUNICATIONS FROM THE GOVERNING BODY**

a. Introduction of Legislation

EVENING SESSION - 7:00 P.M.

ROLL CALL

17. **PETITIONS FROM THE FLOOR**

Petitions From the Floor

18. **APPOINTMENTS**

19. **PUBLIC HEARINGS**

a. Request Approval of Amendment to 2019 Annual Action Plan which Proposes to Use CARES Act Funding ($361,227) Provided by HUD to Partially Fund Operations at the Midtown Shelter. (Alexandra Ladd, Director, Office of Affordable Housing, agladd@santafenm.gov; 955-6346)

1. Approval of Budget Adjustment Request (BAR) to Increase Revenues in (2402750.490520) (CDBG) by $361,227 and Move Funds to Expenditures (2402750.510400).

2. Approval of a Professional Services Agreement + Project Budget in the Total Amount of $361,227 of CARES Act Funds for Providing Oversight and Management of the Midtown Shelter; New Mexico Coalition to End Homelessness.

b. CONSIDERATION OF BILL 2020-14. ADOPTION OF ORDINANCE NO. 2020-____. (Mayor Webber)
An Ordinance Amending Section 23-6.2 SFCC 1987 to Allow Licensed Establishments that Have Obtained an Obstruction Permit from the City and a Temporary Change/Expansion of Liquor License [Modification] Premises from the New Mexico Alcoholic Beverage Control Division to Serve Alcohol on City Sidewalks, Streets, Rights-of-Way, or Other Property that has Been Specifically Authorized for Temporary [Business] Use Due to the Covid-19 Public Health Emergency; and Establishing an Effective Date as the Date of Bill Adoption. (Randy Randall, Tourism Director, rrandall@santafenm.gov, 955-6209, and John Romero, Acting Public Works Director, jjromero1@santafenm.gov, 955-6638)

c. Appeal No. 2020-2043-APPL of Case No. 2019-1600-HDRB. Appeal by Rosewood Hotels of the Historic Districts Review Board's March 10, 2020 Decision to Impose Conditions on its Approval of Rooftop Improvements at the Rosewood Inn of the Anasazi, Located at 113 Washington Avenue, Including a Fifty-Six Foot (56') High Addition, which Exceeds the Maximum Allowable Building Height and Requires an Exception to the Height Limitations in the Historic Districts Ordinance. (Sally Paez, Assistant City Attorney, sapaez@santafenm.gov, 955-6501)

d. CONSIDERATION OF BILL 2020-11. ADOPTION OF ORDINANCE NO. 2020-____. (Mayor Webber and Councilors Cassutt-Sanchez, Abeyta, Lindell, and Vigil Coppler)
An Ordinance Relating to the City of Santa Fe Economic Development Plan Ordinance, Article 11-11 SFCC 1987; Approving and Adopting an Amended Local Economic Development Project Participation Agreement Between the City of Santa Fe and Descartes Labs, Inc. for Design, Development and Construction of Tenant Improvements; and Lease Payments for Expansion of a New World Headquarters Facility, a Local Economic Development Project. (Mayor Webber and Councilor Cassutt-Sanchez) (Fabian Trujillo, Office for Business Growth Manager, ftrujillo@santafenm.gov, 955-6912) **(POSTPONED TO JULY 29, 2020)**

e. CONSIDERATION OF BILL 2020-12. ADOPTION OF ORDINANCE NO. 2020-____. (Mayor Webber and Councilors Cassutt-Sanchez, Abeyta, Lindell, and Vigil Coppler)
An Ordinance Relating to the City of Santa Fe Economic Development Plan Ordinance, Article 11-11 SFCC 1987; Approving and Adopting a Local Economic Development Project Participation Agreement Between the City of Santa Fe and Descartes Labs, Inc. for an Economic Development Loan Project for Lease Payments to Provide Assistance for the Negative Financial Impacts of Covid-19. (Fabian Trujillo, Office for Business Growth Manager, ftrujillo@santafenm.gov, 955-6912) **(POSTPONED TO JULY 29, 2020)**

20. **ADJOURN**

Pursuant to the Governing Body Procedural Rules, in the event any agenda items have not been considered prior to 11:30 p.m. and the Governing Body does not vote to extend the meeting, such items shall be postponed to a subsequent meeting, provided that the date, time and place of such meeting is specified at the time of postponement.

NOTE: New Mexico law requires the following administrative procedures be followed when conducting “quasi-judicial” hearings. In a “quasi-judicial” hearing all witnesses must be sworn in, under oath, prior to testimony and will be subject to reasonable cross-examination. Witnesses have the right to have an attorney present at the hearing.

Persons with disabilities in need of accommodations, contact the City Clerk's office at 955-6521, five (5) working days prior to meeting date.

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SANTA FE CITY COUNCIL
June 10, 2020

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MINUTES OF THE
REGULAR MEETING OF THE GOVERNING BODY
Wednesday, June 10, 2020
City Council Chambers

AFTERNOON SESSION

1. CALL TO ORDER AND ROLL CALL

A regular meeting of the Governing Body of the City of Santa Fe, New Mexico, was called to order by Mayor Alan Webber, on Wednesday, June 10, 2020, at approximately 5:25 p.m., at the Council Chambers at City Hall, 200 Lincoln Avenue, Santa Fe, New Mexico as a virtual meeting. Following the Pledge of Allegiance, Salute to the New Mexico flag, and the Invocation, roll call indicated the presence of a quorum remotely, as follows:

Members Present Remotely
Mayor Alan Webber
Councilor Roman "Tiger" Abeyta
Councilor Jamie Cassutt-Sanchez
Councilor Michael J. Garcia
Councilor Signe I. Lindell
Councilor Christopher M. Rivera
Councilor Carol Romero-Wirth
Councilor JoAnne Vigil Coppler
Councilor Renee D. Villarreal

Members Excused

Other Participants Attending Remotely
Jarel LaPan Hill, City Manager
Erin McSherry, City Attorney
Yolanda Y. Vigil, City Clerk
Bernadette Salazar, HR Division Director
Michael Prinz, Assistant City Attorney
Alexandra Ladd, Affordable Housing Director
Shannon Jones, Public Utilities Director
Sam Burnett, Public Works Property Maintenance Manager
Regina Wheeler, Emergency Operations Incident Commander
Kyra Ochoa, Community Services Director
Marcos Martinez, Assistant City Attorney
Mary McCoy, Finance Director
Jesse Guillen, Legislative Liaison

Kristine Mihelcic, Constituent Services Director
Carl Boaz, Council Stenographer

6. APPROVAL OF AGENDA

MOTION: Councilor Garcia moved, seconded by Councilor Rivera, to approve the agenda as presented.

VOTE: The motion was approved on the following Roll Call vote:

For: Mayor Webber, Councilor Abeyta, Councilor Cassutt--Sanchez, Councilor Garcia, Councilor Lindell, Councilor Rivera, Councilor Romero-Wirth, Councilor Vigil Coppler and Councilor Villarreal.

Against: None.

7. APPROVAL OF CONSENT CALENDAR

Councilor Vigil Coppler said she will be coming forward in the future for amendments on 10(b).

Councilor Villarreal requested discussion on 10(b).

MOTION: Councilor Villarreal moved, seconded by Councilor Vigil Coppler, to approve the Consent Calendar as amended with 10(b) pulled for discussion.

VOTE: The motion was approved on the following Roll Call vote:

For: Mayor Webber, Councilor Abeyta, Councilor Cassutt--Sanchez, Councilor Garcia, Councilor Lindell, Councilor Rivera, Councilor Romero-Wirth, Councilor Vigil Coppler and Councilor Villarreal.

Against: None.

8. APPROVAL OF MINUTES:

Regular Governing Body Meeting - May 27, 2020

MOTION: Councilor Garcia moved, seconded by Councilor Cassutt-Sanchez, to approve the minutes of the regular Governing Body meeting on May 27, 2020 as presented.

VOTE: The motion was approved on the following Roll Call vote:

For: Mayor Webber, Councilor Abeyta, Councilor Cassutt--Sanchez, Councilor Garcia, Councilor Lindell, Councilor Rivera, Councilor Romero-Wirth, Councilor Vigil Coppler and Councilor Villarreal.

Against: None.

9. PRESENTATIONS

There were no presentations.

10. CONSENT CALENDAR LISTING

a) Request for Approval of Federal Fiscal Year 2020 FHWA Section 112 and Section 5303 Federal Transportation Grant Funds in the Total Amount of $422,249.94 Including Cash Match for Santa Fe MPO Program Operations; Transportation NMDOT/Federal Highway Administration (FHWA) and Federal Transit Authority (FTA). (Erick J. Aune, Santa Fe MPO Officer, ejaune@santafenm.gov, 955-6664)

1) Request for Approval of Budget Amendment Resolution

b) This was pulled for discussion by Councilor Villarreal.

c) Request for Approval of Liquor Hearing Officer's Recommendation to Approve the Request from Chipotle Mexican Grill of Colorado, LLC for a Restaurant Liquor License (Beer and Wine) with On Premise Consumption Only and Patio Service, to be Located at Chipotle Mexican Grill, 1001 S. St. Francis Drive, Suite 101. (Yolanda Y. Vigil, City Clerk, yyvigil@santafenm.gov, 955-6521)

d) Request for Approval to Publish Notice of Public Hearing on July 8, 2020:

BILL NO. 2020-13. An Ordinance Amending Section 5-13.3 SFCC 1987to Correct a Reference Citation. (Councilor Lindell) (Jesse Guillen, Legislative Liaison: jbguillen@santafenm.gov, 955-6518)

CONSENT CALENDAR DISCUSSION

b) Request for Approval of Amendment No. 2 to Original Professional Service Agreement No. 18-0910 to Mountain River Consulting for Providing Database, Development, Training and Support Services to the City of Santa Fe's Utility Billing Division. (Nancy Jimenez, Utility Billing Division Director, nljimenez@santafenm.gov, 955-4364)

This item was pulled for discussion by Councilor Villarreal.

Councilor Villarreal asked if staff were here. Director Jones and Director Jimenez were present.

Councilor Villarreal said she didn't support this contract at Public Works/Utilities Committee. We decided on a partial contract of $350,000 for six months at the Committee meeting. She wondered if the contract had been rewritten with more defined deliverables in the scope of work as she had requested. She requested an update on that.

Director Jones said there was a template of a matrix delivered. The decision was shared with the consultant. He also spoke with the Assistant City Attorney, Mr. Martinez, on it. We are also conscientious that the procurement was legal. He deferred to Director Jimenez.

Director Jimenez said on page 7-8 of the packet, there is a summary of deliverables and asked if that was what Councilor Villareal wanted.

Councilor Villarreal said that was helpful and wanted to know if they were written into the agreement or an attachment to the agreement. There were items added.

Director Jimenez said that in amendment #2, the scope of services was modified in Exhibit B, pp 6-7 and that amended the contract.

Councilor Villarreal pointed out that the matrix was not labeled Exhibit B.

Director Jimenez said she would put a title on it and label it correctly.

MOTION: Councilor Lindell moved, seconded by Councilor Rivera to approve PSA Amendment #2 with Mountain River Consulting as presented.

VOTE: The motion was approved on the following Roll Call vote:

For: Mayor Webber, Councilor Abeyta, Councilor Cassutt--Sanchez, Councilor Garcia, Councilor Lindell, Councilor Rivera, Councilor Romero-Wirth, Councilor Vigil Coppler and Councilor Villarreal.

Against: None.

11. Request for Approval to Publish Notice of Public Hearing on June 24, 2020.

Amendment to the 2019 Annual Action Plan, Required by the U.S. Department of HUD, which Describes Proposed Uses of CARES Funding in the Amount of $361,227. (Alexandra Ladd, Director, Office of Affordable Housing, agladd@santafenm.gov, 955-6346).

Ms. Vigil read the caption.

Councilor Vigil Coppler pointed out that unless the schedule of the committee meetings has been redone, there is no opportunity for her to be in a committee meeting to consider this proposal because the schedule doesn't include Public Works Committee. She questioned why it was not going to Public Works because it does deal with the dorm rooms and campus apartments at Midtown. They are public facilities.

Director Ladd said that was an oversight. When the Quality of Life Committee came on board, all of these were routed through that committee because not all of them are public works. We could still get it on the Public Works Committee agenda for June 22. We are also making a presentation on the agenda later on.

Councilor Vigil Coppler was not prepared to do that at this meeting because that is what the committee processes are for. But if the Chair of Public Works agrees, she did want it to go there. Otherwise, she is totally left out of it and this is her profession.

Councilor Rivera was agreeable to have it on the Public Works Agenda and asked Director Ladd to put it there.

MOTION: Councilor Abeyta moved, seconded by Councilor Villareal, to approve publishing notice with direction that it goes to the Public Works Committee.

VOTE: The motion was approved on the following Roll Call vote:

For: Mayor Webber, Councilor Abeyta, Councilor Cassutt--Sanchez, Councilor Garcia, Councilor Lindell, Councilor Rivera, Councilor Romero-Wirth, Councilor Vigil Coppler and Councilor Villarreal.

Against: None.

12. Request for Approval to Publish Notice of Public Hearing on June 24, 2020.

BILL 2020-14. An Ordinance Amending Section 23-6.2 SFCC 1987 to Allow Restaurants that Have Obtained a Temporary Liquor License Modification from the New Mexico Alcoholic Beverage Control Division to Serve Alcohol on City Sidewalks, Streets, Rights-of-Way, or Other Property that has Been Specifically Authorized by the City for Temporary Business Use Due to the Covid-19 Public Health Emergency. (Mayor Webber) (Yolanda Y. Vigil, City Clerk, yyvigil@santafenm.gov, 955-6521 and Michael Prinz, Assistant City Attorney, enprinz@santafenm.gov, 955-6554)

Ms. Vigil read the caption for this matter. She said she and Mr. Prinz were available for questions.

Councilor Vigil Coppler asked if this approval will still have to go through scrutiny for being near schools and churches.

Ms. Vigil explained they will have gone through that before. This is just for expanding the licensed premises to provide alcohol service on sidewalks and streets.

Councilor Vigil Coppler noticed they were just getting something from Mr. Guillen and was not sure what the fine print was. Does it relate to closing a street?

Ms. Vigil said those are two separate issues.

Ms. McSherry agreed. There is another resolution regarding street closures, but this would also allow service in streets and sidewalks. This is only a procedural vote.

Councilor Vigil Coppler asked if there had been any thought of charge for service in the streets.

Ms. Vigil agreed. This would just allow a permit to be applied for and would cost $100.

Councilor Vigil Coppler asked if it would still impose the 300-foot requirement.

Ms. Vigil couldn't respond without knowing who would apply but they would look at that.

Ms. McSherry pointed out that this was introduced in committee, so the Governing Body needs to waive the rules about Council introductions. So it needs a procedural vote.

MOTION: Councilor Romero-Wirth moved, seconded by Councilor Villarreal to waive the rule, and allow this publication to be introduced after introduction in a committee to be considered by the Governing Body.

VOTE: The motion was approved on the following Roll Call vote:

For: Mayor Webber, Councilor Abeyta, Councilor Cassutt--Sanchez, Councilor Garcia, Councilor Lindell, Councilor Rivera, Councilor Romero-Wirth, Councilor Vigil Coppler and Councilor Villarreal.

Against: None.

MOTION: Councilor Abeyta moved, seconded by Councilor Garcia, to approve Bill #2020-14 as presented.

VOTE: The motion was approved on the following Roll Call vote:

For: Mayor Webber, Councilor Abeyta, Councilor Cassutt--Sanchez, Councilor Garcia, Councilor Lindell, Councilor Rivera, Councilor Romero-Wirth, Councilor Vigil Coppler and Councilor Villarreal.

Against: None.

13. **CONSIDERATION OF RESOLUTION 2020-21.** (Councilor Rivera)
A Resolution Authorizing the Standard Process for Sale of Potable Water to Treated Effluent Customers in the Event Treated Effluent is Not Available; Directing the City to Pursue Alternative Methods and Actions to Increase Robustness and Dependability of Non-Potable Water Sources. (Shannon Jones, Public Utilities Division Director, swjones@santafenm.gov, 955-4267)

Ms. Vigil read the caption.

Councilor Romero-Wirth had some changes that were cleared with the sponsor. She explained that this only went to Public Utilities, so this was the first opportunity she had to amend it.

Councilor Rivera said this issue came up when the City was not able to provide effluent was not available for the MRC, Swan Park, and he Country Club. There have been more instances where we could not deliver the treated effluent in a timely manner and MRC and the Country Club were in danger of losing their assets. At Marty Sanchez, it would cost about $1 million to replace each green. For them, the Country Club, the rugby fields, and soccer fields, we decided instead of having emergency meetings every time, that we would allow using potable water under specific situations. He confirmed that Councilor Romero-Wirth had discussed her changes with him.

Mayor Webber noted many cosponsors of this resolution.

Councilor Garcia said that in the committee meeting earlier this week, he asked to look at an amendment on limiting the number of days for the City would charge for potable water for turf users. But he found it is not legal to make the charge or limit the number of days. He asked for Mr. Martinez to give the legalese on that point.

Mr. Martinez said the question is salient. He recommended to Councilor Garcia that the City cannot have variable pricing. The price is set by ordinance and we cannot go against that. Beyond the ordinance, State law protects prices that any company would charge for similar types of goods. One is the Price Discrimination Act and there is other legislation on it. Any price reduction must be offered to everyone. It could raise issues and he recommended not doing that. So we must adhere to the ordinance prices for bulk sales of water.

Councilor Garcia thanked Mr. Martinez. He brought it up because we have agreements in place to provide effluent water and when we can't provide it, we are penalizing those

who receive effluent water normally. We need to look at that contract with the Country Club will further. Councilor Abeyta brought it up earlier. Maybe we should stop offering effluent. We need a system in place for those who use effluent for turf purposes. He didn't know who we would work with on that.

Councilor Rivera noted that the agreement with the Country Club does not guarantee we will always provide effluent.

Mr. Martinez agreed. That is correct. It is not a promise to always deliver treated effluent water but to deliver it when available. The regulation of use on turf is not imposed by the City but by EPA and NMED.

Councilor Rivera clarified that this resolution is just a bridge to provide potable water when we can't provide effluent.

Councilor Romero-Wirth added that effluent on golf courses is preferable to potable water and the only reason to consider this resolution is that sometimes we have not been able to use effluent in these ways. We didn't always value effluent in the past and it is becoming an important resource and its value has changed.

She had two concerns with this resolution that were heard in Public Works/Utilities Committee. First, she was concerned with language talking about particular entities with whom we now provide effluent. We need to be clear who we mean about who can take advantage of this resolution. We have talked a lot about the problems at the wastewater treatment facility and how long it will be before we have other options besides potable water, which is the water source of last resort. We want wastewater and effluent options more resilient and other options on how we deliver that kind of water. So I thought we should have an end date.

She read her amendment, "Be it resolved by the Governing Body of the City of Santa Fe that the public utility's water division shall sell potable water to treated effluent customers at a current tier one rate $6.06 per thousand gallons, as the rate may be amended under the following conditions..." She would amend it to say, "The City may sell potable water to persons with contracts for treated effluent at the current tier one rate of $6.06 per thousand gallons, as the rate may be amended under the following conditions ... "

There is a list of conditions to which she would add a fourth condition that said, "The terms of these contracts shall not exceed 18 months and may only be removed for an

additional term if the parties agree in writing and the Governing Body approves the renewal."

The resolution is offered as a short-term solution to a problem while we fix the issues that we have in treating effluent so that it can be used for turf.

Councilor Rivera accepted those amendments.

MOTION: Councilor Rivera moved, seconded by Councilor Romero-Wirth, to approve the resolution with those amendments.

DISCUSSION ON THE MOTION:

Councilor Vigil Coppler asked for clarification on the last amendment. She was not sure she heard correctly.

Councilor Romero-Wirth clarified that the amendment is only with the contracts we have for effluent water. She read it again.

Councilor Vigil Coppler thought it was unclear which contracts were referenced.

Councilor Romero-Wirth thought that was clarified because the resolution is under the title contracts for potable water. She apologized that she did not have the amendment in writing but would forward it to Councilor Vigil Coppler.

Councilor Vigil Coppler asked if it could say, "potable water contracts" to add some clarity.

Councilor Romero-Wirth said she could add that. She suggested that it say, "contracts for sale of potable water."

Councilor Rivera said that was acceptable to him.

Ms. McSherry asked if we have other potable water users in general for bulk potable water like the polo grounds who don't have effluent contracts and no term limits.

Director Jones agreed.

Ms. McSherry explained that we might be treating these customers differently if we do this. If we hold to the standard of treating all customers the same way, we don't have time term limits on the other customers.

Councilor Romero-Wirth noted the class is effluent customers.

Ms. McSherry said she has not had any opportunity to discuss it with Mr. Martinez.

Councilor Rivera asked if we could just reference the contract resolution number for the contract that would need to be renewed.

Ms. McSherry agreed, and it might not be a problem.

Councilor Villarreal was concerned because we don't have any vetting with Legal. Last minute amendments have not gone through committees. She understood there is urgency but maybe the urgency of this resolution can be explained. We just need to clarify what those last-minute changes are.

Councilor Rivera explained the urgency is because the plant for treated effluent has been off and on in the last few months. Some customers cannot not have watering unavailable for more than 5-7 days. He was trying to get through the alternative and was unsure when we can get it approved. They are in a tough spot.

Councilor Villarreal just wanted to make sure the changes are vetted by Legal.

Councilor Rivera thought Councilor Romero-Wirth worked with Mr. Martinez on it.

Councilor Romero-Wirth suggested maybe the Governing Body could do the first amendment and come back for a second resolution for a term limit.

Mayor Webber thought so.

Councilor Rivera was okay with that. He withdrew his motion and Councilor Romero-Wirth withdrew second.

MOTION: Councilor Rivera moved, seconded by Councilor Vigil Coppler, to approve Resolution 2020-21 as first amended.

VOTE: The motion was approved on the following Roll Call vote:

For: Mayor Webber, Councilor Abeyta, Councilor Cassutt--Sanchez, Councilor Garcia, Councilor Lindell, Councilor Rivera, Councilor Romero-Wirth, Councilor Vigil Coppler and Councilor Villarreal.

Against: None.

14. Request for Approval of a Service Contract in the Total Amount of $544,500 Including Applicable NMGRT for Comprehensive Design/Build Services for the Design and Construction of a Restroom Facility to be Located in the Water Street Parking Lot; FacilityBuild, Inc. (Sam Burnett, Public Works Property Maintenance Manager, jsburnett@santafenm.gov, 995-6853)

Ms. Vigil read the caption for this matter.

Mr. Burnett presented it to the Governing Body on behalf of Facilities and trying to get State Grant of approximately $550,000 for construction of a restroom facility. Due to the City's financial condition, we decided to go with a Design/Build mode to encumber all the money up front and protect it from an uncertain future. It is straightforward and he would answer questions.

MOTION: Councilor Villareal moved, seconded by Councilor Vigil Coppler to approve the service contract with FacilityBuild, Inc. as presented.

VOTE: The motion was approved on the following Roll Call vote:

For: Mayor Webber, Councilor Abeyta, Councilor Cassutt--Sanchez, Councilor Garcia, Councilor Lindell, Councilor Rivera, Councilor Romero-Wirth, Councilor Vigil Coppler and Councilor Villarreal.

Against: None.

15. City of Santa Fe Emergency Shelter Results and Consideration of Duration of Operation. (Regina Wheeler, Emergency Operations Incident Commander, rawheeler@santafenm.gov, 505-690-4197 and Kyra Ochoa, Community Services Director, krochoa@santafenm.gov, 505-955-6603) (INFORMATIONAL ONLY)

Ms. Vigil read the caption for this matter.

Director Ochoa shared her screen and added that there were community partners present who had a presentation to share. She reported that they began to work with partners (whom she listed) about public health concerns with the outbreak and the danger of spreading the virus. It proved challenging to have to place large numbers of people in hotels. So we worked on the possibility of turning the Midtown dorm into a shelter resource at Midtown for people who were in a housing crisis there might be COVID positive and did not need hospitalization.

Director Ochoa said they did not want to burden local hospitals and those who were medically fragile needed a place to stay so that was a priority. Midtown was an attractive option and it would relieve the Fire Department of the responsibility for testing transportation. The City and Transit Division provided transportation for the fragile population.

Director Wheeler shared more context. The emergency shelter has been operated since March with funding through June and possibly through the end of the year. It was amazing to see how far we have come since the early days. Putting the homeless in hotels has not worked. So, we put together a model to address the location. After working with our partners, the study resulted in no COVID outbreak in the homeless population in the city. That has helped Santa Fe do so well in this response. We also realized we were able to provide oxygen for those who must be on oxygen. Hotels could not provide that. We have sheltered over 120 people from different kinds of referral for people who needed isolation and housing. She described the costs which totaled $234,000. Her slide showed the people working there. Another result was reduced emergency calls.

Chief Babcock shared results from the Fire Department. The reduction in calls due to Midtown shelter was a big outcome. Without any need to use a fire truck or ambulance, a result is that we will change how we use vehicles.

Director Wheeler explained the commitments of staff in the shelter. She pointed out that everything needed was provided in some way. The residents are not judged. It is an incredible operation and partners have helped make it successful. #1 is health care for the homeless to meet their health needs. About 30% of the population are capable of independent living.

She shared the options for next steps and described what each option would mean.

Director Ochoa talked about funding from HUD which the City applied for. We are entitled to that funding. The response is to alleviate the needs for people with no other

options. The shelter is a great fit for CARES funding and provides a safe option for those without other options. She listed why she felt the shelter deserves support and commented on each of them. It is a chance to recreate services for those who are homeless. She explained the services to be provided and shared a proposed budget through the end of the year.

Director Ochoa talked about reimagining the City Government Survey and how present circumstances have had the population focusing much more on homeless population. She noted the shortage of units for renters with very low incomes or transitioning out of homelessness. More units are coming online soon, but housing needs are increasing in Santa Fe and the virus pandemic will exacerbate it.

Director Wheeler asked, without a vaccine, how we will cope with it. There has not been a lot of focus on permanent housing. However, from March to May, 52 people were helped to find permanent housing. The cost of not solving homelessness is $3.4 million.

Five of the partners in the Shelter operations present and invited to share. They pointed out that the shelter caused a 38% decrease in ER patients during its operation. They thought this was the best response to COVID in the nation for the homeless population. We should let everyone in the nation to know about this and wished it could become a permanent service. It has reduced the burden on the emergency service system and EMS system. The model has served the community very well, reducing COVID transmission, etc. Santa Fe needs to remain vigilant and continue this prevention work. Clients who are not enrolled in Medicaid can be helped here. We want to partner with the Coalition and NM Solutions for long term care and case management for them. The model is great. We will continue to do everything in our power to partner with the City for this service.

Director Ochoa thanked the partners. Partnership is the key word. We are partnering with many others to make this work. We are in conversation with a Foundation around behavioral health needs of homeless and possibilities on the horizon to address it. We will need a system to address it. She welcomed suggestions and input on it.

Mayor Webber thanked them for the presentation.

Councilor Villarreal emphasized the commendation for all the partners to make it a functioning option for the community. She asked about an item in the packet for 29% decrease in police calls.

Director Wheeler said that was from early data from the police department and they determined it was not accurate in further analysis.

Councilor Villarreal wanted to get the updated information that shows how the team is reimagining these resources as we see people and how they are supporting this service to the homeless. Thanks for it.

Councilor Garcia thanked Director Wheeler, Director Ochoa, and the partners for great work. It is the innovation that came out of the crisis that is making this work. He was looking forward to more information on federal funding, etc. He asked if city staff will continue to be used at the shelter or hire other staff.

He did not know if all the reductions were due only to the shelter. But the impact on the community and not having an outbreak is outstanding. However, we are not out of the woods yet.

Councilor Cassutt-Sanchez appreciated these efforts. It is an impressive model. It is a model for serving homeless and prevention which is often hard.

Chief Padilla said the police department is staffed out at current levels. Productivity of people is also impressive with so many people out of work. A lot of people can find a lot of purpose and the money is not lost. The result is reducing costs to systems overall. Reduction of ER visits, etc. People recognize they have a vested interest in solving the problem.

Councilor Cassutt-Sanchez understood we are looking at finances to the end of the calendar year and we should expect a resurgence in the fall and through the cold months. She asked if they are looking for funding beyond the winter.

Director Ladd agreed. We think, but don't know for sure, that another emergency funding source will come and possibly more entitlement funding will also be coming. We will continue to look for other sources of funding.

Director Ochoa added that we need more research on transitioning to housing and work. There is not much money in our coffers, but we do have assets.

Councilor Cassutt-Sanchez thanked her for that. She is very much in support of this program.

Councilor Vigil Coppler appreciated this work done by staff and partners. She had known opportunity for doing a graveyard shift with SFPD last year. To see it in the cover of darkness is eye opening. We visited and had to remove many homeless people who were tucked in for the night and it was heartbreaking.

She also wanted to know about the decrease in police calls. It stands to reason they would go down. She asked if the reductions are expected to continue.

Director Wheeler agreed.

There were no other questions. Mayor Webber thanked them for the information, which was comprehensive, cogent, and inspiring.

AMENDMENT OF THE AGENDA

Councilor Villarreal suggested adjusting the agenda for hearing Petitions from the Floor now.

Ms. Mihelcic reported one person was present for Petitions, Stefanie Beninato, and the others in the waiting room want to speak to the ordinance at the public hearing.

MOTION: Councilor Villarreal moved, seconded by Councilor Garcia, to amend the agenda by hearing Petitions from the Floor now and move the Executive Session after the public hearing.

VOTE: The motion was approved on the following Roll Call vote:

For: Mayor Webber, Councilor Abeyta, Councilor Cassutt--Sanchez, Councilor Garcia, Councilor Lindell, Councilor Rivera, Councilor Romero-Wirth, Councilor Vigil Coppler and Councilor Villarreal.

Against: None.

F. PETITIONS FROM THE FLOOR

All petitions were distributed to the Governing Body and they have read them.

Ms. Stephanie Beninato was invited to speak.

She had trouble with transmission with a high-pitched squeaky voice

Mayor Webber asked Ms. Mihelcic to work with her on an alternative and went to the second petitioner.

Mr. Scott Shuker said his statement was in opposition to Bill 2020-10 and he would wait until the public hearing present it.

Ms. Beninato rejoined with a normal voice. She said she appreciated the efforts on homelessness. It is exciting. She was also concerned about using temporary COVID funds for that and felt it needs a permanent independent stream of funding. Also, we don't have rec centers and libraries open, so we should not forget those taxpayer needs in the City. According to Greg Smith, there are many things for which permits are needed. Maybe you could use some money for those that do not need permits.

The furlough program is a shell game. They got paid on the old schedule. Maybe the shell game is going with administrative staff to avoid pay raises.

There were no other petitions from the floor.

16. **CONSIDERATION OF RESOLUTION NO. 2020-22.** (Mayor Webber)
A Resolution Authorizing a "Furlough Bridge Plan" for July 11, 2020, through September 4, 2020 for Four (4) Hours Per Week for Certain City Employees and Six (6) Hours for Certain City Leadership Positions. (Jarel LaPan Hill, City Manager, jlapanhill@santafenm.gov, 955-6848, Bernadette Salazar, Human Resources Director, bjsalazar@santafenm.gov, 955-6591, Mary McCoy, Finance Director, mtmccoy@santafenm.gov, 955-6171 and Erin K. McSherry, City Attorney; ekmcsherry@santafenm.gov, 955-6512)

Ms. Vigil read the caption.

Manager Hill said this resolution for the bridge plan was discussed in three committees last week while were going through the budget process. This will allow the City to maintain some savings through furloughs from July 11 through September 4. Some employees are on 4-hour furloughs and brings about some of the other employees who have been on furlough. We are still in the financial ebb and flow with health crisis and this would allow us to bring people back on and provide for the equity in personnel. The department directors will be looking at a six-hour furlough which is a 16% decrease.

She stood for questions.

Councilor Villarreal noted that this has been painful process and she appreciated the options and scenarios to consider. In the end, it is what it is. We don't need to rehash it. This is a lot more equitable than the first model. She said she could not find airport staff or Public Works on there and she wasn't sure why. She couldn't find it in attachment A.

Manager Hill pointed out that airport staff is on page 8 and is rather small, but the computer should allow you to zoom in on it.

Councilor Villarreal saw two people at the airport. She asked if they are mixed around.

Director Salazar explained that it is organized by department with employees listed in alpha order.

Councilor Villarreal asked if there was a page for public works. She suggested it would be helpful to have it by departments.

Ms. McSherry explained that the Divisions are all part of Public Works and are intermixed but all part of Public Works.

Manager Hill said that was correct.

Councilor Garcia thanked the City team for their work on this. It is upsetting and heartbreaking on the challenges these folks are facing. He asked who is not included in the furloughs - that was not getting any furlough.

Director Salazar said public safety personnel are not on the furlough right now. Neither are police and fire personnel. For police, it is lieutenant and below and for fire, battalion chief and below are not on the list.

Ms. McSherry added that some are donating back instead of a furlough

Councilor Garcia noted that the elected officials are not on the furlough list either. He asked if that is because of the ordinance.

Ms. McSherry agreed. It is based on categories in the ordinance.

Councilor Garcia thought this is our public service as elected officials and if the others are taking a furlough, we should be also. He knew that several Commissioners donated to the fund, but we need to give our due diligence to give back to the City.

Ms. McSherry clarified that we have done LWOP on Friday afternoons and the City Clerk also.

Councilor Garcia asked how we as community leaders show we want to stand in solidarity with our City teammates. He would like to open the opportunity, if possible when we look at our next fiscal year. He acknowledged this is painful and we want to share the pain with them.

Councilor Vigil Coppler said she would support Councilor Garcia's initiative to find a way to make it happen. We could do it under and emergency ordinance change. She totally agreed and would join him in that effort.

Somewhat related to that, Ms. McSherry said our salary is by ordinance and asked if that is also true on benefits.

Director Salazar did not believe it included benefits.

Councilor Vigil Coppler related that when she signed on, she was offered benefits and she did not take them. We need to look at that. This is not a job we were elected to do but appointment by our constituents. So we need to look at that.

Ms. McSherry clarified that there is nothing prohibiting benefits, but the ordinance does not provide for them.

Councilor Vigil Coppler at the Governing Body needs to look at that.

Her next item she had was that we have not been provided a donation list. We got an IPRA, but she didn't know what it is. Some people can afford more than others. Employees need to know what we are contributing. Maybe she needs to put more in. and it needs a report.

She observed that we did receive three charts from Manager Hill today and she had sked that they be included in the packet. Are they missing? Do the employees and public have these charts?

Manager Hill asked Ms. Vigil to answer.

Ms. Vigil said she did not receive those parts, so she was unaware of what those documents are.

Councilor Vigil Coppler said it was the bridge plan and a list of those on 4-hour furlough and those on a 6-hour furlough, and the estimated savings. They have a lot of good information in there.

Manager Hill would make sure they get it in there.

Ms. McSherry said they could share those on the screen right now.

Councilor Vigil Coppler did not think that was enough.

She also pointed out the Acting Public Works Director and Housing Director are not included in the furloughs.

Manager Hill said they are in 4-hour furlough, so they are not on the six-hour furlough list.

Councilor Vigil Coppler asked if exempt status has anything to do with these charts.

Manager Hill said no, it did not.

Councilor Vigil Coppler went back to the enormous chart that is before us. We could do a better job to make it understandable. We don't have any org charts or at least she did not have them. Organizing by department and position is a lot easier to understand when we are making such important decision on them. She said it was beyond her why we can't be more organized on this. It would make our job much easier than having to go through all the small print to make sure there is equity on our vote tonight.

She asked beyond the furloughs, on the $100 million shortfall. We have yet to see real documents how the figure was arrived at. She knew of no other jurisdiction that was cutting their budget like this. We have no documents to review. She spoke to an auditor this week and was very concerned. Why don't we have revenue forecasting? The State and County can do it. Why can't we do it on a monthly basis? She knew that GRT is two months behind. But she didn't understand why we are in such bad shape. She had two former City Attorneys contact her who are also very concerned about the public not seeing how the figure was derived. We have not seen any numbers. Maybe the Admin

Department has seen them but not Councilors or the public. We need to understand how it was arrived at. Those were her requests.

Director McCoy said this is an unprecedented time we are moving into. No historical data can tell us what the next 12 months will bring. There is no knowledge of a second wave. It is unknown to provide a forecast. As we move forward, we are using real time data from our teams and working with State economists on it to make modifications. The $100 million deficit may not big as projected. Budgets can be revised until the end of July and we will make quarterly reports to DFA and will bring forward positive upward adjustments and as we are able to get state or federal funds, those will be included.

Councilor Vigil Coppler asked, since we cannot do forecasting, how did we end up with $100 million as the deficit.

Director McCoy replied that we reviewed each of the sectors and percentages with State Economists that are part of our economy and the phases of reopening. The City of Santa Fe is also responsible for utilities, unlike other local governments. We are working to update the forecasts and how that will impact utility revenue. We will manage on a month-to-month basis going forward.

Councilor Vigil Coppler said she will keep looking.

Mayor Webber hoped we will get a sustained recovery. State Finance Director today called it a tsunami. The State is trying to find some relief and we are not getting any from federal sources. Senate McConnell is holding up the benefits package and saying local governments should just go bankrupt. The 50% cap in hotel registrations means missing half of our hotel revenues and the same with how many are allowed in any retail store. Other towns are not as affected by tourism as we are. Rio Rancho and Albuquerque are worried about revenue. He agreed with Director McCoy that we cannot do this on our own.

Councilor Rivera observed that should since 9/11, it is evident that we are very dependent on tourists. But other municipalities are not hit as much because they have more diverse revenue sources.

Director McCoy agreed. And that is why we reviewed GRT as a basis for our analysis going into 2021. A significant portion is by retail trade and a significant portion by tourism.

Councilor Rivera said he was not advocating more property tax, but recognized others may not be hit as hard. Santa Fe County is probably hit less because they are not as dependent on tourism.

Mayor Webber agreed that pointed out that Santa Fe County did raise property taxes. and the City didn't.

Councilor Rivera also thanked all City employees and was grateful to Manager Hill, Director McCoy, and Director Salazar for bringing back those on a 16-hour furlough to something more manageable by our employees. None of us want to take a hit but we cannot avoid it.

He asked Manager Hill to tell employees when furloughs are going to start and ask the employee when the best time is for them to start it.

Manager Hill agreed. We will find out from staff when it is best.

Councilor Rivera asked how we can make it easier for staff to manage their time.

Manager Hill would like to pose that to the team and get some feedback. Everyone seems to go above and beyond. She didn't have an immediate answer.

Mayor Webber agreed that Santa Fe needs to diversify our economy within the state. Their version of tourism is oil and gas. In Santa Fe, we have made some progress. The technology sector is one and studios at Midtown, digital media, etc. We are being cautious but also optimistic to convince people that when we open, Santa Fe will be safe for them when they come.

Councilor Abeyta commented that over the years, he has realized Santa Fe is much different than the State. We are very dependent on GRT by retail as the main part of our budget. Our funding sources are different. He understood Rio Rancho has furloughed staff. While we re not in this alone, it is not the same with counties and state government. We must be creative in moving forward. Disposing of property assets could help. He has heard people talking about how low our property taxes are. We are not a county. He has heard from employees that none of them want RIFs or layoffs. It is much easier to give up furlough hours. We need to keep that in mind with the new budget. 70% of the City budget is for salaries. So it will not be possible to balance the budget without affecting personnel and benefits. Having the best of pensions and health benefits is fine but hard to keep up with in this crisis. We must present a balanced

budget. It is our fiduciary responsibility. Hopefully, we can get aggressive when recovering.

Councilor Cassutt-Sanchez echoed those comments. She really appreciated the work of Staff across the board to crunch those numbers. We are opening our economy because we have to. We are not out of the woods with COVID and have a false sense of security. Our numbers in the state are still going up. She knew of a lot of people who won't go to a restaurant until there is a vaccine. So thanks to our staff for working on this. This is a great plan for getting through September.

Councilor Villarreal related talking in Finance that we really need to see the numbers for the projected deficit. We still haven't seen the numbers we need to see, such as information on the hiring freeze and what positions are affected and how much the freezing will make a difference. How many contracts were approved prior to the pandemic that are going forward?

She was worried there may be things falling through the cracks and some not following the furlough hours. She also agreed with comments about looking at the ordinance on pay and including Counselors in the fold. We would be okay with adjusting the ordinance for our salaries. Just get us the data we asked for.

Councilor Lindell had logistics questions. She noted the current furlough is through June 30 and this plan starts July 11. She wanted an explanation

Manager Hill said there are options to work out on how to implement the hours.

Ms. McSherry explained the overlap pay period (going across fiscal years) and how to apply the furlough. They are still getting feedback on that.

Councilor Lindell said okay. She didn't have much clarity with that answer but guessed it means we don't know.

Manager Hill agreed.

Councilor Lindell asked if the current furloughs would end on June 30

Manager Hill agreed. But we have an overlapping pay period and the July 4 holiday also affects the start of the furloughs.

Councilor Vigil Coppler followed up on that question. The legislative period does end June 30 and the furloughs not applied until July 11 so there is no furlough from July 1-10. So for anyone who chose Fridays for their furlough day, it would fall on July 1. She explained that scenario in more detail.

Manager Hill explained that they are walking through the legal framework which Ms. McSherry laid out and are trying to navigate when people can take the furlough. July 3 is a Friday.

Councilor Vigil Coppler wanted to make clear that there are no furloughs from July 1 to July 10.

Ms. McSherry said there are furloughs spread throughout the week to make it work.

Councilor Cassutt-Sanchez saw the other complicating factor is the holiday on Friday and they have to juggle that. She thought Labor Day also falls in those next furloughs.

Manager Hill said no. Labor Day is September 7 this year.

Ms. McSherry clarified that because this was introduced by a committee, we need a waiver of the procedural rule.

Councilor Abeyta withdrew his motion for approval and Councilor Lindell withdrew her second so the procedural motion could be considered.

MOTION: Councilor Romero-Wirth moved, seconded by Councilor Abeyta to waive the procedural rule, and allow this matter, after being introduced first in a committee, to be considered by the Governing Body.

VOTE: The motion was approved on the following Roll Call vote:

For: Mayor Webber, Councilor Abeyta, Councilor Cassutt--Sanchez, Councilor Garcia, Councilor Lindell, Councilor Rivera, Councilor Romero-Wirth, Councilor Vigil Coppler and Councilor Villarreal.

Against: None.

MOTION: Councilor Abeyta moved, seconded by Councilor Lindell, to approve Resolution 2020-22 as proposed.

VOTE: The motion was approved on the following Roll Call vote:

For: Mayor Webber, Councilor Abeyta, Councilor Cassutt--Sanchez, Councilor Garcia, Councilor Lindell, Councilor Rivera, Councilor Romero-Wirth, Councilor Vigil Coppler and Councilor Villarreal.

Against: None.

17. **MATTERS FROM THE CITY MANAGER**

There were no matters from the City Manager.

The Governing Body took a break from 9:00 until 9:11 p.m.

Mayor Webber reconvened the meeting at 9:11 pm and went to the Public Hearing, skipping over items 18 through 21 until later in the meeting.

EVENING SESSION

A-E. CALL TO ORDER AND ROLL CALL

The regular meeting of the Governing Body of the City of Santa Fe, New Mexico, continued into the evening session at approximately 9:11 p.m. in Council Chambers at City Hall, 200 Lincoln Avenue, Santa Fe, New Mexico.

Present at the evening session were:

Members Present
Mayor Alan Webber
Councilor Roman "Tiger" Abeyta
Councilor Jamie Cassutt-Sanchez
Councilor Michael J. Garcia
Councilor Signe Lindell
Councilor Christopher M. Rivera
Councilor Carol Romero-Wirth
Councilor JoAnne Vigil Coppler
Councilor Renee D. Villarreal

F. PETITIONS FROM THE FLOOR

All written petitions were distributed to the Governing Body and they have read them. They are incorporated herewith to these minutes as Exhibit 2. The petitions presented verbally were heard earlier in the meeting.

G. APPOINTMENTS

There were no appointments.

H. PUBLIC HEARINGS

1) CONSIDERATION OF BILL 2020-10 ADOPTION OF ORIDINANCE NO. 2020-____. (Councilor Romero-Wirth, Councilor Lindell, Councilor Cassutt-Sanchez, Councilor Abeyta and Councilor Rivera)
An Ordinance Creating a New Section 20-7 SFCC 1987 Regarding the Use of Face Coverings by Employees and Customers when Inside Places of Business and by all Members of the Public when in Public Places where Social Distancing is Not Possible; Establishing an Effective Date as the Date of Bill Adoption. (Jesse Guillen, Legislative Liaison: jbguillen@santafenm.gov, 505-955-6518)

Ms. Vigil read the caption for the public hearing.

Councilor Romero-Wirth asked to go directly to the public hearing.

Public Hearing

There were seven speakers waiting to speak and 21 people had submitted written comments. She said the first speaker would be Allie Germis.

Mr. Abeyta unmuted Anna Gardner.

Anna Gardner was welcomed to speak. She said she was with two other people who wanted to speak, Oshana Spring and Audrey Sorbeth. They shared information from the World Health Organization issued on April 5, 2020. She read the article on using a facial mask. It stated that there is limited evidence that wearing a medical mask by a healthy individual in contact with the sick

patient or in mass gatherings may be helpful in preventing COVID 19 spread. But there is no evidence that wearing a mask by a healthy individual can prevent further infection. She noted the article had quite a few references as well. She quoted further from another similar article but said the use of facial coverings evidence at shown uncertainties and critical risk and provided a list of the potential risks that should be considered by any decision-making group or governing body. Nowhere in this ordinance does not say what the purpose is. It seems to be overkill to require healthy persons to wear a mask. She had two more articles in her submission that was submitted with citations. She urged the Governing Body to vote no on this ordinance.

Oshana Spring said we have reached a pivotal point when things are being dictated by government and that impinges on her God-given rights. She is a naturopath doctor and has worked in immunology. She felt assured that a mask does not help and could be a detriment to their health. At this elevation, people need all the oxygen they can get. It could even provide brain damage. We have gone through long isolation and we are social people. Only three people have supposedly died from COVID. People might die with COVID but not of COVID. We should just step back. She would like to see lots of smiles. People need to see that. Let's stop wearing masks.

Audrey Service read from an article by Dr. Russell Blalock, who said for the vast amount of people infected by the virus there is usually no sickness or very little sickness. Only a few have a potential for serious illness like the aged or with other illness. 90% of the people who are put on ventilators died and the ventilator may have contributed to their death. Masks don't work. She asked the Governing Body to not approve this.

Allie Girmus was welcomed. She said she opposes the mask ordinance. She thought the Governor's stay-at-home order is created an economic crisis. She thought we should spend our money on recovery and there is already a mask ordinance in place that people are voluntarily following. She has found that very few people are not wearing masks. She asked the Governing Body to reconsider their vote.

Christopher Hassell quoted a statement from President Bush after 911 and said we're in the same kind of cognitive dissonance and psychological warfare tactics with technical and behavioral manipulation. This fabricated emergency is terrorism and, after being presented with the facts, any elected officials who enable it by themselves terrorists. Bill Gates has called it pandemic one. There

will be more and probably worse. They have repeated that this is the new normal and a campaign of terror will not be over until everybody in the world has been injected with untested primary DNA altering potions and brought to heel and control grid rebuilding to manage global depopulation. We understand that maintaining the appearance of an ongoing emergency by any means is necessary in order to justify and make time for what is next. In countries that is already happening but don't have a bill of rights. The contact tracing and forced quarantine and compulsory or forced vaccination, immunity passports, cashless economy, the 5G network suffers. The mask is a symbol of the fake emergency and signal of our obedience to this program and social conditioning submission. We won't submit to this tyranny. We will not wear masks or be afraid of each other or go along with any of the measures that will come next. So r Mayor Webber and Councilors, you must decide. Are with us, the people, or with the terrorists. Please stop this madness and free Santa Fe. We don't want to be against you.

Janice Olch said she opposes Bill 2020-10 and questions the legality of this ordinance. It is not based on science. There is no consensus among scientists that the wearing of masks by healthy people is meaningful in the containment of infectious disease. Information from scientific and medical communities, including WHO, states wearing of masks by healthy people can have adverse health effects. Case law has established such ordinances must be reasonably necessary and narrowly tailored.

The data does not justify continued isolation. The ordinance will infringe upon people's rights. People should be allowed to make medical decisions for themselves. And to move about freely without harassment by law enforcement or other members of the public. This is not acceptable, not based on science. We consider it a violation of our rights and not science based. If passed, we will consider appropriate legal action to take.

Kathleen Dudley said two minutes is not enough. and eating in front of us is rude. This is an important issue and has to do with our freedoms. She would expect more respect. This situation is where the Governor has punished us for not wearing masks. The City of Santa Fe, since there are only 3 cases in the entire County, as a health practitioner, consider it unprecedented. There is nothing new in this virus and that has been shown by many MDs. You have decided fearmongering and oppression are the only way to go. I will boycott any store that refuses my service if I don't were a mask and I will take the financial hit. But I will not wear a mask and join with others who decide to class action suit against

the city is necessary. This is a violation of constitutional rights. The introduction of such a bill has nothing to do with health.

Scott Shuker spoke next. He opposes this bill. As a public school teacher, it is impossible to enforce in a classroom. It will be very problematic and will set up numerous barriers for teaching and learning. There will likely be unintended consequences such as criminalizing staff who fail to report noncompliant students or fellow employees. A state order is already in place to meet this requirement and this bill is just a copycat of that order. It is for elderly and they can take measures to protect themselves. The vast majority of citizens already choose to wear a mask so enforceability will be weak. The bill seems to be a superficial major to show concern for public health problems. History has shown that in most pandemics, minority populations (unmasked persons) are marginalized. This bill seems to be a clandestine way to reduce the deficit. The police department is already understaffed, and this ordinance will increase the burden even more. He feared that unmasked people could be attacked by police. He asked under what circumstance the ordinance will be lifted. It doesn't not increase protection and is more harmful than the disease. He urged them to vote no.

Stefanie Beninato was opposed to the bill, not for infringing on her rights. It is subjective and will be discriminatorily enforced. Smoking on the Plaza should be enforced, and she didn't see how the City will enforce this. She was much more interested in educating people and how to wear masks indoors. Nobody is really following the Governor's order. Doing it causes people to disrespect the law even more. And giving away masks when outside is a waste. Most people would throw them away as soon as they can. Where do you get the money to give them away? I'd like to see that outcome.

Mayor Webber announced there were 21 written comments submitted.

Councilor Romero-Wirth addressed the bill. She thanked all who submitted comments or spoke. With issues of high volumes she has tried to respond to all. Even if she didn't, she read all of them that were submitted by email. Thanks for your views. We are reopening. If we were just paying attention to the science, we probably would not reopen. There is no cure and no vaccine. So the only preventions are masks, social distancing and hand washing and sanitizing. We have done a good job and is why we only have 3 deaths. When she started to introduce it, she read research. Research showed that if 80% of the community consistently wears a face covering, it significantly slows the spread. So while we

did a good job slowing the virus, we will be and are a welcoming people from other places in the world who have different standards and ideas about face covering. So if we are to keep safe, the way to properly balance is to require by City ordinance that people cover their faces and that there is a consequence for not doing that. She would love for people to do this on their own voluntarily. This ordinance is structured that way. First offense is a warning and subsequent offense is a $50 fine. We will hear more about educating the public.

Low income people might not be able to get masks. The State is giving them away, businesses are giving them away and some individuals, as a way to help out. She didn't think that it will be a problem. It is not really a mask but a face covering. We have heard it is not a good thing for symptomatic people and that is exactly the opposite of what health officials have told us. Asymptomatic people are spreading the disease.

She got an email that such an ordinance would cause a tourist boom for doing something proactively. Another reason is not just because we are a tourist community. But we need to protect workers. She went into a grocery store to shop for an hour. But a grocery store worker who must be there for 40 hours per week has a higher exposure. They are there a long time and their chance of getting sick is a bigger problem.

Regarding the Governor's proclamation, every year we go to the State Legislature and argue for local control. Here is an opportunity for us to decide for our own community, knowing we are different from other cities and want to wear face coverings to make it a safe place to be.

She thanked her colleagues and some changes have helped. She had an amendment to have this be a misdemeanor and appeal it to municipal court. As a non-judicial citation, it carries a $50 fine on each of second and subsequent offenses.

Councilor Romero-Wirth moved to approve the mednemtn to strike petty misdemenor/ Councilor Lindell.

Mayor Webber heard that another person was waiting to speak.

Carl Jenkins said he opposes the ordinance for number of reasons. He filed a petition against the Governor to remove her from office and he read the petition to the Council. COVID is no worse than seasonal flu. It should not require

arbitrary shutdowns, masks, etc. In lock step of Democrats around the country, she created lots of fear, including mental health. Thank you for listening.

There were no other speakers from the public regarding this matter.

Governing Body Discussion

MOTION: Councilor Romero-Wirth moved, seconded by Councilor Lindell to amend the Bill to strike, "petty misdemeanor."

Councilor Garcia suggested voting on this motion. He had an amendment also

Ms. McSherry reminded the Counselors that there were multiple amendments passed in committee.

Councilor Romero-Wirth did not think so. She had one in Finance that changed the first violation to a warning. Now she had an amendment to strike petty misdemeanor and have a fine on a second offense.

Ms. McSherry clarified that Councilor Garcia's amendment has not been approved by a committee.

Councilor Romero-Wirth agreed.

Mayor Webber read another amendment which Councilor Romero-Wirth said was also approved at Finance and is already on the bill. The only consequence is a $50 fine on second or subsequent offense.

VOTE: The motion was approved on the following Roll Call vote:

For: Mayor Webber, Councilor Abeyta, Councilor Cassutt--Sanchez, Councilor Garcia, Councilor Lindell, Councilor Rivera, Councilor Romero-Wirth, and Councilor Villarreal.

Against: None. Councilor Vigil Coppler abstained.

Councilor Cassutt-Sanchez spoke to the comment made that we don't have an epidemic here in Santa Fe. She was worried for several reasons. We have done

a great job of prevention, so our numbers are much lower than they would otherwise be. Continuing the cautions is why we have lower infections. We must continue to do those things. We do need the economy to grow. People have mentioned the World Health Organization. They had a recommendation in April against facial coverings but updated with interim guidance now and they are now recommending facial coverings. She didn't believe it applies to people walking their dogs, eating, or drinking or in the privacy of their own home or cars.

Councilor Romero-Wirth agreed. But if they interact with others outside, they should wear a mask.

Councilor Cassutt-Sanchez pointed out that they can remove mask if their teeth are being cleaned.

Councilor Romero-Wirth 's said that is correct.

Councilor Cassutt-Sanchez agreed social distancing is important.

Councilor Romero-Wirth added that for those who are under 15 years old and closely supervised by parents, the decision is up to the parents.

Councilor Cassutt-Sanchez noted that this is not requiring 24/7 wearing of masks.

Councilor Romero-Wirth emphasized that this is for face coverings and is what we want to say instead of masks.

Councilor Vigil Coppler had many questions. She pointed out that this was her first opportunity to comment on this bill. She asked how the police officer would know if someone had a prior warning.

Councilor Romero-Wirth said the officer would if they had previously interacted.

Councilor Vigil Coppler did not think that would work.

Councilor Romero-Wirth commented that we want people to do this voluntarily. It is why she resisted a sliding scale of fines. But it is also so people would know

it is a city law. Most people will do it and get to the 80% needed to prevent the spread.

Councilor Vigil Coppler said that won't work. It might be possible but there is no answer yet.

Councilor Vigil Coppler how the police would know the person is under 15.

Councilor Romero-Wirth replied by asking them or asking the parents if they are around.

Councilor Vigil Coppler believed the age is unenforceable. She asked who would police the home buyers showing up for a look at the house.

Councilor Romero-Wirth pointed out that businesses are not called upon to enforce this.

Councilor Vigil Coppler suggested that the police would approach a tourist to enforce a Face mask violation.

Councilor Romero-Wirth likened it to using a cell phone while driving.

Councilor Romero-Wirth mentioned the exception for health conditions. The person would say they have a medical condition.

Councilor Vigil Coppler asked if they would have to carry a doctor's note. She summarized that this has a lot of loopholes and is not enforceable. She asked about an amendment being part of the bill. Maybe the process has changed.

Councilor Romero-Wirth said the bill changes are disliked in the Legislature. The amendment action at Finance is in the packet. and there is also one by Councilor Garcia for consideration.

Councilor Garcia noted that the Finance amendment was not in the bill.

Mayor Webber noted that Councilor Garcia's amendment is in the packet.

Ms. McSherry asked that comments be directed to the Chair, so we all know who is speaking when.

Councilor Vigil Coppler asked about the northeast public health region.

Councilor Garcia explained that it is a division within DOH. He wanted a more local approach than CDC has.

Mr. Guillen explained that there are four public health regions in New Mexico and Santa Fe is in the Northeast region.

Councilor Vigil Coppler assumed that was under the jurisdiction of the Governor.

Mr. Guillen said it is broken into regions so they can adjust the health orders per region.

Ms. McSherry added that it is part of their administrative divisions and each region has its own health director.

Councilor Vigil Coppler would have asked if the Police Department has the resources to do this. She didn't ask them before the meeting. It puts them in a bad position at the worst time. It is hard enough for them to enforce cell phone usage. She didn't think this is enforceable and has too many loopholes. She thought the Governor is doing a wonderful job and we already have an order for face coverings on what can be open and what is done with a mask. We have enough enforcement burden already and really didn't support it.

She asked if the Santa Fe Promise is not working. Mayor Webber did very well with that.

Councilor Villarreal thanked everyone for the helpful comments. She asked if Councilor Romero-Wirth had addressed this with the police.

Councilor Romero-Wirth said she did not ask them if they thought they could enforce it.

Councilor Villarreal said enforcement is tough for her. We have many in Land Use that are not enforceable. She understood there are exceptions for not wearing one's mask in some circumstances. The other piece is that was important to her was for tourists and visitors who come to Santa Fe. The communication factor will be very important. She thought of it as a community

respect for those who are vulnerable. She was also worried about those who must wear a mask all day long.

There was a question about enforcing it on school property. She asked if that is a place where they would have to wear masks.

Ms. McSherry acknowledged that was a big question. She was not sure how school administrators enforce it unless some agreement was in place.

Mayor Webber said we could use this as another basis for collaborating with the schools overall. We are trying to make our collaboration closer with the schools and make it mutually supportive. The best way to get compliance is peer to peer modeling.

Councilor Romero-Wirth wondered, when schools decide to reopen, if they will need to adopt some rules about the virus.

Councilor Garcia asked if he should start with his remaining amendments.

Mayor Webber agreed.

Councilor Garcia said his proposed amendments would have taken out the misdemeanor infraction. They might not have ability to get a face covering. The rest is on when it will sunset. We could say it would be reviewed in a year. We could rely on DOH for guidance. Amendment One is to strike the WHO reference and replace it with the Governor's statement on closing the emergency.

He asked Ms. McSherry if this is a violation of an individual's constitutional rights.

Ms. McSherry thought it was not. It is actually protecting people's health. There are lawsuits pending. The City has to use City resources to defend itself.

Councilor Garcia commented that Las Cruces tried to pass such an ordinance because of the impending litigation that the City would seek. That was one justification that ultimately did not pass in Las Cruces. Another reason it got struck down was that their police chief spoke out against it as a law because it was unenforceable. But he supported it as a resolution. He would like to have had either support or not from our Police Chief because they are going to enforce this law. This puts the police and business owners on the spot with it. It

also puts big box stores in a bind because they do not require customers to wear a mask when entering their business.

Mayor Webber was surprised the police chief in Las Cruces opined at all. Police cannot choose what they would enforce or not. For the most part, many people want to comply. We want to reinforce it, since infection rates have gone up in neighboring states. This goes along with Santa Fe Promise and reinforces our intent.

Councilor Garcia did not think we would see an uptick in mask wearing, but penalizing people into wearing masks is not the right approach. The Las Cruces City Attorney thought it was dangerous to pass such an ordinance

Councilor Garcia asked Ms. McSherry for her thoughts whether we would see litigation with the passing of this ordinance.

Ms. McSherry agreed it could happen and that could happen now with the emergency order in place. But it is required by the State right now. And the Governor's order has been upheld in Supreme Court recently. The Governor's order does not include fines but allows for penalties.

Councilor Garcia asked what the for this ordinance is then. What would be the grounds for imposing this?

Councilor Romero-Wirth responded with the analogy of cell phone use while driving. The enforcement of the Governor's proclamation has been done but not with regard to wearing face coverings. We have decided this is best for us and so important that we made it a law and will enforce a $50 fine for a second offense.

Mayor Webber helped to respond. We are giving out for face coverings at the visitor's window on the plaza and to residents at Midtown. Police and Fire will have them to distribute. We have 35,000 of them to distribute.

Councilor Garcia but we could go through the 35,000 masks in 2-3 weeks if tourists come back. He was concerned that the police officer won't know if it is a warning or a fine. And we need to make sure everyone is safe.

MOTION: Councilor Garcia moved, seconded by Councilor Vigil Coppler, to approve amendment on page three, line three, in the penalty section, to delete the sentence and insert, "for persons who violate this section, after receiving a warning for the first violation, shall be assessed a civil fine of $50 for each subsequent violation." The third part of the amendment, on page three, lines 7-8, after "when" to strike the remainder of the sentence and insert, "in lieu of therefor, the Governor's order requiring the use of face coverings, as it relates to the Northeast Public Health Region expires or is rescinded."

Councilor Romero-Wirth wanted to be clear on the motion. Her amendment struck the classification of a violation of this ordinance being a petty misdemeanor. So it would be a fine on the subsequent offense of $50. Under the way the bill is constructed with her amendment now, if you appeal your citation, you will go to municipal court. If the Governing Body approves amendment #2 of Councilor Garcia's amendment, calling out that it is a civil fine, an appeal of the citation will go to a Hearing Officer and the City would need to hire that Hearing Officer to hear the appeal of the citation. On amendment #3 she did not know if the Governor had ordered face coverings to be imposed by region. She thought the Governor had imposed the statewide. So she did not think it should be rescinding this region. We are the local benchmark. And when we get to a point where we feel it is not needed anymore, we could use rescind the order. No one wants to wear face coverings when they are no longer needed. We don't know how long that would be. We might want it shorter than the Governor's order or longer than the Governor's order.

Councilor Garcia noted that it is still an expense whether going to court or to a Hearing Officer. Now he was hearing the Governor's guidance on face coverings was not good enough. He added that later, if we want additional language, we could bring it back to the Governing Body for a decision. We are trusting that the Governor is giving us trustable guidance. He trusted it.

Ms. McSherry explained that a public health order can only be in place for 30 days at a time.

Councilor Cassutt-Sanchez wanted some clarification on amendment #2. The first part has already been approved. She asked if there is more information on the cost of the appeal.

Ms. McSherry said potential litigation was the first cost she referred to. The other type would be in an appeal before a Hearing Officer. The Parking Department has a contract with Hearing Officers at $150 per hour. It would depend upon how many cases were heard and how long each hearing took.

Councilor Cassutt-Sanchez said regarding guidance of CDC, she leans toward CDC or guidance on this very important ordinance with people coming in across the country instead of just New Mexicans.

Councilor Garcia pointed out that we have a Governor who is leading the country in keeping our state safe. Not that he didn't trust CDC, but he does trust the Governor on what is going to protect us. She is going to keep Santa Fe safe. She grew up here and lives here.

Councilor Romero-Wirth said she completely supports the Governor's order.

PREVIOUS QUESTION

MOTION: Councilor Romero-Wirth moved, seconded by Councilor Lindell, the previous question.

VOTE: The motion was approved on the following Roll Call vote:

For: Mayor Webber, Councilor Abeyta, Councilor Cassutt--Sanchez, Councilor Garcia, Councilor Lindell, Councilor Rivera, Councilor Romero-Wirth. Councilor Vigil Coppler and Councilor Villarreal.

Against: None.

Discussion on the Amendment was arrested, and the vote was called.

VOTE: The motion to amend was not approved on the following Roll Call vote:

For: Councilor Garcia, Councilor Vigil Coppler and Councilor Villarreal.

Against: Councilor Abeyta, Councilor Cassutt-Sanchez, Councilor Lindell, Councilor Rivera, Councilor Romero-Wirth, and Mayor Webber.

Councilor Vigil Coppler raised a point of order. She noted the amendment was not seen in the agenda packet. That could be a violation of the Open Meetings Act.

Ms. McSherry responded that it was proper to consider and not a violation of the Open Meetings Act.

MEETING EXTENSION

It was 11:21 pm.

MOTION: Councilor Villarreal moved, seconded by Councilor Romero-Wirth to waive the time limit rule, and extend the meeting beyond 11:30 p.m.

VOTE: The motion was approved on the following Roll Call vote:

For: Mayor Webber, Councilor Abeyta, Councilor Cassutt--Sanchez, Councilor Garcia, Councilor Lindell, Councilor Rivera, Councilor Romero-Wirth, Councilor Vigil Coppler and Councilor Villarreal.

Against: None.

MOTION: Councilor Romero-Wirth moved, seconded by Councilor Lindell, to approve the ordinance as first amended.

DISCUSSION ON THE MAIN MOTION

Councilor Vigil Coppler did not feel comfortable passing this bill. It is unenforceable and does not provide any direction. She reiterated her previous objections. The police chief is not here to say whether it is enforceable or not.

Mayor Webber briefly interpreted the bill and the reason for it.

Councilor Garcia said he was not against people protecting themselves and he has a mask. He wanted to bring to the Governing Body's attention potential litigation against the City while we are in a vulnerable financial situation. Some people will openly defy this ordinance. Education was the appropriate route

between Governor's mandate and things that are working well. We should educate folks, not penalize them. Has not seen much outreach to businesses.

VOTE: The motion was approved on the following Roll Call vote:

For: Mayor Webber, Councilor Abeyta, Councilor Cassutt--Sanchez, Councilor Lindell, Councilor Rivera, Councilor Romero-Wirth, and Councilor Villarreal.

Against: Councilor Garcia and Councilor Vigil Coppler.

18. **MATTERS FROM THE CITY ATTORNEY**

Ms. McSherry wanted to brief the Governing Body on a couple of matters but said she will do it in writing and meet with individual Councilors. on it. And because it was late, She recommended tabling the executive session.

EXECUTIVE SESSION

a) In Accordance with the New Mexico Open Meetings Act, Specifically NMSA 1978, Section 10-15-1, Part (H)(7), Attorney-Client Privileged Discussion Regarding Threatened and Pending Litigation in Which the City of Santa Fe Is or May Become a Participant, Including, but Not Limited to the Opportunity to Join an Amicus Brief Defending the Decision Issued in O.A. v. Trump, 404 F. Supp. 3d 109 (D.D.C. 2019), to be Filed in the District of Columbia Federal Circuit Court of Appeals. (Erin K. McSherry, City Attorney; ekmcsherry@santafenm.gov, 955-6512)

b) In Accordance with the New Mexico Open Meetings Act, Specifically NMSA 1978, Section 10-15-1, Part (H)(8), Discussion of the Acquisition and Disposition of the Santa Fe Estates Property. (Erin K. McSherry, City Attorney; ekmcsherry@santafenm.gov, 955-6512)

Councilor Abeyta asked if the executive session was necessary now. He observed that one litigation will be settled before the next meeting.

The Governing Body did not go into executive session.

19. Approval to Join the County of Los Angeles, City of Chicago, City of Oakland, and City of New York in an Amicus Brief in the District of Columbia Federal Circuit Court of Appeals, Supporting the Plaintiffs in their Defense of the Decision in O.A. v. Trump, 404 F. Supp. 3d 109 (D.D.C. 2019), which Overturned the Department of Justice's and Department of Homeland Security's Interim Final Rule Which Would Render Migrants who Entered the Country Outside Ports of Entry Categorically Ineligible for Asylum, Without Consideration of Dangers Faced in their Home Countries. (Erin K. McSherry, City Attorney; ekmcsherry@santafenm.gov, 955-6512)

Ms. McSherry requested the Governing Body join in challenging the rule overturned in District Court regarding ports of entry for asylum designation.

MOTION: Councilor Romero-Wirth moved, seconded by Councilor Lindell, to join the amicus brief as requested by the City Attorney.

VOTE: The motion was approved on the following Roll Call vote:

For: Mayor Webber, Councilor Abeyta, Councilor Cassutt--Sanchez, Councilor Garcia, Councilor Lindell, Councilor Rivera, Councilor Romero-Wirth. Councilor Vigil Coppler and Councilor Villarreal.

Against: None.

20. **MATTERS FROM THE CITY CLERK**

There were no matters from the City Clerk.

21. COMMUNICATIONS FROM THE GOVERNING BODY

A copy of the Bills and Resolutions Scheduled for Introduction is incorporated herewith to these minutes as Exhibit 1.

Councilor Vigil Coppler repeated a conversation about opening Bicentennial Pool. She pointed out that the pool is ready, and the Staff agreed on what they need to do on it. Both the golf course and the pool are outdoors. She would like the administration to consider that opening.

Councilor Garcia spoke regarding the park called The Rose Garden. He noted that the park has 150 different rose varieties and encouraged everyone to please visit it.

Councilor Lindell presented an ordinance cosponsored by Councilor Villarreal, Councilor Romero-Wirth, and Councilor Vigil Coppler relating to amending the Noise Abatement Ordinance Sections 10-9.2, 9.4, 9.6, 9.7 9.9 and 9.10 and repealing 9.11. She commented that it is time to deal with the noise in neighborhoods. She could hear motorcycles racing outside for the past hour. She has been getting constant complaints about the noise and we need to do something about it.

Councilor Vigil Coppler asked that the ordinance just introduced by Councilor Lindell be heard at the Public Works Committee.

Mayor Webber introduced a resolution supporting the closure of West San Francisco Street and establishing a framework for the closure of other streets to vehicular traffic for a certain period during 2020 and revitalizing our restaurants downtown.

I. ADJOURNMENT

Having completed the agenda and with no other business to come before the Governing Body, the meeting was adjourned at 11:52 p.m.

Approved by:

_____

Mayor Alan Webber

ATTESTED TO:

_____

Yolanda Y. Vigil, City Clerk

Respectfully submitted by:

Carl G. Boaz, Council Stenographer

ACTION SHEET
ITEM FROM FINANCE COMMITTEE MEETING OF 06/15/2020
FOR CITY COUNCIL MEETING OF 06/24/20

ISSUE:

b. Request for Approval of Amendment #1 with Denora-MIOX, Inc. to Provide On-Site Disinfectant Solution Generation Units though December 2020 in the Amount of $428,239.21 Inclusive of NMGRT. (Jonathan Montoya, Source of Supply Operations Manager, jmmontoya@santafenm.gov, 955-4373)

COMMITTEE REVIEW

Finance Committee (Scheduled)	06/15/2020
Governing Body (Scheduled)	06/24/2020

FINANCE COMMITTEE ACTION:
Approved on Consent

FUNDING SOURCE:

SPECIAL CONDITIONS OR AMENDMENTS
Amended

VOTE	FOR	AGAINST	ABSTAIN
CHAIRPERSON ABEYTA	X		
COUNCILOR LINDELL	X		
COUNCILOR ROMERO-WIRTH	X		
COUNCILOR VILLARREAL	X		
COUNCILOR CASSUTT-SANCHEZ	X		

3-19-18

ACTION SHEET
PUBLIC WORKS AND PUBLIC UTILITES COMMITTEE MEETING OF 06/08/2020

ISSUE NO. 7B

Request for approval of Amendment #1 with Denora-MIOX, Inc. to provide on-site disinfectant solution generation units though December 2020 in the amount of $428,239.21 Inclusive of NMGRT. (Jonathan Montoya, Source of Supply Operations Manager, jmmontoya@santafenm.gov, 955-4373)

COMMITTEE REVIEW

Finance Committee (Scheduled)	06/15/2020
Governing Body (Scheduled)	06/24/2020

PUBLIC UTILITES COMMITTEE ACTION: Approved on Consent Agenda to forward to 06/15/2020 Finance Committee

SPECIAL CONDITIONS OR AMENDMENTS:

STAFF FOLLOW UP:

VOTE:	FOR	AGAINST	ABSTAIN
COUNCILOR RIVERA, CHAIR	X		
COUNCILOR GARCIA	X		
COUNCILOR ABEYTA	X		
COUNCILOR LINDELL	X		
COUNCILOR VIGIL COPPLER	X		

City of Santa Fe, New Mexico

memo

DATE: April 14, 2020

TO: Public Utilities Committee/Finance Committee/City Council

VIA: Shannon Jones, Public Utilities Director SJ
Jesse Roach, Water Division Director JR

FROM: Jonathan Montoya, Source of Supply Manager JM
RE: Onsite Disinfectant Solution Generation-CIP Term amendment.

ITEM: Request approval Amendment #1 to PSA with Denora-MIOX, Inc. Munis#3201142

BACKGROUND AND SUMMARY
In March of 2020 the Source of Supply section entered into an agreement with Denora-Miox to provide on-site disinfectant solution generation units at seven water division sites. The disinfection units are responsible for the disinfection of up to 10MGD of Buckman well water and roughly 4MGD of city well field water. An Onsite Disinfection Generation bid was solicited for the Public Utilities Department (RFP# 19/51/P) Denora-MIOX, Inc. was selected based on the RFP committee evaluation.

JUSTIFICATION
Due to the timing of the agreement acceptance in combination with current events (COVID-19) our order for these units is expected to be delayed past the end of FY19/20. The current agreement expires on June 30th 2020.

RECOMMENDED ACTION
Please approve amended agreement extending the term of this contract to December 31st 2020. Denora-MIOX, Inc. Munis#3201142

Adobe Sign

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  - User Guide
  - Tutorials
  - Contact Support
-

- Options
  - Read agreement
  - Someone else should sign
  - I will not e-sign
  - Clear document data

  - View history
  - Download PDF

De Nora SOC

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CITY OF SANTA FE
AMENDMENT No. 1 TO
PROFESSIONAL SERVICES AGREEMENT
Item # 20-0038

AMENDMENT No. 1 (the "Amendment") to the CITY OF SANTA FE PROFESSIONAL SERVICES AGREEMENT, dated January 29, 2020 (the "Agreement"), between the City of Santa Fe (the "City") and De Nora MIOX Corporation (the "Contractor"). The date of this Amendment shall be the date when it is executed by the City.

RECITALS

A. Under the terms of the Agreement, Contractor has agreed to provide professional services as specified in the scope of the Agreement to the City.

B. Pursuant to Article 8 of the Agreement, 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. TERM.

Article 5 of the Agreement is amended to extend the term of the Agreement, so that Article 5 reads in its entirety as follows:

This Agreement shall terminate on December 31, 2020, unless terminated pursuant to Paragraph 7, infra.

2. AGREEMENT 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 City of Santa Fe Professional Services Agreement as of the dates set forth below.

CITY OF SANTA FE:

_____
ALAN WEBBER, MAYOR

DATE:_____

ATTEST:

_____
YOLANDA Y. VIGIL, CITY CLERK

CITY ATTORNEY'S OFFICE:

Marcos Martinez
Marcos Martinez (Jun 10, 2020 08:14 MDT)
SENIOR ASSISTANT CITY ATTORNEY

APPROVED AS TO FINANCES:

_____
MARY MCCOY, FINANCE DIRECTOR

52361.530200
Business Unit/Line Item

CONTRACTOR:

_____
NAME

_____
TITLE
DATE:_____
CRS# 02-257653-00-3
Registration #

City of Santa Fe
Summary of Contracts, Agreements, & Amendments

City of Santa Fe
Summary of Contracts, Agreements, & Amendments

5 Procurement Method of Original Contract: (complete one of the lines)

RFP# 19/51/P Date: June 28, 2019

RFQ ☐ Date:

Sole Source ☐ Date:

Other

6 Procurement History: 1 year
example: (First year of 4 year contract)

Purchasing Officer Review

Comments or Exceptions:

7 Funding Source: CIP BU/Line Item: 5050395.572970

Alexis Lotero
Budget Officer Approval

Comments or Exceptions:

8 Any out-of-the ordinary or unusual issues or concerns:
N/A
(Memo may be attached to explain detail.)

9 Staff Contact who completed this form: Maya Martinez

Phone # 4271

10 Certificate of Insurance attached. (if original Contract) ☑

Submit to City Attorney for review/signature
Forward to Finance Director for review/signature
Return to originating Department for Committee(s) review or forward to City Manager for review and approval (depending on dollar level).

To be recorded by City Clerk:

Contract #

Date of contract Executed (i.e., signed by all parties):

Note: If further information needs to be included, attach a separate memo.

Comments:

Signature:

Email: fadunaway@santafenm.gov

Signature:

Email: mtmccoy@santafenm.gov

Signature:

Email: mfmartinez@santafenm.gov

Start

2 / 3

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mfmartinez@santafenm.gov

×

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CITY OF SANTA FE RFP PROCUREMENT CHECKLIST

Contractor Name: Denora-Miox, Inc

Procurement Title: Onsite Disinfectant Solution Generation Type text here

Solicitation RFP#: 19/51/P

Department Requesting/Staff Member Public Utilities Department/ Jonathan Montoya

Procurement Requirements:
A procurement file shall be maintained for all contracts, regardless of the method of procurement. The procurement file shall contain the basis on which the award is made, all submitted bids, all evaluation materials, score sheets, quotations and all other documentation related to or prepared in conjunction with evaluation, negotiation, and the award process. The procurement shall contain a written determination from the Requesting Department, signed by the purchasing officer, setting forth the reasoning for the contract award decision before submitting to the Committees. .

REQUIRED DOCUMENTS FOR APPROVAL BY PURCHASING*

YES	N/A	
☒	☐	Approved Procurement Checklist (by Purchasing)
☒	☐	Departments Recommendation of Award Memo addressed to Finance
☐	☐	Tabulation Evaluation score sheet
☐	☐	BAR
☐	☐	FIR
☒	☐	Contract, Agreement or Amendment
☒	☐	Current Business Registration and CRS numbers on contract or agreement
☒	☐	Summary of Contracts and Agreements form
☒	☐	Certificate of Insurance
☐	☐	Other: _____

Jonathan Montoya-Source of Supply Manager
Department Rep Printed Name and Title

Department Rep Signature attesting that all information included

Fran Dunaway, CPO 5/1/20
Purchasing Officer attesting that all information is reviewed

REQUIRED DOCUMENTS FOR BID FILE*

YES	N/A	
☐	☐	Final RFP Document
☐	☐	Copy of legal solicitation published in the newspaper, website, etc.
☐	☐	All addendums
☐	☐	Plan holders list
☐	☐	Copies of all RFP submittals
☐	☐	Complete evaluation score sheets
☐	☐	Non-Responsive/Non-Responsibility Form and correspondence or letters from Department to vendor regarding disqualifications
☐	☐	Oral presentations (sign-in sheets, presentation materials, etc.)

*

☐	☐	Documentation sent to Proponents/Offerors and responses received regarding clarifications, decisions, negotiations, and/or best and final offers, etc.
☐	☐	Reference Reviews/Reference Check Questionnaires
☐	☐	Pricing evaluation
☐	☐	Final overall evaluation matrix or summary of evaluator scores
☐	☐	Other: _____

AWARD*

YES	N/A	
☐	☐	Fully executed Memo to Committees from the Department with recommendation of award
☐	☐	Winning proposal (this is a copy that has all confidential/proprietary information excluded)
☐	☐	Contract Award Notice
☐	☐	Email or notification sent to all Proponent(s)/Offerors that award was made
☐	☐	Waiver or "No Action Taken" from Procurement Office
☐	☐	If IFB and not awarded to lowest responsive, responsible bidder; written explanation
☐	☐	Other: _____

DISCLOSURES*

YES	N/A	
		Contractor Disclosures & Conflicts of Interest
☐	☐	Disclosures & Conflicts of Interest Form(s) (winning proponent(s)/offeror(s))
		Contractor –Conflicts of Interest
☐	☐	Purchasing Office Letter or e-mail to designated individual regarding potential conflict
☐	☐	Conflict of Interest Form signed by all parties
☐	☐	Letter from Procurement Office regarding the potential conflict
		Subcontractor Disclosures
☐	☐	Disclosures & Conflicts of Interest form of Subcontractor(s)
		Subcontractor –Conflicts of Interest
☐	☐	Purchasing Officer Letter or email to designated individual regarding potential conflict
☐	☐	Conflict of Interest form signed by all parties
☐	☐	Letter from Legal Office regarding the potential conflict
☐	☐	Other: _____

CONTRACT*

YES	N/A	
☐	☐	Copy of Executed Contract
☐	☐	Copy of all documentation presented to the Committees
☐	☐	Finalized Council Committee Minutes
☐	☐	Other: _____

MISCELLANEOUS FILE*

YES	N/A	
☐	☐	Local Preference Form
☐	☐	New Mexico Residence Form
☐	☐	Veterans Exemption
☐	☐	Other: _____

Include all other substantive documents and records of communication that pertain to the procurement and any resulting contract.

*

PROTEST (If applicable)*

YES	N/A	
☐	☐	Documentation from protester filed with the Purchasing Office
☐	☐	Letter from Department to Purchasing Office Providing response to protest
☐	☐	Letter from Purchasing Officer to protester and Department on final outcome
☐	☐	Other: _____

Create a separate file folder which may contain any documents with trade secrets or other competitively sensitive, confidential or proprietary information.

YES	N/A	
☐	☐	Original proposal (s) with no redactions

_____

Department Rep Printed Name and Title

_____

Department Rep Signature attesting that all information included

*

City of Santa Fe
FY20 Fiscal Impact Analysis (Non-Personnel Expenditures)

General Information

Department Name:	Public Utilities	Department Name:	
Division Name:	Water/SOS	Division Name:	

Financial Information

Amount Requested:	$428,239.21	Munis Fund Number:	505
Vendor Name:	Denora-MIOX	Munis Org Number:	5050385
Approved by Director?	Yes	Munis Object Code:	

Expenditure Information

1. Describe the purchase of goods/services. Is this one-time or recurring? Please explain why this is the lowest cost option for this expenditure.

This is a one time purchase. The items being purchased are used for on-site generation of chlorine which is used for disinfecting our drinking water. The process of on-site generation is roughly 1/2 the cost to purchasing liquid bleach from a vendor. This purchase was solicited via COSF RFP/ and procurement guidlines.

2. Please describe which legally required City service does this procurement support? Does this procurement provide support for compliance with City, State and Federal requirements? If yes, please explain.

Disinfection of public water supply is a requirement of the federal Safe Drinking Water act. This act mandates certain water quality standards such as disinfection. These units are replacing the existing units which have reached the end of their useful life cycle. Without this expenditure the city will fall out of compliance with NMED and EPA standards which can incur severe fines or worse negative health effects to the public.

3. Can these services be performed by City employees in your department or in other departments? If the answer is no, please explain.

No. Training and initial startup for these units needs to be performed by a qualified technician. Majority of the cost associated with this expenditure is related to the actual cost of the units.

4. Would there be any adverse health, safety or economic implications if this expenditure was not approved? What impact will there be on the department and the City operations if this expenditure is not approved.

Yes. The Water Div. will no longer be able effectively disinfect the water at multiple sites(Wells, Storage tanks, etc.) in the event of an equipment failure as the current units are no longer supported. these units are vital to providing safe water for the public.

5. If this purchase is not approved with City funds, what are alternative funding sources for the proposed expenditure? Does this duplicate efforts being provided by other governmental, for profit or non-profit entities?

I am not aware of alternative funding. This does not duplicate any other efforts.

	Alexis Lotero	
Procurement Office Signature	Budget Office Signature	Finance Director Signature

Signature: Fran Dunaway, COO (Apr 25, 2020)

Email: fadunaway@santafenm.gov

Signature: Mary McCoy

Email: mtmccoy@santafenm.gov

CERTIFICATE OF LIABILITY INSURANCE

DATE(MM/DD/YYYY) 01/08/2020

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	CONTACT NAME:	
Aon Risk Services Northeast, Inc. Cleveland OH Office 1660 West Second Street Skylight Office Tower Suite 650 Cleveland OH 44113 USA	PHONE (A/C, No, Ext): (866) 283-7122	FAX (A/C, No,): (800) 363-0105
	E-MAIL ADDRESS:	

INSURER(S) AFFORDING COVERAGE		NAIC #
INSURER A:	AIG Specialty Insurance Company	26883
INSURER B:	The Phoenix Insurance Company	25623
INSURER C:	Travelers Property Cas Co of America	25674
INSURER D:		
INSURER E:		
INSURER F:		

INSURED
De Nora MIOX, Inc.
5601 Balloon Fiesta Pkwy NE, Suite A
Albuquerque NM 87113 USA

COVERAGES **CERTIFICATE NUMBER:** 570080137041 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS,

Limits shown are as requested

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY			EGS404900	12/31/2019	12/31/2020	EACH OCCURRENCE	$1,000,000
	CLAIMS-MADE X OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	$300,000
							MED EXP (Any one person)	$25,000
							PERSONAL & ADV INJURY	$1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$2,000,000
	X POLICY PRO-JECT LOC						PRODUCTS - COMP/OP AGG	$2,000,000
	OTHER:						Pollution Liability Coverage	$1,000,000
C	AUTOMOBILE LIABILITY			810 9M169639	12/31/2019	12/31/2020	COMBINED SINGLE LIMIT (Ea accident)	$1,000,000
	X ANY AUTO						BODILY INJURY (Per person)	
	OWNED AUTOS ONLY / SCHEDULED AUTOS						BODILY INJURY (Per accident)	
	HIRED AUTOS ONLY / NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	
	X Comp/Coll $1,000							
	UMBRELLA LIAB OCCUR						EACH OCCURRENCE	
	EXCESS LIAB CLAIMS-MADE						AGGREGATE	
	DED RETENTION							
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY			UB2P408662	12/31/2019	12/31/2020	X PER STATUTE OTH-ER	
	ANY PROPRIETOR / PARTNER / EXECUTIVE OFFICER/MEMBER (Mandatory in NH) Y/N: N	N/A					E.L. EACH ACCIDENT	$1,000,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE-EA EMPLOYEE	$1,000,000
							E.L. DISEASE-POLICY LIMIT	$1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER

Poole & Kent
4530 Hollins Ferry Road
Baltimore MN 21227 USA

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Aon Risk Services Northeast, Inc.

Holder Identifier :

Certificate No : 570080137041

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City of Santa Fe, New Mexico
BUSINESS LICENSE

THIS BUSINESS IS IN COMPLIANCE WITH THE CITY OF SANTA FE LIVING WAGE ORDINACE, §28-1 SFCC 1987

City Of Santa Fe
PO BOX 909
Santa Fe NM, 87504

Official Document
Please Post

Business Name: **MIOX CORPORATION**

Location: **SF COUNTY**

Class: **BUSINESS LOCATED OUT OF CITY LIMITS**

Comment:

Control Number: 0052732

License Number: 19-00019219

Issue Date December 14, 2018

Expiration Date December 31, 2019

MIOX CORPORATION
5601 BALLON FIESTA PARKWAY NE

ALBUQUERQUE NM 87113

THIS IS NOT A CONSTRUCTION PERMIT OR SIGN PERMIT. APPROPRIATE PERMITS MUST BE OBTAINED FROM THE CITY OF SANTA FE BUILDING PERMIT DIVISION PRIOR TO COMMENCEMENT OF ANY CONSTRUCTION OR THE INSTALLATION OF ANY EXTERIOR SIGN.

THIS REGISTRATION/LICENSE IS NOT TRANSFERABLE TO OTHER BUSINESSES OR PREMISES.

ITEM # 20-0038

City of Santa Fe Contract
Services Contract

THIS AGREEMENT is made and entered into by and between the City of Santa Fe, herein after referred to as the "City", and **De Nora MIOX** herein after referred to as the "Contractor."

IT IS MUTUALLY AGREED BETWEEN THE PARTIES:

1. **Definitions**

A. "Products and Services Schedule" refers to the complete list of products and services offered under this Agreement and the price for each. Product and service descriptions may be amended with the prior approval of the Agreement Administrator. New products and services shall not be added to the Products and Services Schedule.

B. "Business Hours" means 8:00 a.m. to 5:00 p.m. Mountain Time.

C. "Products and Services schedule" refers to the complete list of products and services offered under this Agreement and the price for each. Product and service descriptions may be amended with the prior approval of the Agreement Administrator. New products and services shall not be added to the Products and Services Schedule.

D. "You" and "your" refers to **De Nora MIOX .** "We," "us" or "our" refers to the City and whose accounts are created under this Agreement.

2. **Scope of Work**

A. Contractor shall provide onsite mixed oxidant hypochlorite generators and associated equipment (dosing pumps, solution storage tanks, etc.) for six ground water production wells and one potable water storage tank (6-15lb/day cl2 units) (1-200lb/day cl2 unit/units). Contractor shall provide an Ethernet/IP communication solution to integrate hypochlorite generators to existing Rockwell Automation CompactLogix PLCs as part of the Disinfection System Replacement Project for the Source of Supply Section of City of Santa Fe Water Division.

B. Inspection of Work - All work must be completed to the reasonable satisfaction of the Source of Supply Manager, or his/her representative and any questions as to proper procedures or quality of workmanship will be resolved by same.

C. Damage to Property - Any damage to property as a result of the Contractor's negligent operation shall be the sole responsibility of the Contractor. Should the damage not be rectified within the time mutually agreed upon (such period not to be less than three business days) or to the reasonable satisfaction of the Water Division Director, the City shall reserve the right to repair or replace that which was damaged, or assess the Contractor, such cost as may be reasonable and related to damage caused by the contractor, and deduct these costs from any payment due the

Contractor. The Contractor shall inform, in writing the Water Division of any damages caused by the contractor's operations within three business days after such damage occurs.

D. Discontinuance of Work - The City shall have the authority to suspend the work, wholly or in part by written order as the City may deem necessary due to unsuitable weather, unforeseen circumstances, or due to failure on the part of the contractor to comply with any provisions of the contract documents. Any practice obviously hazardous, as determined by the Park Division Director, or his/her representative, shall be immediately discontinued by the contractor upon receipt of written or oral notice to discontinue such practice. In the event of a suspension hereunder not caused by any act or omission of Contractor, the City will reimburse Contractor for reasonable expenses caused by such suspension, including warehousing and lost time.

3. **Compensation**

The City shall pay to the Contractor based upon fixed prices for each Deliverable item as listed in Exhibit A attached here to.

The total compensation under this Agreement shall not exceed three hundred ninety four thousand nine hundred eighteen dollars ($394,918.00) excluding New Mexico gross receipts tax.

4. **Payment Provisions**

All payments under this Agreement are subject to the following provisions.

A. Acceptance - In accordance with Section 13-1-158 NMSA 1978, the City shall determine if the product or services provided meet specifications. Until the products or services have been accepted in writing by the City, the City shall not pay for any products or services. Unless otherwise agreed upon between the City and the Contractor, within thirty (30) days from the date the City receives written notice from the Contractor that payment is requested for services or within thirty (30) days from the receipt of products, the City shall issue a written certification (by letter or email) of complete or partial acceptance or rejection of the products or services. Unless the City gives notice of rejection within the specified time period, the products or services will be deemed to have been accepted.

B. Payment of Invoice - Upon acceptance that the products or services have Been received and accepted, payment shall be tendered to the Contractor within thirty (30) days after the date of invoice. After the thirtieth day from the date that written certification of acceptance is issued, late payment charges shall be paid on the unpaid balance due on the contract to the Contractor at the rate of 1.5 % per month. Contractor may submit invoices for payment no more frequently than monthly. Payment will be made to the Contractor's designated mailing address. Payment on each invoice shall be due within 30 days from the date of the acceptance of the invoice. The City agrees to pay in full the balance shown on each account's statement, by the due date shown on said statement.

5. **Term**

THIS AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED IN WRITING BY THE CITY. This Agreement shall begin on date approved by the City, and end on June 30, 2020. The City reserves the right to renew the contract on an annual basis by mutual Agreement not exceed a total of four years in accordance with NMSA 1978, §§ 13-1-150 through 152.

6. **Default and Force Majeure**

The City reserves the right to cancel all or any part of any orders placed under this contract without cost to the City, if the Vendor materially fails to meet the provisions of this contract and, except as otherwise provided herein, to hold the Vendor liable for any excess cost occasioned by the City due to the Vendor's default. The Vendor shall not be liable for any excess costs if failure to perform the order arises out of causes beyond the control and without the fault or negligence of the Vendor; such causes include, but are not restricted to, acts of God or the public enemy, acts of the State or Federal Government, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather and defaults of sub-contractors due to any of the above, unless the City shall determine that the supplies or services to be furnished by the sub-contractor were obtainable from other sources in sufficient time to permit the Vendor to meet the required delivery scheduled. The rights and remedies of the City provided in this paragraph shall not be exclusive and are in addition to any other rights now being provided by law or under this contract.

7. **Termination**

A. Grounds. The City may terminate this Agreement for convenience or cause. The Contractor may only terminate this Agreement based upon the City's uncured, material breach of this Agreement.

B. Notice; City Opportunity to Cure.

1. Except as otherwise provided in Paragraphs 7.A and 17, the City shall give Contractor written notice of termination at least thirty (30) days prior to the intended date of termination.

2. Contractor shall give City written notice of termination at least thirty (30) days prior to the intended date of termination, which notice shall (i) identify all the City's material breaches of this Agreement upon which the termination is based and (ii) state what the City must do to cure such material breaches. Contractor's notice of termination shall only be effective (i) if the City does not cure all material breaches within the thirty (30) day notice period or (ii) in the case of material breaches that cannot be cured within thirty (30) days, the City does not, within the thirty (30) day notice period, notify the Contractor of its intent to cure and begin with due diligence to cure the material breach.

3. Notwithstanding the foregoing, this Agreement may be terminated immediately upon written notice to the Contractor (i) if the Contractor becomes unable to perform the services contracted for; (ii) if, during the term of this Agreement, the Contractor is suspended or debarred by the City; or (iii) the Agreement is terminated pursuant to Paragraph 17, "Appropriations", of this Agreement.

C. Liability. Except as otherwise expressly allowed or provided under this Agreement, the City's sole liability upon termination shall be to pay for acceptable work (including specialized or customized work in process which Contractor is unable to repurpose for other projects) performed prior to the Contractor's receipt or issuance of a notice of termination; 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. *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.*

8. **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 Paragraph 7 herein, or to agree to the reduced funding.

9. **Status of Contractor**

The Contractor, and Contractor's agents and employees, are independent Contractors for the City and are not employees of the City. The Contractor, and Contractor's 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 personally reportable by the Contractor for income tax purposes, including without limitation, self-employment tax and business income tax. The Contractor agrees not to purport to bind the City unless the Contractor has written authority to do so, and then only within the strict limits of that authority.

10. **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.

11. **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.

12. **Non-Collusion**

In signing this Agreement, the Vendor/Contractor certifies the Vendor/Contractor has not, either directly or indirectly, entered into action in restraint of free competitive bidding in connection with this offer submitted to the City.

13. **Inspection of Plant**

The City may inspect, at any reasonable time during Contractor's regular business hours and upon prior written notice, the Contractor's plant or place of business, or any subcontractor's plant or place of business, which is related to the performance of this contract.

14. **Commercial Warranty**

The Vendor agrees that the tangible personal property or services furnished under this Agreement shall be covered by the most favorable commercial warranties the Vendor gives to any customer for such tangible personal property or services, and that the rights and remedies provided herein shall extend to the City and are in addition to and do not limit any rights afforded to the City by any other clause of this order. Vendor agrees not to disclaim warranties of fitness for a particular purpose (solely to the extent the City has specified in writing the purpose for which any property or services under the Contract will be utilized for) or merchantability.

15. **Condition of Proposed Items**

Where tangible personal property is a part of this Agreement, all proposed items are to be NEW and of most current production, unless otherwise specified.

16. **Records and Audit**

During the term of this Agreement and for three years thereafter, the Contractor shall maintain detailed records pertaining to the services rendered and products delivered. These records shall be subject to inspection by the City, the State Auditor and other appropriate state and federal authorities. 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.

17. **Appropriations**

The terms of this Agreement, and any orders placed under it, 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 legislature, this Agreement, and any orders placed under it, shall terminate 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.

18. **Release**

The Contractor, upon final payment of the amount due under this Agreement, releases the City, its officers and employees, from all liabilities, claims and obligations whatsoever arising from or under this Agreement. 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.

19. **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 prior written approval by the City.

20. **Conflict of Interest**

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. The Contractor shall comply with any applicable provisions of the New Mexico Governmental Conduct Act and the New Mexico Financial Disclosures Act.

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, and Article 16 NMSA 1978.

C. Contractor's representations and warranties in Paragraphs A and B of this Paragraph 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 Paragraph 20 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 Paragraph 20 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.

21. **Approval of Contractor Representative(s)**

The City reserves the right to require a change in Contractor representative(s) if the assigned representative(s) are not, in the opinion of the City, adequately serving the needs of the City.

22. **Scope of Agreement; 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 agreements or understandings, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

23. **Notice**

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

24. **Equal Opportunity Compliance**

The Contractor agrees to abide by all federal and state laws, and local Ordinances, pertaining to equal employment opportunity. In accordance with all such laws, rules, and regulations, the Contractor agrees to assure 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.

25. **Indemnification**

The Contractor shall hold the City and its employees harmless and shall indemnify the City and its employees against any and all claims, suits, actions, liabilities and costs of any kind, including attorney's fees for personal injury or damage to property arising from the negligent acts or omissions of the Contractor, its agents, officers, employees or subcontractors. The Contractor shall not be liable for any injury or damage as a result of any negligent act or omission committed by the City, its officers or employees.

26. **New Mexico Tort Claims Act**

Any liability incurred by the City of Santa Fe in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, Section 41-4-1, et. seq. NMSA 1978, as amended. The City and its "public employees" as defined in the New Mexico Tort Claims

Act, do not waive sovereign immunity, do not waive any defense and do not waive any limitation of liability pursuant to law. No provision in this Agreement modifies or waives any provision of the New Mexico Tort Claims Act.

27. **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, § 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.

28. **Limitation of Liability**

The Contractor's liability to the City, for any cause whatsoever shall be limited to the purchase price paid to the Contractor for the products and services that are the subject of the City's, claim. The foregoing limitation does not apply to paragraph 25 of this Agreement or to damages resulting from personal injury caused by the Contractor's gross negligence or intentional misconduct. Notwithstanding any other provisions herein, in no event shall Contractor be liable for any consequential, punitive, incidental, or other indirect damages of any type or kind.

29. **Incorporation by Reference and Precedence**

If this Agreement has been procured pursuant to a request for proposals, this Agreement is derived from (1) the request for proposal, (including any written clarifications to the request for proposals and any City response to questions); (2) the Contractor's best and final offer; and (3) the Contractor's response to the request for proposals.

In the event of a dispute under this Agreement, applicable documents will be referred to for the purpose of clarification or for additional detail in the following order of precedence: (1) amendments to the Agreement in reverse chronological order; (2) the Agreement, including the scope of work and all terms and conditions thereof; (3) the request for proposals, including attachments thereto and written responses to questions and written clarifications; (4) the Contractor's best and final offer if such has been made and accepted by the City; and (5) the Contractor's response to the request for proposals.

30. **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.

31. **Inspection**

If this contract is for the purchase of tangible personal property (goods), final inspection

and acceptance shall be made at Destination. Tangible personal property rejected at Destination for non-conformance to specifications shall be removed at Contractor's risk and expense promptly after notice of rejection and shall not be allowable as billable items for payment.

32. **Inspection of Services**

If this contract is for the purchase of services, the following terms shall apply.

A. Services, as used in this Article, include services performed, workmanship, and material furnished or utilized in the performance of services.

B. The Contractor shall provide and maintain an inspection system acceptable to the City covering the services under this Agreement. Complete records of all inspection work performed by the Contractor shall be maintained and made available to the City and for as long thereafter as the Agreement requires. The City has the right to inspect and test all services contemplated under this Agreement to the extent practicable at all times and places during the term of the Agreement. The City shall perform inspections and tests in a manner that will not unduly delay or interfere with Contractor's performance.

C. If the City performs inspections or tests on the premises of the Contractor or a subcontractor, the Contractor shall furnish, and shall require subcontractors to furnish, at no increase in contract price, all reasonable facilities and assistance for the safe and convenient performance of such inspections or tests.

D. If any part of the services do not conform with the requirements of this Agreement, the City may require the Contractor to re-perform the services in conformity with the requirements of this Agreement at no increase in contract amount. When the defects in services cannot be corrected by re-performance, the City may:

(1) require the Contractor to take necessary action(s) to ensure that future performance conforms to the requirements of this Agreement; and

(2) reduce the contract price to reflect the reduced value of the services performed.

E. If the Contractor fails to promptly (such period not to be less than three business days) re-perform the services or to take the necessary action(s) to ensure future performance in conformity with the requirements of this Agreement, the City may:

(1) by contract or otherwise, perform the services and charge to the Contractor any cost incurred by the City that is directly related to the performance of such service; or

(2) terminate the contract for default.

33. **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.

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

B. 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:

a. Bodily injury: $1,000,000 per person /$1,000,000 per occurrence.
b. Property damage or combined single limit coverage: $1,000,000.
c. Automobile liability (including non-owned automobile coverage): $1,000,000.
d. Umbrella: $1,000,000.

C. 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.

34. **Impracticality of Performance**

A party shall be excused from performance under this Agreement for any period that the party is prevented from performing as a result of an act of God, strike, war, civil disturbance, epidemic, or court order, provided that the party has prudently and promptly acted to take any and all steps that are within the party's control to ensure performance. Subject to this provision, such non-performance shall not be deemed a default or a ground for termination.

35. **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.

36. **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.

37. **Patent, Copyright and Trade Secret Indemnification**

A. The Contractor shall defend, at its own expense, the City against any claim that any product or service provided under this Agreement infringes any patent, copyright to trademark in the United States or Puerto Rico, and shall pay all costs, damages and attorneys' fees that a court finally awards as a result of any such claim. In addition, if any third party obtains a judgment against the City based upon Contractor's trade secret infringement relating to any product or services provided under this Agreement, the Contractor agrees to reimburse the City for all costs, attorneys' fees and amount of the judgment. To qualify for such defense and or payment, the City shall:

i. give the Contractor prompt written notice within 48 hours of any claim;
ii. allow the Contractor to control the defense of settlement of the claim; and

iii. cooperate with the Contractor in a reasonable way to facilitate the defense or settlement of the claim.

B. If any product or service becomes, or in the Contractor's opinion is likely to become the subject of a claim of infringement, the Contractor shall at its option and expense:

i. provide the City the right to continue using the product or service and fully indemnify the City against all claims that may arise out of the City's use of the product or service;

ii. replace or modify the product or service so that it becomes non-infringing; or,

iii. accept the return of the product or service and refund an amount equal to the value of the returned product or service, less the unpaid portion of the purchase price and any other amounts, which are due to the Contractor. The Contractor's obligation will be void as to any product or service modified by the City to the extent such modification is the cause of the claim.

38. **Survival**

The Agreement paragraphs titled "Patent, Copyright, Trademark, and Trade Secret Indemnification; Indemnification; and Limit of Liability" shall survive the expiration of this Agreement. Software licenses, leases, maintenance and any other unexpired Agreements that were entered into under the terms and conditions of this Agreement shall survive this Agreement.

39. **Disclosure Regarding Responsibility**

A. Any prospective Contractor and any of its Principals who enter into a contract greater than sixty thousand dollars ($60,000.00) with any City for professional services, tangible personal property, services or construction agrees to disclose whether the Contractor, or any principal of the Contractor's company is presently debarred, suspended, proposed for debarment, or declared ineligible for award of contract by any federal entity, state agency or local public body.

B. Principal, for the purpose of this disclosure, means an officer, director, owner, partner, or a person having primary management or supervisory responsibilities within a business entity or related entities.

C. The Contractor shall provide immediate written notice to the City if, at any time during the term of this Agreement, the Contractor learns that the Contractor's disclosure was at any time erroneous or became erroneous by reason of changed circumstances.

D. A disclosure that any of the items in this requirement exist will not necessarily result in termination of this Agreement. However, the disclosure will be considered in the determination of the Contractor's responsibility and ability to perform under this Agreement. Failure of the Contractor to furnish a disclosure or provide additional information as requested will be grounds for immediate termination of this Agreement pursuant to the conditions set forth in Paragraph 7 of this Agreement.

E. Nothing contained in the foregoing shall be construed to require establishment of a

system of records in order to render, in good faith, the disclosure required by this document. The knowledge and information of a Contractor is not required to exceed that which is the normally possessed by a prudent person in the ordinary course of business dealings.

F. The disclosure requirement provided is a material representation of fact upon which reliance was placed when making an award and is a continuing material representation of the facts during the term of this Agreement. If during the performance of the contract, the Contractor is indicted for or otherwise criminally or civilly charged by any government entity (federal, state or local) with commission of any offenses named in this document the Contractor must provide immediate written notice to the City. If it is later determined that the Contractor

knowingly rendered an erroneous disclosure, in addition to other remedies available to the Government, the City may terminate the involved contract for cause. Still further the City may suspend or debar the Contractor from eligibility for future solicitations until such time as the matter is resolved to the satisfaction of the City.

40. **Suspension, Delay or Interruption of Work**

The City may, without cause, order the Contractor, in writing, to suspend, delay or interrupt the work in whole or in part for such period of time as the City may determine, provided that such period shall not exceed 60 days at one time or 120 days in a calendar year. The contract sum and contract time shall be adjusted for increases in cost and/or time associated with Contractor's compliance therewith, and Contractor shall have no obligation to restart such work until such mutually agreed adjustment is determined in writing, signed by both parties. Upon receipt of such notice, Contractor shall leave the jobsite and any equipment in a safe condition prior to departing. Contractor must assert rights to additional compensation within thirty (30) days after suspension of work is lifted and return to work is authorized. Any compensation requested for which entitlement is granted and the contract sum adjusted, shall have profit included (for work completed) and for cost only (not profit) for Contractor costs incurred directly tied to the suspension itself and not otherwise covered by Contract remedy. Any change in Total Compensation must be reflected in an Amendment executed pursuant to Section 8 of this Agreement.

41. **Notification**

Either party may give written notice to the other party in accordance with the terms of this Paragraph. Any written notice required or permitted to be given hereunder shall be deemed to have been given on the date of delivery if delivered by personal service or hand delivery or three (3) business days after being mailed.

To the City
City of Santa Fe
Water Division
Water Division Director
801 W. San Mateo
Santa Fe, NM 87504

To Contractor:
De Nora MIOX, Inc.
5601 Balloon Fiesta Pkwy NE, Suite A
Albuquerque, NM 87113 USA

Either party may change its representative or address above by written notice to the other in accordance with the terms of this Paragraph. The carrier for mail delivery and notices shall be the agent of the sender.

To Contractor:
De Nora MIOX, Inc.
5601 Balloon Fiesta Pkwy NE, Suite A
Albuquerque, NM 87113 USA

Either party may change its representative or address above by written notice to the other in accordance with the terms of this Paragraph. The carrier for mail delivery and notices shall be the agent of the sender.

42. **Succession**

This Agreement shall extend to and be binding upon the successors and assigns of the parties.

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:

ALAN WEBBER, MAYOR

DATE: 2/3/20

CONTRACTOR:
De Nora MIOX, Inc.

BRYAN BRADLEY, GENERAL MANAGER
NAME AND TITLE
DATE: 10-18-2020

CRS# 02-257653-00-3

Registration # 19-00019219

ATTEST:

YOLANDA Y. VIGIL, CITY CLERK
CCrtg 1/29/20

APPROVED AS TO FORM:

10/11/19
ERIN K. MCSHERRY, CITY ATTORNEY

APPROVED:

1/30/20
MARY MCCOY, FINANCE DIRECTOR

5050395.572970
Business Unit Line Item

ACTION SHEET
ITEM FROM QUALITY OF LIFE COMMITTEE MEETING OF 06/17/2020
FOR CITY COUNCIL MEETING OF 06/24/2020

ISSUE:

Consideration of Resolution No. 2020-__: A Resolution to Re-Establish the Santa Fe Water Conservation Committee. (Councilors Romero-Wirth and Abeyta) (Christine Chavez, Water Conservation Manager, cychavez@santafenm.gov, 955-4219).

Committee Review:
Public Works and Utilities Committee (approved): 6/8/20
City Council (scheduled): 6/24/20

QUALITY OF LIFE COMMITTEE ACTION: Approved after discussion (removed from consent by Councilor Villarreal)

SPECIAL CONDITIONS OR AMENDMENTS:

SEND TO:
City Council

VOTE	FOR	AGAINST	ABSTAIN
CHAIRPERSON ROMERO-WIRTH	X		
COUNCILOR VILLARREAL	X		
COUNCILOR RIVERA	X		
COUNCILOR GARCIA	X		
COUNCILOR CASSUTT-SANCHEZ	X		

ACTION SHEET
PUBLIC WORKS AND PUBLIC UTILITES COMMITTEE MEETING OF 06/08/2020

ISSUE NO. 7M

Consideration of Resolution No. 2020-__: A Resolution Re-establishing the Water Conservation Committee (Councilor Romero-Wirth) (Christine Chavez, Water Conservation Manager, cychavez@santafenm.gov, 955-4219)

COMMITTEE REVIEW
Governing Body (Scheduled) 06/10/2020

PUBLIC UTILITES COMMITTEE ACTION: Pulled by Councilor Vigil Coppler for further information regarding the committee. Unanimously approved to forward to 6/10/2020 Governing Body

SPECIAL CONDITIONS OR AMENDMENTS:

STAFF FOLLOW UP:

VOTE:	FOR	AGAINST	ABSTAIN
COUNCILOR RIVERA, CHAIR	X		
COUNCILOR GARCIA	X		
COUNCILOR ABEYTA	X		
COUNCILOR LINDELL	X		
COUNCILOR VIGIL COPPLER	X		

City of Santa Fe, New Mexico

LEGISLATIVE SUMMARY

Resolution No. 2020-__

Water Conservation Committee Changes

SPONSOR(S): Councilors Romero-Wirth and Abeyta

SUMMARY: The proposed Resolution re-establishes the Santa Fe Water Conservation Committee with changes to the duties and responsibilities and membership composition. The changes include designating the Committee with the responsibility for advising the City on various aspects of water conservation, identifying and recommending public communication and education on water conservation, and other actions to ensure the City and surrounding areas make the most efficient use of water resources now and in the future.

PREPARED BY: Jesse Guillen, Legislative Liaison

FISCAL IMPACT: None

DATE: June 1, 2020; updated June 8, 2020

ATTACHMENTS: Resolution
FIR

CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2020-__

INTRODUCED BY:

Councilor Carol Romero-Wirth

Councilor Roman "Tiger" Abeyta

A RESOLUTION

RE-ESTABLISHING THE SANTA FE WATER CONSERVATION COMMITTEE.

WHEREAS, the future of Santa Fe relies on the ability of the community as a whole to protect and conserve the City of Santa Fe's ("City's") water resources; and

WHEREAS, NMSA 1978, sec. 3-17-7 requires municipalities to "consider ordinances and codes to encourage water conservation and drought management planning"; and

WHEREAS, stress on the City's water resources will grow as our community grows and likely will be exacerbated by increased temperatures and altered precipitation patterns resulting from climate change; and

WHEREAS, public education plays a vital role in facilitating water conservation by fostering new water conservation practices and use of tools such as household water budgets and technology that closely monitors residential and commercial water use, and such education must be directed to all who live and work in the City, including Santa Fe's children and youth, whose idealism, environmental awareness, and sense of community are compelled by such efforts; and

WHEREAS, the City needs to make effective use of the wealth of varied expertise of its

residents in order to enhance its water conservation efforts; and

WHEREAS, the City's building code provisions, construction practices, and land use policies should be carefully examined to remove current impediments to water conservation and to add measures to enhance water conservation; and

WHEREAS, a refocusing of the Committee's duties and responsibilities will enable it to more effectively address the current challenges of water conservation; and

WHEREAS, the existing Resolutions create confusion on the purpose, duties and responsibilities, membership, and terms of current Committee members; and

WHEREAS, Resolution 2016-31 established the current terms of two years and limits me mbers to two consecutive terms; and

WHEREAS, re-establishing the SFWCC by adopting this superseding Resolution will provide an updated and clarified purpose, duties and responsibilities, membership, and terms for the Committee.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF SANTA FE that this Resolution names and re-establishes the Santa Fe Water Conservation Committee ("SFWCC" or "Committee").

BE IT FURTHER RESOLVED that the purpose of the SFWCC is to promote water conservation, develop water conservation proposals, and advise the Governing Body.

BE IT FURTHER RESOLVED that the duties and responsibilities of the SFWCC include, but are not limited to

1. Advising the City on ways in which it can manage precious water resources by:
    a. Conserving water in its own activities;
    b. Promoting and providing incentives for water conservation by residents, businesses, and visitors; and

c. Establishing building and construction codes, ordinances, and other forms of regulation that will result in water conservation;

2. Identifying and recommending ways to educate and inform city residents of all ages regarding the need for and importance of water conservation and the ways in which residents can conserve water;

3. Providing recommendations to the Governing Body regarding the Office's work program and activities, and assisting the Governing Body in establishing priorities and evaluating the effectiveness of its policies;

4. Evaluating various means of water conservation and offering guidance to the City regarding their relative costs and benefits;

5. Considering the probability and extent of future misalignment between water supply and water demand in Santa Fe, advising the City of any anticipated misalignment, and recommending actions to align the supply and demand;

6. Establishing a cooperative and ongoing working relationship with elected officials, the Water Policy Advisory Board, and the water conservation staff of Santa Fe County ("County"), and work with them, seeking to avoid the City and the County establishing and engaging in conflicting or contradictory water conservation policies and programs, and encouraging and facilitating establishment and operation of complimentary policies and programs;

7. Reviewing the effects on water use and conservation of existing building code provisions, construction practices, and land use policies, both in Santa Fe and elsewhere, and recommending revisions to the City's laws, policies, and practices in order to increase their effectiveness in conserving water and facilitate their application by developers, builders, and contractors; and

8. Considering and ma king recommendations to the City regarding existing or proposed City policies, programs, and activities focused either on water conservation, specifically,

or on other or broader aspects of sustainability, conservation, and efficient use of resources that may affect or be affected by water conservation.

BE IT FURTHER RESOLVED THAT the Mayor shall appoint the members of the Committee and the Committee shall consist of ten (10) members of the public and a chair, who shall be a City Councilor. When possible, the Committee's membership should include persons with the following expertise:

1. landscaping water conservation practices;
2. building construction practices;
3. creation and/or implementation of education programs;
4. land use policies;
5. hydrology, engineering, or other forms of water-related technical expertise;
6. water quality; and
7. the perspectives of other constituency groups that are an important part of a comprehensive discussion of and strategy for water conservation, including homeowners, business owners, youth, and state government.

Members shall be selected to reflect the diversity of the Santa Fe community. One member of shall be a resident of Santa Fe County who resides outside the municipal boundaries of the City of Santa Fe.

BE IT FURTHER RESOLVED that the Committee's members shall serve two-year terms. Members may serve no more than three consecutive terms, but may be reappointed following a minimum one-year hiatus. Partial terms shall count towards the three-year term limit. After three unexcused absences per term year, a member shall be automatically removed from the Committee and the Chair shall notify them of the removal. Vacancies shall be filled in the same manner as initial appointments and shall be for the remainder of the unexpired term, if applicable.

BE IT FURTHER RESOLVED that the Committee shall meet monthly, or as needed to

complete its assigned duties.

BE IT FURTHER RESOLVED that a staff liaison shall be designated by the City Manager.

BE IT FURTHER RESOLVED that the Committee shall serve until otherwise directed by the Governing Body.

BE IT FURTHER RESOLVED that this resolution supersedes and replaces any other resolution that created or amended the Santa Fe Water Conservation Committee, including, but limited to, Resolution Nos. 2002-25, 2008-40, 2016-31, and 2016-91.

PASSED, APPROVED, and ADOPTED this _____day of _____, 2020.

_____

ALAN M. WEBBER, MAYOR

ATTEST:

_____

YOLANDA Y. VIGIL, CITY CLERK

APPROVED AS TO FORM:

_____

ERIN K. McSHERRY, CITY ATTORNEY

Legislation/2020/Resolutions/Water Conservation Committee Changes

FIR No. 3236

FISCAL IMPACT REPORT

General Information:

(Check) Bill: _____ Resolution: _____

Short Title(s): Water Conservation Committee Changes

Sponsor(s): Councilor Romero-Wirth

Revie wing Department(s): Public Utilities

Staff Completing FIR: Christine Chavez Date: 6/1/2020 Phone: 955-4219

Revie wed by City Attorney: _____ Date: Jun 4, 2020

Revie wed by Finance Director: _____ Date: Jun 5, 2020

Summary:
The proposed Resolution supersedes and replaces prior Resolutions that established and amended the Santa Fe Water Conservation Committee and re-establishes the Committee. The duties and responsibilities of the re-established Committee more closely reflect the current needs of the community as they relate to water conservation. The Resolution also increases the term limit for Committee members from two, two-year terms to three, two-year terms, allowing for greater retention of knowledge by the Committee members.

Departments Affected:
Public Utilities – Water Conservation.

Consequences of Not Enacting Legislation:
The Water Conservation Committee will not be tasked with updated duties and responsibilities that are relevant to current water conservation goals. The existing Resolutions will remain, requiring constant comparison and analysis to confirm the purpose, duties and responsibilities, membership, and terms of the committee members.

Conflict, Duplication, Companionship, or Relationship to Other Legislation:
This Resolution supersedes and replaces all prior Resolutions that created and amended the Santa Fe Water Conservation Committee including, but not limited to, Resolutions 2002-25, 2008-40, 2016-31, and 2016-91.

Performance and Administrative Implications:
The proposed changes more closely align the duties and responsibilities of the Water Conservation Committee with the current needs of the City and the community.

Fiscal Implications:
None identified.

Fiscal Impact

X Check here if no fiscal impact

Expenditures

Expenditure Type	FYE __	FYE __	FYE __	Require BAR (Y/N)	Recurring (R) or Non-recurring (NR)	Fund	3-Year Total Cost
Personnel and Benefits*	$	$	$				
Capital Outlay	$	$	$				
Contractual/ Professional Services	$	$	$				
Operating	$	$	$				$
Total:	$	$	$				$

* This includes all staff time associated with executing the job functions of the proposed legislation.

Expenditure Narrative:

Revenue

Revenue Type	FYE	FYE	FYE	Recurring (R) or Non-recurring (NR)	Fund
General Fund	$	$	$		
Special Revenue	$	$	$		
CIP	$	$	$		
Enterprise	$	$	$		
Internal Service	$	$	$		
Trust and Agency	$	$	$		
Federal	$	$	$		
Other	$	$	$		
Total	$	$	$		

Revenue Narrative:

CITY OF SANTA FE, NEW MEXICO
PROPOSED AMENDMENT(S) TO RESOLUTION NO. 2020-__
Water Conservation Committee Changes

Mayor and Members of the City Council:

I propose the following amendment(s) to Resolution No. 2020-__:

1. On page 2, line 5 ***strike*** "Committee's" and ***insert*** in lieu thereof "Santa Fe Water Conservation Committee's ("SFWCC" or "Committee")"
2. On page 2, line 7 ***strike*** "on" and insert in lieu thereof "regarding"
3. On page 2, line 12 ***strike*** "provide an updated and clarified" and ***insert*** in lieu thereof "update and clarify the Committee's"
4. On page 2, line 12 after "terms" ***insert*** a period and ***strike*** the remainder of the sentence
5. On page 3, line 6 ***strike*** "Office's"
6. On page 3, line 7 after "activities" ***insert*** "of the City's Water Conservation Office"
7. On page 3, line 16 ***strike*** "and work with them, seeking" and ***insert*** in lieu thereof "working with them"
8. On page 4, line 17 after "of" ***insert*** "the Committee"

Respectfully submitted,

_____
Carol Romero-Wirth, Councilor

Approved as to Form:

_____
Erin K. McSherry, City Attorney

ADOPTED: _____
NOT ADOPTED: _____
DATE: _____

_____
Yolanda Y. Vigil, City Clerk

10176.5(A)

Water Conservation Committee Changes (Romero-Wirth Amendment)

Final Audit Report 2020-06-23

Created:	2020-06-22
By:	Jesse Guillen (jbguillen@ci.santa-fe.nm.us)
Status:	Signed
Transaction ID:	CBJCHBCAABAA88qlJIaJ7ZG39qGKD6oim55eKTITp97I

"Water Conservation Committee Changes (Romero-Wirth Amendment)" History

Document created by Jesse Guillen (jbguillen@ci.santa-fe.nm.us)
2020-06-22 - 9:32:31 PM GMT- IP address: 63.232.20.2

Document emailed to Erin McSherry (ekmcsherry@santafenm.gov) for signature
2020-06-22 - 9:32:50 PM GMT

Email viewed by Erin McSherry (ekmcsherry@santafenm.gov)
2020-06-22 - 10:38:23 PM GMT- IP address: 23.103.201.254

Document e-signed by Erin McSherry (ekmcsherry@santafenm.gov)
Signature Date: 2020-06-23 - 5:29:50 AM GMT - Time Source: server- IP address: 76.127.24.35

Signed document emailed to cychavez@santafenm.gov, Erin McSherry (ekmcsherry@santafenm.gov) and Jesse Guillen (jbguillen@ci.santa-fe.nm.us)
2020-06-23 - 5:29:50 AM GMT

POWERED BY Adobe Sign

ACTION SHEET
ITEM FROM FINANCE COMMITTEE MEETING OF 06/15/2020
FOR CITY COUNCIL MEETING OF 06/24/20

f. Request approval of contracts awarded through RFP 20/16 to use Dept. of HUD Community Development Block Grant (CDBG) funds to support community development activities, as follows (Total $799,810) :

SFPS - ADELANTE $ 27,000.00
COMING HOME CONNECTION $ 20,000.00
SF HABITAT FOR HUMANITY $ 90,000.00
HOMEWISE $ 200,000.00
HOUSING TRUST $ 150,000.00
INTERFAITH SHELTER $ 30,000.00
SF CIVIC HOUSING AUTHORITY $ 100,000.00
YOUTH SHELTERS $ 15,000.00
YOUTH SHELTERS $25,000.00
(Alexandra Ladd, Affordable Housing Director, agladd@santafe.nm.gov, 955-6346)

FINANCE COMMITTEE ACTION:
Approved on Consent

FUNDING SOURCE:

SPECIAL CONDITIONS OR AMENDMENTS

VOTE	FOR	AGAINST	ABSTAIN
CHAIRPERSON ABEYTA	X		
COUNCILOR LINDELL	X		
COUNCILOR ROMERO-WIRTH	X		
COUNCILOR VILLARREAL	X		
COUNCILOR CASSUTT-SANCHEZ	X		

City of Santa Fe, New Mexico

memo

Date: May 14, 2020

To: Finance Committee – June 15, 2020
Quality of Life – June 17, 2019
City Council – June 24, 2019

From: Alexandra Ladd, Director, Office of Affordable Housing

Re: Approval of RFP# P/20/16, RFP# P/20/15 and 2020-21 CDBG and AHTF Contracts

ACTION REQUESTED:
Review and approve the following contracts:

A) Allocation of 2020-2021 Community Development Block Grant (CDBG) funds and the attached contracts awarded in response to RFP# P/20/16 and program administration cost (Total: $799,810)
B) Allocation for the 2020-2021 Affordable Housing Trust Fund (AHTF)/General Fund and the attached contracts awarded in response to RFP# P/19/24 (Total: $950,000)

RFP# 20/16 (CDBG)	CONTRACT #	VENDOR #	ORG #	OBJ#	AMOUNT
SFPS - ADELANTE	3201889	1027	2402750	510400	**$ 27,000.00**
COMING HOME CONNECTION	3201891	6128	2402750	510400	**$ 20,000.00**
SF HABITAT FOR HUMANITY	3201893	2677	2402750	510500	**$ 90,000.00**
HOMEWISE	3201894	2481	2402750	510500	**$ 200,000.00**
HOUSING TRUST	3201895	1570	2402750	510500	**$ 150,000.00**
INTERFAITH SHELTER	3201896	3783	2402750	510400	**$ 30,000.00**
SF CIVIC HOUSING AUTHORITY	3201897	1667	2402750	510500	**$ 100,000.00**
YOUTH SHELTERS	3201898	1624	2402750	510400	**$ 15,000.00**
YOUTH SHELTERS	3201899	1624	2402750	510500	**$ 25,000.00**
RFP# 20/16 (AHTF)					
HABITAT FOR HUMANITY	3201901	2677	2402750	510500	**$ 80,000.00**
NM INTERFAITH HOUSING	3201909		2402750	510500	**$ 200,000.00**
SF RECOVERY CENTER	3201902	2761	2402750	510500	**$ 50,000.00**
SF CIVIC HOUSING AUTHORITY	3201904	1667	2402750	510500	**$ 200,000.00**
SF CIVIC HOUSING AUTHORITY	3201905	1667	2402750	510500	**$ 140,000.00**
YOUTHWORKS	3201906	2400	2402750	510500	**$ 40,000.00**
RFP# 20/16 (GENERAL FUND)					
SFPS - ADELANTE	3201907	1027	1002750	510500	**$ 60,000.00**
NMCEH	3201908	2084	1002750	510500	**$180,000.00**

BACKGROUND

The Community Development Block Grant Program (CDBG) is funded annually by the U.S. Department of Housing and Urban Development (HUD) for for a wide-range of housing and community development activities. The City of Santa Fe, along with over 1,100 other cities in the country, is an "entitlement city" which means it automatically receives the federal money. The amount of the grant is determined by a formula that takes into consideration community's needs, including the extent of poverty, population, housing overcrowding, age of housing and population growth in relationship to other metropolitan areas.

Affordable Housing Trust Funds (AHTF) are generated from development activity (developer fees, pre-inclusionary housing agreements), payoffs of City-held liens, and land sales from Tierra Contenta. When the funds reach a threshold balance, the City funds affordable housing projects and activities to benefit income-qualified grantees. Eligible housing activities are outlined in SFCC Chapter 26-3. Uses of funds are determined by the housing needs identified in the City's Five Year Strategic Housing Plan and regulated by the NM Mortgage Finance Authority for compliance with the NM Affordable Housing Act.

ITEM and ISSUE

Every year, the City's Office of Affordable Housing issues two RFPs: one for the allocation of CDBG funds and the second for AHTF funds. The intent of the simultaneous procurement is that the funds are complementary. CDBG can assist direct beneficiaries earning less than 80% of the area median income (AMI) and AHTF can assist earners up to 120% of the AMI. Likewise, CDBG funds can be used to support public services and public facilities while AHTF is used only for affordable housing, whether for capital costs or direct financial assistance to income qualified beneficiaries. Because AHTF funds are local revenue, criteria for how they are used can be more localized to better meet Santa Fe's unique needs.

In early February 2020, RFP #P/20/16 and RFP #P/20/15 were posted. Eleven applications were submitted for CDBG funding and nine for the AHTF funds. The Community Development Commission (CDC) met on March 4 to hear applicant presentations. Ten CDBG applications and seven AHTF applications were deemed responsive and eligible for funding. Funding amounts were determined based on a variety of factors related to priority needs identified in the City's Consolidated Plan as well as other goals identified in the Five Year Affordable Housing Strategic Plan. Because the funding requests for AHTF far exceeded was available, two projects will be supported through the Office of Affordable Housing's General Fund's set aside for rental assistance.

For more information about the uses of funds, please see the summary table on the following page.

RFP# 20/16 PY 2020-21 (CDBG)				
Recommended Projects	**Subrecipient**	**Entitlement Funds (EN)***	**Program Income (PI)****	**Total Funding Amount**
Mortgage Principal Reduction	Housing Trust	$150,000	$50,000	**$200,000**
	Homewise	$200,000	$150,000	**$350,000**
Home Improvement	Habitat for Humanity	$90,000	0	**$90,000**
Rental Unit Acquisition/Rehab	SF Civic Housing Authority	$100,000	n/a	**$100,000**
Public Facility Repair	Youth Shelters & Family Svcs (Transitional Living Program New Roof)	$25,000	n/a	**$25,000**
Public Services (Cap @15%)	SFPS (Adelante Elementary School Liaison)	$27,000	n/a	**$27,000**
	Interfaith Shelter (Womens' Summer Safe Haven)	$30,000	n/a	**$30,000**
	Youth Shelters & Family Svcs (Cold Weather Shelter)	$15,000	n/a	**$15,000**
	Casa Cielo End of Life Care	20,000	n/a	**20,000**
Program Administration (Cap @20% of $614,053)		$122,810	n/a	**$122,810**
Total CDBG EN (+ reprogrammed prior year funds)		**$779,810.00**	**$200,000.00**	**$999,810.00**

* The City's entitlement grant for 2020 = $614,053, of which 20% is budgeted for administrative costs. Unexpended funds from prior program years ($165,757) were reprogrammed to provide additional EN funding.

** Program income is earned when loans are paid off or interest is earned. HUD allows the proceeds to be recycled for CDBG-eligible activities. The City must report uses of program income to HUD.

RFP# 20/15 PY 2020-21				
Recommended Projects	**Qualified Grantee**	**Grant Funds**	**Program Income (PI)**	**Total Funding Amount**
Mortgage Principal Reduction	Habitat for Humanity	$80,000	$0.00	**$80,000**
Rental Unit Construction	SF Civic Housing Authority (Calle Resolana)	$200,000	n/a	**$200,000**
	NM Interfaith Housing Corp (Siler Yards)	$200,000	n/a	**$200,000**
Rental Unit Rehab	SF Civic Housing Authority (Country Club Apartments)	$140,000	n/a	**$140,000**
Rental Assistance	Santa Fe Recovery Center (Sober Living "Bridge" Homes)	$50,000	n/a	**$50,000**
	Youthworks (Shelter Now)	$40,000	n/a	**$40,000**
	SFPS – Adelante	$60,000	n/a	**$60,000**
	NM Coalition to End Homelessness	$180,000	n/a	**$180,000**
Total (AHTF & General Fund)		**$950,000**	**$0.00**	**$950,000.00**
TOTAL AFFORDABLE HOUSING FUNDING		**1,729,810.00**	**$200,000.00**	**$1,929,810.00**

CITY OF SANTA FE

COMMUNITY DEVELOPMENT BLOCK GRANT CONTRACT

THIS CONTRACT is made and entered into this _____ day of _____ _____, 2020 by and between the City of Santa Fe, a municipal corporation, (the "City") and SFPS - Adelante, (the "Subrecipient").

RECITALS

1. The Subrecipient has applied for and received funds from the United States Government under Title 1 of the Housing and Community Development Act of 1974, Public Law 93-383.

2. The City desires to engage the Subrecipient to render certain services to the City and its citizens.

3. The Subrecipient further certifies that it is willing and able to perform these services and that said services to be performed are within the Subrecipient's legal powers and capabilities.

4. The City desires to engage the Subrecipient to render these certain services in connection therewith as more particularly set forth hereafter.

AGREEMENTS

NOW, THEREFORE, the parties hereto mutually agree as follows:

I. SCOPE OF SERVICES

The Subrecipient agrees to utilize CDBG funds for projects that serve low to moderate-income residents within the Santa Fe City limits based on current HUD Area Median Income data for Santa Fe as follows:

A. Funding will be used to support staff hours for liaison services to support academic achievement for Pre-K-12 students and their families who are experiencing housing instability or homelessness.

B. Services provided by this program include advocacy, tutoring, evening programs, case management and material aid (school supplies, clothing, etc.) and referral to social services when necessary. A minimum of nine hundred and fifty (950) students and their families are expected to receive services

B. Contractor will report to the City on a quarterly basis the use of funds program outcomes achieved, AMI% of assisted households, size of household, and other demographic information as required by the City's CDBG quarterly reporting form.

II. NATIONAL OBJECTIVES

The Subrecipient certifies that the service carried out with funds provided under this Contract will meet one or more of the Community Development Block Grant (hereinafter "CDBG") Program's National Objectives:

A. Benefit low/moderate income persons.

B. Benefit extremely low income persons.

C. Benefit homeless and elderly persons.

III. PERFORMANCE MONITORING

The City shall monitor the performance of the Subrecipient against goals and

levels of accomplishment as stated above. Substandard performance as determined by the City will constitute noncompliance with this Contract. If action to correct such substandard performance is not taken by the Subrecipient within a reasonable period of time after being notified by the Grantee, contract suspension or termination procedures will be initiated.

IV. WORK PLAN AND REPORTING

A. Work Plan: The Subrecipient shall provide the City, within sixty (60) days from signing this Agreement, a revised work plan outlining the major tasks or activities, the measurable objectives for each task or activity, and the time frames to be taken by the Subrecipient in the performance of this Agreement. Included in this report should be information regarding how much funding was leveraged during the program year and from which sources.

B. Annual Budget: All project activities will be in accordance with the attached budget and work plan (Exhibit A) per 24 CFR 570.503(b)(1).

C. Invoicing: The Subrecipient shall submit to the City quarterly reports in order to receive reimbursement for these services. Quarterly reports must be filed no later than the 15th calendar day for the preceding month. A fund requisition with documentation in support of each budgetary category will be submitted. This documentation must include the original or a certified copy or copies of invoices, vouchers, statements, etc. All costs chargeable to the City must be in accordance with budgetary and other restrictions of expenses established by this Contract. Funds for reimbursement can be disbursed on any Friday of each month during the contract period. In order for the City to meet this deadline, the Subrecipient is required to submit its request for reimbursement by Monday, 5:00 p.m., in order to receive payment by the following Friday. The Subrecipient shall

submit a Final Project Report assessing the comparison of results achieved in relation to stated goals and objectives in the Scope of Services approved by the City. This report is due to the Office of Affordable Housing fifteen (15) days after the completion of the Contract.

D. Final Payment: Since all payments under this Contract shall be quarterly on a cost reimbursement basis, the City shall be entitled to withhold the final ten percent (10%) due hereunder, pending final approval by the City of the services rendered. Upon receipt and acceptance of a final project report prior to the final payment, the Subrecipient shall furnish the City proof in documentary form that all claims, liens, salaries or other obligations incurred by it in accordance with the services specified herein, have been properly paid and released.

E. Program Monitoring and Financial Audits: At such time and in such form as the City may require there shall be furnished to the City such statements, records, reports, data and information as the City may request pertaining to matters covered by this Contract. Furthermore, at any time during normal business hours and as often as the City may deem necessary, there shall be made available to the City or its designee for examination, all records maintained by the Subrecipient with respect to all matters covered by this Contract; and, the Subrecipient will permit the City to audit, examine and make excerpts or transcripts from such records, and make audits of all contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all matters covered by this Contract subject to the limitations set out above. Any Subrecipient receiving City CDBG funds in excess of fifteen thousand dollars ($15,000) or any combination of public (City, State, or Federal) monies in excess of twenty-five thousand dollars ($25,000) shall perform a final audit on all funds received

from all sources for the program no later than ninety (90) days after completion of the sub-recipient's fiscal year, and shall furnish the City with said audit. This audit shall be performed by an independent agency. Any Subrecipient receiving a sum of less than fifteen thousand dollars ($15,000) in City CDBG funds must submit an audited financial statement on all funds received from all sources for the program after completion of the sub-recipient's fiscal year, and shall furnish the City with said financial statements.

V. STATUS OF CONTRACTOR

The Subrecipient, and its agents and employees, are independent contractors performing professional services for the City and are not employees of the City. The Subrecipient, 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 Contract.

VI. COMPENSATION

A. The City shall pay to the Contractor in full payment for services satisfactorily performed, such compensation shall not exceed twenty seven thousand dollars ($27,000). **The total amount payable to the Contractor under this Agreement, including gross receipts tax and expenses, shall not exceed ($27,000). 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.

B. Invoice must include documentation of staff costs incurred, including time sheets or payroll reports showing amount of staff time paid by CDBG funds.

C. 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. All invoices MUST BE received by the City no later than thirty 30) days after the termination of the Fiscal Year in which the services were delivered. Invoices received after such date WILL NOT BE PAID.

VII. TERM

THIS AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED BY THE CITY. This Agreement shall terminate on **June 30, 2021** unless terminated pursuant to paragraph 4 (Termination), or paragraph 5 (Appropriations). In accordance with Section 13-1-150 NMSA 1978, no contract term for a professional services contract, including extensions and renewals, shall exceed four years, except as set forth in Section 13-1-150 NMSA 1978.

VIII. ADDITIONAL CONTRIBUTIONS

The Subrecipient may use the funds of the City granted herein to obtain Federal, State or other grants to carry out the Scope of Services herein.

A. Program Income: Program income received may be retained by the Subrecipient, but may be used only for support of the programs detailed in the Scope of Services section of this Contract. Program income on hand at the time of completion of

the Contract period shall continue to be subject to the eligibility requirements and other applicable provisions of 24 CFR 570.504, Program Income of the Administrative Regulations of the CDBG program.

IX. APPROPRIATIONS

The terms of this Contract are contingent upon sufficient appropriations and authorization made by the City for the performance of this Contract. If sufficient appropriations and authorizations are not made by the City, this Contract shall terminate upon written notice being given by the City to the Subrecipient. The City's decision as to whether sufficient appropriations are available shall be accepted by the Subrecipient and shall be final.

X. FISCAL AGENT

The New Mexico Community Foundation will act as Coming Home's Fiscal Agent and will defend, indemnify and hold harmless the City from any and all liability, costs and expenses whatsoever for expenditure of funds pursuant to the Scope of Services of this Contract.

XI. BUDGET REVISIONS The Subrecipient will inform the City of any "line item" revisions to the attached budget, within the maximum compensation shown in this Agreement and will obtain the City's prior written approval of any change that represents at least 25 percent or more of the line item amount per the latest approved budget. Any budget revisions must be eligible expenditures under this Agreement and Title I of the Community Development Act.

XII. ELIGIBLE AND INELIGIBLE COSTS

A. Criteria. This section provides criteria for the determination of whether

costs are eligible or ineligible for funding under this Contract. Costs incurred, which are determined by the City to be ineligible under these criteria, may not be charged to this Contract.

B. Standards. All costs incurred must be reasonable and of a nature which clearly relates to the specific purposes and end product of the contract under which the services are being performed. Care must be exercised by all concerned in incurring costs to assure that expenditures conform to these general standards, including 2 CFR Part 200, and the following criteria for eligible costs.

C. Eligible Costs. To be eligible for inclusion, the cost must:

(1) Be necessary and reasonable for proper and efficient execution of the contractual requirements and in accordance with an approved budget.

(2) Be in conformance with any limitations, exclusions and provisions pursuant to this Contract, State and Local Laws, or other governing limitations.

(3) Be accorded consistent treatment through application of accounting policy and procedures approved and/or prescribed.

(4) Be net after allowance of all applicable credits such as purchase discounts, rebates or allowances, sales or publication of materials, or other income or refunds.

(5) Be in accordance with budgetary or other restrictions on expenses established by the City.

(6) Be fully documented.

(7) The Subrecipient shall reimburse the City any costs and expenses declared ineligible by the City which may have been reimbursed erroneously to the Subrecipient by the City under whatever conditions.

D. Ineligible Costs. Ineligible costs shall be as follows:

(1) Accounting. Costs of maintaining central accounting records necessary for overall local government purposes, such as appropriation of fund accounts by the Treasurer, or similar officials, are considered general expenses of the Subrecipient and are ineligible costs. However, the cost of establishing and maintaining accounting or other information systems required for the management of the program are eligible costs including costs incurred by central services agencies for these purposes.

(2) Bad Debts. Any losses arising from uncollectible accounts and other claims, and related costs.

(3) Budget. Costs of a central budget office, except the costs of employees in the central budget office of the Subrecipient directly involved in the program as set forth in the Scope of Services, hereto, and clearly identifiable. However, costs incurred for the development, preparation, presentation, and execution of program and project budgets performed by the Subrecipient are eligible costs.

(4) Contingencies. Contribution to a contingency reserve or any similar provision for unforeseen events.

(5) Contributions and Donations. Political, charitable and fundraising solicitations, payments, gifts and expenses.

(6) Entertainment. Costs of amusements, social activities, and incidental costs, such as meals, beverages, lodgings, and gratuities, relating to entertainment.

(7) Board Expenses. The salary and expenses if any, of the Chairman of the Board of the Subrecipient are considered a cost of the Subrecipient and are not eligible costs in any way to this Contract.

(8) Fines and Penalties. Costs resulting from violations of or failure to comply with federal, state and local laws and regulations.

(9) Interest and other Financial Costs. Interest on borrowing (however represented); bond discounts, cost of financing and refinancing operations and legal and professional fees paid in connection therewith.

(10) Legal Fees. Costs for legal advice or work are ineligible, except those required directly for the administration of the program, which are eligible.

(11) Legislative Expenses. Costs for lobbying or testimony before the legislature or any of its committees, whether incurred for the purposes of legislation or executive direction, are not eligible.

(12) Membership Expenses. Cost of membership in any organization is ineligible.

(13) Travel. Costs in excess of those allowed by the City for its employees are ineligible.

(14) Meeting Attendance. Costs of attending meetings which are not included in the budget are ineligible.

(15) Expenses Related to Fundraising. Cost of postage, printing or external subcontracting for grant writers or development specialists.

XIII. SPECIAL PROVISIONS

A. The Subrecipient realizes that the availability of funds for the activity covered by the "Scope of Services," herein and for performance of this Agreement, depend solely on the provisions of said funds by HUD, such provisions being contingent on the City's approval of these activities as eligible under the Housing and Community Development Act of 1974, the National Affordable Housing Act of 1990 and other

pertinent federal regulations. However, the City shall notify the Subrecipient in writing within five days of receipt by the City of any determination by HUD to terminate CDBG funding.

B. In the event the Subrecipient or its organization is dissolved or discontinues making loans as provided herein, or this Agreement is not renewed after it expires, the Subrecipient shall upon such dissolution, discontinuation or within sixty (60) days after expiration of this Agreement if its renewal has not in the meantime been executed:

(1) Return to the City all unexpended Community Development Block Grant funds received from the City and CDBG program income in the possession of the Subrecipient that have not been already obligated through contracts.

(2) Assign and transfer to the City the equity on all outstanding loans and mortgages which have been provided by the Subrecipient from Community Development grant funds and related program income under this and previous agreements. The Subrecipient shall provide the City with a listing of the borrowers and outstanding amounts, together with up-to-date records of principal and interest payments and balances of the accounts of said borrowers.

XIV. CONFLICT OF INTEREST

The Subrecipient agrees to abide by the provision of 2 CFR Part 200 and 570.611, which include (but are not limited to) the following:

A. Interest of Members of City: No officer, employee, or agent of the City who exercises any functions or responsibilities in connection with the planning and carrying out any of the provisions of this Contract, or any other person who exercises any functions or responsibilities in connection with any of the provisions of the Contract, shall have any

personal financial interest, direct or indirect, in this Contract; and the Subrecipient shall take appropriate steps to assure compliance.

B. Interest of Subrecipient and Employees: The Subrecipient shall not allow any person who presently exercises any functions or responsibilities in connection with the provisions of this Contract, to have personal financial interests, direct or indirect, in this Contract. The Subrecipient further shall not allow in the performance of this Contract any person having any conflicting interest to be employed by the Subrecipient. Any interest on the part of the Subrecipient or its employees must be disclosed to the City. Provided, however, that this paragraph shall be interpreted in such a manner so as not to unreasonably impede the requirement that maximum opportunity for employment of area residents and resident participation shall be of primary concern to the Subrecipient.

Should the subrecipient discover a potential conflict of interest, the subrecipient shall immediately disclose in writing to the City and specifically ask for guidance on how to resolve the conflict and prior to any act in furtherance of the conflict. The disclosure shall include a description of the nature of the conflict; the name, position, phone number and address of the person with the conflict; the date of the notification; and requested action to address the conflict. Disclosures of real, apparent or perceived conflicts of interest shall be made to the City and the City must agree in writing to a proper course of subsequent action prior to the disbursement of CDBG funds.

C. Certification:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the State, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of a Federal loan,

the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the State shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.

XV. DISCRIMINATION PROHIBITED

A. In all hiring or employment made possible by or resulting from this Contract, there (1) will not be any discrimination against any employee or applicant for employment because of race, color, age, religion, sex, sexual orientation, national origin, and physical or mental disability; and (2) affirmative action will be taken to ensure that qualified applicants are employed, and that employees are treated during employment without regard to their race, color, age, religion, sex, sexual orientation, national origin, and physical or mental disability. This requirement shall apply, without limitation, to the following: employment, upgrading, demotion or transfer, recruitment advertising, layoff or termination, and selection for training, including apprenticeship. There shall be posted in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this clause. All solicitations or advertisements for employees shall state that all qualified applicants will receive consideration for employment without regard to race, color, age, religion, sex, sexual orientation, national

origin, and physical or mental disability.

B. No person in the United States shall, on account of race, color, age, religion, sex, sexual orientation, national origin, and physical or mental disability, be excluded from participating in, denied the benefits of, or subjected to discrimination under this Contract or activity made possible by or resulting from the Contract.

C. Subrecipient will abide by all requirements of the Americans with Disabilities Act. Subrecipient shall be kept informed of employee discrimination prevention requirements and program and facility accessibility standards.

XVI. WOMEN- AND MINORITY- OWNED BUSINESSES (W/MBE)

The Subrecipient will use its best efforts to afford small businesses, minority business enterprises, and women's business enterprises the maximum practicable opportunity to participate in the performance of this contract. As used in this contract, the terms "small business" means a business that meets the criteria set forth in section 3(a) of the Small Business Act, as amended (15USC 632), and "minority and women's business enterprise" means a business at least fifty-one (51) percent owned and controlled by minority group members or women. For the purpose of this definition, "minority group members" are Afro-Americans, Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian-Americans, and American Indians. The Subrecipient may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

XVII. POLITICAL ACTIVITY PROHIBITED

None of the funds, materials, property or services provided for directly or indirectly under this Contract shall be used in the performance of this Contract for any political activity prohibited by Federal, State or local law.

XVIII. CONFIDENTIALITY

Any confidential information provided to or developed by the Subrecipient in the performance of this Contract shall be kept confidential and shall not be made available to any individual or organization by the Subrecipient without the prior written approval of the City.

XIX. REPRESENTATIONS IN SUBMITTALS

The City has relied on all representations in the Subrecipient's submittals in awarding this Agreement and the Subrecipient warrants the accuracy of all representations. Misrepresentations in the submittals will be cause for termination of this Agreement.

XX. AMENDMENT

This Contract shall not be altered, changed or amended except by amendment in writing executed by the parties hereto.

XXI. NOTICES AND ADDRESSES

Any notices required to be given under this agreement shall be in writing and served by personal delivery or by mail, postage prepaid, to the parties at the following addresses:

For the City, notices may be sent to:

City of Santa Fe
Office of Affordable Housing
P.O. Box 909
Santa Fe, New Mexico 87504-0909

For the Subrecipient, notices may

SFPS Adelante
610 Alta St
Santa Fe, NM 87505

XXII. ASSIGNABILITY

The Subrecipient shall not assign any interest in this Contract and shall not

transfer any interest in the same (whether by assignment or otherwise) without the prior written consent of the City.

XXIIII. WARRANTY OF AUTHORITY

The Subrecipient warrants that it has full corporate and other authority, under its articles of corporation, bylaws, resolutions, other pertinent corporate documents, instruments, and agreements, and otherwise to enter into this agreement, to bind itself under this agreement, and to perform this Agreement in accordance with the terms and provisions of this Agreement.

XXIV. BINDING EFFECT

This Agreement is binding upon and inures to the benefit of the successors, successors-in interest, assigns and transferees of the City and the Subrecipient.

XXV. SEVERABILITY

In case any one or more of the provisions contained in this Agreement or any application thereof shall be invalid, illegal or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions contained herein and any other application thereof shall not in any way be affected or impaired thereby.

XXVI. DISPOSITION OF PROPERTY

A. All non-expendable property acquired by the Subrecipient pursuant to this Contract shall be recorded in the property records of the City prior to reimbursement to the Subrecipient for expenses incurred in order to acquire said property. For purposes of this Contract, the term "non-expendable property" means items of tangible, personal property that are non-perishable such as equipment, software, and furniture. The use and disposition of real property and equipment under this Contract shall be in compliance with the requirements of 24 CFR Part 84 and 24 CFR 570.502, 570.503, and 570.504, as

applicable.

B. Subrecipient shall be accountable for all recorded non-expendable property which is recorded as City property for a period of five years as established by the City.

C. All non-expendable property acquired pursuant to this Contract shall remain in the possession of and shall be used only by the Subrecipient, provided that said property continues to be used for the same purposes and in the same manner as originally intended.

D. If the Subrecipient cannot continue to effectively use recorded non-expendable property for the same purposes and in the same manner as originally intended and described in this Contract, all such non-expendable property shall remain in the possession of, and shall be used by the Subrecipient for similar purposes and in a similar manner as initially used; provided, however, that conversion of said property to a similar use in another similar program must first receive the express written consent of the City.

E. If the Subrecipient can neither continue to effectively use recorded non-expendable property for the same purposes and in the same manner originally intended nor continue to effectively use said property for the same or similar purposes and in a similar manner as permitted by this Contract, the City may provide for the disposition of said property wholly and entirely at the City's discretion.

F. The City may, in writing, waive and relinquish all claims the City may have in and to recorded non-expendable property.

G. When the Subrecipient's period of accountability for any non-expendable property expires, said property shall revert to the City unless otherwise provided for in a written agreement between the Subrecipient and the City. Assets on hand at the

expiration of the Contract in excess of twenty-five thousand dollars ($25,000) shall be disbursed in accordance with reversion of assets of 24 CFR 570.503 Agreements with Subrecipients of the CDBG regulation; or

(i) The Subrecipient shall pay to the City an amount equal to the current market value of the property less any portion of the value attributable to the expenditures of non-CDBG funds for the acquisition of, or improvement to, the property. The payment is program income to the City. (No payment is required after the period of time specified in 24 CFR 570.503(b)(7)(i).

XXVII. COMPLIANCE WITH LOCAL LAW

The Subrecipient shall comply at its own cost with all applicable laws, ordinances and codes of the State and the City.

XXVIII. THIRD PARTY BENEFICIARIES

By entering into this Contract, the parties do not intend to create any right, title or interest in or for the benefit of any person other than the City and the Subrecipient. No person shall claim any right, title or interest under this Contract or seek to enforce this Contract as a third party beneficiary of this Contract.

XXIX. JURISDICTION CLAUSE

This Contract shall be performed in Santa Fe, New Mexico. Any legal action or cause of action arising in connection herewith shall be within the jurisdiction and venue of the appropriate court in Santa Fe, New Mexico, for all purposes.

XXX. SUSPENSION AND TERMINATION

A. This Contract 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. By such termination, neither party may nullify obligations already incurred for

performance or failure to perform prior to the date of termination. In addition, the City may terminate this agreement for convenience in accordance with 2 CFR Part 200.

B. The City may enforce remedies for noncompliance in accordance with 2 CFR Part 200. The City may also suspend or terminate this Contract, in whole or in part, if the Subrecipient materially fails to comply with any term of this Contract, or with any of the rules, regulations or provisions referred to herein; and the City may declare the Subrecipient ineligible for any further participation in the City's contracts, in addition to other remedies as provided by law. In the event there is probable cause to believe the Subrecipient is not in compliance with any applicable rules or regulations, the City may withhold up to fifteen percent (15%) of said contract funds until such time as the Subrecipient is found to be in compliance by the City, or is otherwise adjudicated to be in compliance.

XXXI 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.

XXXII. 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.

A. Commercial General Liability insurance shall be written on an occurrence basis and be a broad as ISO Form CG 00 01 with limits not less than

$2,000,000 per occurrence and $2,000,000 in the aggregate for claims against bodily injury, personal and advertising injury, and property damage. Said policy shall include broad form Contractual Liability coverage and be endorsed to name the City of Santa Fe their officials, officers, employees, and agents as additional insured.

B. Business Automobile Liability insurance for all owned, non-owned automobiles, with a combined single limit not less than $1,000,000 per accident.

C. Broader Coverage and Limits. The insurance requirements under this Agreement shall be the greater of (1) the minimum coverage and limits specified in this Agreement, or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the Named Insured. It is agreed that these insurance requirements shall not in any way act to reduce coverage that is broader or that includes higher limits than the minimums required herein. No representation is made that the minimum insurance requirements of this Agreement are sufficient to cover the obligations of Contractor hereunder.

D. 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.

XXXIII. INDEMNIFICATION

The Subrecipient shall indemnify, hold harmless and defend the City from all

losses, damages, claims or judgments, including payments of all attorneys' fees and costs on account of any suit, judgment, execution, claim, action or demand whatsoever arising from Subrecipient's performance under this Agreement as well as the performance of Subrecipient's employees, agents, representatives and subcontractors.

XXXIV. ENTIRE CONTRACT

This Contract constitutes the entire contract between the parties hereto. Prior contracts, whether written or oral, or assertion of statement, of understanding, or other commitment antecedent to this Contract shall have no force or effect whatsoever, unless the same is mutually agreed to by the parties hereto and reduced to writing.

XXXV. GENERAL CONDITIONS

A. General Compliance: The Subrecipient agrees to comply with the requirements of Title 24 of the Code of Federal Regulations, Part 570 (the Housing and Urban Development regulations concerning Community Development Block Grants (CDBG)). The Subrecipient also agrees to comply with all other applicable Federal, state and local laws, regulations, and policies governing the funds provided under this contract and as set forth at 24 CFR Part 570 subpart K, except that the Subrecipient does not assume the recipient's environmental responsibilities under 24 CFR 570.604 and 24 CFR Part 52. The Subrecipient further agrees to utilize funds available under this Contract to supplement rather than supplant funds otherwise available.

B. Grantor Recognition: The Subrecipient shall ensure recognition of the role of the City in providing services through this contract. All activities, facilities and items utilized pursuant to this contract shall be prominently labeled as to funding source. In addition, the Subrecipient will include a reference to the support provided herein in all publications made possible with funds made available under this contract.

XXXVI. ADMINISTRATIVE REQUIREMENTS

A. Financial Management

1. Accounting Standards. The Subrecipient agrees to comply with 2 CFR Part 200 and agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.

2. Cost Principles. The Subrecipient shall administer its program in conformance with the Uniform Administrative Requirements of 24 CFR 570.502, 24 CFR 570.503, and 2 CFR Part 200. These principles shall be applied for all costs incurred whether charged on a direct or indirect basis.

XXXVII. DOCUMENTATION AND RECORD KEEPING

A. Records to be Maintained. The Subrecipient shall maintain all records required by the Federal regulations specified in 24 CFR 570.506 that are pertinent to the activities to be funded under this Contract. Such records shall include but not be limited to:

(1) Records providing a full description of each activity undertaken;

(2) Records demonstrating that each activity undertaken meets one of the National Objectives of the CDBG program;

(3) Records required to determine the eligibility of activities;

(4) Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG assistance;

(5) Records documenting compliance with the fair housing and equal opportunity components of the CDBG program;

(6) Records documenting compliance with EPLS/SAM for each sub-

contractor;

(7) Financial records as required by 24 CFR 570.502, and 2 CFR Part 200;

(8) Other records necessary to document compliance with Subpart K of 24 CFR Part 570.

(9) Other records necessary to document compliance with Sections 1012 and 1013 of Title X amending the Lead-based Paint Poisoning Prevention Act of 1971 and title 24 of the Code of Federal Regulations as part of 35 (24 CFR 35).

XXXVIII. CLIENT DATA

The Subrecipient shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, income level or other basis for determining eligibility, and description of service provided. Such information shall be made available to the City or its designees for review upon request.

XXXVIX. DISCLOSURE

The Subrecipient understands that client information collected under this Contract is private and the use or disclosure of such information, when not directly connected with the administration of the City's or Subrecipient's responsibilities with respect to services provided under this contract, is prohibited by the State of New Mexico unless written consent is obtained from such person receiving service and, in the case of a minor, that of a responsible parent or guardian.

XL . PROPERTY RECORDS

The Subrecipient shall maintain real property inventory records, which clearly identify properties purchased, improved or sold. Properties retained shall continue to

meet eligibility criteria and shall conform to the "changes in use" restrictions specified in 24 CFR 570.503 (b) (8), as applicable.

XLI. RELOCATION, REAL PROPERTY ACQUISITION AND ONE-FOR-ONE HOUSING REPLACEMENT

The Subrecipient agrees to comply with (a) the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), and implementing regulations at 49 CFR Part 24 and 24 CFR 570.606(b); (b) the requirements of 24 CFR 570.606(c) governing the Residential Anti-displacement and Relocation Assistance Plan under section 104(d) of the HCD Act; and (c) the requirements in 24 CFR 570.606(d) governing optional relocation policies.

XLII. ENVIRONMENTAL CONDITIONS

A. Air and Water: The Subrecipient agrees to comply with the following requirements insofar as they apply to the performance of this Contract:

(1) Clean Air Act, 42 USC, 7401, *et seq.*;

(2) Federal Water Pollution Control Act, as amended, 33 USC, 1251, *et seq.*, as amended 1318 relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder;

(3) Environmental Protection Agency (EPA) regulations pursuant to 40 CFR Part 50, as amended.

B. Flood Disaster Protection: In accordance with requirements of the Flood Disaster Protection Act of 1973 (42 USC 4001), the Subrecipient shall assure that for activities located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, flood insurance under the National Flood

Insurance Program is obtained and maintained as a condition of financial assistance for acquisition or construction purposes (including rehabilitation).

C. Lead-Based Paint: The Subrecipient agrees that any construction or rehabilitation of residential structures with assistance provided under this Contract shall be subject to HUD Lead-Based Paint Regulations at 24 CFR 570.608, and 24 CFR Part 35, Subpart B. Such regulations pertain to all CDBG-assisted housing and require that all owners, prospective owners, and tenants of properties constructed prior to 1978 be property notified that such properties may include lead-based paint. Such notification shall point out the hazards of lead-based paint and explain the symptoms, treatment and precautions that should be taken when dealing with lead-based paint poisoning and the advisability and availability of blood lead level screening for children under seven. The notice should also point out that if lead-based paint is found on the property, abatement measures may be undertaken. The regulations further require that, depending on the amount of Federal funds applied to a property, paint testing, risk assessment, treatment and/or abatement may be conducted.

D. Historic Preservation: The Subrecipient agrees to comply with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, as amended (16 USC 470) and the procedures set forth in 36 CFR Part 800, Advisory Council on Historic Preservation Procedures for Protection of Historic Properties, insofar as they apply to the performance of this agreement. In general, this requires concurrence from the State Historic Preservation Officer for all rehabilitation and demolition of historic properties that are fifty years old or older or that are included on a Federal, state, or local historic property list.

XLIII. CLOSE OUTS

The Subrecipient's obligation to the City shall not end until all closeout requirements are completed. Activities during this close-out period shall include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the City), and determining the custodianship of records.

XLIV. LAND COVENANTS

This Contract is subject to the requirements of Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and 24 CFR 570.601 and 602. In regard to the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under this contract, the Subrecipient shall cause or require a covenant running with the land to be inserted in the deed or lease for such transfer, prohibiting discrimination as herein defined, in the sale, lease or rental, or in the use or occupancy of such land, or in any improvements erected or to be erected thereon, providing that the City and the United States are beneficiaries of and entitled to enforce such covenants. The Subrecipient, in undertaking its obligation to carry out the program assisted hereunder, agrees to take such measures as are necessary to enforce such covenant, and will not itself so discriminate.

XLV. SECTION 504

The Subrecipient agrees to comply with any Federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973 (29 USC 794), which prohibits discrimination against the handicapped in any Federally assisted program.

XLVI. PROHIBITED ACTIVITY

The Subrecipient is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities; sectarian or religious

activities; lobbying, political patronage, and nepotism activities.

XLVII. LABOR STANDARDS

A. The Subrecipient agrees to comply with the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act as amended, the provisions of Contract Work Hours and Safety Standards Act (40 USC 327 *et seq.*), the Copeland "Anti-Kickback" Act (18 USC 874 *et seq.*), its implementing regulations of the U.S. Department of Labor at 29 CFR Part 5, and all other applicable Federal, state and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this contract. The Subrecipient shall maintain documentation which demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to the City for review upon request.

B. The Subrecipient agrees that, except with respect to the rehabilitation or construction of residential property containing less than eight units, all contractors engaged under contracts in excess of two thousand dollars ($2,000.00) for construction, renovation or repair work financed in whole or in part with assistance provided under this contract, shall comply with Federal requirements adopted by the City pertaining to such contracts and with the applicable requirements of the regulations of the Department of Labor, under 29 CFR Parts 1, 3, 5 and 7 governing the payment of wages and ratio of apprentices and trainees to journey workers; provided, that if wage rates higher than those required under the regulations are imposed by state or local law, nothing hereunder is intended to relieve the Subrecipient of its obligation, if any, to require payment of the higher wage. The Subrecipient shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions meeting the requirements of this paragraph.

XLVIII. COMPLIANCE

A. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR 135, ("Section 3") and all applicable rules and orders issued thereunder prior to the execution of this contract, shall be a condition of the Federal financial assistance provided under this contract and binding upon the City, the Subrecipient and any of the Subrecipient's subcontractors. Failure to fulfill these requirements shall subject the City, the Subrecipient and any of the Subrecipient's subcontractors, their successors and assigns, to those sanctions specified by the contract through which Federal assistance is provided. The Subrecipient certifies and agrees that no contractual or other disability exists which would prevent compliance with these requirements.

B. The Subrecipient further agrees to comply with "Section 3" requirements and to include the following language in all subcontracts executed under this Contract.

"The work to be performed under this contract is a project assisted under a program providing direct Federal financial assistance from HUD and is subject to the requirements of "Section 3" of the Housing and Urban Development Act of 1968, as amended (12 USC 1701). "Section 3" requires that to the greatest extent feasible opportunities for training and employment be given to low and very low-income residents of the project area and contracts for work in connection with the project be awarded to business concerns that provide economic opportunities for low-and very low-income persons residing in the metropolitan area in which the project is located".

XLIX. NOTIFICATIONS

The Subrecipient agrees to send to each labor organization or representative of workers with which it has a collective bargaining contract or other contract or understanding, if any, a notice advising said labor organization or worker's representative

of its commitments under the above-referenced "Section 3" clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

L. SUBCONTRACTS

The Subrecipient will include the above-referenced "Section 3" clause in every subcontract and will take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the City. The Subrecipient will not subcontract with any entity where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR 135 and will not let any subcontract unless the entity has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

LI. RESPONSIBILITY FOR PAYMENT OF EMPLOYEES AND SUBCONTRACTORS

A. The Subrecipient shall be solely responsible for payment of wages, salaries and benefits to any and all employees or subcontractors retained by the Subrecipient in the performance of the services under this Contract.

B. The Contractor shall comply with City of Santa Fe Minimum Wage, Article 28-1-SFCC 1987, as well as any subsequent changes to such article throughout the term of this Agreement. .

LII. WAIVER

The Grantee's failure to act with respect to a breach by the Subrecipient does not waive its right to act with respect to subsequent or similar breaches. The failure of the City to exercise or enforce any right or provision shall not constitute a waiver of such right or provision.

LIII. NEW MEXICO TORT CLAIMS ACT

Any liability incurred by the City of Santa Fe in connection with this Contract is subject to the immunities and limitations of the New Mexico Tort Claims Act, Section 41-4-1, *et seq.* NMSA 1978, as amended. The City and its "public employees" as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity, do not waive any defense and do not waive any limitation of liability pursuant to law. No provision in this Contract modifies or waives any provision of the New Mexico Tort Claims Act.

LIV. RELEASE

The Subrecipient, upon final payment of the amount due under this Contract, releases the City, its officers and employees, from all liabilities, claims and obligations whatsoever arising from or under this Contract. The Subrecipient agrees not to purport to bind the City to any obligation not assumed herein by the City unless the Subrecipient has express written authority to do so, and then only within the strict limits of that authority.

LV. ENTIRE AGREEMENT

This agreement constitutes the entire agreement between the City and the Subrecipient for the use of funds received under this Contract and it supersedes all prior or contemporaneous communications and proposals, whether electronic, oral, or written between the City and the Subrecipient with respect to this Contract.

IN WITNESS WHEREOF, the City and the Subrecipient have executed this Contract on the dates set forth below.

APPROVED AND AUTHORIZED:

_____

ALAN WEBBER, MAYOR
DATE: _____

ATTEST:

YOLANDA Y. VIGIL
CITY CLERK

SUBRECIPIENT:
SFPS - ADELANTE

SUSAN O'BRIEN
DIRECTOR, STUDENT WELLNESS

New Mexico Taxation and Revenue Dept.
CRS No. N/A
City of Santa Fe Business Registration No. N/A

CITY ATTORNEY'S OFFICE:

Marcos Martinez
Marcos Martinez (May 12, 2020)
SENIOR ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

MARY MCCOY
FINANCE DIRECTOR

2402750.510400
BUSINESS UNIT/LINE ITEM

EXHIBIT A: Per Section V.B. of the Professional Services Agreement and per 24 CFR 570.503(b)(1).

Addendum Project Budget for (SFPS - Adelante)(Elemenatary School Liaison)

Type of funding	Source/ Amount	Source/ Amount	Source/ Amount	Totals
Final CDBG AMOUNT				**$27,000**
Other Federal Funds (for amortizing loans)	Title 1 $48,505.03	Youth Program $30,000		**$78,505.03**
Other Federal Funds (for amortizing loans)				
Amortizing funds				
City Funding (i.e. Youth and Family, Human Services Divisions)	CYC $75,724.03			**$75,724.03**
State funds (i.e. MFA)				**$**
Other (i.e. in-kind, private funds)	$14,925.23			**$14,925.23**
				$
Total of all funding sources				**$196,154.29**

The following chart details how the secured funding amount will support the various aspects of (SFPS – Adelante)(Elementary School Liaison)

Cost	CDBG Allocation
	$27,000
Cost	Private Leveraged Funds
Other Federal Funds	$78,505.03
City Funds – CYC	$75,724.03
Other In-Kind	$14,925.23
Indirect	$5,074.63
Total	$201,228.92

City of Santa Fe

Real Estate Summary of Contracts, Agreements, Amendments & Leases

Section to be completed by department

1. Munis Contract # **3201889**

Contractor: **SFPS Adelante**

Description: **Agreement provides funding to support staff hours for liaison services to support academic achievement for Pre-K through 12th grade students & their families who are experiencing housing instability or homelessness...**

Contract ☐ Agreement ☉ Lease / Rent ☐ Amendment ☐

Term Start Date: **7/01/2020** Term End Date: **6/30/2021**

☐ Approved by Council Date: _____

Contract / Lease: $27,000.00

Amendment # _____ to the Original Contract / Lease # _____

Increase/(Decrease) Amount $ _____

Extend Termination Date to: _____

☐ Approved by Council Date: _____

Amendment is for:

2. **HISTORY** of Contract, Amendments & Lease / Rent - Please Elaborate (option: attach spreadsheet if multiple amendments)
Agreement is for one-year term, 7/01/2020 - 6/30/2021

3. **Procurement History:** **RFP #20/16/P**

Fran Dunaway (Jun 15, 2020 08:30 MDT)

Purchasing Officer Review: Date:

Comment & Exceptions: _____

4. **Funding Source:** **240** **Org / Object:** **2402750.510400**

Alexis Lotero

Alexis Lotero (Jun 15, 2020 17:46 MDT)

Budget Officer Approval: Date:

Comment & Exceptions: _____

Staff Contact who completed this form: **Roberta Catanach** Phone # **505-955-6421**

Email: **rlcatanach@santafenm.gov**

To be recorded by City Clerk:

Clerk # _____

Date of Execution: _____

CITY OF SANTA FE PROCUREMENT CHECKLIST

Contractor Name: SFPS Adelante

Procurement Title: 20/16/P CDBG

Procurement Method: State Price Agreement ☐ Cooperative ☐ Sole Source ☐ Other ☐

Exempt ☐ Request For Proposal (RFP) ☐ Invitation To Bid (ITB) ☐ Contract under 60K ☐ Contract over 60K ☐

Department Requesting Office of Affordable Housin Staff Name Roberta Catanach

Procurement Requirements:

A procurement file shall be maintained for all contracts, regardless of the method of procurement. The procurement file shall contain the basis on which the award is made, all submitted bids, all evaluation materials, score sheets, quotations and all other documentation related to or prepared in conjunction with evaluation, negotiation, and the award process. The procurement shall contain a written determination from the Requesting Department, signed by the purchasing officer, setting forth the reasoning for the contract award decision before submitting to the Committees.

REQUIRED DOCUMENTS FOR APPROVAL BY PURCHASING*

YES	N/A	
☑	☐	Approved Procurement Checklist (by Purchasing)
☑	☐	Memo addressed to City Manager (under 60K) Committees/City Council (over 60K)
☐	☑	State Price Agreement
☑	☐	RFP
☑	☐	Evaluation Committee Report
☐	☑	ITB
☐	☑	Bib Tab
☐	☑	Quotes (3 valid current quotes)
☐	☑	Cooperative Agreement
☐	☑	Sole Source Request and Determination Form
☐	☑	Contractors Exempt Letter
☐	☑	Purchasing Officers approval for exempt procurement
☐	☑	BAR
☐	☑	FIR
☑	☐	Executed Contract, Agreement or Amendment
☑	☐	Current Business Registration and CRS numbers on contract or agreement
☑	☐	Summary of Contracts and Agreements form
☑	☐	Certificate of Insurance
☑	☐	All documentation presented to Committees
☑	☐	Other:

Roberta Catanach, Contracts Administrator 5/11/2020

Department Rep Printed Name (attesting that all information included) Title Date

Purchasing Officer (attesting that all information is reviewed) Title Date

Include all other substantive documents and records of communication that pertain to the procurement and contract.

City of Santa Fe
FY20 Fiscal Impact Analysis (Non-Personnel Expenditures)

General Information

Department Name:	General Government	Department Name:	
Division Name:	Office of Affordable Housing	Division Name:	

Financial Information

Amount Requested:	$27,000	Munis Fund Number:	240
Vendor Name:	SFPS Adelante	Munis Org Number:	2402750
Approved by Director?	Yes	Munis Object Code:	510400

Expenditure Information

1. Describe the purchase of goods/services. Is this one-time or recurring? Please explain why this is the lowest cost option for this expenditure.

This contract delivers services for projects that serve low to moderate-income residents within the Santa Fe City limits based on current HUD Area Median Income data for Santa Fe as follows: Funding will add staff hours for liaison services for an approximate minimum of nine hundred and fifty (950) students Pre-K-12, and their families who are experiencing housing instability or homelessness. Services provided include consultation with families, support via school supplies, housing, food, tutoring, etc. to students and their families who are defined as homeless per the McKinney Vento act. This is one-time commitment of funds for an ongoing program. This is a low cost way of delivering housing programs/projects/services because it relies on the capacity of community partners, rather than the City's bureaucracy to deliver services/provide housing.

2. Please describe which legally required City service does this procurement support? Does this procurement provide support for compliance with City, State and Federal requirements? If yes, please explain.

This procurement is aligned with requirements of the City's CDBG entitlement funding. If grant funds are not drawn, the City will jeopardize compliance with its grant agreement with HUD.

3. Can these services be performed by City employees in your department or in other departments? If the answer is no, please explain.

No, these housing programs/projects/services are provided by expert organizations and cannot be provided within the City's internal delivery system.

4. Would there be any adverse health, safety or economic implications if this expenditure was not approved? What impact will there be on the department and the City operations if this expenditure is not approved.

Without the housing programs/projects/services funded through this contract, the low-mod income residents of Santa Fe will have limited access to housing and community development opportunities.

5. If this purchase is not approved with City funds, what are alternative funding sources for the proposed expenditure? Does this duplicate efforts being provided by other governmental, for profit or non-profit entities?

These are federal grant funds, the expenditure of which does not affect the City's budget. These funds are used to leverage additional complementary funding sources to support housing programs/projects/services in our community.

Fran Dunaway (Jun 15, 2020 09:30 MDT)	Alexis Lotero Alexis Lotero (Jun 12, 2020 17:46 MDT)	
Procurement Office Signature	Budget Office Signature	Finance Director Signature

ACORD®

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 07/25/2019

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	CONTACT NAME: Risk Services	
Poms & Associates Insurance Brokers CA License #0814733 5700 Canoga Ave. #400 Woodland Hills CA 91367	PHONE (A/C, No, Ext): (800) 578-8802	FAX (A/C, No): (818) 449-9449
	E-MAIL ADDRESS: rservices@pomsassoc.com	
	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A : New Mexico Public Schools Insurance Authority	N/A
INSURED New Mexico Public Schools Insurance Authority Member: Santa Fe Public Schools 410 Old Taos Highway Santa Fe NM 87501	INSURER B :	
	INSURER C :	
	INSURER D :	
	INSURER E :	
	INSURER F :	

COVERAGES **CERTIFICATE NUMBER:** SFPS **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR ☒ Owners Contractors ☐ Protective Liability GEN'L AGGREGATE LIMIT APPLIES PER: ☒ POLICY ☐ PRO-JECT ☐ LOC ☐ OTHER:			MOC NO. L0022	07/01/2019	07/01/2020	EACH OCCURRENCE	$ Tort Limit
							DAMAGE TO RENTED PREMISES (Ea occurrence)	$ Tort Limit
							MED EXP (Any one person)	$ Tort Limit
							PERSONAL & ADV INJURY	$ Tort Limit
							GENERAL AGGREGATE	$ Tort Limit
							PRODUCTS - COMP/OP AGG	$ Tort Limit
							MAXIMUM LIABILITY	$ 1,050,000
	AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☐ HIRED AUTOS ONLY ☐ NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident)	$
							BODILY INJURY (Per person)	$
							BODILY INJURY (Per accident)	$
							PROPERTY DAMAGE (Per accident)	$
								$
	☐ UMBRELLA LIAB ☐ OCCUR ☐ EXCESS LIAB ☐ CLAIMS-MADE ☐ DED ☐ RETENTION $						EACH OCCURRENCE	$
							AGGREGATE	$
								$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y / N ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? ☐ N/A (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below						☐ PER STATUTE ☐ OTH-ER	
							E.L. EACH ACCIDENT	$
							E.L. DISEASE - EA EMPLOYEE	$
							E.L. DISEASE - POLICY LIMIT	$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Self-Insured Retention for Liability is $750,000. See attached New Mexico Tort Claims Act Section 41-4-19: Maximum Liability Summary.

Evidence of insurance

CERTIFICATE HOLDER

City of Santa Fe/ Office of Affordable Housing
500 Market Street, Ste 200
Santa Fe NM 87505

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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AGENCY CUSTOMER ID: _____

LOC #: _____

ADDITIONAL REMARKS SCHEDULE

Page ____ of ____

AGENCY	NAMED INSURED
Poms & Associates Insurance Brokers	New Mexico Public Schools Insurance Authority
POLICY NUMBER	
CARRIER / NAIC CODE	EFFECTIVE DATE:

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,

FORM NUMBER: _____ **FORM TITLE:** : Notes

Summary of New Mexico Tort Claims Act Section 41-4-19: Maximum Liability
Governmental entities and agencies, including public schools, public charter schools and community colleges and universities are granted immunity from liability.
Commercial General Liability
Products and Completed Operations
Professional Liability
Contractual Liability
Imposed by New Mexico Tort Claims Act [NMSA 1975 §41-4-1 through 41-4-29]
$400,000 Bodily Injury Per Person
$200,000 Property Damage Per Property Address
$300,000 Medical
$750,000 Per Occurrence
$1,050,000 Combined Limit/Maximum Liability

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CITY OF SANTA FE

COMMUNITY DEVELOPMENT BLOCK GRANT CONTRACT

THIS CONTRACT is made and entered into this _____ day of _____ _____, 2020 by and between the City of Santa Fe, a municipal corporation, (the "City") and Coming Home Connection, (the "Subrecipient").

RECITALS

1. The Subrecipient has applied for and received funds from the United States Government under Title 1 of the Housing and Community Development Act of 1974, Public Law 93-383.

2. The City desires to engage the Subrecipient to render certain services to the City and its citizens.

3. The Subrecipient further certifies that it is willing and able to perform these services and that said services to be performed are within the Subrecipient's legal powers and capabilities.

4. The City desires to engage the Subrecipient to render these certain services in connection therewith as more particularly set forth hereafter.

AGREEMENTS

NOW, THEREFORE, the parties hereto mutually agree as follows:

I. SCOPE OF SERVICES

The Subrecipient agrees to utilize CDBG funds for a public service project that serves the homeless and low to moderate- income residents within the Santa Fe City limits based on current HUD Are Median Income data for Santa Fe as follows:

A. Provide staffing for "Casa Cielo", specializing in hospice support services for individuals determined by a physician to be at the end of life stage; services to include hospice health services; nutritional support; and related coordination of care.

B. Provide services to a minimum of fifteen (15) individuals who meet federal definitions of homelessness or other standards of housing instability..

C. Contractor will report to the City on a quarterly basis the use of funds, program outcomes achieved, and specifying eligibility of people served and units of staffing provided.

II. NATIONAL OBJECTIVES

The Subrecipient certifies that the service carried out with funds provided under this Contract will meet one or more of the Community Development Block Grant (hereinafter "CDBG") Program's National Objectives:

A. Benefit low/moderate income persons.

B. Benefit extremely low income persons.

C. Benefit homeless and elderly persons.

III. PERFORMANCE MONITORING

The City shall monitor the performance of the Subrecipient against goals and levels of accomplishment as stated above. Substandard performance as determined by the City will constitute noncompliance with this Contract. If action to correct such

substandard performance is not taken by the Subrecipient within a reasonable period of time after being notified by the Grantee, contract suspension or termination procedures will be initiated.

IV. WORK PLAN AND REPORTING

A. Work Plan: The Subrecipient shall provide the City, within sixty (60) days from signing this Agreement, a revised work plan outlining the major tasks or activities, the measurable objectives for each task or activity, and the time frames to be taken by the Subrecipient in the performance of this Agreement. Included in this report should be information regarding how much funding was leveraged during the program year and from which sources.

B. Annual Budget: All project activities will be in accordance with the attached budget and work plan (Exhibit A) per 24 CFR 570.503(b)(1).

C. Invoicing: The Subrecipient shall submit to the City quarterly reports in order to receive reimbursement for these services. Quarterly reports must be filed no later than the 15th calendar day for the preceding month. A fund requisition with documentation in support of each budgetary category will be submitted. This documentation must include the original or a certified copy or copies of invoices, vouchers, statements, etc. All costs chargeable to the City must be in accordance with budgetary and other restrictions of expenses established by this Contract. Funds for reimbursement can be disbursed on any Friday of each month during the contract period. In order for the City to meet this deadline, the Subrecipient is required to submit its request for reimbursement by Monday, 5:00 p.m., in order to receive payment by the following Friday. The Subrecipient shall submit a Final Project Report assessing the comparison of results achieved in relation to stated goals and objectives in the Scope of Services approved by the City. This report is

due to the Office of Affordable Housing fifteen (15) days after the completion of the Contract.

D. Final Payment: Since all payments under this Contract shall be quarterly on a cost reimbursement basis, the City shall be entitled to withhold the final ten percent (10%) due hereunder, pending final approval by the City of the services rendered. Upon receipt and acceptance of a final project report prior to the final payment, the Subrecipient shall furnish the City proof in documentary form that all claims, liens, salaries or other obligations incurred by it in accordance with the services specified herein, have been properly paid and released.

E. Program Monitoring and Financial Audits: At such time and in such form as the City may require there shall be furnished to the City such statements, records, reports, data and information as the City may request pertaining to matters covered by this Contract. Furthermore, at any time during normal business hours and as often as the City may deem necessary, there shall be made available to the City or its designee for examination, all records maintained by the Subrecipient with respect to all matters covered by this Contract; and, the Subrecipient will permit the City to audit, examine and make excerpts or transcripts from such records, and make audits of all contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all matters covered by this Contract subject to the limitations set out above. Any Subrecipient receiving City CDBG funds in excess of fifteen thousand dollars ($15,000) or any combination of public (City, State, or Federal) monies in excess of twenty-five thousand dollars ($25,000) shall perform a final audit on all funds received from all sources for the program no later than ninety (90) days after completion of the sub-recipient's fiscal year, and shall furnish the City with said audit. This audit shall be

performed by an independent agency. Any Subrecipient receiving a sum of less than fifteen thousand dollars ($15,000) in City CDBG funds must submit an audited financial statement on all funds received from all sources for the program after completion of the sub-recipient's fiscal year, and shall furnish the City with said financial statements.

V. STATUS OF CONTRACTOR

The Subrecipient, and its agents and employees, are independent contractors performing professional services for the City and are not employees of the City. The Subrecipient, 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 Contract.

VI. COMPENSATION

A. The City shall pay to the Contractor in full payment for services satisfactorily performed, such compensation shall not exceed twenty thousand dollar ($20,000). **The total amount payable to the Contractor under this Agreement, including gross receipts tax and expenses, shall not exceed ($20,000). 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.**

B. Invoice must include documentation of staff costs incurred, including time sheets or payroll reports showing amount of staff time paid by CDBG funds.

C. 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. All invoices MUST BE received by the City no later than thirty 30) days after the termination of the Fiscal Year in which the services were delivered. Invoices received after such date WILL NOT BE PAID.

VII. TERM

THIS AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED BY THE CITY. This Agreement shall terminate on **June 30, 2021** unless terminated pursuant to paragraph 4 (Termination), or paragraph 5 (Appropriations). In accordance with Section 13-1-150 NMSA 1978, no contract term for a professional services contract, including extensions and renewals, shall exceed four years, except as set forth in Section 13-1-150 NMSA 1978.

VIII. ADDITIONAL CONTRIBUTIONS

The Subrecipient may use the funds of the City granted herein to obtain Federal, State or other grants to carry out the Scope of Services herein.

A. Program Income: Program income received may be retained by the Subrecipient, but may be used only for support of the programs detailed in the Scope of Services section of this Contract. Program income on hand at the time of completion of the Contract period shall continue to be subject to the eligibility requirements and other applicable provisions of 24 CFR 570.504, Program Income of the Administrative

Regulations of the CDBG program.

IX. APPROPRIATIONS

The terms of this Contract are contingent upon sufficient appropriations and authorization made by the City for the performance of this Contract. If sufficient appropriations and authorizations are not made by the City, this Contract shall terminate upon written notice being given by the City to the Subrecipient. The City's decision as to whether sufficient appropriations are available shall be accepted by the Subrecipient and shall be final.

X. FISCAL AGENT

The New Mexico Community Foundation will act as Coming Home's Fiscal Agent and will defend, indemnify and hold harmless the City from any and all liability, costs and expenses whatsoever for expenditure of funds pursuant to the Scope of Services of this Contract.

XI. BUDGET REVISIONS The Subrecipient will inform the City of any "line item" revisions to the attached budget, within the maximum compensation shown in this Agreement and will obtain the City's prior written approval of any change that represents at least 25 percent or more of the line item amount per the latest approved budget. Any budget revisions must be eligible expenditures under this Agreement and Title I of the Community Development Act.

XII. ELIGIBLE AND INELIGIBLE COSTS

A. Criteria. This section provides criteria for the determination of whether costs are eligible or ineligible for funding under this Contract. Costs incurred, which are determined by the City to be ineligible under these criteria, may not be charged to this

Contract.

B. Standards. All costs incurred must be reasonable and of a nature which clearly relates to the specific purposes and end product of the contract under which the services are being performed. Care must be exercised by all concerned in incurring costs to assure that expenditures conform to these general standards, including 2 CFR Part 200, and the following criteria for eligible costs.

C. Eligible Costs. To be eligible for inclusion, the cost must:

(1) Be necessary and reasonable for proper and efficient execution of the contractual requirements and in accordance with an approved budget.

(2) Be in conformance with any limitations, exclusions and provisions pursuant to this Contract, State and Local Laws, or other governing limitations.

(3) Be accorded consistent treatment through application of accounting policy and procedures approved and/or prescribed.

(4) Be net after allowance of all applicable credits such as purchase discounts, rebates or allowances, sales or publication of materials, or other income or refunds.

(5) Be in accordance with budgetary or other restrictions on expenses established by the City.

(6) Be fully documented.

(7) The Subrecipient shall reimburse the City any costs and expenses declared ineligible by the City which may have been reimbursed erroneously to the Subrecipient by the City under whatever conditions.

D. Ineligible Costs. Ineligible costs shall be as follows:

(1) Accounting. Costs of maintaining central accounting records

necessary for overall local government purposes, such as appropriation of fund accounts by the Treasurer, or similar officials, are considered general expenses of the Subrecipient and are ineligible costs. However, the cost of establishing and maintaining accounting or other information systems required for the management of the program are eligible costs including costs incurred by central services agencies for these purposes.

(2) Bad Debts. Any losses arising from uncollectible accounts and other claims, and related costs.

(3) Budget. Costs of a central budget office, except the costs of employees in the central budget office of the Subrecipient directly involved in the program as set forth in the Scope of Services, hereto, and clearly identifiable. However, costs incurred for the development, preparation, presentation, and execution of program and project budgets performed by the Subrecipient are eligible costs.

(4) Contingencies. Contribution to a contingency reserve or any similar provision for unforeseen events.

(5) Contributions and Donations. Political, charitable and fundraising solicitations, payments, gifts and expenses.

(6) Entertainment. Costs of amusements, social activities, and incidental costs, such as meals, beverages, lodgings, and gratuities, relating to entertainment.

(7) Board Expenses. The salary and expenses if any, of the Chairman of the Board of the Subrecipient are considered a cost of the Subrecipient and are not eligible costs in any way to this Contract.

(8) Fines and Penalties. Costs resulting from violations of or failure to comply with federal, state and local laws and regulations.

(9) Interest and other Financial Costs. Interest on borrowing (however represented); bond discounts, cost of financing and refinancing operations and legal and professional fees paid in connection therewith.

(10) Legal Fees. Costs for legal advice or work are ineligible, except those required directly for the administration of the program, which are eligible.

(11) Legislative Expenses. Costs for lobbying or testimony before the legislature or any of its committees, whether incurred for the purposes of legislation or executive direction, are not eligible.

(12) Membership Expenses. Cost of membership in any organization is ineligible.

(13) Travel. Costs in excess of those allowed by the City for its employees are ineligible.

(14) Meeting Attendance. Costs of attending meetings which are not included in the budget are ineligible.

(15) Expenses Related to Fundraising. Cost of postage, printing or external subcontracting for grant writers or development specialists.

XIII. SPECIAL PROVISIONS

A. The Subrecipient realizes that the availability of funds for the activity covered by the "Scope of Services," herein and for performance of this Agreement, depend solely on the provisions of said funds by HUD, such provisions being contingent on the City's approval of these activities as eligible under the Housing and Community Development Act of 1974, the National Affordable Housing Act of 1990 and other pertinent federal regulations. However, the City shall notify the Subrecipient in writing within five days of receipt by the City of any determination by HUD to terminate CDBG

funding.

B. In the event the Subrecipient or its organization is dissolved or discontinues making loans as provided herein, or this Agreement is not renewed after it expires, the Subrecipient shall upon such dissolution, discontinuation or within sixty (60) days after expiration of this Agreement if its renewal has not in the meantime been executed:

(1) Return to the City all unexpended Community Development Block Grant funds received from the City and CDBG program income in the possession of the Subrecipient that have not been already obligated through contracts.

(2) Assign and transfer to the City the equity on all outstanding loans and mortgages which have been provided by the Subrecipient from Community Development grant funds and related program income under this and previous agreements. The Subrecipient shall provide the City with a listing of the borrowers and outstanding amounts, together with up-to-date records of principal and interest payments and balances of the accounts of said borrowers.

XIV. CONFLICT OF INTEREST

The Subrecipient agrees to abide by the provision of 2 CFR Part 200 and 570.611, which include (but are not limited to) the following:

A. Interest of Members of City: No officer, employee, or agent of the City who exercises any functions or responsibilities in connection with the planning and carrying out any of the provisions of this Contract, or any other person who exercises any functions or responsibilities in connection with any of the provisions of the Contract, shall have any personal financial interest, direct or indirect, in this Contract; and the Subrecipient shall take appropriate steps to assure compliance.

B. Interest of Subrecipient and Employees: The Subrecipient shall not allow any person who presently exercises any functions or responsibilities in connection with the provisions of this Contract, to have personal financial interests, direct or indirect, in this Contract. The Subrecipient further shall not allow in the performance of this Contract any person having any conflicting interest to be employed by the Subrecipient. Any interest on the part of the Subrecipient or its employees must be disclosed to the City. Provided, however, that this paragraph shall be interpreted in such a manner so as not to unreasonably impede the requirement that maximum opportunity for employment of area residents and resident participation shall be of primary concern to the Subrecipient.

Should the subrecipient discover a potential conflict of interest, the subrecipient shall immediately disclose in writing to the City and specifically ask for guidance on how to resolve the conflict and prior to any act in furtherance of the conflict. The disclosure shall include a description of the nature of the conflict; the name, position, phone number and address of the person with the conflict; the date of the notification; and requested action to address the conflict. Disclosures of real, apparent or perceived conflicts of interest shall be made to the City and the City must agree in writing to a proper course of subsequent action prior to the disbursement of CDBG funds.

C. Certification:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the State, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of a Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative

agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the State shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.

XV. DISCRIMINATION PROHIBITED

A. In all hiring or employment made possible by or resulting from this Contract, there (1) will not be any discrimination against any employee or applicant for employment because of race, color, age, religion, sex, sexual orientation, national origin, and physical or mental disability; and (2) affirmative action will be taken to ensure that qualified applicants are employed, and that employees are treated during employment without regard to their race, color, age, religion, sex, sexual orientation, national origin, and physical or mental disability. This requirement shall apply, without limitation, to the following: employment, upgrading, demotion or transfer, recruitment advertising, layoff or termination, and selection for training, including apprenticeship. There shall be posted in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this clause. All solicitations or advertisements for employees shall state that all qualified applicants will receive consideration for employment without regard to race, color, age, religion, sex, sexual orientation, national origin, and physical or mental disability.

B. No person in the United States shall, on account of race, color, age,

religion, sex, sexual orientation, national origin, and physical or mental disability, be excluded from participating in, denied the benefits of, or subjected to discrimination under this Contract or activity made possible by or resulting from the Contract.

C. Subrecipient will abide by all requirements of the Americans with Disabilities Act. Subrecipient shall be kept informed of employee discrimination prevention requirements and program and facility accessibility standards.

XVI. WOMEN- AND MINORITY- OWNED BUSINESSES (W/MBE)

The Subrecipient will use its best efforts to afford small businesses, minority business enterprises, and women's business enterprises the maximum practicable opportunity to participate in the performance of this contract. As used in this contract, the terms "small business" means a business that meets the criteria set forth in section 3(a) of the Small Business Act, as amended (15USC 632), and "minority and women's business enterprise" means a business at least fifty-one (51) percent owned and controlled by minority group members or women. For the purpose of this definition, "minority group members" are Afro-Americans, Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian-Americans, and American Indians. The Subrecipient may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

XVII. POLITICAL ACTIVITY PROHIBITED

None of the funds, materials, property or services provided for directly or indirectly under this Contract shall be used in the performance of this Contract for any political activity prohibited by Federal, State or local law.

XVIII. CONFIDENTIALITY

Any confidential information provided to or developed by the Subrecipient in the

performance of this Contract shall be kept confidential and shall not be made available to any individual or organization by the Subrecipient without the prior written approval of the City.

XIX. REPRESENTATIONS IN SUBMITTALS

The City has relied on all representations in the Subrecipient's submittals in awarding this Agreement and the Subrecipient warrants the accuracy of all representations. Misrepresentations in the submittals will be cause for termination of this Agreement.

XX. AMENDMENT

This Contract shall not be altered, changed or amended except by amendment in writing executed by the parties hereto.

XXI. NOTICES AND ADDRESSES

Any notices required to be given under this agreement shall be in writing and served by personal delivery or by mail, postage prepaid, to the parties at the following addresses:

For the City, notices may be sent to:

City of Santa Fe
Office of Affordable Housing
P.O. Box 909
Santa Fe, New Mexico 87504-0909

For the Subrecipient, notices may

Coming Home Connections
418 Cerrillos Road, Suite 27
Santa Fe, NM 87501

XXII. ASSIGNABILITY

The Subrecipient shall not assign any interest in this Contract and shall not transfer any interest in the same (whether by assignment or otherwise) without the prior written consent of the City.

XXIIII. WARRANTY OF AUTHORITY

The Subrecipient warrants that it has full corporate and other authority, under its articles of corporation, bylaws, resolutions, other pertinent corporate documents, instruments, and agreements, and otherwise to enter into this agreement, to bind itself under this agreement, and to perform this Agreement in accordance with the terms and provisions of this Agreement.

XXIV. BINDING EFFECT

This Agreement is binding upon and inures to the benefit of the successors, successors-in interest, assigns and transferees of the City and the Subrecipient.

XXV. SEVERABILITY

In case any one or more of the provisions contained in this Agreement or any application thereof shall be invalid, illegal or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions contained herein and any other application thereof shall not in any way be affected or impaired thereby.

XXVI. DISPOSITION OF PROPERTY

A. All non-expendable property acquired by the Subrecipient pursuant to this Contract shall be recorded in the property records of the City prior to reimbursement to the Subrecipient for expenses incurred in order to acquire said property. For purposes of this Contract, the term "non-expendable property" means items of tangible, personal property that are non-perishable such as equipment, software, and furniture. The use and disposition of real property and equipment under this Contract shall be in compliance with the requirements of 24 CFR Part 84 and 24 CFR 570.502, 570.503, and 570.504, as applicable.

B. Subrecipient shall be accountable for all recorded non-expendable property

which is recorded as City property for a period of five years as established by the City.

C. All non-expendable property acquired pursuant to this Contract shall remain in the possession of and shall be used only by the Subrecipient, provided that said property continues to be used for the same purposes and in the same manner as originally intended.

D. If the Subrecipient cannot continue to effectively use recorded non-expendable property for the same purposes and in the same manner as originally intended and described in this Contract, all such non-expendable property shall remain in the possession of, and shall be used by the Subrecipient for similar purposes and in a similar manner as initially used; provided, however, that conversion of said property to a similar use in another similar program must first receive the express written consent of the City.

E. If the Subrecipient can neither continue to effectively use recorded non-expendable property for the same purposes and in the same manner originally intended nor continue to effectively use said property for the same or similar purposes and in a similar manner as permitted by this Contract, the City may provide for the disposition of said property wholly and entirely at the City's discretion.

F. The City may, in writing, waive and relinquish all claims the City may have in and to recorded non-expendable property.

G. When the Subrecipient's period of accountability for any non-expendable property expires, said property shall revert to the City unless otherwise provided for in a written agreement between the Subrecipient and the City. Assets on hand at the expiration of the Contract in excess of twenty-five thousand dollars ($25,000) shall be disbursed in accordance with reversion of assets of 24 CFR 570.503 Agreements with

Subrecipients of the CDBG regulation; or

(i) The Subrecipient shall pay to the City an amount equal to the current market value of the property less any portion of the value attributable to the expenditures of non-CDBG funds for the acquisition of, or improvement to, the property. The payment is program income to the City. (No payment is required after the period of time specified in 24 CFR 570.503(b)(7)(i).

XXVII. COMPLIANCE WITH LOCAL LAW

The Subrecipient shall comply at its own cost with all applicable laws, ordinances and codes of the State and the City.

XXVIII. THIRD PARTY BENEFICIARIES

By entering into this Contract, the parties do not intend to create any right, title or interest in or for the benefit of any person other than the City and the Subrecipient. No person shall claim any right, title or interest under this Contract or seek to enforce this Contract as a third party beneficiary of this Contract.

XXIX. JURISDICTION CLAUSE

This Contract shall be performed in Santa Fe, New Mexico. Any legal action or cause of action arising in connection herewith shall be within the jurisdiction and venue of the appropriate court in Santa Fe, New Mexico, for all purposes.

XXX. SUSPENSION AND TERMINATION

A. This Contract 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. By such termination, neither party may nullify obligations already incurred for performance or failure to perform prior to the date of termination. In addition, the City may terminate this agreement for convenience in accordance with 2 CFR Part 200.

B. The City may enforce remedies for noncompliance in accordance with 2 CFR Part 200. The City may also suspend or terminate this Contract, in whole or in part, if the Subrecipient materially fails to comply with any term of this Contract, or with any of the rules, regulations or provisions referred to herein; and the City may declare the Subrecipient ineligible for any further participation in the City's contracts, in addition to other remedies as provided by law. In the event there is probable cause to believe the Subrecipient is not in compliance with any applicable rules or regulations, the City may withhold up to fifteen percent (15%) of said contract funds until such time as the Subrecipient is found to be in compliance by the City, or is otherwise adjudicated to be in compliance.

XXXI 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.

XXXII. 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.

A. Commercial General Liability insurance shall be written on an occurrence basis and be a broad as ISO Form CG 00 01 with limits not less than $2,000,000 per occurrence and $2,000,000 in the aggregate for claims against bodily injury, personal and advertising injury, and property damage. Said policy shall include

broad form Contractual Liability coverage and be endorsed to name the City of Santa Fe their officials, officers, employees, and agents as additional insured.

B. Business Automobile Liability insurance for all owned, non-owned automobiles, with a combined single limit not less than $1,000,000 per accident.

C. Broader Coverage and Limits. The insurance requirements under this Agreement shall be the greater of (1) the minimum coverage and limits specified in this Agreement, or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the Named Insured. It is agreed that these insurance requirements shall not in any way act to reduce coverage that is broader or that includes higher limits than the minimums required herein. No representation is made that the minimum insurance requirements of this Agreement are sufficient to cover the obligations of Contractor hereunder.

D. 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.

XXXIII. INDEMNIFICATION

The Subrecipient shall indemnify, hold harmless and defend the City from all losses, damages, claims or judgments, including payments of all attorneys' fees and

costs on account of any suit, judgment, execution, claim, action or demand whatsoever arising from Subrecipient's performance under this Agreement as well as the performance of Subrecipient's employees, agents, representatives and subcontractors.

XXXIV. ENTIRE CONTRACT

This Contract constitutes the entire contract between the parties hereto. Prior contracts, whether written or oral, or assertion of statement, of understanding, or other commitment antecedent to this Contract shall have no force or effect whatsoever, unless the same is mutually agreed to by the parties hereto and reduced to writing.

XXXV. GENERAL CONDITIONS

A. General Compliance: The Subrecipient agrees to comply with the requirements of Title 24 of the Code of Federal Regulations, Part 570 (the Housing and Urban Development regulations concerning Community Development Block Grants (CDBG)). The Subrecipient also agrees to comply with all other applicable Federal, state and local laws, regulations, and policies governing the funds provided under this contract and as set forth at 24 CFR Part 570 subpart K, except that the Subrecipient does not assume the recipient's environmental responsibilities under 24 CFR 570.604 and 24 CFR Part 52. The Subrecipient further agrees to utilize funds available under this Contract to supplement rather than supplant funds otherwise available.

B. Grantor Recognition: The Subrecipient shall ensure recognition of the role of the City in providing services through this contract. All activities, facilities and items utilized pursuant to this contract shall be prominently labeled as to funding source. In addition, the Subrecipient will include a reference to the support provided herein in all publications made possible with funds made available under this contract.

XXXVI. ADMINISTRATIVE REQUIREMENTS

A. Financial Management

1. Accounting Standards. The Subrecipient agrees to comply with 2 CFR Part 200 and agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.

2. Cost Principles. The Subrecipient shall administer its program in conformance with the Uniform Administrative Requirements of 24 CFR 570.502, 24 CFR 570.503, and 2 CFR Part 200. These principles shall be applied for all costs incurred whether charged on a direct or indirect basis.

XXXVII. DOCUMENTATION AND RECORD KEEPING

A. Records to be Maintained. The Subrecipient shall maintain all records required by the Federal regulations specified in 24 CFR 570.506 that are pertinent to the activities to be funded under this Contract. Such records shall include but not be limited to:

(1) Records providing a full description of each activity undertaken;

(2) Records demonstrating that each activity undertaken meets one of the National Objectives of the CDBG program;

(3) Records required to determine the eligibility of activities;

(4) Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG assistance;

(5) Records documenting compliance with the fair housing and equal opportunity components of the CDBG program;

(6) Records documenting compliance with EPLS/SAM for each sub-

contractor;

(7) Financial records as required by 24 CFR 570.502, and 2 CFR Part 200;

(8) Other records necessary to document compliance with Subpart K of 24 CFR Part 570.

(9) Other records necessary to document compliance with Sections 1012 and 1013 of Title X amending the Lead-based Paint Poisoning Prevention Act of 1971 and title 24 of the Code of Federal Regulations as part of 35 (24 CFR 35).

XXXVIII. CLIENT DATA

The Subrecipient shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, income level or other basis for determining eligibility, and description of service provided. Such information shall be made available to the City or its designees for review upon request.

XXXVIX. DISCLOSURE

The Subrecipient understands that client information collected under this Contract is private and the use or disclosure of such information, when not directly connected with the administration of the City's or Subrecipient's responsibilities with respect to services provided under this contract, is prohibited by the State of New Mexico unless written consent is obtained from such person receiving service and, in the case of a minor, that of a responsible parent or guardian.

XL . PROPERTY RECORDS

The Subrecipient shall maintain real property inventory records, which clearly identify properties purchased, improved or sold. Properties retained shall continue to

meet eligibility criteria and shall conform to the "changes in use" restrictions specified in 24 CFR 570.503 (b) (8), as applicable.

XLI. RELOCATION, REAL PROPERTY ACQUISITION AND ONE-FOR-ONE HOUSING REPLACEMENT

The Subrecipient agrees to comply with (a) the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), and implementing regulations at 49 CFR Part 24 and 24 CFR 570.606(b); (b) the requirements of 24 CFR 570.606(c) governing the Residential Anti-displacement and Relocation Assistance Plan under section 104(d) of the HCD Act; and (c) the requirements in 24 CFR 570.606(d) governing optional relocation policies.

XLII. ENVIRONMENTAL CONDITIONS

A. Air and Water: The Subrecipient agrees to comply with the following requirements insofar as they apply to the performance of this Contract:

(1) Clean Air Act, 42 USC, 7401, *et seq.*;

(2) Federal Water Pollution Control Act, as amended, 33 USC, 1251, *et seq.*, as amended 1318 relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder;

(3) Environmental Protection Agency (EPA) regulations pursuant to 40 CFR Part 50, as amended.

B. Flood Disaster Protection: In accordance with requirements of the Flood Disaster Protection Act of 1973 (42 USC 4001), the Subrecipient shall assure that for activities located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, flood insurance under the National Flood

Insurance Program is obtained and maintained as a condition of financial assistance for acquisition or construction purposes (including rehabilitation).

C. Lead-Based Paint: The Subrecipient agrees that any construction or rehabilitation of residential structures with assistance provided under this Contract shall be subject to HUD Lead-Based Paint Regulations at 24 CFR 570.608, and 24 CFR Part 35, Subpart B. Such regulations pertain to all CDBG-assisted housing and require that all owners, prospective owners, and tenants of properties constructed prior to 1978 be property notified that such properties may include lead-based paint. Such notification shall point out the hazards of lead-based paint and explain the symptoms, treatment and precautions that should be taken when dealing with lead-based paint poisoning and the advisability and availability of blood lead level screening for children under seven. The notice should also point out that if lead-based paint is found on the property, abatement measures may be undertaken. The regulations further require that, depending on the amount of Federal funds applied to a property, paint testing, risk assessment, treatment and/or abatement may be conducted.

D. Historic Preservation: The Subrecipient agrees to comply with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, as amended (16 USC 470) and the procedures set forth in 36 CFR Part 800, Advisory Council on Historic Preservation Procedures for Protection of Historic Properties, insofar as they apply to the performance of this agreement. In general, this requires concurrence from the State Historic Preservation Officer for all rehabilitation and demolition of historic properties that are fifty years old or older or that are included on a Federal, state, or local historic property list.

XLIII. CLOSE OUTS

The Subrecipient's obligation to the City shall not end until all closeout requirements are completed. Activities during this close-out period shall include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the City), and determining the custodianship of records.

XLIV. LAND COVENANTS

This Contract is subject to the requirements of Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and 24 CFR 570.601 and 602. In regard to the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under this contract, the Subrecipient shall cause or require a covenant running with the land to be inserted in the deed or lease for such transfer, prohibiting discrimination as herein defined, in the sale, lease or rental, or in the use or occupancy of such land, or in any improvements erected or to be erected thereon, providing that the City and the United States are beneficiaries of and entitled to enforce such covenants. The Subrecipient, in undertaking its obligation to carry out the program assisted hereunder, agrees to take such measures as are necessary to enforce such covenant, and will not itself so discriminate.

XLV. SECTION 504

The Subrecipient agrees to comply with any Federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973 (29 USC 794), which prohibits discrimination against the handicapped in any Federally assisted program.

XLVI. PROHIBITED ACTIVITY

The Subrecipient is prohibited from using funds provided herein or personnel

employed in the administration of the program for: political activities; sectarian or religious activities; lobbying, political patronage, and nepotism activities.

XLVII. LABOR STANDARDS

A. The Subrecipient agrees to comply with the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act as amended, the provisions of Contract Work Hours and Safety Standards Act (40 USC 327 *et seq.*), the Copeland "Anti-Kickback" Act (18 USC 874 *et seq.*), its implementing regulations of the U.S. Department of Labor at 29 CFR Part 5, and all other applicable Federal, state and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this contract. The Subrecipient shall maintain documentation which demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to the City for review upon request.

B. The Subrecipient agrees that, except with respect to the rehabilitation or construction of residential property containing less than eight units, all contractors engaged under contracts in excess of two thousand dollars ($2,000.00) for construction, renovation or repair work financed in whole or in part with assistance provided under this contract, shall comply with Federal requirements adopted by the City pertaining to such contracts and with the applicable requirements of the regulations of the Department of Labor, under 29 CFR Parts 1, 3, 5 and 7 governing the payment of wages and ratio of apprentices and trainees to journey workers; provided, that if wage rates higher than those required under the regulations are imposed by state or local law, nothing hereunder is intended to relieve the Subrecipient of its obligation, if any, to require payment of the higher wage. The Subrecipient shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions meeting the requirements of this

paragraph.

XLVIII. COMPLIANCE

A. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR 135, ("Section 3") and all applicable rules and orders issued thereunder prior to the execution of this contract, shall be a condition of the Federal financial assistance provided under this contract and binding upon the City, the Subrecipient and any of the Subrecipient's subcontractors. Failure to fulfill these requirements shall subject the City, the Subrecipient and any of the Subrecipient's subcontractors, their successors and assigns, to those sanctions specified by the contract through which Federal assistance is provided. The Subrecipient certifies and agrees that no contractual or other disability exists which would prevent compliance with these requirements.

B. The Subrecipient further agrees to comply with "Section 3" requirements and to include the following language in all subcontracts executed under this Contract.

"The work to be performed under this contract is a project assisted under a program providing direct Federal financial assistance from HUD and is subject to the requirements of "Section 3" of the Housing and Urban Development Act of 1968, as amended (12 USC 1701). "Section 3" requires that to the greatest extent feasible opportunities for training and employment be given to low and very low-income residents of the project area and contracts for work in connection with the project be awarded to business concerns that provide economic opportunities for low-and very low-income persons residing in the metropolitan area in which the project is located".

XLIX. NOTIFICATIONS

The Subrecipient agrees to send to each labor organization or representative of workers with which it has a collective bargaining contract or other contract or

understanding, if any, a notice advising said labor organization or worker's representative of its commitments under the above-referenced "Section 3" clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

L. SUBCONTRACTS

The Subrecipient will include the above-referenced "Section 3" clause in every subcontract and will take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the City. The Subrecipient will not subcontract with any entity where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR 135 and will not let any subcontract unless the entity has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

LI. RESPONSIBILITY FOR PAYMENT OF EMPLOYEES AND SUBCONTRACTORS

A. The Subrecipient shall be solely responsible for payment of wages, salaries and benefits to any and all employees or subcontractors retained by the Subrecipient in the performance of the services under this Contract.

B. The Contractor shall comply with City of Santa Fe Minimum Wage, Article 28-1-SFCC 1987, as well as any subsequent changes to such article throughout the term of this Agreement. .

LII. WAIVER

The Grantee's failure to act with respect to a breach by the Subrecipient does not waive its right to act with respect to subsequent or similar breaches. The failure of the City to exercise or enforce any right or provision shall not constitute a waiver of such right or provision.

LIII. NEW MEXICO TORT CLAIMS ACT

Any liability incurred by the City of Santa Fe in connection with this Contract is subject to the immunities and limitations of the New Mexico Tort Claims Act, Section 41-4-1, *et seq.* NMSA 1978, as amended. The City and its "public employees" as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity, do not waive any defense and do not waive any limitation of liability pursuant to law. No provision in this Contract modifies or waives any provision of the New Mexico Tort Claims Act.

LIV. RELEASE

The Subrecipient, upon final payment of the amount due under this Contract, releases the City, its officers and employees, from all liabilities, claims and obligations whatsoever arising from or under this Contract. The Subrecipient agrees not to purport to bind the City to any obligation not assumed herein by the City unless the Subrecipient has express written authority to do so, and then only within the strict limits of that authority.

LV. ENTIRE AGREEMENT

This agreement constitutes the entire agreement between the City and the Subrecipient for the use of funds received under this Contract and it supersedes all prior or contemporaneous communications and proposals, whether electronic, oral, or written between the City and the Subrecipient with respect to this Contract.

IN WITNESS WHEREOF, the City and the Subrecipient have executed this Contract on the dates set forth below.

APPROVED AND AUTHORIZED:

_____
ALAN WEBBER, MAYOR
DATE: _____

ATTEST:

_____
YOLANDA Y. VIGIL
CITY CLERK

SUBRECIPIENT:
COMING HOME CONNECTION

_____
FRANCES SALLES
EXECUTIVE DIRECTOR
DATE:_____

FISCAL AGENT:
NM COMMUNITY FOUNDATION

_____
CARLA MELENDEZ
FINANCE DIRECTOR

New Mexico Taxation and Revenue Dept.
CRS No. N/A
City of Santa Fe Business Registration No. 48763

CITY ATTORNEY'S OFFICE:

Marcos Martinez
Marcos Martinez (May 12, 2020)
SENIOR ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

_____
MARY MCCOY
FINANCE DIRECTOR

2402750.510400
BUSINESS UNIT/LINE ITEM

EXHIBIT A: Per Section V.B. of the Professional Services Agreement and per 24 CFR 570.503(b)(1).

Addendum Project Budget for (Coming Home Connection) – (Casa Cielo)

Type of funding	Source/ Amount	Source/ Amount	Source/ Amount	Totals
Final CDBG AMOUNT				**$20,000**
Other Federal Funds (for amortizing loans)				
Other Federal Funds (for amortizing loans)				
Amortizing funds				
City Funding (i.e. Youth and Family, Human Services Divisions)				**$**
State funds (i.e. MFA)				**$**
Other (i.e. in-kind, private funds)	$80,000	$51,240	$46,800	**$178,040**
				$
Total of all funding sources				**$198,040**

The following chart details how the secured funding amount will support the various aspects of (Coming Home Connection) (Casa Cielo).

Cost	CDBG Allocation
	$20,000
Cost	Private Leveraged Funds
Other	$80,000
	$51,240
	$48,800
Total	$198,040

CITY OF SANTA FE PROCUREMENT CHECKLIST

Contractor Name: Coming Home Connection

Procurement Title: 20/16/P (CDBG)

Procurement Method: State Price Agreement ☐ Cooperative ☐ Sole Source ☐ Other ☐

Exempt ☐ Request For Proposal (RFP) ☐ Invitation To Bid (ITB) ☐ Contract under 60K ☐ Contract over 60K ☐

Department Requesting Office of Affordable Housin Staff Name Roberta Catanach

Procurement Requirements:

A procurement file shall be maintained for all contracts, regardless of the method of procurement. The procurement file shall contain the basis on which the award is made, all submitted bids, all evaluation materials, score sheets, quotations and all other documentation related to or prepared in conjunction with evaluation, negotiation, and the award process. The procurement shall contain a written determination from the Requesting Department, signed by the purchasing officer, setting forth the reasoning for the contract award decision before submitting to the Committees.

REQUIRED DOCUMENTS FOR APPROVAL BY PURCHASING*

YES	N/A	
☑	☐	Approved Procurement Checklist (by Purchasing)
☑	☐	Memo addressed to City Manager (under 60K) Committees/City Council (over 60K)
☐	☑	State Price Agreement
☑	☐	RFP
☑	☐	Evaluation Committee Report
☐	☑	ITB
☐	☑	Bib Tab
☐	☑	Quotes (3 valid current quotes)
☐	☑	Cooperative Agreement
☐	☑	Sole Source Request and Determination Form
☐	☑	Contractors Exempt Letter
☐	☑	Purchasing Officers approval for exempt procurement
☐	☑	BAR
☐	☑	FIR
☑	☐	Executed Contract, Agreement or Amendment
☑	☐	Current Business Registration and CRS numbers on contract or agreement
☑	☐	Summary of Contracts and Agreements form
☑	☐	Certificate of Insurance
☐	☑	All documentation presented to Committees
☑	☐	Other:

Roberta Catanach, Contracts Administrator 5/11/2020

Department Rep Printed Name (attesting that all information included) Title Date

Purchasing Officer (attesting that all information is reviewed) Title Date

Fran Dunaway | Jun 12, 2020 10:50 MDT

Include all other substantive documents and records of communication that pertain to the procurement and contract.

City of Santa Fe

Real Estate Summary of Contracts, Agreements, Amendments & Leases

Section to be completed by department

1. Munis Contract # **3201891**

Contractor: **Coming Home Connection**

Description: **Agreement delivers services for a public service project that serves the homeless and low to moderate- income residents within the Santa Fe City limits based on current HUD Are Median Income data for Santa Fe...**

Contract ☐ Agreement ☉ Lease / Rent ☐ Amendment ☐

Term Start Date: **7/01/2020** Term End Date: **6/30/2021**

☐ Approved by Council Date: _____

Contract / Lease: $20,000.00

Amendment # _____ to the Original Contract / Lease # _____

Increase/(Decrease) Amount $ _____

Extend Termination Date to: _____

☐ Approved by Council Date: _____

Amendment is for:

2. **HISTORY of Contract, Amendments & Lease / Rent - Please Elaborate** (option: attach spreadsheet if multiple amendments)
Agreement is for one-year term, 7/01/2020 - 6/30/2021

3. **Procurement History:** **RFP #20/16/P**

Fran Dunaway (Jun 12, 2020 10:50 MDT) _____

Purchasing Officer Review: Date:

Comment & Exceptions: _____

4. **Funding Source:** **240** Alexis Lotero (Jun 12, 2020 10:36 MDT) **Org / Object:** **2402750.510400**

Budget Officer Approval: Date:

Comment & Exceptions: _____

Staff Contact who completed this form: **Roberta Catanach** Phone # **505-955-6421**

Email: **rlcatanach@santafenm.gov**

To be recorded by City Clerk:

Clerk # _____

Date of Execution: _____

City of Santa Fe
FY20 Fiscal Impact Analysis (Non-Personnel Expenditures)

General Information

Department Name:	General Government	Department Name:	
Division Name:	Office of Affordable Housing	Division Name:	

Financial Information

Amount Requested:	$20,000	Munis Fund Number:	240
Vendor Name:	Coming Home Connection	Munis Org Number:	2402750
Approved by Director?	Yes	Munis Object Code:	510400

Expenditure Information

1. Describe the purchase of goods/services. Is this one-time or recurring? Please explain why this is the lowest cost option for this expenditure.
This contract delivers services for a public service project that serves the homeless and low to moderate- income residents within the Santa Fe City limits based on current HUD Are Median Income data for Santa Fe as follows: provide staffing for "Casa Cielo" and to provide services to a minimum of fifteen (15) individuals who meet federal definitions of homelessness or other standards of housing instability. This is one-time commitment of funds for an ongoing program. This is a low cost way of delivering housing programs/projects/services because it relies on the capacity of community partners, rather than the City's bureaucracy to deliver services/provide housing.

2. Please describe which legally required City service does this procurement support? Does this procurement provide support for compliance with City, State and Federal requirements? If yes, please explain.
This procurement is aligned with requirements of the City's CDBG entitlement funding. If grant funds are not drawn, the City will jeopardize compliance with its grant agreement with HUD.

3. Can these services be performed by City employees in your department or in other departments? If the answer is no, please explain.
No, these housing programs/projects/services are provided by expert organizations and cannot be provided within the City's internal delivery system.

4. Would there be any adverse health, safety or economic implications if this expenditure was not approved? What impact will there be on the department and the City operations if this expenditure is not approved.
Without the housing programs/projects/services funded through this contract, the low-mod income residents of Santa Fe will have limited access to housing and community development opportunities.

5. If this purchase is not approved with City funds, what are alternative funding sources for the proposed expenditure? Does this duplicate efforts being provided by other governmental, for profit or non-profit entities?
These are federal grant funds, the expenditure of which does not affect the City's budget. These funds are used to leverage additional complementary funding sources to support housing programs/projects/services in our community.

Fran Dunaway (Jun 12, 2020 10:58 MDT)	Alexis Lotero (Jun 12, 2020 10:36 MDT)	
Procurement Office Signature	Budget Office Signature	Finance Director Signature

City of Santa Fe
Treasury Department
200 Lincoln Ave.
Santa Fe, New Mexico 87504-0909
505-955-6551

BUSINESS REGISTRATION

Business Name: COMING HOME CONNECTION
DBA: COMING HOME CONNECTION

Business Location: 418 CERRILLOS RD 27
SANTA FE , NM 87501

Owner:

License Number: 48763

Issued Date: March 13, 2020

Expiration Date: December 31, 2020

License Type: Business License - Renewable

Classification: Business Registration - Standard

Fees Paid: $35.00

COMING HOME CONNECTION
418 CERRILLOS RD 27 M
SANTA FE , NM 87501

THIS IS NOT A CONSTRUCTION PERMIT OR SIGN PERMIT. APPROPRIATE PERMITS MUST BE OBTAINED FROM THE CITY OF SANTA FE BUILDING PERMIT DIVISION PRIOR TO COMMENCEMENT OF ANY CONSTRUCTION OR THE INSTALLATION OF ANY EXTERIOR SIGN.

THIS REGISTRATION/LICENSE IS NOT TRANSFERRABLE TO OTHER BUSINESSES OR PREMISES.

TO BE POSTED IN A CONSPICUOUS PLACE

Ver. 16 2/7/2020

COMHO-2 OP ID: BS

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 04/01/2020

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER 505-898-8500 Jackson Insurance Solutions 5501 Eagle Rock Ave Ste A-2 Albuquerque, NM 87113 Josh K. Jackson	CONTACT NAME: Brenda Salas PHONE (A/C, No, Ext): 505-898-8500 FAX (A/C, No): 505-897-8567 E-MAIL ADDRESS:
	INSURER(S) AFFORDING COVERAGE — NAIC #
	INSURER A : Lloyd's of London — 112921
INSURED The Coming Home Connection Inc ATTN: Glenys & Frances 418 Cerrillos Road, Ste 27 Santa Fe, NM 87501	INSURER B : New Mexico Mutual Casualty Co. — 10207
	INSURER C :
	INSURER D :
	INSURER E :
	INSURER F :

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY						EACH OCCURRENCE	$ 1,000,000
	CLAIMS-MADE X OCCUR	X		HAH200270	02/12/2020	02/12/2021	DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 50,000
							MED EXP (Any one person)	$ 5,000
							PERSONAL & ADV INJURY	$ Included
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$ 2,000,000
	X POLICY PRO-JECT LOC						PRODUCTS - COMP/OP AGG	$ Included
	OTHER:							$
	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident)	$
	ANY AUTO						BODILY INJURY (Per person)	$
	OWNED AUTOS ONLY / SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	HIRED AUTOS ONLY / NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	$
								$
	UMBRELLA LIAB OCCUR						EACH OCCURRENCE	$
	EXCESS LIAB CLAIMS-MADE						AGGREGATE	$
	DED RETENTION $							$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y / N						X PER STATUTE OTH-ER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	N / A		90634	03/15/2020	03/15/2021	E.L. EACH ACCIDENT	$ 100,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	$ 100,000
							E.L. DISEASE - POLICY LIMIT	$ 500,000
A	Professional Liab.			HAH200270	02/12/2020	02/12/2021	Per Claim	1,000,000
							Aggregate	2,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

City of Santa Fe is listed as Additional Insured.

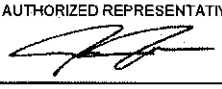
CERTIFICATE HOLDER

City of Santa Fe
2651 Siringo Road Bldg H
Santa Fe, NM 87505

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE



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CITY OF SANTA FE

COMMUNITY DEVELOPMENT BLOCK GRANT CONTRACT

THIS CONTRACT is made and entered into this _____ day of _____ _____, 2020 by and between the City of Santa Fe, a municipal corporation, (the "City") and Santa Fe Habitat For Humanity (the "Subrecipient").

RECITALS

1. The Subrecipient has applied for and received funds from the United States Government under Title 1 of the Housing and Community Development Act of 1974, Public Law 93-383.

2. The City desires to engage the Subrecipient to render certain services to the City and its citizens.

3. The Subrecipient further certifies that it is willing and able to perform these services and that said services to be performed are within the Subrecipient's legal powers and capabilities.

4. The City desires to engage the Subrecipient to render these certain services in connection therewith as more particularly set forth hereafter.

AGREEMENTS

NOW, THEREFORE, the parties hereto mutually agree as follows:

I. SCOPE OF SERVICES

The Subrecipient agrees to utilize CDBG funds for projects that serve low to moderate-income residents within the Santa Fe City limits based on current HUD Area Median Income data for Santa Fe as follows:

A. Provide rehabilitation services for a minimum of twenty (20) owner-occupied homes for households with incomes below 80% AMI. Maximum assistance per household is $14,000.

B. Contractor will report to the City on a quarterly basis the use of funds, program outcomes achieved, AMI% of assisted households, size of household, address of home and other demographic information as required by the City's CDBG quarterly reporting form.

II. NATIONAL OBJECTIVES

The Subrecipient certifies that the service carried out with funds provided under this Contract will meet one or more of the Community Development Block Grant (hereinafter "CDBG") Program's National Objectives:

A. Benefit low/moderate income persons.

B. Benefit extremely low income persons.

C. Benefit homeless and elderly persons.

III. PERFORMANCE MONITORING

The City shall monitor the performance of the Subrecipient against goals and levels of accomplishment as stated above. Substandard performance as determined by the City will constitute noncompliance with this Contract. If action to correct such substandard performance is not taken by the Subrecipient within a reasonable period of

time after being notified by the Grantee, contract suspension or termination procedures will be initiated.

IV. WORK PLAN AND REPORTING

A. Work Plan: The Subrecipient shall provide the City, within sixty (60) days from signing this Agreement, a revised work plan outlining the major tasks or activities, the measurable objectives for each task or activity, and the time frames to be taken by the Subrecipient in the performance of this Agreement. Included in this report should be information regarding how much funding was leveraged during the program year and from which sources.

B. Annual Budget: All project activities will be in accordance with the attached budget and work plan (Exhibit A) per 24 CFR 570.503(b)(1).

C. Invoicing: The Subrecipient shall submit to the City quarterly reports in order to receive reimbursement for these services. Quarterly reports must be filed no later than the 15th calendar day for the preceding month. A fund requisition with documentation in support of each budgetary category will be submitted. This documentation must include the original or a certified copy or copies of invoices, vouchers, statements, etc. All costs chargeable to the City must be in accordance with budgetary and other restrictions of expenses established by this Contract. Funds for reimbursement can be disbursed on any Friday of each month during the contract period. In order for the City to meet this deadline, the Subrecipient is required to submit its request for reimbursement by Monday, 5:00 p.m., in order to receive payment by the following Friday. The Subrecipient shall submit a Final Project Report assessing the comparison of results achieved in relation to stated goals and objectives in the Scope of Services approved by the City. This report is due to the Office of Affordable Housing fifteen (15) days after the completion of the

Contract.

D. Final Payment: Since all payments under this Contract shall be quarterly on a cost reimbursement basis, the City shall be entitled to withhold the final ten percent (10%) due hereunder, pending final approval by the City of the services rendered. Upon receipt and acceptance of a final project report prior to the final payment, the Subrecipient shall furnish the City proof in documentary form that all claims, liens, salaries or other obligations incurred by it in accordance with the services specified herein, have been properly paid and released.

E. Program Monitoring and Financial Audits: At such time and in such form as the City may require there shall be furnished to the City such statements, records, reports, data and information as the City may request pertaining to matters covered by this Contract. Furthermore, at any time during normal business hours and as often as the City may deem necessary, there shall be made available to the City or its designee for examination, all records maintained by the Subrecipient with respect to all matters covered by this Contract; and, the Subrecipient will permit the City to audit, examine and make excerpts or transcripts from such records, and make audits of all contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all matters covered by this Contract subject to the limitations set out above. Any Subrecipient receiving City CDBG funds in excess of fifteen thousand dollars ($15,000) or any combination of public (City, State, or Federal) monies in excess of twenty-five thousand dollars ($25,000) shall perform a final audit on all funds received from all sources for the program no later than ninety (90) days after completion of the sub-recipient's fiscal year, and shall furnish the City with said audit. This audit shall be performed by an independent agency. Any Subrecipient receiving a sum of less than

fifteen thousand dollars ($15,000) in City CDBG funds must submit an audited financial statement on all funds received from all sources for the program after completion of the sub-recipient's fiscal year, and shall furnish the City with said financial statements.

V. STATUS OF CONTRACTOR

The Subrecipient, and its agents and employees, are independent contractors performing professional services for the City and are not employees of the City. The Subrecipient, 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 Contract.

VI. COMPENSATION

A. The City shall pay to the Contractor in full payment for services satisfactorily performed, such compensation shall not exceed ninety thousand dollars ($90,000). **The total amount payable to the Contractor under this Agreement, including gross receipts tax and expenses, shall not exceed ($90,000). 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.**

B. Invoice must include documentation of staff costs incurred, including time sheets or payroll reports showing amount of staff time paid by CDBG funds.

C. 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. All invoices MUST BE received by the City no later than thirty 30) days after the termination of the Fiscal Year in which the services were delivered. Invoices received after such date WILL NOT BE PAID.

VII. TERM

THIS AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED BY THE CITY. This Agreement shall terminate on **June 30, 2021** unless terminated pursuant to paragraph 4 (Termination), or paragraph 5 (Appropriations). In accordance with Section 13-1-150 NMSA 1978, no contract term for a professional services contract, including extensions and renewals, shall exceed four years, except as set forth in Section 13-1-150 NMSA 1978.

VIII. ADDITIONAL CONTRIBUTIONS

The Subrecipient may use the funds of the City granted herein to obtain Federal, State or other grants to carry out the Scope of Services herein.

A. Program Income: Program income received may be retained by the Subrecipient, but may be used only for support of the programs detailed in the Scope of Services section of this Contract. Program income on hand at the time of completion of the Contract period shall continue to be subject to the eligibility requirements and other applicable provisions of 24 CFR 570.504, Program Income of the Administrative

Regulations of the CDBG program.

IX. APPROPRIATIONS

The terms of this Contract are contingent upon sufficient appropriations and authorization made by the City for the performance of this Contract. If sufficient appropriations and authorizations are not made by the City, this Contract shall terminate upon written notice being given by the City to the Subrecipient. The City's decision as to whether sufficient appropriations are available shall be accepted by the Subrecipient and shall be final.

X. FISCAL AGENT

The New Mexico Community Foundation will act as Coming Home's Fiscal Agent and will defend, indemnify and hold harmless the City from any and all liability, costs and expenses whatsoever for expenditure of funds pursuant to the Scope of Services of this Contract.

XI. BUDGET REVISIONS The Subrecipient will inform the City of any "line item" revisions to the attached budget, within the maximum compensation shown in this Agreement and will obtain the City's prior written approval of any change that represents at least 25 percent or more of the line item amount per the latest approved budget. Any budget revisions must be eligible expenditures under this Agreement and Title I of the Community Development Act.

XII. ELIGIBLE AND INELIGIBLE COSTS

A. Criteria. This section provides criteria for the determination of whether costs are eligible or ineligible for funding under this Contract. Costs incurred, which are determined by the City to be ineligible under these criteria, may not be charged to this

Contract.

B. Standards. All costs incurred must be reasonable and of a nature which clearly relates to the specific purposes and end product of the contract under which the services are being performed. Care must be exercised by all concerned in incurring costs to assure that expenditures conform to these general standards, including 2 CFR Part 200, and the following criteria for eligible costs.

C. Eligible Costs. To be eligible for inclusion, the cost must:

(1) Be necessary and reasonable for proper and efficient execution of the contractual requirements and in accordance with an approved budget.

(2) Be in conformance with any limitations, exclusions and provisions pursuant to this Contract, State and Local Laws, or other governing limitations.

(3) Be accorded consistent treatment through application of accounting policy and procedures approved and/or prescribed.

(4) Be net after allowance of all applicable credits such as purchase discounts, rebates or allowances, sales or publication of materials, or other income or refunds.

(5) Be in accordance with budgetary or other restrictions on expenses established by the City.

(6) Be fully documented.

(7) The Subrecipient shall reimburse the City any costs and expenses declared ineligible by the City which may have been reimbursed erroneously to the Subrecipient by the City under whatever conditions.

D. Ineligible Costs. Ineligible costs shall be as follows:

(1) Accounting. Costs of maintaining central accounting records

necessary for overall local government purposes, such as appropriation of fund accounts by the Treasurer, or similar officials, are considered general expenses of the Subrecipient and are ineligible costs. However, the cost of establishing and maintaining accounting or other information systems required for the management of the program are eligible costs including costs incurred by central services agencies for these purposes.

(2) Bad Debts. Any losses arising from uncollectible accounts and other claims, and related costs.

(3) Budget. Costs of a central budget office, except the costs of employees in the central budget office of the Subrecipient directly involved in the program as set forth in the Scope of Services, hereto, and clearly identifiable. However, costs incurred for the development, preparation, presentation, and execution of program and project budgets performed by the Subrecipient are eligible costs.

(4) Contingencies. Contribution to a contingency reserve or any similar provision for unforeseen events.

(5) Contributions and Donations. Political, charitable and fundraising solicitations, payments, gifts and expenses.

(6) Entertainment. Costs of amusements, social activities, and incidental costs, such as meals, beverages, lodgings, and gratuities, relating to entertainment.

(7) Board Expenses. The salary and expenses if any, of the Chairman of the Board of the Subrecipient are considered a cost of the Subrecipient and are not eligible costs in any way to this Contract.

(8) Fines and Penalties. Costs resulting from violations of or failure to comply with federal, state and local laws and regulations.

(9) Interest and other Financial Costs. Interest on borrowing (however represented); bond discounts, cost of financing and refinancing operations and legal and professional fees paid in connection therewith.

(10) Legal Fees. Costs for legal advice or work are ineligible, except those required directly for the administration of the program, which are eligible.

(11) Legislative Expenses. Costs for lobbying or testimony before the legislature or any of its committees, whether incurred for the purposes of legislation or executive direction, are not eligible.

(12) Membership Expenses. Cost of membership in any organization is ineligible.

(13) Travel. Costs in excess of those allowed by the City for its employees are ineligible.

(14) Meeting Attendance. Costs of attending meetings which are not included in the budget are ineligible.

(15) Expenses Related to Fundraising. Cost of postage, printing or external subcontracting for grant writers or development specialists.

XIII. SPECIAL PROVISIONS

A. The Subrecipient realizes that the availability of funds for the activity covered by the "Scope of Services," herein and for performance of this Agreement, depend solely on the provisions of said funds by HUD, such provisions being contingent on the City's approval of these activities as eligible under the Housing and Community Development Act of 1974, the National Affordable Housing Act of 1990 and other pertinent federal regulations. However, the City shall notify the Subrecipient in writing within five days of receipt by the City of any determination by HUD to terminate CDBG

funding.

B. In the event the Subrecipient or its organization is dissolved or discontinues making loans as provided herein, or this Agreement is not renewed after it expires, the Subrecipient shall upon such dissolution, discontinuation or within sixty (60) days after expiration of this Agreement if its renewal has not in the meantime been executed:

(1) Return to the City all unexpended Community Development Block Grant funds received from the City and CDBG program income in the possession of the Subrecipient that have not been already obligated through contracts.

(2) Assign and transfer to the City the equity on all outstanding loans and mortgages which have been provided by the Subrecipient from Community Development grant funds and related program income under this and previous agreements. The Subrecipient shall provide the City with a listing of the borrowers and outstanding amounts, together with up-to-date records of principal and interest payments and balances of the accounts of said borrowers.

XIV. CONFLICT OF INTEREST

The Subrecipient agrees to abide by the provision of 2 CFR Part 200 and 570.611, which include (but are not limited to) the following:

A. Interest of Members of City: No officer, employee, or agent of the City who exercises any functions or responsibilities in connection with the planning and carrying out any of the provisions of this Contract, or any other person who exercises any functions or responsibilities in connection with any of the provisions of the Contract, shall have any personal financial interest, direct or indirect, in this Contract; and the Subrecipient shall take appropriate steps to assure compliance.

B. Interest of Subrecipient and Employees: The Subrecipient shall not allow any person who presently exercises any functions or responsibilities in connection with the provisions of this Contract, to have personal financial interests, direct or indirect, in this Contract. The Subrecipient further shall not allow in the performance of this Contract any person having any conflicting interest to be employed by the Subrecipient. Any interest on the part of the Subrecipient or its employees must be disclosed to the City. Provided, however, that this paragraph shall be interpreted in such a manner so as not to unreasonably impede the requirement that maximum opportunity for employment of area residents and resident participation shall be of primary concern to the Subrecipient.

Should the subrecipient discover a potential conflict of interest, the subrecipient shall immediately disclose in writing to the City and specifically ask for guidance on how to resolve the conflict and prior to any act in furtherance of the conflict. The disclosure shall include a description of the nature of the conflict; the name, position, phone number and address of the person with the conflict; the date of the notification; and requested action to address the conflict. Disclosures of real, apparent or perceived conflicts of interest shall be made to the City and the City must agree in writing to a proper course of subsequent action prior to the disbursement of CDBG funds.

C. Certification:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the State, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of a Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative

agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the State shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.

XV. DISCRIMINATION PROHIBITED

A. In all hiring or employment made possible by or resulting from this Contract, there (1) will not be any discrimination against any employee or applicant for employment because of race, color, age, religion, sex, sexual orientation, national origin, and physical or mental disability; and (2) affirmative action will be taken to ensure that qualified applicants are employed, and that employees are treated during employment without regard to their race, color, age, religion, sex, sexual orientation, national origin, and physical or mental disability. This requirement shall apply, without limitation, to the following: employment, upgrading, demotion or transfer, recruitment advertising, layoff or termination, and selection for training, including apprenticeship. There shall be posted in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this clause. All solicitations or advertisements for employees shall state that all qualified applicants will receive consideration for employment without regard to race, color, age, religion, sex, sexual orientation, national origin, and physical or mental disability.

B. No person in the United States shall, on account of race, color, age,

religion, sex, sexual orientation, national origin, and physical or mental disability, be excluded from participating in, denied the benefits of, or subjected to discrimination under this Contract or activity made possible by or resulting from the Contract.

C. Subrecipient will abide by all requirements of the Americans with Disabilities Act. Subrecipient shall be kept informed of employee discrimination prevention requirements and program and facility accessibility standards.

XVI. WOMEN- AND MINORITY- OWNED BUSINESSES (W/MBE)

The Subrecipient will use its best efforts to afford small businesses, minority business enterprises, and women's business enterprises the maximum practicable opportunity to participate in the performance of this contract. As used in this contract, the terms "small business" means a business that meets the criteria set forth in section 3(a) of the Small Business Act, as amended (15USC 632), and "minority and women's business enterprise" means a business at least fifty-one (51) percent owned and controlled by minority group members or women. For the purpose of this definition, "minority group members" are Afro-Americans, Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian-Americans, and American Indians. The Subrecipient may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

XVII. POLITICAL ACTIVITY PROHIBITED

None of the funds, materials, property or services provided for directly or indirectly under this Contract shall be used in the performance of this Contract for any political activity prohibited by Federal, State or local law.

XVIII. CONFIDENTIALITY

Any confidential information provided to or developed by the Subrecipient in the

performance of this Contract shall be kept confidential and shall not be made available to any individual or organization by the Subrecipient without the prior written approval of the City.

XIX. REPRESENTATIONS IN SUBMITTALS

The City has relied on all representations in the Subrecipient's submittals in awarding this Agreement and the Subrecipient warrants the accuracy of all representations. Misrepresentations in the submittals will be cause for termination of this Agreement.

XX. AMENDMENT

This Contract shall not be altered, changed or amended except by amendment in writing executed by the parties hereto.

XXI. NOTICES AND ADDRESSES

Any notices required to be given under this agreement shall be in writing and served by personal delivery or by mail, postage prepaid, to the parties at the following addresses:

For the City, notices may be sent to:

City of Santa Fe
Office of Affordable Housing
P.O. Box 909
Santa Fe, New Mexico 87504-0909

For the Subrecipient, notices may

Santa Fe Habitat For Humanity
2520 Camino Entrada Ste A
Santa Fe, NM 87507

XXII. ASSIGNABILITY

The Subrecipient shall not assign any interest in this Contract and shall not transfer any interest in the same (whether by assignment or otherwise) without the prior written consent of the City.

XXIIII. WARRANTY OF AUTHORITY

The Subrecipient warrants that it has full corporate and other authority, under its articles of corporation, bylaws, resolutions, other pertinent corporate documents, instruments, and agreements, and otherwise to enter into this agreement, to bind itself under this agreement, and to perform this Agreement in accordance with the terms and provisions of this Agreement.

XXIV. BINDING EFFECT

This Agreement is binding upon and inures to the benefit of the successors, successors-in interest, assigns and transferees of the City and the Subrecipient.

XXV. SEVERABILITY

In case any one or more of the provisions contained in this Agreement or any application thereof shall be invalid, illegal or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions contained herein and any other application thereof shall not in any way be affected or impaired thereby.

XXVI. DISPOSITION OF PROPERTY

A. All non-expendable property acquired by the Subrecipient pursuant to this Contract shall be recorded in the property records of the City prior to reimbursement to the Subrecipient for expenses incurred in order to acquire said property. For purposes of this Contract, the term "non-expendable property" means items of tangible, personal property that are non-perishable such as equipment, software, and furniture. The use and disposition of real property and equipment under this Contract shall be in compliance with the requirements of 24 CFR Part 84 and 24 CFR 570.502, 570.503, and 570.504, as applicable.

B. Subrecipient shall be accountable for all recorded non-expendable property

which is recorded as City property for a period of five years as established by the City.

C. All non-expendable property acquired pursuant to this Contract shall remain in the possession of and shall be used only by the Subrecipient, provided that said property continues to be used for the same purposes and in the same manner as originally intended.

D. If the Subrecipient cannot continue to effectively use recorded non-expendable property for the same purposes and in the same manner as originally intended and described in this Contract, all such non-expendable property shall remain in the possession of, and shall be used by the Subrecipient for similar purposes and in a similar manner as initially used; provided, however, that conversion of said property to a similar use in another similar program must first receive the express written consent of the City.

E. If the Subrecipient can neither continue to effectively use recorded non-expendable property for the same purposes and in the same manner originally intended nor continue to effectively use said property for the same or similar purposes and in a similar manner as permitted by this Contract, the City may provide for the disposition of said property wholly and entirely at the City's discretion.

F. The City may, in writing, waive and relinquish all claims the City may have in and to recorded non-expendable property.

G. When the Subrecipient's period of accountability for any non-expendable property expires, said property shall revert to the City unless otherwise provided for in a written agreement between the Subrecipient and the City. Assets on hand at the expiration of the Contract in excess of twenty-five thousand dollars ($25,000) shall be disbursed in accordance with reversion of assets of 24 CFR 570.503 Agreements with

Subrecipients of the CDBG regulation; or

(i) The Subrecipient shall pay to the City an amount equal to the current market value of the property less any portion of the value attributable to the expenditures of non-CDBG funds for the acquisition of, or improvement to, the property. The payment is program income to the City. (No payment is required after the period of time specified in 24 CFR 570.503(b)(7)(i).

XXVII. COMPLIANCE WITH LOCAL LAW

The Subrecipient shall comply at its own cost with all applicable laws, ordinances and codes of the State and the City.

XXVIII. THIRD PARTY BENEFICIARIES

By entering into this Contract, the parties do not intend to create any right, title or interest in or for the benefit of any person other than the City and the Subrecipient. No person shall claim any right, title or interest under this Contract or seek to enforce this Contract as a third party beneficiary of this Contract.

XXIX. JURISDICTION CLAUSE

This Contract shall be performed in Santa Fe, New Mexico. Any legal action or cause of action arising in connection herewith shall be within the jurisdiction and venue of the appropriate court in Santa Fe, New Mexico, for all purposes.

XXX. SUSPENSION AND TERMINATION

A. This Contract 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. By such termination, neither party may nullify obligations already incurred for performance or failure to perform prior to the date of termination. In addition, the City may terminate this agreement for convenience in accordance with 2 CFR Part 200.

B. The City may enforce remedies for noncompliance in accordance with 2 CFR Part 200. The City may also suspend or terminate this Contract, in whole or in part, if the Subrecipient materially fails to comply with any term of this Contract, or with any of the rules, regulations or provisions referred to herein; and the City may declare the Subrecipient ineligible for any further participation in the City's contracts, in addition to other remedies as provided by law. In the event there is probable cause to believe the Subrecipient is not in compliance with any applicable rules or regulations, the City may withhold up to fifteen percent (15%) of said contract funds until such time as the Subrecipient is found to be in compliance by the City, or is otherwise adjudicated to be in compliance.

XXXI 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.

XXXII. 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.

A. Commercial General Liability insurance shall be written on an occurrence basis and be a broad as ISO Form CG 00 01 with limits not less than $2,000,000 per occurrence and $2,000,000 in the aggregate for claims against bodily injury, personal and advertising injury, and property damage. Said policy shall include

broad form Contractual Liability coverage and be endorsed to name the City of Santa Fe their officials, officers, employees, and agents as additional insured.

B. Business Automobile Liability insurance for all owned, non-owned automobiles, with a combined single limit not less than $1,000,000 per accident.

C. Broader Coverage and Limits. The insurance requirements under this Agreement shall be the greater of (1) the minimum coverage and limits specified in this Agreement, or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the Named Insured. It is agreed that these insurance requirements shall not in any way act to reduce coverage that is broader or that includes higher limits than the minimums required herein. No representation is made that the minimum insurance requirements of this Agreement are sufficient to cover the obligations of Contractor hereunder.

D. 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.

XXXIII. INDEMNIFICATION

The Subrecipient shall indemnify, hold harmless and defend the City from all losses, damages, claims or judgments, including payments of all attorneys' fees and costs on account of any suit, judgment, execution, claim, action or demand whatsoever

arising from Subrecipient's performance under this Agreement as well as the performance of Subrecipient's employees, agents, representatives and subcontractors.

XXXIV. ENTIRE CONTRACT

This Contract constitutes the entire contract between the parties hereto. Prior contracts, whether written or oral, or assertion of statement, of understanding, or other commitment antecedent to this Contract shall have no force or effect whatsoever, unless the same is mutually agreed to by the parties hereto and reduced to writing.

XXXV. GENERAL CONDITIONS

A. General Compliance: The Subrecipient agrees to comply with the requirements of Title 24 of the Code of Federal Regulations, Part 570 (the Housing and Urban Development regulations concerning Community Development Block Grants (CDBG)). The Subrecipient also agrees to comply with all other applicable Federal, state and local laws, regulations, and policies governing the funds provided under this contract and as set forth at 24 CFR Part 570 subpart K, except that the Subrecipient does not assume the recipient's environmental responsibilities under 24 CFR 570.604 and 24 CFR Part 52. The Subrecipient further agrees to utilize funds available under this Contract to supplement rather than supplant funds otherwise available.

B. Grantor Recognition: The Subrecipient shall ensure recognition of the role of the City in providing services through this contract. All activities, facilities and items utilized pursuant to this contract shall be prominently labeled as to funding source. In addition, the Subrecipient will include a reference to the support provided herein in all publications made possible with funds made available under this contract.

XXXVI. ADMINISTRATIVE REQUIREMENTS

A. Financial Management

1. Accounting Standards. The Subrecipient agrees to comply with 2 CFR Part 200 and agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.

2. Cost Principles. The Subrecipient shall administer its program in conformance with the Uniform Administrative Requirements of 24 CFR 570.502, 24 CFR 570.503, and 2 CFR Part 200. These principles shall be applied for all costs incurred whether charged on a direct or indirect basis.

XXXVII. DOCUMENTATION AND RECORD KEEPING

A. Records to be Maintained. The Subrecipient shall maintain all records required by the Federal regulations specified in 24 CFR 570.506 that are pertinent to the activities to be funded under this Contract. Such records shall include but not be limited to:

(1) Records providing a full description of each activity undertaken;

(2) Records demonstrating that each activity undertaken meets one of the National Objectives of the CDBG program;

(3) Records required to determine the eligibility of activities;

(4) Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG assistance;

(5) Records documenting compliance with the fair housing and equal opportunity components of the CDBG program;

(6) Records documenting compliance with EPLS/SAM for each sub-contractor;

(7) Financial records as required by 24 CFR 570.502, and 2 CFR Part

200;

(8) Other records necessary to document compliance with Subpart K of 24 CFR Part 570.

(9) Other records necessary to document compliance with Sections 1012 and 1013 of Title X amending the Lead-based Paint Poisoning Prevention Act of 1971 and title 24 of the Code of Federal Regulations as part of 35 (24 CFR 35).

XXXVIII. CLIENT DATA

The Subrecipient shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, income level or other basis for determining eligibility, and description of service provided. Such information shall be made available to the City or its designees for review upon request.

XXXVIX. DISCLOSURE

The Subrecipient understands that client information collected under this Contract is private and the use or disclosure of such information, when not directly connected with the administration of the City's or Subrecipient's responsibilities with respect to services provided under this contract, is prohibited by the State of New Mexico unless written consent is obtained from such person receiving service and, in the case of a minor, that of a responsible parent or guardian.

XL . PROPERTY RECORDS

The Subrecipient shall maintain real property inventory records, which clearly identify properties purchased, improved or sold. Properties retained shall continue to meet eligibility criteria and shall conform to the "changes in use" restrictions specified in 24 CFR 570.503 (b) (8), as applicable.

XLI. RELOCATION, REAL PROPERTY ACQUISITION AND ONE-FOR-ONE HOUSING REPLACEMENT

The Subrecipient agrees to comply with (a) the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), and implementing regulations at 49 CFR Part 24 and 24 CFR 570.606(b); (b) the requirements of 24 CFR 570.606(c) governing the Residential Anti-displacement and Relocation Assistance Plan under section 104(d) of the HCD Act; and (c) the requirements in 24 CFR 570.606(d) governing optional relocation policies.

XLII. ENVIRONMENTAL CONDITIONS

A. Air and Water: The Subrecipient agrees to comply with the following requirements insofar as they apply to the performance of this Contract:

(1) Clean Air Act, 42 USC, 7401, *et seq.*;

(2) Federal Water Pollution Control Act, as amended, 33 USC, 1251, *et seq.*, as amended 1318 relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder;

(3) Environmental Protection Agency (EPA) regulations pursuant to 40 CFR Part 50, as amended.

B. Flood Disaster Protection: In accordance with requirements of the Flood Disaster Protection Act of 1973 (42 USC 4001), the Subrecipient shall assure that for activities located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, flood insurance under the National Flood Insurance Program is obtained and maintained as a condition of financial assistance for acquisition or construction purposes (including rehabilitation).

C. Lead-Based Paint: The Subrecipient agrees that any construction or rehabilitation of residential structures with assistance provided under this Contract shall be subject to HUD Lead-Based Paint Regulations at 24 CFR 570.608, and 24 CFR Part 35, Subpart B. Such regulations pertain to all CDBG-assisted housing and require that all owners, prospective owners, and tenants of properties constructed prior to 1978 be property notified that such properties may include lead-based paint. Such notification shall point out the hazards of lead-based paint and explain the symptoms, treatment and precautions that should be taken when dealing with lead-based paint poisoning and the advisability and availability of blood lead level screening for children under seven. The notice should also point out that if lead-based paint is found on the property, abatement measures may be undertaken. The regulations further require that, depending on the amount of Federal funds applied to a property, paint testing, risk assessment, treatment and/or abatement may be conducted.

D. Historic Preservation: The Subrecipient agrees to comply with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, as amended (16 USC 470) and the procedures set forth in 36 CFR Part 800, Advisory Council on Historic Preservation Procedures for Protection of Historic Properties, insofar as they apply to the performance of this agreement. In general, this requires concurrence from the State Historic Preservation Officer for all rehabilitation and demolition of historic properties that are fifty years old or older or that are included on a Federal, state, or local historic property list.

XLIII. CLOSE OUTS

The Subrecipient's obligation to the City shall not end until all closeout requirements are completed. Activities during this close-out period shall include, but are

not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the City), and determining the custodianship of records.

XLIV. LAND COVENANTS

This Contract is subject to the requirements of Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and 24 CFR 570.601 and 602. In regard to the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under this contract, the Subrecipient shall cause or require a covenant running with the land to be inserted in the deed or lease for such transfer, prohibiting discrimination as herein defined, in the sale, lease or rental, or in the use or occupancy of such land, or in any improvements erected or to be erected thereon, providing that the City and the United States are beneficiaries of and entitled to enforce such covenants. The Subrecipient, in undertaking its obligation to carry out the program assisted hereunder, agrees to take such measures as are necessary to enforce such covenant, and will not itself so discriminate.

XLV. SECTION 504

The Subrecipient agrees to comply with any Federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973 (29 USC 794), which prohibits discrimination against the handicapped in any Federally assisted program.

XLVI. PROHIBITED ACTIVITY

The Subrecipient is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities; sectarian or religious activities; lobbying, political patronage, and nepotism activities.

XLVII. LABOR STANDARDS

A. The Subrecipient agrees to comply with the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act as amended, the provisions of Contract Work Hours and Safety Standards Act (40 USC 327 *et seq.*), the Copeland "Anti-Kickback" Act (18 USC 874 *et seq.*), its implementing regulations of the U.S. Department of Labor at 29 CFR Part 5, and all other applicable Federal, state and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this contract. The Subrecipient shall maintain documentation which demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to the City for review upon request.

B. The Subrecipient agrees that, except with respect to the rehabilitation or construction of residential property containing less than eight units, all contractors engaged under contracts in excess of two thousand dollars ($2,000.00) for construction, renovation or repair work financed in whole or in part with assistance provided under this contract, shall comply with Federal requirements adopted by the City pertaining to such contracts and with the applicable requirements of the regulations of the Department of Labor, under 29 CFR Parts 1, 3, 5 and 7 governing the payment of wages and ratio of apprentices and trainees to journey workers; provided, that if wage rates higher than those required under the regulations are imposed by state or local law, nothing hereunder is intended to relieve the Subrecipient of its obligation, if any, to require payment of the higher wage. The Subrecipient shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions meeting the requirements of this paragraph.

XLVIII. COMPLIANCE

A. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR 135, ("Section 3") and all applicable rules and orders issued thereunder prior to the execution of this contract, shall be a condition of the Federal financial assistance provided under this contract and binding upon the City, the Subrecipient and any of the Subrecipient's subcontractors. Failure to fulfill these requirements shall subject the City, the Subrecipient and any of the Subrecipient's subcontractors, their successors and assigns, to those sanctions specified by the contract through which Federal assistance is provided. The Subrecipient certifies and agrees that no contractual or other disability exists which would prevent compliance with these requirements.

B. The Subrecipient further agrees to comply with "Section 3" requirements and to include the following language in all subcontracts executed under this Contract.

"The work to be performed under this contract is a project assisted under a program providing direct Federal financial assistance from HUD and is subject to the requirements of "Section 3" of the Housing and Urban Development Act of 1968, as amended (12 USC 1701). "Section 3" requires that to the greatest extent feasible opportunities for training and employment be given to low and very low-income residents of the project area and contracts for work in connection with the project be awarded to business concerns that provide economic opportunities for low-and very low-income persons residing in the metropolitan area in which the project is located".

XLIX. NOTIFICATIONS

The Subrecipient agrees to send to each labor organization or representative of workers with which it has a collective bargaining contract or other contract or understanding, if any, a notice advising said labor organization or worker's representative

of its commitments under the above-referenced "Section 3" clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

L. SUBCONTRACTS

The Subrecipient will include the above-referenced "Section 3" clause in every subcontract and will take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the City. The Subrecipient will not subcontract with any entity where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR 135 and will not let any subcontract unless the entity has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

LI. RESPONSIBILITY FOR PAYMENT OF EMPLOYEES AND SUBCONTRACTORS

A. The Subrecipient shall be solely responsible for payment of wages, salaries and benefits to any and all employees or subcontractors retained by the Subrecipient in the performance of the services under this Contract.

B. The Contractor shall comply with City of Santa Fe Minimum Wage, Article 28-1-SFCC 1987, as well as any subsequent changes to such article throughout the term of this Agreement. .

LII. WAIVER

The Grantee's failure to act with respect to a breach by the Subrecipient does not waive its right to act with respect to subsequent or similar breaches. The failure of the City to exercise or enforce any right or provision shall not constitute a waiver of such right or provision.

LIII. NEW MEXICO TORT CLAIMS ACT

Any liability incurred by the City of Santa Fe in connection with this Contract is subject to the immunities and limitations of the New Mexico Tort Claims Act, Section 41-4-1, *et seq.* NMSA 1978, as amended. The City and its "public employees" as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity, do not waive any defense and do not waive any limitation of liability pursuant to law. No provision in this Contract modifies or waives any provision of the New Mexico Tort Claims Act.

LIV. RELEASE

The Subrecipient, upon final payment of the amount due under this Contract, releases the City, its officers and employees, from all liabilities, claims and obligations whatsoever arising from or under this Contract. The Subrecipient agrees not to purport to bind the City to any obligation not assumed herein by the City unless the Subrecipient has express written authority to do so, and then only within the strict limits of that authority.

LV. ENTIRE AGREEMENT

This agreement constitutes the entire agreement between the City and the Subrecipient for the use of funds received under this Contract and it supersedes all prior or contemporaneous communications and proposals, whether electronic, oral, or written between the City and the Subrecipient with respect to this Contract.

IN WITNESS WHEREOF, the City and the Subrecipient have executed this Contract on the dates set forth below.

APPROVED AND AUTHORIZED:

_____
ALAN WEBBER, MAYOR
DATE: _____

ATTEST:

YOLANDA Y. VIGIL
CITY CLERK

SUBRECIPIENT:
SANTA FE HABITAT FOR HUMANITY

KURT KRAHN
EXECUTIVE DIRECTOR
DATE:

New Mexico Taxation and Revenue Dept.
CRS No. 01-505902-00-2
City of Santa Fe Business Registration No. 67971

CITY ATTORNEY'S OFFICE:

Marcos Martinez
Marcos Martinez (May 12, 2020)

SENIOR ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

MARY MCCOY
FINANCE DIRECTOR

2402750.510500
BUSINESS UNIT/LINE ITEM

EXHIBIT A: Per Section V.B. of the Professional Services Agreement and per 24 CFR 570.503(b)(1).

Addendum Project Budget for (Santa Fe Habitat For Humanity) – (Home Repair)

Type of funding	Source/ Amount	Source/ Amount	Source/ Amount	Totals
Final CDBG AMOUNT				**$90,000**
Other Federal Funds (for amortizing loans)				
Other Federal Funds (for amortizing loans)				
Amortizing funds				
City Funding (i.e. Youth and Family, Human Services Divisions)				**$**
State funds (i.e. MFA)				**$**
Other (i.e. in-kind, private funds)				**$31,200**
				$
Total of all funding sources				**$121,200**

The following chart details how the secured funding amount will support the various aspects of (Santa Fe Habitat For Humanity) (Home Repair).

Cost	CDBG Allocation
	$90,000
Cost	Private Leveraged Funds
Other	$31,200
Total	$121,200

City of Santa Fe

Real Estate Summary of Contracts, Agreements, Amendments & Leases

Section to be completed by department

1. Munis Contract # **3201893**

Contractor: **Santa Fe Habitat For Humanity**

Description: **Agreement provides funding for repair to owner occupied, single family homes for residents of the City of Santa Fe whose incomes are at or below 60% AMI...**

Contract ☐ Agreement ☑ Lease / Rent ☐ Amendment ☐

Term Start Date: **7/01/2020** Term End Date: **6/30/2021**

☐ Approved by Council Date: _____

Contract / Lease: $90,000.00

Amendment # _____ to the Original Contract / Lease # _____

Increase/(Decrease) Amount $ _____

Extend Termination Date to: _____

☐ Approved by Council Date: _____

Amendment is for:

2. **HISTORY of Contract, Amendments & Lease / Rent - Please Elaborate** (option: attach spreadsheet if multiple amendments)
Agreement is for a one-year term, 7/01/2020 - 6/30/2021

3. **Procurement History:** **RFP #20/16/P**

Purchasing Officer Review: Date:

Comment & Exceptions: _____

4. **Funding Source:** **240** **Org / Object:** **2402750.510500**

Alexis Lotero (Jun 12, 2020 10:42 MDT)

Budget Officer Approval: Date:

Comment & Exceptions: _____

Staff Contact who completed this form: **Roberta Catanach** Phone # **505-955-6421**

Email: **rlcatanach@santafenm.gov**

To be recorded by City Clerk:

Clerk # _____

Date of Execution: _____

CITY OF SANTA FE PROCUREMENT CHECKLIST

Contractor Name: Santa Fe Habitat For Humanity

Procurement Title: 20/16/P (CDBG)

Procurement Method: State Price Agreement ☐ Cooperative ☐ Sole Source ☐ Other ☐

Exempt ☐ Request For Proposal (RFP) ☐ Invitation To Bid (ITB) ☐ Contract under 60K ☐ Contract over 60K ☐

Department Requesting Office of Affordable Housin Staff Name Roberta Catanach

Procurement Requirements:

A procurement file shall be maintained for all contracts, regardless of the method of procurement. The procurement file shall contain the basis on which the award is made, all submitted bids, all evaluation materials, score sheets, quotations and all other documentation related to or prepared in conjunction with evaluation, negotiation, and the award process. The procurement shall contain a written determination from the Requesting Department, signed by the purchasing officer, setting forth the reasoning for the contract award decision before submitting to the Committees.

REQUIRED DOCUMENTS FOR APPROVAL BY PURCHASING*

YES	N/A	
☑	☐	Approved Procurement Checklist (by Purchasing)
☑	☐	Memo addressed to City Manager (under 60K) Committees/City Council (over 60K)
☐	☑	State Price Agreement
☑	☐	RFP
☑	☐	Evaluation Committee Report
☐	☑	ITB
☐	☑	Bib Tab
☐	☑	Quotes (3 valid current quotes)
☐	☑	Cooperative Agreement
☐	☑	Sole Source Request and Determination Form
☐	☑	Contractors Exempt Letter
☐	☑	Purchasing Officers approval for exempt procurement
☐	☑	BAR
☐	☑	FIR
☑	☐	Executed Contract, Agreement or Amendment
☑	☐	Current Business Registration and CRS numbers on contract or agreement
☑	☐	Summary of Contracts and Agreements form
☑	☐	Certificate of Insurance
☑	☐	All documentation presented to Committees
☑	☐	Other:

Roberta Catanach, Contracts Administrator 5/11/2020

Department Rep Printed Name (attesting that all information included) Title Date

Fran Dunaway (Jun 12, 2020 10:57 MDT) 6/12/20

Purchasing Officer (attesting that all information is reviewed) Title Date

Include all other substantive documents and records of communication that pertain to the procurement and contract.

City of Santa Fe
FY20 Fiscal Impact Analysis (Non-Personnel Expenditures)

General Information

Department Name:	General Government	Department Name:	
Division Name:	Office of Affordable Housing	Division Name:	

Financial Information

Amount Requested:	$90,000	Munis Fund Number:	240
Vendor Name:	Santa Fe Habitat For Humanity	Munis Org Number:	2402750
Approved by Director?	Yes	Munis Object Code:	510500

Expenditure Information

1. Describe the purchase of goods/services. Is this one-time or recurring? Please explain why this is the lowest cost option for this expenditure.

This contract delivers services for projects that serve low to moderate-income residents within the Santa Fe City limits based on current HUD Area Median Income data for Santa Fe as follows: Provide rehabilitation of an approximate minimum of thirty (30) single-family homes for households below 60% AMI. This is one-time commitment of funds for an ongoing program. This is a low cost way of delivering housing programs/projects/services because it relies on the capacity of community partners, rather than the City's bureaucracy to deliver services/provide housing.

2. Please describe which legally required City service does this procurement support? Does this procurement provide support for compliance with City, State and Federal requirements? If yes, please explain.

This procurement is aligned with requirements of the City's CDBG entitlement funding. If grant funds are not drawn, the City will jeopardize compliance with its grant agreement with HUD.

3. Can these services be performed by City employees in your department or in other departments? If the answer is no, please explain.

No, these housing programs/projects/services are provided by expert organizations and cannot be provided within the City's internal delivery system.

4. Would there be any adverse health, safety or economic implications if this expenditure was not approved? What impact will there be on the department and the City operations if this expenditure is not approved.

Without the housing programs/projects/services funded through this contract, the low-mod income residents of Santa Fe will have limited access to housing and community development opportunities.

5. If this purchase is not approved with City funds, what are alternative funding sources for the proposed expenditure? Does this duplicate efforts being provided by other governmental, for profit or non-profit entities?

These are federal grant funds, the expenditure of which does not affect the City's budget. These funds are used to leverage additional complementary funding sources to support housing programs/projects/services in our community.

Fran Dunaway (Jun 12, 2020 10:57 MDT)	Alexis Lotero (Jun 12, 2020 10:42 MDT)	
Procurement Office Signature	Budget Office Signature	Finance Director Signature

City of Santa Fe
Treasury Department
200 Lincoln Ave.
Santa Fe, New Mexico 87504-0909
505-955-6551

BUSINESS REGISTRATION

Business Name: SANTA FE HABITAT FOR HUMANITY
DBA: SANTA FE HABITAT FOR HUMANITY

Business Location: 2520 CAMINO ENTRADA A
SANTA FE, NM 87507

CRS Number: 02070960009

Owner: SANTA FE HABITAT FOR HUMANITY

License Number: 225494

License Type: Business License - Renewable

Issued Date: February 25, 2020

Classification: Contractor - General

Expiration Date: December 31, 2020

Fees Paid: $35.00

SANTA FE HABITAT FOR HUMANITY
2520 CAMINO ENTRADA A
SANTA FE, NM 87507

THIS IS NOT A CONSTRUCTION PERMIT OR SIGN PERMIT. APPROPRIATE PERMITS MUST BE OBTAINED FROM THE CITY OF SANTA FE BUILDING PERMIT DIVISION PRIOR TO COMMENCEMENT OF ANY CONSTRUCTION OR THE INSTALLATION OF ANY EXTERIOR SIGN.

THIS REGISTRATION/LICENSE IS NOT TRANSFERRABLE TO OTHER BUSINESSES OR PREMISES.

TO BE POSTED IN A CONSPICUOUS PLACE

Ver. 16 2/7/2020

SANTFEH-02 LQUINTANA

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 5/13/2020

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER License # 0757776
HUB International Insurance Services (NMX)
2905 Rodeo Park Drive East
Building 6, Suite 100
Santa Fe, NM 87505

CONTACT NAME:
PHONE (A/C, No, Ext): (505) 982-4296 FAX (A/C, No): (866) 621-0427
E-MAIL ADDRESS:

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : New Mexico Security Insurance Company	15349
INSURER B :	
INSURER C :	
INSURER D :	
INSURER E :	
INSURER F :	

INSURED
Santa Fe Habitat for Humanity
2414 Cerrillos Rd.
Santa Fe, NM 87505

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
	COMMERCIAL GENERAL LIABILITY						EACH OCCURRENCE	$
	CLAIMS-MADE OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	$
							MED EXP (Any one person)	$
							PERSONAL & ADV INJURY	$
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$
	POLICY PRO-JECT LOC						PRODUCTS - COMP/OP AGG	$
	OTHER:							$
	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident)	$
	ANY AUTO						BODILY INJURY (Per person)	$
	OWNED AUTOS ONLY / SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	HIRED AUTOS ONLY / NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	$
								$
	UMBRELLA LIAB OCCUR						EACH OCCURRENCE	$
	EXCESS LIAB CLAIMS-MADE						AGGREGATE	$
	DED RETENTION $							$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						X PER STATUTE OTH-ER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y/N: N (Mandatory in NH)	N/A		69560111	4/1/2020	4/1/2021	E.L. EACH ACCIDENT	$ 1,000,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	$ 1,000,000
							E.L. DISEASE - POLICY LIMIT	$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER

City of Santa Fe
200 Lincoln Ave.
Santa Fe, NM 87504-0909

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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The ACORD name and logo are registered marks of ACORD

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 03/02/2020

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURERS(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Lockton Affinity, LLC P.O. Box 873401 Kansas City, MO 64187-3401	CONTACT NAME: PHONE (A/C No.Ext): 888-553-9002 FAX (A/C, No): E-MAIL ADDRESS:

INSURER(S) AFFORDING COVERAGE	NAIC
INSURER-A: ACE American Insurance Co.	22667
INSURER-B:	
INSURER-C:	
INSURER-D:	
INSURER-E:	
INSURER-F:	

INSURED
Santa Fe Habitat for Humanity
2520 Camino Entrada, Ste A
Santa Fe, NM 87507

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	GENERAL LIABILITY	X		GL1065365-20	04/01/2020	04/01/2021	EACH OCCURRENCE	$ 1,000,000
	X COMMERCIAL GENERAL LIABILITY						DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 1,000,000
	CLAIMS MADE X OCCUR						MED EXP (Any one person)	$ 0
							PERSONAL & ADV INJURY	$ 1,000,000
							GENERAL AGGREGATE	$ 2,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						PRODUCTS – COMP/OP AGG	$ 2,000,000
	X POLICY							$
	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident)	$
	ANY AUTO						BODILY INJURY (Per Person)	$
	ALL OWNED AUTOS / SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	HIRED AUTOS / NON-OWNED AUTOS						PROPERTY DAMAGE (Per accident)	$
	UMBRELLA LIAB OCCUR						EACH OCCURRENCE	$
	EXCESS LIAB CLAIMS MADE						AGGREGATE	$
	DED RETENTION $							
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE Y/N						WC STATU-TORY LIMITS / OTH-ER	
	OFFICER/MEMBER EXCLUDED? (MANDATORY IN NH) If yes, describe under						E.L. EACH ACCIDENT	$
	DESCRIPTION OF OPERATIONS below						E.L. DISEASE – EA EMPLOYEE	$
							E.L. DISEASE – POLICY LIMIT	$

CERTIFICATE HOLDER

City of Santa Fe - HCDD/Affordable Housing
P.O. Box 909,
Santa Fe, NM 87504

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS

AUTHORIZED REPRESENTATIVE

Patti D. Stamer

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 05/13/2020

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PRODUCER	CONTACT NAME: Lockton Affinity, LLC
Lockton Affinity, LLC P. O. Box 873401 Kansas City, MO 64187-3401	PHONE (A/C, No, Ext): 888-553-9002 FAX (A/C, No): 913-652-3967 E-MAIL ADDRESS:

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A :	
INSURER B : Westchester Fire Ins. Co.	10030
INSURER C :	
INSURER D :	
INSURER E :	
INSURER F :	

INSURED
Santa Fe Habitat for Humanity
2520 Camino Entrada
Ste A
Santa Fe, NM 87507

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

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INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
	COMMERCIAL GENERAL LIABILITY						EACH OCCURRENCE	$
	☐ CLAIMS-MADE ☐ OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	$
							MED EXP (Any one person)	$
							PERSONAL & ADV INJURY	$
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$
	☐ POLICY ☐ PRO-JECT ☐ LOC						PRODUCTS - COMP/OP AGG	$
	☐ OTHER:							$
	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident)	$
	☐ ANY AUTO						BODILY INJURY (Per person)	$
	☐ ALL OWNED AUTOS ☐ SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	☐ HIRED AUTOS ☐ NON-OWNED AUTOS						PROPERTY DAMAGE (Per accident)	$
								$
	☐ UMBRELLA LIAB ☐ OCCUR						EACH OCCURRENCE	$
	☐ EXCESS LIAB ☐ CLAIMS-MADE						AGGREGATE	$
	☐ DED ☐ RETENTION $							$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y / N						☐ PER STATUTE ☐ OTH-ER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? ☐ N / A (Mandatory in NH)						E.L. EACH ACCIDENT	$
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	$
							E.L. DISEASE - POLICY LIMIT	$
B	Directors & Officers			DO1065365-20	04/01/2020	04/01/2021	Limit	$1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER

1065365

City of Santa Fe

200 Lincoln Avenue

Santa Fe, NM 87504-0909

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Patti D. Stamer

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REQUEST FOR WAIVER OF INSURANCE

Date: 05/13/2020 **Division/department:** Office of Affordable Housing

Project manager: Home Repair **Phone:** 955-6421

Requested for: Waiver of Professional Liability coverage

☐ **General liability** ☐ **Auto liability** ☐ **Professional liability**

☐ **Workers compensation (Mandatory unless sole proprietor)** ☐ **Other insurance**

Scope of services: Provide rehabilitation services for a minimum of 20 owner-occupied bomes for households with incomes below 80% AMI. Maximum assistance per household is $14,000

Why the request for waiver: This is a repair program, therefore they cannot purchase Professional Liability Coverage

Division evaluation of risk:

What is the term and annual dollar amount of the contract:	1 Year term - $90,000	
Is our standard contract being used:	☐ Yes	☐ No
Was the contractor asked if they carry insurance:	☐ Yes	☐ No
Is there construction/demolition:	☐ Yes	☐ No
Is there potential for bodily injury or property damage:	☐ Yes	☐ No
Are crowds or children likely to be involved:	☐ Yes	☐ No
Will the contractor be working on site in the City:	☐ Yes	☐ No
Is the contractor a professional (licensed, certified):	☐ Yes	☐ No
Will the City rely on information to make future decisions:	☐ Yes	☐ No
Could poor, non-performance or the product cause loss:	☐ Yes	☐ No
Office of Risk Management recommendation:	☐ **Yes**	☐ **No**

Melanie Lovato
Melanie Lovato (May 19, 2020 13:23 MDT)

☐ **Insurance Waiver Approved** ☐ **Insurance Waiver Not Approved**

Jarel LaPan Hill
Jarel LaPan Hill (May 19, 2020 15:34 MDT)

Jarel LaPan Hill, City Manager **Date**

CITY OF SANTA FE

COMMUNITY DEVELOPMENT BLOCK GRANT CONTRACT

THIS CONTRACT is made and entered into this _____ day of _____ _____, 2020 by and between the City of Santa Fe, a municipal corporation, (the "City") and Homewise, Inc.(the "Subrecipient").

RECITALS

1. The Subrecipient has applied for and received funds from the United States Government under Title 1 of the Housing and Community Development Act of 1974, Public Law 93-383.

2. The City desires to engage the Subrecipient to render certain services to the City and its citizens.

3. The Subrecipient further certifies that it is willing and able to perform these services and that said services to be performed are within the Subrecipient's legal powers and capabilities.

4. The City desires to engage the Subrecipient to render these certain services in connection therewith as more particularly set forth hereafter.

AGREEMENTS

NOW, THEREFORE, the parties hereto mutually agree as follows:

I. SCOPE OF SERVICES

The Subrecipient agrees to utilize CDBG funds for projects that serve low to moderate-income residents within the Santa Fe City limits based on current HUD Area Median Income data for Santa Fe as follows:

A. Provide mortgage principal reduction assistance for a minimum of ten (10) households with incomes at or below 80% AMI. Assistance will be capped at $20,000 per household.

B. Contractor will report to the City on a quarterly basis the use of funds, program outcomes achieved, AMI % of assisted households, size of household, addresses of assisted homes, and other demographic information as required by the City's CDBG quarterly reporting form.

II. NATIONAL OBJECTIVES

The Subrecipient certifies that the service carried out with funds provided under this Contract will meet one or more of the Community Development Block Grant (hereinafter "CDBG") Program's National Objectives:

A. Benefit low/moderate income persons.

B. Benefit extremely low income persons.

C. Benefit homeless and elderly persons.

III. PERFORMANCE MONITORING

The City shall monitor the performance of the Subrecipient against goals and levels of accomplishment as stated above. Substandard performance as determined by the City will constitute noncompliance with this Contract. If action to correct such substandard performance is not taken by the Subrecipient within a reasonable period of time after being notified by the Grantee, contract suspension or termination procedures

will be initiated.

IV. WORK PLAN AND REPORTING

A. Work Plan: The Subrecipient shall provide the City, within sixty (60) days from signing this Agreement, a revised work plan outlining the major tasks or activities, the measurable objectives for each task or activity, and the time frames to be taken by the Subrecipient in the performance of this Agreement. Included in this report should be information regarding how much funding was leveraged during the program year and from which sources.

B. Annual Budget: All project activities will be in accordance with the attached budget and work plan (Exhibit A) per 24 CFR 570.503(b)(1).

C. Invoicing: The Subrecipient shall submit to the City quarterly reports in order to receive reimbursement for these services. Quarterly reports must be filed no later than the 15th calendar day for the preceding month. A fund requisition with documentation in support of each budgetary category will be submitted. This documentation must include the original or a certified copy or copies of invoices, vouchers, statements, etc. All costs chargeable to the City must be in accordance with budgetary and other restrictions of expenses established by this Contract. Funds for reimbursement can be disbursed on any Friday of each month during the contract period. In order for the City to meet this deadline, the Subrecipient is required to submit its request for reimbursement by Monday, 5:00 p.m., in order to receive payment by the following Friday. The Subrecipient shall submit a Final Project Report assessing the comparison of results achieved in relation to stated goals and objectives in the Scope of Services approved by the City. This report is due to the Office of Affordable Housing fifteen (15) days after the completion of the Contract.

D. Final Payment: Since all payments under this Contract shall be quarterly on a cost reimbursement basis, the City shall be entitled to withhold the final ten percent (10%) due hereunder, pending final approval by the City of the services rendered. Upon receipt and acceptance of a final project report prior to the final payment, the Subrecipient shall furnish the City proof in documentary form that all claims, liens, salaries or other obligations incurred by it in accordance with the services specified herein, have been properly paid and released.

E. Program Monitoring and Financial Audits: At such time and in such form as the City may require there shall be furnished to the City such statements, records, reports, data and information as the City may request pertaining to matters covered by this Contract. Furthermore, at any time during normal business hours and as often as the City may deem necessary, there shall be made available to the City or its designee for examination, all records maintained by the Subrecipient with respect to all matters covered by this Contract; and, the Subrecipient will permit the City to audit, examine and make excerpts or transcripts from such records, and make audits of all contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all matters covered by this Contract subject to the limitations set out above. Any Subrecipient receiving City CDBG funds in excess of fifteen thousand dollars ($15,000) or any combination of public (City, State, or Federal) monies in excess of twenty-five thousand dollars ($25,000) shall perform a final audit on all funds received from all sources for the program no later than ninety (90) days after completion of the sub-recipient's fiscal year, and shall furnish the City with said audit. This audit shall be performed by an independent agency. Any Subrecipient receiving a sum of less than fifteen thousand dollars ($15,000) in City CDBG funds must submit an audited financial

statement on all funds received from all sources for the program after completion of the sub-recipient's fiscal year, and shall furnish the City with said financial statements.

V. STATUS OF CONTRACTOR

The Subrecipient, and its agents and employees, are independent contractors performing professional services for the City and are not employees of the City. The Subrecipient, 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 Contract.

VI. COMPENSATION

A. The City shall pay to the Contractor in full payment for services satisfactorily performed, such compensation shall not exceed two hundred thousand dollars ($200,000). **The total amount payable to the Contractor under this Agreement, including gross receipts tax and expenses, shall not exceed ($200,000). 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.**

B. Invoice must include documentation of staff costs incurred, including time sheets or payroll reports showing amount of staff time paid by CDBG funds.

C. 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. All invoices MUST BE received by the City no later than thirty 30) days after the termination of the Fiscal Year in which the services were delivered. Invoices received after such date WILL NOT BE PAID.

VII. TERM

THIS AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED BY THE CITY. This Agreement shall terminate on **June 30, 2021** unless terminated pursuant to paragraph 4 (Termination), or paragraph 5 (Appropriations). In accordance with Section 13-1-150 NMSA 1978, no contract term for a professional services contract, including extensions and renewals, shall exceed four years, except as set forth in Section 13-1-150 NMSA 1978.

VIII. ADDITIONAL CONTRIBUTIONS

The Subrecipient may use the funds of the City granted herein to obtain Federal, State or other grants to carry out the Scope of Services herein.

A. Program Income: Program income received may be retained by the Subrecipient, but may be used only for support of the programs detailed in the Scope of Services section of this Contract. Program income on hand at the time of completion of the Contract period shall continue to be subject to the eligibility requirements and other applicable provisions of 24 CFR 570.504, Program Income of the Administrative Regulations of the CDBG program.

IX. APPROPRIATIONS

The terms of this Contract are contingent upon sufficient appropriations and authorization made by the City for the performance of this Contract. If sufficient appropriations and authorizations are not made by the City, this Contract shall terminate upon written notice being given by the City to the Subrecipient. The City's decision as to whether sufficient appropriations are available shall be accepted by the Subrecipient and shall be final.

X. FISCAL AGENT

The New Mexico Community Foundation will act as Coming Home's Fiscal Agent and will defend, indemnify and hold harmless the City from any and all liability, costs and expenses whatsoever for expenditure of funds pursuant to the Scope of Services of this Contract.

XI. BUDGET REVISIONS The Subrecipient will inform the City of any "line item" revisions to the attached budget, within the maximum compensation shown in this Agreement and will obtain the City's prior written approval of any change that represents at least 25 percent or more of the line item amount per the latest approved budget. Any budget revisions must be eligible expenditures under this Agreement and Title I of the Community Development Act.

XII. ELIGIBLE AND INELIGIBLE COSTS

A. Criteria. This section provides criteria for the determination of whether costs are eligible or ineligible for funding under this Contract. Costs incurred, which are determined by the City to be ineligible under these criteria, may not be charged to this Contract.

B. Standards. All costs incurred must be reasonable and of a nature which

clearly relates to the specific purposes and end product of the contract under which the services are being performed. Care must be exercised by all concerned in incurring costs to assure that expenditures conform to these general standards, including 2 CFR Part 200, and the following criteria for eligible costs.

C. Eligible Costs. To be eligible for inclusion, the cost must:

(1) Be necessary and reasonable for proper and efficient execution of the contractual requirements and in accordance with an approved budget.

(2) Be in conformance with any limitations, exclusions and provisions pursuant to this Contract, State and Local Laws, or other governing limitations.

(3) Be accorded consistent treatment through application of accounting policy and procedures approved and/or prescribed.

(4) Be net after allowance of all applicable credits such as purchase discounts, rebates or allowances, sales or publication of materials, or other income or refunds.

(5) Be in accordance with budgetary or other restrictions on expenses established by the City.

(6) Be fully documented.

(7) The Subrecipient shall reimburse the City any costs and expenses declared ineligible by the City which may have been reimbursed erroneously to the Subrecipient by the City under whatever conditions.

D. Ineligible Costs. Ineligible costs shall be as follows:

(1) Accounting. Costs of maintaining central accounting records necessary for overall local government purposes, such as appropriation of fund accounts by the Treasurer, or similar officials, are considered general expenses of the Subrecipient

and are ineligible costs. However, the cost of establishing and maintaining accounting or other information systems required for the management of the program are eligible costs including costs incurred by central services agencies for these purposes.

(2) Bad Debts. Any losses arising from uncollectible accounts and other claims, and related costs.

(3) Budget. Costs of a central budget office, except the costs of employees in the central budget office of the Subrecipient directly involved in the program as set forth in the Scope of Services, hereto, and clearly identifiable. However, costs incurred for the development, preparation, presentation, and execution of program and project budgets performed by the Subrecipient are eligible costs.

(4) Contingencies. Contribution to a contingency reserve or any similar provision for unforeseen events.

(5) Contributions and Donations. Political, charitable and fundraising solicitations, payments, gifts and expenses.

(6) Entertainment. Costs of amusements, social activities, and incidental costs, such as meals, beverages, lodgings, and gratuities, relating to entertainment.

(7) Board Expenses. The salary and expenses if any, of the Chairman of the Board of the Subrecipient are considered a cost of the Subrecipient and are not eligible costs in any way to this Contract.

(8) Fines and Penalties. Costs resulting from violations of or failure to comply with federal, state and local laws and regulations.

(9) Interest and other Financial Costs. Interest on borrowing (however represented); bond discounts, cost of financing and refinancing operations and legal and

professional fees paid in connection therewith.

(10) Legal Fees. Costs for legal advice or work are ineligible, except those required directly for the administration of the program, which are eligible.

(11) Legislative Expenses. Costs for lobbying or testimony before the legislature or any of its committees, whether incurred for the purposes of legislation or executive direction, are not eligible.

(12) Membership Expenses. Cost of membership in any organization is ineligible.

(13) Travel. Costs in excess of those allowed by the City for its employees are ineligible.

(14) Meeting Attendance. Costs of attending meetings which are not included in the budget are ineligible.

(15) Expenses Related to Fundraising. Cost of postage, printing or external subcontracting for grant writers or development specialists.

XIII. SPECIAL PROVISIONS

A. The Subrecipient realizes that the availability of funds for the activity covered by the "Scope of Services," herein and for performance of this Agreement, depend solely on the provisions of said funds by HUD, such provisions being contingent on the City's approval of these activities as eligible under the Housing and Community Development Act of 1974, the National Affordable Housing Act of 1990 and other pertinent federal regulations. However, the City shall notify the Subrecipient in writing within five days of receipt by the City of any determination by HUD to terminate CDBG funding.

B. In the event the Subrecipient or its organization is dissolved or discontinues

making loans as provided herein, or this Agreement is not renewed after it expires, the Subrecipient shall upon such dissolution, discontinuation or within sixty (60) days after expiration of this Agreement if its renewal has not in the meantime been executed:

(1) Return to the City all unexpended Community Development Block Grant funds received from the City and CDBG program income in the possession of the Subrecipient that have not been already obligated through contracts.

(2) Assign and transfer to the City the equity on all outstanding loans and mortgages which have been provided by the Subrecipient from Community Development grant funds and related program income under this and previous agreements. The Subrecipient shall provide the City with a listing of the borrowers and outstanding amounts, together with up-to-date records of principal and interest payments and balances of the accounts of said borrowers.

XIV. CONFLICT OF INTEREST

The Subrecipient agrees to abide by the provision of 2 CFR Part 200 and 570.611, which include (but are not limited to) the following:

A. Interest of Members of City: No officer, employee, or agent of the City who exercises any functions or responsibilities in connection with the planning and carrying out any of the provisions of this Contract, or any other person who exercises any functions or responsibilities in connection with any of the provisions of the Contract, shall have any personal financial interest, direct or indirect, in this Contract; and the Subrecipient shall take appropriate steps to assure compliance.

B. Interest of Subrecipient and Employees: The Subrecipient shall not allow any person who presently exercises any functions or responsibilities in connection with

the provisions of this Contract, to have personal financial interests, direct or indirect, in this Contract. The Subrecipient further shall not allow in the performance of this Contract any person having any conflicting interest to be employed by the Subrecipient. Any interest on the part of the Subrecipient or its employees must be disclosed to the City. Provided, however, that this paragraph shall be interpreted in such a manner so as not to unreasonably impede the requirement that maximum opportunity for employment of area residents and resident participation shall be of primary concern to the Subrecipient.

Should the subrecipient discover a potential conflict of interest, the subrecipient shall immediately disclose in writing to the City and specifically ask for guidance on how to resolve the conflict and prior to any act in furtherance of the conflict. The disclosure shall include a description of the nature of the conflict; the name, position, phone number and address of the person with the conflict; the date of the notification; and requested action to address the conflict. Disclosures of real, apparent or perceived conflicts of interest shall be made to the City and the City must agree in writing to a proper course of subsequent action prior to the disbursement of CDBG funds.

C. Certification:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the State, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of a Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid

or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the State shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.

XV. DISCRIMINATION PROHIBITED

A. In all hiring or employment made possible by or resulting from this Contract, there (1) will not be any discrimination against any employee or applicant for employment because of race, color, age, religion, sex, sexual orientation, national origin, and physical or mental disability; and (2) affirmative action will be taken to ensure that qualified applicants are employed, and that employees are treated during employment without regard to their race, color, age, religion, sex, sexual orientation, national origin, and physical or mental disability. This requirement shall apply, without limitation, to the following: employment, upgrading, demotion or transfer, recruitment advertising, layoff or termination, and selection for training, including apprenticeship. There shall be posted in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this clause. All solicitations or advertisements for employees shall state that all qualified applicants will receive consideration for employment without regard to race, color, age, religion, sex, sexual orientation, national origin, and physical or mental disability.

B. No person in the United States shall, on account of race, color, age, religion, sex, sexual orientation, national origin, and physical or mental disability, be excluded from participating in, denied the benefits of, or subjected to discrimination under

this Contract or activity made possible by or resulting from the Contract.

C. Subrecipient will abide by all requirements of the Americans with Disabilities Act. Subrecipient shall be kept informed of employee discrimination prevention requirements and program and facility accessibility standards.

XVI. WOMEN- AND MINORITY- OWNED BUSINESSES (W/MBE)

The Subrecipient will use its best efforts to afford small businesses, minority business enterprises, and women's business enterprises the maximum practicable opportunity to participate in the performance of this contract. As used in this contract, the terms "small business" means a business that meets the criteria set forth in section 3(a) of the Small Business Act, as amended (15USC 632), and "minority and women's business enterprise" means a business at least fifty-one (51) percent owned and controlled by minority group members or women. For the purpose of this definition, "minority group members" are Afro-Americans, Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian-Americans, and American Indians. The Subrecipient may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

XVII. POLITICAL ACTIVITY PROHIBITED

None of the funds, materials, property or services provided for directly or indirectly under this Contract shall be used in the performance of this Contract for any political activity prohibited by Federal, State or local law.

XVIII. CONFIDENTIALITY

Any confidential information provided to or developed by the Subrecipient in the performance of this Contract shall be kept confidential and shall not be made available to any individual or organization by the Subrecipient without the prior written approval of the

City.

XIX. REPRESENTATIONS IN SUBMITTALS

The City has relied on all representations in the Subrecipient's submittals in awarding this Agreement and the Subrecipient warrants the accuracy of all representations. Misrepresentations in the submittals will be cause for termination of this Agreement.

XX. AMENDMENT

This Contract shall not be altered, changed or amended except by amendment in writing executed by the parties hereto.

XXI. NOTICES AND ADDRESSES

Any notices required to be given under this agreement shall be in writing and served by personal delivery or by mail, postage prepaid, to the parties at the following addresses:

For the City, notices may be sent to:

City of Santa Fe
Office of Affordable Housing
P.O. Box 909
Santa Fe, New Mexico 87504-0909

For the Subrecipient, notices may

Homewise, Inc.
1301 Siler Road, Bldg D
Santa Fe, NM 87507

XXII. ASSIGNABILITY

The Subrecipient shall not assign any interest in this Contract and shall not transfer any interest in the same (whether by assignment or otherwise) without the prior written consent of the City.

XXIIII. WARRANTY OF AUTHORITY

The Subrecipient warrants that it has full corporate and other authority, under its

articles of corporation, bylaws, resolutions, other pertinent corporate documents, instruments, and agreements, and otherwise to enter into this agreement, to bind itself under this agreement, and to perform this Agreement in accordance with the terms and provisions of this Agreement.

XXIV. BINDING EFFECT

This Agreement is binding upon and inures to the benefit of the successors, successors-in interest, assigns and transferees of the City and the Subrecipient.

XXV. SEVERABILITY

In case any one or more of the provisions contained in this Agreement or any application thereof shall be invalid, illegal or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions contained herein and any other application thereof shall not in any way be affected or impaired thereby.

XXVI. DISPOSITION OF PROPERTY

A. All non-expendable property acquired by the Subrecipient pursuant to this Contract shall be recorded in the property records of the City prior to reimbursement to the Subrecipient for expenses incurred in order to acquire said property. For purposes of this Contract, the term "non-expendable property" means items of tangible, personal property that are non-perishable such as equipment, software, and furniture. The use and disposition of real property and equipment under this Contract shall be in compliance with the requirements of 24 CFR Part 84 and 24 CFR 570.502, 570.503, and 570.504, as applicable.

B. Subrecipient shall be accountable for all recorded non-expendable property which is recorded as City property for a period of five years as established by the City.

C. All non-expendable property acquired pursuant to this Contract shall remain

in the possession of and shall be used only by the Subrecipient, provided that said property continues to be used for the same purposes and in the same manner as originally intended.

D. If the Subrecipient cannot continue to effectively use recorded non-expendable property for the same purposes and in the same manner as originally intended and described in this Contract, all such non-expendable property shall remain in the possession of, and shall be used by the Subrecipient for similar purposes and in a similar manner as initially used; provided, however, that conversion of said property to a similar use in another similar program must first receive the express written consent of the City.

E. If the Subrecipient can neither continue to effectively use recorded non-expendable property for the same purposes and in the same manner originally intended nor continue to effectively use said property for the same or similar purposes and in a similar manner as permitted by this Contract, the City may provide for the disposition of said property wholly and entirely at the City's discretion.

F. The City may, in writing, waive and relinquish all claims the City may have in and to recorded non-expendable property.

G. When the Subrecipient's period of accountability for any non-expendable property expires, said property shall revert to the City unless otherwise provided for in a written agreement between the Subrecipient and the City. Assets on hand at the expiration of the Contract in excess of twenty-five thousand dollars ($25,000) shall be disbursed in accordance with reversion of assets of 24 CFR 570.503 Agreements with Subrecipients of the CDBG regulation; or

(i) The Subrecipient shall pay to the City an amount equal to the current

market value of the property less any portion of the value attributable to the expenditures of non-CDBG funds for the acquisition of, or improvement to, the property. The payment is program income to the City. (No payment is required after the period of time specified in 24 CFR 570.503(b)(7)(i).

XXVII. COMPLIANCE WITH LOCAL LAW

The Subrecipient shall comply at its own cost with all applicable laws, ordinances and codes of the State and the City.

XXVIII. THIRD PARTY BENEFICIARIES

By entering into this Contract, the parties do not intend to create any right, title or interest in or for the benefit of any person other than the City and the Subrecipient. No person shall claim any right, title or interest under this Contract or seek to enforce this Contract as a third party beneficiary of this Contract.

XXIX. JURISDICTION CLAUSE

This Contract shall be performed in Santa Fe, New Mexico. Any legal action or cause of action arising in connection herewith shall be within the jurisdiction and venue of the appropriate court in Santa Fe, New Mexico, for all purposes.

XXX. SUSPENSION AND TERMINATION

A. This Contract 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. By such termination, neither party may nullify obligations already incurred for performance or failure to perform prior to the date of termination. In addition, the City may terminate this agreement for convenience in accordance with 2 CFR Part 200.

B. The City may enforce remedies for noncompliance in accordance with 2 CFR Part 200. The City may also suspend or terminate this Contract, in whole or in part,

if the Subrecipient materially fails to comply with any term of this Contract, or with any of the rules, regulations or provisions referred to herein; and the City may declare the Subrecipient ineligible for any further participation in the City's contracts, in addition to other remedies as provided by law. In the event there is probable cause to believe the Subrecipient is not in compliance with any applicable rules or regulations, the City may withhold up to fifteen percent (15%) of said contract funds until such time as the Subrecipient is found to be in compliance by the City, or is otherwise adjudicated to be in compliance.

XXXI 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.

XXXII. 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.

A. Commercial General Liability insurance shall be written on an occurrence basis and be a broad as ISO Form CG 00 01 with limits not less than $2,000,000 per occurrence and $2,000,000 in the aggregate for claims against bodily injury, personal and advertising injury, and property damage. Said policy shall include broad form Contractual Liability coverage and be endorsed to name the City of Santa Fe their officials, officers, employees, and agents as additional insured.

B. Business Automobile Liability insurance for all owned, non-owned automobiles, with a combined single limit not less than $1,000,000 per accident.

C. Broader Coverage and Limits. The insurance requirements under this Agreement shall be the greater of (1) the minimum coverage and limits specified in this Agreement, or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the Named Insured. It is agreed that these insurance requirements shall not in any way act to reduce coverage that is broader or that includes higher limits than the minimums required herein. No representation is made that the minimum insurance requirements of this Agreement are sufficient to cover the obligations of Contractor hereunder.

D. 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.

XXXIII. INDEMNIFICATION

The Subrecipient shall indemnify, hold harmless and defend the City from all losses, damages, claims or judgments, including payments of all attorneys' fees and costs on account of any suit, judgment, execution, claim, action or demand whatsoever arising from Subrecipient's performance under this Agreement as well as the performance of Subrecipient's employees, agents, representatives and subcontractors.

XXXIV. ENTIRE CONTRACT

This Contract constitutes the entire contract between the parties hereto. Prior contracts, whether written or oral, or assertion of statement, of understanding, or other commitment antecedent to this Contract shall have no force or effect whatsoever, unless the same is mutually agreed to by the parties hereto and reduced to writing.

XXXV. GENERAL CONDITIONS

A. General Compliance: The Subrecipient agrees to comply with the requirements of Title 24 of the Code of Federal Regulations, Part 570 (the Housing and Urban Development regulations concerning Community Development Block Grants (CDBG)). The Subrecipient also agrees to comply with all other applicable Federal, state and local laws, regulations, and policies governing the funds provided under this contract and as set forth at 24 CFR Part 570 subpart K, except that the Subrecipient does not assume the recipient's environmental responsibilities under 24 CFR 570.604 and 24 CFR Part 52. The Subrecipient further agrees to utilize funds available under this Contract to supplement rather than supplant funds otherwise available.

B. Grantor Recognition: The Subrecipient shall ensure recognition of the role of the City in providing services through this contract. All activities, facilities and items utilized pursuant to this contract shall be prominently labeled as to funding source. In addition, the Subrecipient will include a reference to the support provided herein in all publications made possible with funds made available under this contract.

XXXVI. ADMINISTRATIVE REQUIREMENTS

A. Financial Management

1. Accounting Standards. The Subrecipient agrees to comply with 2 CFR Part 200 and agrees to adhere to the accounting principles and procedures required

therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.

2. Cost Principles. The Subrecipient shall administer its program in conformance with the Uniform Administrative Requirements of 24 CFR 570.502, 24 CFR 570.503, and 2 CFR Part 200. These principles shall be applied for all costs incurred whether charged on a direct or indirect basis.

XXXVII. DOCUMENTATION AND RECORD KEEPING

A. Records to be Maintained. The Subrecipient shall maintain all records required by the Federal regulations specified in 24 CFR 570.506 that are pertinent to the activities to be funded under this Contract. Such records shall include but not be limited to:

(1) Records providing a full description of each activity undertaken;

(2) Records demonstrating that each activity undertaken meets one of the National Objectives of the CDBG program;

(3) Records required to determine the eligibility of activities;

(4) Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG assistance;

(5) Records documenting compliance with the fair housing and equal opportunity components of the CDBG program;

(6) Records documenting compliance with EPLS/SAM for each sub-contractor;

(7) Financial records as required by 24 CFR 570.502, and 2 CFR Part 200;

(8) Other records necessary to document compliance with Subpart K of

24 CFR Part 570.

(9) Other records necessary to document compliance with Sections 1012 and 1013 of Title X amending the Lead-based Paint Poisoning Prevention Act of 1971 and title 24 of the Code of Federal Regulations as part of 35 (24 CFR 35).

XXXVIII. CLIENT DATA

The Subrecipient shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, income level or other basis for determining eligibility, and description of service provided. Such information shall be made available to the City or its designees for review upon request.

XXXVIX. DISCLOSURE

The Subrecipient understands that client information collected under this Contract is private and the use or disclosure of such information, when not directly connected with the administration of the City's or Subrecipient's responsibilities with respect to services provided under this contract, is prohibited by the State of New Mexico unless written consent is obtained from such person receiving service and, in the case of a minor, that of a responsible parent or guardian.

XL . PROPERTY RECORDS

The Subrecipient shall maintain real property inventory records, which clearly identify properties purchased, improved or sold. Properties retained shall continue to meet eligibility criteria and shall conform to the "changes in use" restrictions specified in 24 CFR 570.503 (b) (8), as applicable.

XLI. RELOCATION, REAL PROPERTY ACQUISITION AND ONE-FOR-ONE HOUSING REPLACEMENT

The Subrecipient agrees to comply with (a) the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), and implementing regulations at 49 CFR Part 24 and 24 CFR 570.606(b); (b) the requirements of 24 CFR 570.606(c) governing the Residential Anti-displacement and Relocation Assistance Plan under section 104(d) of the HCD Act; and (c) the requirements in 24 CFR 570.606(d) governing optional relocation policies.

XLII. ENVIRONMENTAL CONDITIONS

A. Air and Water: The Subrecipient agrees to comply with the following requirements insofar as they apply to the performance of this Contract:

(1) Clean Air Act, 42 USC, 7401, *et seq.*;

(2) Federal Water Pollution Control Act, as amended, 33 USC, 1251, *et seq.*, as amended 1318 relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder;

(3) Environmental Protection Agency (EPA) regulations pursuant to 40 CFR Part 50, as amended.

B. Flood Disaster Protection: In accordance with requirements of the Flood Disaster Protection Act of 1973 (42 USC 4001), the Subrecipient shall assure that for activities located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, flood insurance under the National Flood Insurance Program is obtained and maintained as a condition of financial assistance for acquisition or construction purposes (including rehabilitation).

C. Lead-Based Paint: The Subrecipient agrees that any construction or rehabilitation of residential structures with assistance provided under this Contract shall

be subject to HUD Lead-Based Paint Regulations at 24 CFR 570.608, and 24 CFR Part 35, Subpart B. Such regulations pertain to all CDBG-assisted housing and require that all owners, prospective owners, and tenants of properties constructed prior to 1978 be property notified that such properties may include lead-based paint. Such notification shall point out the hazards of lead-based paint and explain the symptoms, treatment and precautions that should be taken when dealing with lead-based paint poisoning and the advisability and availability of blood lead level screening for children under seven. The notice should also point out that if lead-based paint is found on the property, abatement measures may be undertaken. The regulations further require that, depending on the amount of Federal funds applied to a property, paint testing, risk assessment, treatment and/or abatement may be conducted.

D. Historic Preservation: The Subrecipient agrees to comply with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, as amended (16 USC 470) and the procedures set forth in 36 CFR Part 800, Advisory Council on Historic Preservation Procedures for Protection of Historic Properties, insofar as they apply to the performance of this agreement. In general, this requires concurrence from the State Historic Preservation Officer for all rehabilitation and demolition of historic properties that are fifty years old or older or that are included on a Federal, state, or local historic property list.

XLIII. CLOSE OUTS

The Subrecipient's obligation to the City shall not end until all closeout requirements are completed. Activities during this close-out period shall include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and

accounts receivable to the City), and determining the custodianship of records.

XLIV. LAND COVENANTS

This Contract is subject to the requirements of Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and 24 CFR 570.601 and 602. In regard to the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under this contract, the Subrecipient shall cause or require a covenant running with the land to be inserted in the deed or lease for such transfer, prohibiting discrimination as herein defined, in the sale, lease or rental, or in the use or occupancy of such land, or in any improvements erected or to be erected thereon, providing that the City and the United States are beneficiaries of and entitled to enforce such covenants. The Subrecipient, in undertaking its obligation to carry out the program assisted hereunder, agrees to take such measures as are necessary to enforce such covenant, and will not itself so discriminate.

XLV. SECTION 504

The Subrecipient agrees to comply with any Federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973 (29 USC 794), which prohibits discrimination against the handicapped in any Federally assisted program.

XLVI. PROHIBITED ACTIVITY

The Subrecipient is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities; sectarian or religious activities; lobbying, political patronage, and nepotism activities.

XLVII. LABOR STANDARDS

A. The Subrecipient agrees to comply with the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act as amended, the provisions of Contract

Work Hours and Safety Standards Act (40 USC 327 *et seq.*), the Copeland "Anti-Kickback" Act (18 USC 874 *et seq.*), its implementing regulations of the U.S. Department of Labor at 29 CFR Part 5, and all other applicable Federal, state and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this contract. The Subrecipient shall maintain documentation which demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to the City for review upon request.

B. The Subrecipient agrees that, except with respect to the rehabilitation or construction of residential property containing less than eight units, all contractors engaged under contracts in excess of two thousand dollars ($2,000.00) for construction, renovation or repair work financed in whole or in part with assistance provided under this contract, shall comply with Federal requirements adopted by the City pertaining to such contracts and with the applicable requirements of the regulations of the Department of Labor, under 29 CFR Parts 1, 3, 5 and 7 governing the payment of wages and ratio of apprentices and trainees to journey workers; provided, that if wage rates higher than those required under the regulations are imposed by state or local law, nothing hereunder is intended to relieve the Subrecipient of its obligation, if any, to require payment of the higher wage. The Subrecipient shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions meeting the requirements of this paragraph.

XLVIII. COMPLIANCE

A. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR 135, ("Section 3") and all applicable rules and orders issued thereunder prior to the execution of this contract, shall be a condition of the Federal financial assistance provided

under this contract and binding upon the City, the Subrecipient and any of the Subrecipient's subcontractors. Failure to fulfill these requirements shall subject the City, the Subrecipient and any of the Subrecipient's subcontractors, their successors and assigns, to those sanctions specified by the contract through which Federal assistance is provided. The Subrecipient certifies and agrees that no contractual or other disability exists which would prevent compliance with these requirements.

B. The Subrecipient further agrees to comply with "Section 3" requirements and to include the following language in all subcontracts executed under this Contract.

"The work to be performed under this contract is a project assisted under a program providing direct Federal financial assistance from HUD and is subject to the requirements of "Section 3" of the Housing and Urban Development Act of 1968, as amended (12 USC 1701). "Section 3" requires that to the greatest extent feasible opportunities for training and employment be given to low and very low-income residents of the project area and contracts for work in connection with the project be awarded to business concerns that provide economic opportunities for low-and very low-income persons residing in the metropolitan area in which the project is located".

XLIX. NOTIFICATIONS

The Subrecipient agrees to send to each labor organization or representative of workers with which it has a collective bargaining contract or other contract or understanding, if any, a notice advising said labor organization or worker's representative of its commitments under the above-referenced "Section 3" clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

L. SUBCONTRACTS

The Subrecipient will include the above-referenced "Section 3" clause in every subcontract and will take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the City. The Subrecipient will not subcontract with any entity where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR 135 and will not let any subcontract unless the entity has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

LI. RESPONSIBILITY FOR PAYMENT OF EMPLOYEES AND SUBCONTRACTORS

A. The Subrecipient shall be solely responsible for payment of wages, salaries and benefits to any and all employees or subcontractors retained by the Subrecipient in the performance of the services under this Contract.

B. The Contractor shall comply with City of Santa Fe Minimum Wage, Article 28-1-SFCC 1987, as well as any subsequent changes to such article throughout the term of this Agreement. .

LII. WAIVER

The Grantee's failure to act with respect to a breach by the Subrecipient does not waive its right to act with respect to subsequent or similar breaches. The failure of the City to exercise or enforce any right or provision shall not constitute a waiver of such right or provision.

LIII. NEW MEXICO TORT CLAIMS ACT

Any liability incurred by the City of Santa Fe in connection with this Contract is subject to the immunities and limitations of the New Mexico Tort Claims Act, Section 41-4-1, *et seq.* NMSA 1978, as amended. The City and its "public employees" as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity, do not waive any

defense and do not waive any limitation of liability pursuant to law. No provision in this Contract modifies or waives any provision of the New Mexico Tort Claims Act.

LIV. RELEASE

The Subrecipient, upon final payment of the amount due under this Contract, releases the City, its officers and employees, from all liabilities, claims and obligations whatsoever arising from or under this Contract. The Subrecipient agrees not to purport to bind the City to any obligation not assumed herein by the City unless the Subrecipient has express written authority to do so, and then only within the strict limits of that authority.

LV. ENTIRE AGREEMENT

This agreement constitutes the entire agreement between the City and the Subrecipient for the use of funds received under this Contract and it supersedes all prior or contemporaneous communications and proposals, whether electronic, oral, or written between the City and the Subrecipient with respect to this Contract.

IN WITNESS WHEREOF, the City and the Subrecipient have executed this Contract on the dates set forth below.

APPROVED AND AUTHORIZED:

_____
ALAN WEBBER, MAYOR
DATE: _____

ATTEST:

SUBRECIPIENT:
HOMEWISE, INC

_____
YOLANDA Y. VIGIL
CITY CLERK

_____
MIKE LOFTIN
EXECUTIVE DIRECTOR
DATE:_____

New Mexico Taxation and Revenue Dept.
CRS No. 02-062377-00-1
City of Santa Fe Business Registration No. 223754

CITY ATTORNEY'S OFFICE:

Marcos Martinez
Marcos Martinez (May 12, 2020)

SENIOR ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

MARY MCCOY
FINANCE DIRECTOR

2402750.510500
BUSINESS UNIT/LINE ITEM

EXHIBIT A: Per Section V.B. of the Professional Services Agreement and per 24 CFR 570.503(b)(1).

Addendum Project Budget for (Homewise – Principal Reduction)

Type of funding	Source/ Amount	Source/ Amount	Source/ Amount	Totals
Final CDBG AMOUNT				**$200,000**
Other Federal Funds (for amortizing loans)				
Other Federal Funds (for amortizing loans)				
Amortizing funds				
City Funding (i.e. Youth and Family, Human Services Divisions)				**$**
State funds (i.e. MFA)				**$**
Other (i.e. in-kind, private funds)	$2,177,250	$33,000	$22,000	**$2,232,250**
				$
Total of all funding sources				**$2,432,250**

The following chart details how the secured funding amount will support the various aspects of (Coming Home Connection) (Casa Cielo).

Cost	CDBG Allocation
	$200,000
Cost	Private Leveraged Funds
Other	$2,177,250
	$33,000
	$22,000
Total	$2,432,250

City of Santa Fe

Real Estate Summary of Contracts, Agreements, Amendments & Leases

Section to be completed by department

1. Munis Contract # **3201894**

Contractor: **Homewise Inc.**

Description: **Homewise will utilize CDBG funding to assist families and individuals whose incomes are under 80% AMI to achieve home purchase with principal reduction assistance.**

Contract ☐ Agreement ☉ Lease / Rent ☐ Amendment ☐

Term Start Date: **7/01/2020** Term End Date: **6/30/2021**

☐ Approved by Council Date: _____

Contract / Lease: $200,000.00

Amendment # _____ to the Original Contract / Lease # _____

Increase/(Decrease) Amount $ _____

Extend Termination Date to: _____

☐ Approved by Council Date: _____

Amendment is for:

2. **HISTORY** of Contract, Amendments & Lease / Rent - Please Elaborate (option: attach spreadsheet if multiple amendments)
Agreement is for a one-year term, 7/01/2020 - 6/30/2021

3. **Procurement History:** **RFP #20/16/P**

Purchasing Officer Review: Date:

Comment & Exceptions: _____

4. **Funding Source:** **240** **Org / Object:** **2402750.510500**

Alexis Lotero

Budget Officer Approval: Date:

Comment & Exceptions: _____

Staff Contact who completed this form: **Roberta Catanach** Phone # **505-955-6421**

Email: **rlcatanach@santafenm.gov**

To be recorded by City Clerk:

Clerk # _____

Date of Execution: _____

CITY OF SANTA FE PROCUREMENT CHECKLIST

Contractor Name: Homewise Inc.

Procurement Title: 20/16/P (CDBG)

Procurement Method: State Price Agreement ☐ Cooperative ☐ Sole Source ☐ Other ☐

Exempt ☐ Request For Proposal (RFP) ☐ Invitation To Bid (ITB) ☐ Contract under 60K ☐ Contract over 60K ☐

Department Requesting Office of Affordable Housin Staff Name Roberta Catanach

Procurement Requirements:

A procurement file shall be maintained for all contracts, regardless of the method of procurement. The procurement file shall contain the basis on which the award is made, all submitted bids, all evaluation materials, score sheets, quotations and all other documentation related to or prepared in conjunction with evaluation, negotiation, and the award process. The procurement shall contain a written determination from the Requesting Department, signed by the purchasing officer, setting forth the reasoning for the contract award decision before submitting to the Committees.

REQUIRED DOCUMENTS FOR APPROVAL BY PURCHASING*

YES	N/A	
☐	☐	Approved Procurement Checklist (by Purchasing)
☐	☐	Memo addressed to City Manager (under 60K) Committees/City Council (over 60K)
☐	☐	State Price Agreement
☐	☐	RFP
☐	☐	Evaluation Committee Report
☐	☐	ITB
☐	☐	Bib Tab
☐	☐	Quotes (3 valid current quotes)
☐	☐	Cooperative Agreement
☐	☐	Sole Source Request and Determination Form
☐	☐	Contractors Exempt Letter
☐	☐	Purchasing Officers approval for exempt procurement
☐	☐	BAR
☐	☐	FIR
☐	☐	Executed Contract, Agreement or Amendment
☐	☐	Current Business Registration and CRS numbers on contract or agreement
☐	☐	Summary of Contracts and Agreements form
☐	☐	Certificate of Insurance
☐	☐	All documentation presented to Committees
☐	☐	Other:

Roberta Catanach, Contracts Administrator 5/11/2020

Department Rep Printed Name (attesting that all information included) Title Date

Purchasing Officer (attesting that all information is reviewed) Title Date

Include all other substantive documents and records of communication that pertain to the procurement and contract.

City of Santa Fe
FY20 Fiscal Impact Analysis (Non-Personnel Expenditures)

General Information

Department Name:	General Government	Department Name:	
Division Name:	Office of Affordable Housing	Division Name:	

Financial Information

Amount Requested:	$200,000	Munis Fund Number:	240
Vendor Name:	Homewise Inc.	Munis Org Number:	2402750
Approved by Director?	Yes	Munis Object Code:	510500

Expenditure Information

1. Describe the purchase of goods/services. Is this one-time or recurring? Please explain why this is the lowest cost option for this expenditure.
This contract delivers services for projects that serve low to moderate-income residents within the Santa Fe City limits based on current HUD Area Median Income data for Santa Fe as follows: provide mortgage principal reduction assistance for an approximate minimum of ten (10) households with incomes at or below 80% AMI -assistance will be capped at $20,000 per household. This is one-time commitment of funds for an ongoing program. This is a low cost way of delivering housing programs/projects/services because it relies on the capacity of community partners, rather than the City's bureaucracy to deliver services/provide housing.

2. Please describe which legally required City service does this procurement support? Does this procurement provide support for compliance with City, State and Federal requirements? If yes, please explain.
This procurement is aligned with requirements of the City's CDBG entitlement funding. If grant funds are not drawn, the City will jeopardize compliance with its grant agreement with HUD.

3. Can these services be performed by City employees in your department or in other departments? If the answer is no, please explain.
No, these housing programs/projects/services are provided by expert organizations and cannot be provided within the City's internal delivery system.

4. Would there be any adverse health, safety or economic implications if this expenditure was not approved? What impact will there be on the department and the City operations if this expenditure is not approved.
Without the housing programs/projects/services funded through this contract, the low-mod income residents of Santa Fe will have limited access to housing and community development opportunities.

5. If this purchase is not approved with City funds, what are alternative funding sources for the proposed expenditure? Does this duplicate efforts being provided by other governmental, for profit or non-profit entities?
These are federal grant funds, the expenditure of which does not affect the City's budget. These funds are used to leverage additional complementary funding sources to support housing programs/projects/services in our community.

Fran Dameway, CPPO (Jun 1, 2020 12:51 MDT)	Alexis Lotero (Jun 1, 2020 12:46 MDT)	
Procurement Office Signature	Budget Office Signature	Finance Director Signature

HOMEINC-05 SMONCAYO

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 3/30/2020

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER License # 0757776
HUB International Insurance Services (NMX)
2905 Rodeo Park Drive East
Building 6, Suite 100
Santa Fe, NM 87505

CONTACT NAME: Michelle Vialpando
PHONE (A/C, No, Ext): (505) 992-1873 FAX (A/C, No): (866) 621-0427
E-MAIL ADDRESS: michelle.vialpando@hubinternational.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Central Mutual Insurance Company	20230
INSURER B : New Mexico Premier Insurance Company	13675
INSURER C : Evanston Insurance Company	35378
INSURER D :	
INSURER E :	
INSURER F :	

INSURED
Homewise Inc
1301 Siler Rd Building D
Santa Fe, NM 87507

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY						EACH OCCURRENCE	$ 1,000,000
	CLAIMS-MADE X OCCUR	X		CLP8361218	5/23/2019	5/23/2020	DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 300,000
							MED EXP (Any one person)	$ 5,000
							PERSONAL & ADV INJURY	$ 1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$ 2,000,000
	POLICY X PRO-JECT LOC						PRODUCTS - COMP/OP AGG	$ 2,000,000
	OTHER:							$
A	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident)	$ 1,000,000
	ANY AUTO						BODILY INJURY (Per person)	$
	OWNED AUTOS ONLY / SCHEDULED AUTOS			CLP8361218	5/23/2019	5/23/2020	BODILY INJURY (Per accident)	$
	X HIRED AUTOS ONLY / X NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	$
								$
A	UMBRELLA LIAB X OCCUR						EACH OCCURRENCE	$ 2,000,000
	X EXCESS LIAB / CLAIMS-MADE			CXS9657964	5/23/2019	5/23/2020	AGGREGATE	$ 2,000,000
	DED X RETENTION $ 0							$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						X PER STATUTE / OTH-ER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y/N: Y	N/A		5950127	12/3/2019	12/3/2020	E.L. EACH ACCIDENT	$ 1,000,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	$ 1,000,000
							E.L. DISEASE - POLICY LIMIT	$ 1,000,000
C	Excess Liability			MKLV7EUE100125	5/23/2019	5/23/2020	Each Occurrence	3,000,000
C	Excess Liability			MKLV7EUE100125	5/23/2019	5/23/2020	Aggregate	3,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
*COVERAGE: Employee Dishonesty - Policy #CLP8361218 - Limit: $100,000/Deductible: $1,000

**PROFESSIONAL LIABILITY COVERAGE - Policy #LH2D57693401 - Eff. 5/23/2019 to 5/23/2020 - The Hanover Insurance Company - $1,000,000 Each Claim Limit; $1,000,000 All Claims in Aggregate - Deductible: $5,000 Each Claim.

SEE ATTACHED ACORD 101

CERTIFICATE HOLDER

City of Santa Fe
PO Box 909
Santa Fe, NM 87504

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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AGENCY CUSTOMER ID: HOMEINC-05 SMONCAYO

LOC #: 1

ADDITIONAL REMARKS SCHEDULE

AGENCY	License # 0757776	NAMED INSURED
HUB International Insurance Services (NMX)		Homewise Inc 1301 Siler Rd Building D Santa Fe, NM 87507
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

Description of Operations/Locations/Vehicles:
Where required by written contract or agreement, City of Santa Fe is included as additional insured with respects to general liability. Workers Compensation coverage is evidence only.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

HOME BUILDERS PLUS ENDORSEMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE FORM

This endorsement amends the policy by adding the following; please read each section carefully.

ADDITIONAL INSURED - OWNERS, LESSEES, OR CONTRACTORS - AUTOMATIC STATUS
ADDITIONAL INSURED - MANAGERS OR LESSORS OF PREMISES - AUTOMATIC STATUS
ADDITIONAL INSURED - LESSOR OF LEASED EQUIPMENT – AUTOMATIC STATUS
ADDITIONAL INSURED - VENDORS - AUTOMATIC STATUS
AGGREGATE LIMITS OF INSURANCE
EMPLOYEE BENEFITS LIABILITY COVERAGE
FIRE, SPRINKLER LEAKAGE OR EXPLOSION
HOME BUILDERS AMENDMENTS
INCLUDE DIRECTORS OR TRUSTEES ON COMMITTEES AS EMPLOYEES
LIMITED FUNGI OR BACTERIA, SILICA OR SILICA-RELATED DUST AND EXTERIOR INSULATION AND FINISH SYSTEMS
NEWLY FORMED OR ACQUIRED ORGANIZATIONS
NON-OWNED WATERCRAFT AND NON-OWNED AIRCRAFT LIABILITY
NOTICE OF OCCURRENCE, KNOWLEDGE OF OCCURRENCE, UNINTENTIONAL OMISSION
POLLUTION COVERAGE FOR UPSET OF MOBILE EQUIPMENT
REASONABLE FORCE EXPANSION - PROPERTY DAMAGE
SUPPLEMENTARY PAYMENTS - HIGHER LIMITS
VOLUNTARY PROPERTY DAMAGE
WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US
ADDITIONAL COMMERCIAL GENERAL LIABILITY CONDITIONS
LOST KEY COVERAGE

A. Additional Insured - Owners, Lessees, or Contractors - Automatic Status (not applicable to Employee Benefits Liability Coverage)

1. Section II - Who Is An Insured is amended to include as an additional insured any person or organization for whom you are performing operations when you and such person or organization have agreed in writing in a contract or agreement that such person or organization be added as an additional insured on your policy and any other person or organization you are required to add as an additional insured under the contract or agreement. Such person or organization is an additional insured only with respect to liability for "bodily injury," "property damage" or "personal and advertising injury" caused, in whole or in part, by:
   a. Your acts or omissions; or
   b. The acts or omissions of those acting on your behalf;

   in the performance of your ongoing operations for the additional insured.

   Except as provided for in the exception to **2.b.** below, a person's or organization's status as an additional insured under this endorsement ends when your operations for that additional insured are completed.

   However, the insurance afforded to such additional insured described above:
   a. only applies to the extent permitted by law; and
   b. will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

2. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

   This insurance does not apply to:

   a. "Bodily injury," "property damage" or "personal and advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:

1) The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or

2) Supervisory, inspection, architectural or engineering activities.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage", or the offense which caused the "personal and advertising injury", involved the rendering of, or failure to render, any professional architectural, engineering or surveying services.

b. "Bodily injury" or "property damage" occurring after:

1) All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or

2) That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

However, exclusion **b.** does not apply when in conflict with the requirements of a written contract or agreement.

3. The most we will pay on behalf of the additional insured is the amount of insurance required by the contract or agreement you have entered into with the additional insured or the amount of insurance available under the applicable Limits of Insurance shown in the Declarations or Change Endorsement, whichever is less. These Limits of Insurance are inclusive and not in addition to the Limits of Insurance shown in the Declarations or Change Endorsement.

B. Additional Insured - Managers or Lessors of Premises - Automatic Status (not applicable to Employee Benefits Liability Coverage)

1. Section **II** - Who Is An Insured is amended to include as an insured any person or organization when you and such person or organization have agreed in writing in a contract or agreement that such person or organization be added as an additional insured on your policy, but only with respect to liability arising out of the ownership, maintenance or use of that part of the premises leased to you and subject to the following additional exclusions:

This insurance does not apply to:

a. Any "occurrence" which takes place after you cease to be a tenant in that premises.

b. Structural alterations, new construction or demolition operations performed by or on behalf of the additional insured.

However, the insurance afforded to such additional insured described above:

a. only applies to the extent permitted by law; and

b. will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

2. The most we will pay on behalf of the additional insured is the amount of insurance required by the contract or agreement you have entered into with the additional insured or the amount of insurance available under the applicable Limits of Insurance shown in the Declarations or Change Endorsement, whichever is less. These Limits of Insurance are inclusive and not in addition to the Limits of Insurance shown in the Declarations or Change Endorsement.

C. Additional Insured – Lessor of Leased Equipment – Automatic Status (not applicable to Employee Benefits Liability Coverage)

1. Section **II** – Who Is An Insured is amended to include as an additional insured any person or organization from whom you lease equipment when you and such a person or organization have agreed in writing in a contract or agreement that such person or organization be added as an additional insured on your policy. Such person or organization is an insured only with respect to liability for "bodily injury," "property damage" or "personal and advertising injury" caused, in whole or in part, by your maintenance, operation or use of equipment leased to you by such person or organization.

However, the insurance afforded to such additional insured described above:

a. only applies to the extent permitted by law; and

b. will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

A person's or organization's status as an additional insured under this endorsement ends when their contract or agreement with you for such leased equipment ends.

2. With respect to the insurance afforded to these additional insureds, this insurance does not apply to any "occurrence" which takes place after the equipment lease expires.
3. The most we will pay on behalf of the additional insured is the amount of insurance required by the contract or agreement you have entered into with the additional insured or the amount of insurance available under the applicable Limits of Insurance shown in the Declarations or Change Endorsement, whichever is less. These Limits of Insurance are inclusive and not in addition to the Limits of Insurance shown in the Declarations or Change Endorsement.

D. Additional Insured - Vendors - Automatic Status (not applicable to Employee Benefits Liability Coverage)

1. Section **II** - Who Is An Insured is amended to include as an insured any person or organization (referred to below as vendor) when you and such person or organization have agreed in writing in a contract or agreement that such person or organization be added as an additional insured on your policy, but only with respect to "bodily injury" or "property damage" arising out of "your products" shown in the Schedule, Declarations or Change Endorsement which are distributed or sold in the regular course of the vendor's business.

   However, the insurance afforded to such additional insured described above:

   a. only applies to the extent permitted by law; and
   b. will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

2. With respect to the insurance afforded to these vendors, the following additional exclusions apply:
   a. "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;
   b. An express warranty unauthorized by you;
   c. Any physical or chemical change in the product made intentionally by the vendor;
   d. Repackaging, except when unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;
   e. Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;
   f. Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;
   g. Products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor; or
   h. "Bodily injury" or "property damage" arising out of the sole negligence of the vendor for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:
      1) The exceptions contained in Sub-paragraphs **d.** or **f.**; or
      2) Such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.
3. This insurance does not apply to any insured person or organization, from whom you have acquired such products, or any ingredient, part or container, entering into, accompanying or containing such products.
4. The most we will pay on behalf of the vendor is the amount of insurance required by the contract or agreement you have entered into with the additional insured or the amount of insurance available under the applicable Limits of Insurance shown in the Declarations or Change Endorsement, whichever is less. These Limits of Insurance are inclusive and not in addition to the Limits of Insurance shown in the Declarations or Change Endorsement.

E. Aggregate Limits Of Insurance (not applicable to Employee Benefits Liability Coverage)

The General Aggregate Limit under SECTION III - LIMITS OF INSURANCE, Paragraph **2.** applies separately to each of your "location(s)" owned by or rented to you or "project(s)" away from "location(s)" owned by or rented to you.

"Location" and/or "project" means premises involving the same or connecting lots, or premises whose connection is interrupted only by a street, roadway, waterway or right-of-way of a railroad.

F. Employee Benefits Liability Coverage

The following is added to SECTION I - COVERAGES:

EMPLOYEE BENEFITS LIABILITY COVERAGE

1. Insuring Agreement

a. We will pay those sums that the insured becomes legally obligated to pay as damages because of any act, error or omission of the insured, or of any other person for whose acts the insured is legally liable, to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages to which this insurance does not apply. We may, at our discretion, investigate any report of an act, error or omission and settle any "claim" or "suit" that may result. But:

1) The amount we will pay for damages is limited as described in SECTION III LIMITS OF INSURANCE for Employee Benefits Liability Coverage and

2) Our right and duty to defend end when we have used up the applicable limit of insurance in the payment of judgments or settlements.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments.

b. This insurance applies to damages only if:

1) The act, error or omission is negligently committed in the "administration" of your "employee benefit program";

2) The act, error or omission is caused by an "occurrence" that takes place in the "coverage territory"; and

3) The act, error or omission occurs during the policy period.

2. Exclusions

This insurance does not apply to:

a. Dishonesty, Fraud Or Criminal Act

Damages arising out of any dishonest, fraudulent, criminal or malicious act or omission, committed by any insured, including the willful or reckless violation of any statute.

b. Bodily Injury, Property Damage, Or Personal And Advertising Injury

"Bodily injury," "property damage" or "personal and advertising injury."

c. Failure To Perform A Contract

Damages arising out of failure of performance of contract by any insurer.

d. Insufficiency Of Funds

Damages arising out of an insufficiency of funds to meet any obligations under any plan included in the "employee benefit program."

e. Inadequacy Of Performance Of Investment/Advice Given To Participate

Any "claim" or "suit" based upon:

1) Failure of any investment to perform;

2) Errors in providing information on past performance of investment vehicles; or

3) Advice given to any person to participate or not to participate in any plan included in the "employee benefit program."

f. Workers Compensation And Similar Laws

Damages arising out of any "claim" related to any workers compensation, unemployment compensation insurance, social security or disability benefits law or any similar law.

g. ERISA

Damages for which the insured is liable because of liability imposed on a fiduciary by the Employee Retirement Income Security Act of 1974, as now or hereafter amended, or any similar federal, state or local laws.

h. Available Benefits

Any "claim" for benefits to the extent that such benefits are available, with reasonable effort and cooperation of the insured, from the applicable funds accrued or other collectible insurance.

i. Taxes, Fines Or Penalties

1) Taxes, fines or penalties, including those imposed under the Internal Revenue Code or any similar state or local law; or
2) Loss or damages arising out of the imposition of such taxes, fines or penalties.

j. Employment-Related Practices

Damages arising out of wrongful termination of employment, discrimination, or other employment-related practices.

3. Supplementary Payments - Coverages A and B

For the purposes of the coverage provided by Employee Benefits Liability Coverage, the SUPPLEMENTARY PAYMENTS - COVERAGES **A** AND **B** apply except for Paragraphs **1.b.** and **2.**

SECTION II - WHO IS AN INSURED, Paragraphs **2.** and **3.** are replaced by the following for Employee Benefits Liability Coverage:

2. Each of the following is also an insured:
   a. Each of your "employees" who is or was authorized to administer your "employee benefit program."
   b. Any persons, organizations or "employees" having proper temporary authorization to administer your "employee benefit program" if you die, but only until your legal representative is appointed.
   c. Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this Endorsement.
3. Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and over which you maintain ownership or majority interest, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:
   a. Coverage under this provision is afforded only until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier.
   b. Coverage under this provision does not apply to any act, error or omission that occurred before you acquired or formed the organization.

SECTION III - LIMITS OF INSURANCE is replaced by the following for the Employee Benefits Liability Coverage:

1) The Limits of Insurance shown below and the rules below fix the most we will pay regardless of the number of:
   a) Insureds;
   b) "Claims" made or "suits" brought;
   c) Persons or organizations making "claims" or bringing "suits";
   d) Acts, error or omissions which result in loss; or
   e) Benefits included in your "employee benefit program."
2) **$2,000,000** is the most we will pay for all damages because of acts, errors or omissions committed in the "administration" of your "employee benefit program."
3) Subject to the above Limit, **$1,000,000** is the most we will pay for all damages sustained by any one "employee," including damages sustained by such "employee's" dependents and beneficiaries, as a result of:

a) An act, error or omission; or

b) A series of acts, errors or omissions

negligently committed in the "administration" of your "employee benefit program."

However, the amount paid under this endorsement shall not exceed, and will be subject to, the limits and restrictions that apply to the payment of benefits in any plan included in the "employee benefit program."

The Limits of Insurance of this endorsement apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations of the policy to which this endorsement is attached, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits Of Insurance.

4. **Deductible**

a. Our obligation to pay damages on behalf of the insured applies only to the amount of damages in excess of **$1,000.** The limits of insurance shall not be reduced by the amount of this deductible.

b. The deductible amount applies to all damages sustained by any one "employee," including such "employee's" dependents and beneficiaries, because of all acts, errors or omissions to which this insurance applies.

c. The terms of this insurance, including those with respect to:

1) Our right and duty to defend any "suits" seeking those damages; and

2) Your duties, and the duties of any other involved insured, in the event of an act, error or omission, "claim" or "suit" apply irrespective of the application of the deductible amount.

d. We may pay any part or all of the deductible amount to effect settlement of any "claim" or "suit" and, upon notification of the action taken, you shall promptly reimburse us for such part of the deductible amount as we have paid.

SECTION IV - CONDITIONS, Paragraphs **2.** and **4.** are replaced by the following for the Employee Benefits Liability Coverage:

2. **Duties In The Event Of An Act, Error Or Omission, "Claim" Or "Suit"**

a. You must see to it that we are notified as soon as practicable of an act, error or omission which may result in a "claim." To the extent possible, notice should include:

1) What the act, error or omission was and when it occurred; and

2) The names and addresses of anyone who may suffer damages as a result of the act, error or omission.

b. If a "claim" is made or "suit" is brought against any insured, you must:

1) Immediately record the specifics of the "claims" or "suit" and the date received; and

2) Notify us as soon as practicable.

You must see to it that we receive written notice of the "claim" or "suit" as soon as practicable.

c. You and any other involved insured must:

1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the "claim" or "suit";

2) Authorize us to obtain records and other information;

3) Cooperate with us in the investigation or settlement of the "claim" or defense against the "suit"; and

4) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of an act, error or omission to which this insurance may also apply.

d. No insured will, except at the insured's own cost, voluntarily make a payment, assume any obligation or incur any expense without our consent.

4. **Other Insurance**

If other valid and collectible insurance is available to the insured for a loss we cover under this endorsement, our obligations are limited as follows:

a. Primary Insurance

This insurance is primary except when **b.** below applies. If this insurance is primary, our obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described in **c.** below.

b. Excess Insurance

Any other primary insurance available to you covering acts, errors or omissions for which you have been added as an additional insured.

When this insurance is excess, we will have no duty to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit." If no other insurer defends, we may undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

1) The total amount that all such other insurance would pay for the loss in absence of this insurance; and

2) The total of all deductible and self-insured amounts under all that other insurance.

We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown.

c. Method Of Sharing

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.
If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limits of insurance of all insurers.

SECTION V - DEFINITIONS is amended by adding the following definitions for Employee Benefits Liability Coverage:

1. "Administration" means:
   a. Providing information to "employees," including their dependents and beneficiaries, with respect to eligibility for or scope of "employee benefit programs";
   b. Handling records in connection with the "employee benefit program"; or
   c. Effecting, continuing or terminating any "employee's" participation in any benefit included in the "employee benefit program."

   However, "administration" does not include handling payroll deductions.
2. "Cafeteria plans" means plans authorized by the applicable law to allow employees to elect to pay for certain benefits with pre-tax dollars.
3. "Claim" means any demand, or "suit," made by an "employee" or an "employee's" dependents and beneficiaries, for damages as the result of an act, error or omission.
4. "Employee benefit program" means a program providing some or all of the following benefits to "employees," whether provided through a "cafeteria plan" or otherwise.
   a. Group life insurance; group accident or health insurance; dental, vision and hearing plans; and flexible spending accounts; provided that no one other than an "employee" may subscribe to such benefits and such benefits are made generally available to those "employees" who satisfy the plan's eligibility requirements;
   b. Profit sharing plans, employee savings plans, employee stock ownership plans, pension plans and stock subscription plans, provided that no one other than an "employee" may subscribe to such benefits and such benefits are made generally available to all "employees" who are eligible for such benefits;
   c. Unemployment insurance, social security benefits, workers compensation and disability benefits;
   d. Vacation plans, including buy and sell programs; leave of absence programs, including military, maternity, family, and civil leave; tuition assistance plans; transportation and health club subsidies.

SECTION V - DEFINITIONS - the definition of "employee" and "suit" is replaced for Employee Benefits Liability Coverage by the following:

"Employee" means a person actively employed, formerly employed, on leave of absence or disabled, or retired. "Employee" includes a "leased worker." "Employee" does not include a "temporary worker."

"Suit" means a civil proceeding in which damages because of an act, error or omission to which this insurance applies are alleged. "Suit" includes:

a. An arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with our consent; or

b. Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent.

G. Fire, Sprinkler Leakage Or Explosion

1. The word "fire" is changed to "fire, sprinkler leakage or explosion" where it appears in:
   a. The Limits of Insurance section of the Declaration:
   b. Paragraph **6.** of SECTION III - LIMITS OF INSURANCE; and
   c. Paragraph **4.b.** of the OTHER INSURANCE condition;
2. Section **9.a.** under SECTION V. - DEFINITIONS is amended to read: a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire, sprinkler leakage or explosion to premises while rented to you or temporarily occupied by you with permission of the owner is not an insured contract.
3. The last paragraph of SECTION I - COVERAGE A (after the exclusions) is replaced by the following: Exclusions **c.** through **n.** do not apply to damage by fire, sprinkler leakage or explosion to premises while rented to you or temporarily occupied by you with permission of the owner. A separate limit of insurance applies to this coverage as described in SECTION III - LIMITS OF INSURANCE.

   But the Limit of Insurance shown in the Declaration will apply to all damage proximately caused by the same event. Whether such damage results from fire, sprinkler leakage or explosion or any combination of the three.
4. The Damage to Premises Rented To You Limit in Paragraph **6.** of SECTION III - LIMITS OF INSURANCE, is replaced by a new Fire, Sprinkler Leakage or Explosion Limit, which will be subject to all of the terms of SECTION III - LIMITS OF INSURANCE. The new Fire, Sprinkler Leakage or Explosion Limit is **$300,000** unless a higher limit is shown on the Declarations or Change Endorsement.

H. Home Builders Amendments

SECTION I - COVERAGES, Coverage A, Exclusion **j.** Damage to Property, is replaced with the following:

"Property damage" to:

1) Property you own, rent, or occupy, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;

2) Premises you give away or abandon, if the "property damage" arises out of any part of those premises;

3) Property loaned to you;

4) Personal property in the care, custody or control of the insured;

5) That particular part of real property on which you or any contractors or subcontractors working directly or indirectly on your behalf are performing operations, if the "property damage" arises out of those operations; or

6) Property that you rent or hold for rental which must be restored, repaired, or replaced because of "your work".

Paragraph **(1)** of this exclusion does not apply to property you rent or occupy if that property is "your work" and not owned by you.

Paragraphs **(1)**, **(3)** and **(4)** of this exclusion do not apply to "property damage" (other than damage by fire) to premises, including the contents of such premises, rented to you for a period of seven or fewer consecutive days. A separate limit of insurance applies to Damage to Premises Rented to You as described in SECTION III - LIMITS OF INSURANCE.

Paragraphs **(3)**, **(4)**, **(5)** and **(6)** of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraph **(6)** of this exclusion does not apply to "property damage" included in the "products-completed operations hazard".

SECTION I - COVERAGES, Coverage A, Exclusion **I.** Damage to Your Work, is replaced with the following:

1. Damage to Your Work

"Property damage" to "your work" arising out of it or any part of it and included in the "products-completed operations hazard."

This exclusion does not apply if the damaged work or the work out of which the damage arises was performed on your behalf by a subcontractor.

This exclusion only applies to that particular part of "your work" that causes the "property damage."

I. Include Directors Or Trustees On Committees As Employees (not applicable to Employee BenefitsLiability Coverage)

SECTION V - DEFINITIONS is amended by the addition of the following to definition **5.**:

"Employee" also includes any of your directors or trustees acting as a member of any of your elected or appointed committees to perform on your behalf specific, as distinguished from general, directorial acts.

J. Limited Fungi Or Bacteria, Silica Or Silica-Related Dust And Exterior Insulation And Finish Systems Coverage:

1. Coverage provided by this insurance for "bodily injury" or "property damage," arising out of a "fungi" or bacteria, "silica" or "silica-related dust" or an "exterior insulation and finish system" incident, is subject to a **$100,000** Aggregate Limit as described in Paragraph 2. of this section. This provision **1.** does not apply to any "fungi" or bacteria that are, are on, or are contained in, a good or product intended for bodily consumption.

2. The following are added to SECTION III - LIMITS OF INSURANCE:

A. Subject to Paragraphs **2.** and **3.** of SECTION III - LIMITS OF INSURANCE, as applicable, the Fungi or Bacteria, Silica or Silica-Related Dust, and Exterior Insulation and Finish Systems Liability Aggregate Limit is the most we will pay under Coverage A for all "bodily injury" or "property damage" and Coverage **C.** for Medical Payments arising out of one or more "fungi" or bacteria, "silica" or "silica-related dust" or "exterior insulation and finish system" incidents. This provision **B.1.** does not apply to any "fungi" or bacteria that are, are on, or are contained in, a good or product intended for bodily consumption.

B. Paragraph **5.**, the Each Occurrence Limit, Paragraph **6.**, the Damage To Premises Rented To You Limit, and Paragraph **7.**, the Medical Expense Limit, of SECTION III - LIMITS OF INSURANCE continue to apply to "bodily injury" or "property damage" arising out of a "fungi" or bacteria, "silica" or "silica-related dust" or an "exterior insulation and finish system incident" but only if, and to the extent that, limits are available under the Fungi or Bacteria, Silica or Silica-Related Dust and Exterior Insulation and Finish Systems Liability Aggregate Limit.

3. The following exclusion is added to Paragraph **2.**, Exclusions of SECTION I - COVERAGE B - PERSONAL AND ADVERTISING INJURY LIABILITY:

2. Exclusions

This insurance does not apply to:

a. "Personal and Advertising Injury" arising, in whole or in part, out of the actual, alleged, threatened or suspected inhalation of, ingestion of, contact with, exposure to, existence of, or presence of, "silica" or "silica-related dust."

b. "Personal and Advertising Injury" arising out of a "fungi or bacteria incident."

c. "Personal and Advertising Injury" arising out of, caused by, or attributed to, whether in whole or in part, the following:

1) The design, manufacture, construction, fabrication, preparation, distribution and sale, installation, application, maintenance or repair, including remodeling, service, correction or replacement, of any "exterior insulation and finish system" or any part thereof, or any substantially similar system or any part thereof, including the application or use of conditioners, primers, accessories, flashings, coatings, caulking or sealants in connection with such a system; or

2) "Your product" or "your work" with respect to any exterior component, fixture or feature of any structure if an "exterior insulation and finish system," or any substantially similar system, is used on the part of that structure containing that component, fixture or feature.

d. Any loss, cost or expense arising, in whole or in part, out of the abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediating or disposing of, or in any way responding to or assessing the effects of "fungi" or bacteria, "silica" or "silica-related dust," or "exterior insulation and finish system" by any insured or by any other person or entity.

4. The following definitions are added to the Definitions Section:

a. "Exterior insulation and finish system" means a non-load bearing exterior cladding or finish system, and all component parts therein, used on any part of any structure, and consisting of:

1) A rigid or semi-rigid insulation board made of expanded polystyrene and other materials;

2) The adhesive and/or mechanical fasteners used to attach the insulation board to the substrate;

3) A reinforced or unreinforced base coat;

4) A finish coat providing surface texture to which color may be added; and

5) Any flashing, caulking or sealant used with the system for any purpose.

b. "Fungi" means any type or form of fungus, including mold or mildew and any mycotoxins, spores, scents or byproducts produced or released by fungi.

c. "Fungi or bacteria incident" means an incident which would not have occurred, in whole or in part, but for the actual, alleged or threatened inhalation of, ingestion of, contact with, exposure to, existence of, or presence of, any "fungi" or bacteria on or within a building or structure, including its contents, regardless of whether any other cause, event, material or product contributed concurrently or in any sequence to such injury or damage.

d. "Silica" means silicon dioxide (occurring in crystalline, amorphous and impure forms), silica particles, silica dust or silica compounds.

e. "Silica-related dust" means a mixture or combination of silica and other dust or particles.

K. Newly Formed Or Acquired Organizations (not applicable to Employee Benefits Liability Coverage)

SECTION II - WHO IS AN INSURED is amended to include any organization you newly acquire or form, other than a partnership or joint venture, and over which you maintain ownership or majority interest, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:

1. Coverage under this provision is afforded only until 180 days after you acquire or form the organization or the end of the policy period, whichever is earlier.

2. Coverage A does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and

3. Coverage B does not apply to "personal injury and advertising injury" arising out of an offense committed before you acquired or formed the organization.

L. Non-Owned Watercraft And Non-Owned Aircraft Liability

SECTION I - COVERAGE A, exclusion **2.g.** is replaced by the following:

g. "Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft owned or operated by or rented or loaned to any insured. Use includes operation and "loading or unloading." This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage" involved the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft that is owned or operated by or rented or loaned to any insured.

This exclusion does not apply to:

1) A watercraft while ashore on premises you own or rent;

2) A watercraft you do not own that is:

   a) Less than 60 feet long; and

   b) Not being used to carry persons or property for a charge;

3) Parking an "auto" on, or on the ways next to, premises you own or rent, provided the "auto" is not owned by or rented or loaned to you or the insured;

4) Liability assumed under any "insured contract" for the ownership, maintenance or use of aircraft or watercraft; or

5) "Bodily injury" or "property damage" arising out of:

   a) The operation of machinery or equipment that is attached to, or part of, a land vehicle that would qualify under the definition of "mobile equipment" if it were not subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged; or

   b) The operation of any of the machinery or equipment listed in paragraph f.2) or f.3) of the definition of "mobile equipment."

6) An aircraft you do not own provided it is not operated by any insured.

M. Notice Of Occurrence, Knowledge Of Occurrence, Unintentional Omission

The following is added to SECTION IV. - COMMERCIAL GENERAL LIABILITY, CONDITION 2, DUTIES IN THE EVENT OF OCCURRENCE, OFFENSE, CLAIM OR SUIT:

e. Notice of Accident/Occurrence

When you report to your Workers Compensation carrier the occurrence of any accident which later develops into a liability claim covered under this policy, failure to report the accident to us at the time of occurrence is not in violation of the Conditions of this policy. However, as soon as you are definitely made aware of the fact that the particular accident is a liability claim rather than a Workers Compensation claim prompt notification must be given to us.

f. Unintentional Errors and Omissions

The insurance afforded by this policy is not invalidated by any unintentional errors, omissions or improper description of premises or your unintentional failure to disclose all hazards existing at inception date of the policy.

g. Knowledge of Accident/Occurrence

Knowledge of an accident/occurrence by your agent, servant or employee is not knowledge by you unless an executive officer of your Corporation received such notice from its agent, servant or employee.

N. Pollution Coverage For Upset Of Mobile Equipment

The Insuring Agreement for "property damage" liability with respect to your operations is extended as follows:

1. We will pay those sums which you become legally obligated to pay for "property damage" caused directly by immediate, abrupt and accidental upset, overturn or collision of your "mobile equipment" while transporting "pollutants" which are intended for and normally used in your operations. The operations must be in compliance with local, state, and federal ordinances and laws.

2. **EXCLUSIONS**

   a. With regard only to the coverage provided by this extension L., SECTION I - COVERAGES, COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY, **2.** Exclusions, **f.** is deleted and replaced by the following for this extension only:

   f. Pollution

   Any loss, cost or expense arising out of any:

   1) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or

   2) Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of "pollutants."

3) Premises, site or location which is or was at any time owned, rented or loaned to any insured.

O. Reasonable Force Expansion - Property Damage

Exclusion **2.a.** of SECTION I - Coverage A is replaced with the following:

a. Expected Or Intended Injury

"Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" or "property damage" resulting from the use of reasonable force to protect persons or property.

P. Supplementary Payments - Higher Limits

Under SECTION I - SUPPLEMENTARY PAYMENTS - COVERAGES A AND B:

Paragraph **1.b.** is replaced by the following:

Up to **$2,000** for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.

Paragraph **1.d.** is replaced by the following:

All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit," including actual loss of earnings up to **$400** a day because of time off from work.

Q. Voluntary Property Damage

1. We will pay, at your request, for loss due to "Property Damage" to property of others caused by you, or while in your possession, arising out of your business operations.
2. "Loss" means unintentional damage or destruction but does not include disappearance, theft, or loss of use.
3. Limits of Insurance - The most we will pay for "loss" under the Voluntary Property Damage is **$2,500** for each "occurrence." The most we will pay for the sum of all damages because of "Property Damage" is an annual policy aggregate limit of **$25,000.**
4. Deductible - We will not pay for "loss" in any one "occurrence" until the amount of "loss" exceeds **$250.**

   We may pay any part or all of the deductible amount to effect settlement of any "claim" or "suit" and, upon notification of the action taken, you shall promptly reimburse us for such part of the deductible amount as we have paid.
5. The insurance under the Voluntary Property Damage shall not apply:
   a. To "loss" of property at premises owned, rented, leased, operated, or used by you;
   b. To "loss" of property while in transit;
   c. To "loss" of property owned by, rented to, leased to, borrowed by or used by you;
   d. To the cost of repairing or replacing (1) any work defectively or incorrectly done, (2) any product manufactured, sold or supplied by you, unless the "Property Damage" is caused directly by you after delivery of the product or completion of the work and resulting from a subsequent undertaking;
   e. To "loss" of property included within the "Products/Completed Operations Hazard";
   f. To "loss" of property which is an "auto" or "mobile equipment."
   g. To "loss" of property caused by "pollutants."
6. In the event of "loss" covered by this endorsement, you shall, if requested by us, replace the property or furnish the labor and materials necessary for repairs thereto at your actual cost, excluding profit or overhead charges.

R. Waiver Of Transfer Of Rights Of Recovery Against Others To Us

The TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US, SECTION **IV** CONDITION **8.**, is amended by the addition of the following:

We waive any right of recovery we may have against any person or organization because of payments we

make for injury or damage arising out of your ongoing operations or "your work" done under a contract with that person or organization and included in the "products-completed operations hazard." This waiver applies only to the person or organization which, before the loss, you have agreed in writing to waive your right of recovery.

S. **Additional Commercial General Liability Conditions**

1. **Other Insurance**

The following is added to SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS, Item **4.** OTHER INSURANCE:

When this Home Builders Plus endorsement provides coverage and such coverage is also provided by any other provision of this policy:

a. There shall be no duplication of the Limits of Insurance.

b. Any loss payment made under such other provisions shall reduce by such loss payments the Limits of Insurance available under the Home Builders Plus endorsement.

2. **Liberalization**

SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS is amended by addinng LIBERALIZATION

If we adopt a change in our Commercial General Liability Coverage forms or rules that would broaden the coverage without extra charge, the broader coverage will apply to this Endorsement. It will apply when the change becomes effective in your state.

T. **Lost Key Coverage**

1. SECTION I - COVERAGES

COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY

Exclusion **2.j.4)** Personal property in the care, custody or control of the insured is amended to add:

However, coverage for property of others in the care, custody or control of the insured is provided forthe loss of keys which are in the possession of the insured or his "employees" subject to the following additional provisions:

a. The insurance afforded with respect to Lost Key Coverage shall not apply to "property damage" caused by misappropriation, secretion, conversion, infidelity or any dishonest act on the part of any insured or his employees or agents;

b. Our liability for all damages because of "property damage" to which this coverage applies shall be limited to the actual cost of keys, adjustment of locks to accept new keys or, if required, new locks including cost of their installation. Subject to such limitation, our total liability for all damages as the result of any one occurrence shall not exceed $25,000. Each claim is subject to a $250 deductible.

2. SECTION II - WHO IS AN INSURED

The following is added to item **2.a.2)b):**

However, coverage is provided for the loss of keys which are in the possession of the insured or his "employees," subject to the following additional provisions:

a. The insurance afforded with respect to Lost Key Coverage shall not apply to "property damage" caused by misappropriation, secretion, conversion, infidelity or any dishonest act on the part of any insured or his "employees" or agents;

b. Our liability for all damages because of "property damage" to which this coverage applies shall be limited to the actual cost of keys, adjustment of locks to accept new keys or, if required, new locks including cost of their installation. Subject to such limitation, our total liability for all damages as the result of any one occurrence shall not exceed $25,000. Each claim is subject to a $250 deductible.

City of Santa Fe

Treasury Department
200 Lincoln Ave.
Santa Fe, New Mexico 87504-0909
505-955-6551

BUSINESS REGISTRATION

Business Name: HOMEWISE
DBA: HOMEWISE

Business Location: 1301 SILER RD D
SANTA FE, NM 87501

CRS Number: C20623770001

Owner: HOMEWISE

Licence Number: 223754

License Type: Business License - Renewable

Issued Date: March 16, 2020

Classification: Business Registration - Standard

Expiration Date: December 31, 2020

Fee Paid: 115.00

HOMEWISE
1301 SILER RD D
SANTA FE, NM 87505

THIS IS NOT A CONSTRUCTION PERMIT

THIS BUSINESS LICENSE IS NOT TRANSFERABLE

TO BE POSTED IN A CONSPICUOUS PLACE

Scanned with CamScanner

CITY OF SANTA FE

COMMUNITY DEVELOPMENT BLOCK GRANT CONTRACT

THIS CONTRACT is made and entered into this _____ day of _____ _____, 2020 by and between the City of Santa Fe, a municipal corporation, (the "City") and Santa Fe Community Housing Trust (the "Subrecipient").

RECITALS

1. The Subrecipient has applied for and received funds from the United States Government under Title 1 of the Housing and Community Development Act of 1974, Public Law 93-383.

2. The City desires to engage the Subrecipient to render certain services to the City and its citizens.

3. The Subrecipient further certifies that it is willing and able to perform these services and that said services to be performed are within the Subrecipient's legal powers and capabilities.

4. The City desires to engage the Subrecipient to render these certain services in connection therewith as more particularly set forth hereafter.

AGREEMENTS

NOW, THEREFORE, the parties hereto mutually agree as follows:

I. SCOPE OF SERVICES

The Subrecipient agrees to utilize CDBG funds for projects that serve low to moderate-income residents within the Santa Fe City limits based on current HUD Area Median Income data for Santa Fe as follows:

A. Provide mortgage principal reduction assistance for a minimum of twelve (12) households at or below 80% AMI. Assistance will be capped at $20,000 per household.

B. Contractor will report to the City on a quarterly basis the use of funds, program outcomes achieved, AMI% of assisted households, size of household, addresses of assisted homes, and other demographic information as required by the City's CDBG quarterly reporting form.

II. NATIONAL OBJECTIVES

The Subrecipient certifies that the service carried out with funds provided under this Contract will meet one or more of the Community Development Block Grant (hereinafter "CDBG") Program's National Objectives:

A. Benefit low/moderate income persons.

B. Benefit extremely low income persons.

C. Benefit homeless and elderly persons.

III. PERFORMANCE MONITORING

The City shall monitor the performance of the Subrecipient against goals and levels of accomplishment as stated above. Substandard performance as determined by the City will constitute noncompliance with this Contract. If action to correct such substandard performance is not taken by the Subrecipient within a reasonable period of time after being notified by the Grantee, contract suspension or termination procedures

will be initiated.

IV. WORK PLAN AND REPORTING

A. Work Plan: The Subrecipient shall provide the City, within sixty (60) days from signing this Agreement, a revised work plan outlining the major tasks or activities, the measurable objectives for each task or activity, and the time frames to be taken by the Subrecipient in the performance of this Agreement. Included in this report should be information regarding how much funding was leveraged during the program year and from which sources.

B. Annual Budget: All project activities will be in accordance with the attached budget and work plan (Exhibit A) per 24 CFR 570.503(b)(1).

C. Invoicing: The Subrecipient shall submit to the City quarterly reports in order to receive reimbursement for these services. Quarterly reports must be filed no later than the 15th calendar day for the preceding month. A fund requisition with documentation in support of each budgetary category will be submitted. This documentation must include the original or a certified copy or copies of invoices, vouchers, statements, etc. All costs chargeable to the City must be in accordance with budgetary and other restrictions of expenses established by this Contract. Funds for reimbursement can be disbursed on any Friday of each month during the contract period. In order for the City to meet this deadline, the Subrecipient is required to submit its request for reimbursement by Monday, 5:00 p.m., in order to receive payment by the following Friday. The Subrecipient shall submit a Final Project Report assessing the comparison of results achieved in relation to stated goals and objectives in the Scope of Services approved by the City. This report is due to the Office of Affordable Housing fifteen (15) days after the completion of the Contract.

D. Final Payment: Since all payments under this Contract shall be quarterly on a cost reimbursement basis, the City shall be entitled to withhold the final ten percent (10%) due hereunder, pending final approval by the City of the services rendered. Upon receipt and acceptance of a final project report prior to the final payment, the Subrecipient shall furnish the City proof in documentary form that all claims, liens, salaries or other obligations incurred by it in accordance with the services specified herein, have been properly paid and released.

E. Program Monitoring and Financial Audits: At such time and in such form as the City may require there shall be furnished to the City such statements, records, reports, data and information as the City may request pertaining to matters covered by this Contract. Furthermore, at any time during normal business hours and as often as the City may deem necessary, there shall be made available to the City or its designee for examination, all records maintained by the Subrecipient with respect to all matters covered by this Contract; and, the Subrecipient will permit the City to audit, examine and make excerpts or transcripts from such records, and make audits of all contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all matters covered by this Contract subject to the limitations set out above. Any Subrecipient receiving City CDBG funds in excess of fifteen thousand dollars ($15,000) or any combination of public (City, State, or Federal) monies in excess of twenty-five thousand dollars ($25,000) shall perform a final audit on all funds received from all sources for the program no later than ninety (90) days after completion of the sub-recipient's fiscal year, and shall furnish the City with said audit. This audit shall be performed by an independent agency. Any Subrecipient receiving a sum of less than fifteen thousand dollars ($15,000) in City CDBG funds must submit an audited financial

statement on all funds received from all sources for the program after completion of the sub-recipient's fiscal year, and shall furnish the City with said financial statements.

V. STATUS OF CONTRACTOR

The Subrecipient, and its agents and employees, are independent contractors performing professional services for the City and are not employees of the City. The Subrecipient, 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 Contract.

VI. COMPENSATION

A. The City shall pay to the Contractor in full payment for services satisfactorily performed, such compensation shall not exceed one hundred fifty thousand dollars ($150,000). **The total amount payable to the Contractor under this Agreement, including gross receipts tax and expenses, shall not exceed ($150,000). 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.**

B. Invoice must include documentation of staff costs incurred, including time sheets or payroll reports showing amount of staff time paid by CDBG funds.

C. 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. All invoices MUST BE received by the City no later than thirty 30) days after the termination of the Fiscal Year in which the services were delivered. Invoices received after such date WILL NOT BE PAID.

VII. TERM

THIS AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED BY THE CITY. This Agreement shall terminate on **June 30, 2021** unless terminated pursuant to paragraph 4 (Termination), or paragraph 5 (Appropriations). In accordance with Section 13-1-150 NMSA 1978, no contract term for a professional services contract, including extensions and renewals, shall exceed four years, except as set forth in Section 13-1-150 NMSA 1978.

VIII. ADDITIONAL CONTRIBUTIONS

The Subrecipient may use the funds of the City granted herein to obtain Federal, State or other grants to carry out the Scope of Services herein.

A. Program Income: Program income received may be retained by the Subrecipient, but may be used only for support of the programs detailed in the Scope of Services section of this Contract. Program income on hand at the time of completion of the Contract period shall continue to be subject to the eligibility requirements and other applicable provisions of 24 CFR 570.504, Program Income of the Administrative Regulations of the CDBG program.

IX. APPROPRIATIONS

The terms of this Contract are contingent upon sufficient appropriations and authorization made by the City for the performance of this Contract. If sufficient appropriations and authorizations are not made by the City, this Contract shall terminate upon written notice being given by the City to the Subrecipient. The City's decision as to whether sufficient appropriations are available shall be accepted by the Subrecipient and shall be final.

X. FISCAL AGENT

The New Mexico Community Foundation will act as Coming Home's Fiscal Agent and will defend, indemnify and hold harmless the City from any and all liability, costs and expenses whatsoever for expenditure of funds pursuant to the Scope of Services of this Contract.

XI. BUDGET REVISIONS The Subrecipient will inform the City of any "line item" revisions to the attached budget, within the maximum compensation shown in this Agreement and will obtain the City's prior written approval of any change that represents at least 25 percent or more of the line item amount per the latest approved budget. Any budget revisions must be eligible expenditures under this Agreement and Title I of the Community Development Act.

XII. ELIGIBLE AND INELIGIBLE COSTS

A. Criteria. This section provides criteria for the determination of whether costs are eligible or ineligible for funding under this Contract. Costs incurred, which are determined by the City to be ineligible under these criteria, may not be charged to this Contract.

B. Standards. All costs incurred must be reasonable and of a nature which

clearly relates to the specific purposes and end product of the contract under which the services are being performed. Care must be exercised by all concerned in incurring costs to assure that expenditures conform to these general standards, including 2 CFR Part 200, and the following criteria for eligible costs.

C. Eligible Costs. To be eligible for inclusion, the cost must:

(1) Be necessary and reasonable for proper and efficient execution of the contractual requirements and in accordance with an approved budget.

(2) Be in conformance with any limitations, exclusions and provisions pursuant to this Contract, State and Local Laws, or other governing limitations.

(3) Be accorded consistent treatment through application of accounting policy and procedures approved and/or prescribed.

(4) Be net after allowance of all applicable credits such as purchase discounts, rebates or allowances, sales or publication of materials, or other income or refunds.

(5) Be in accordance with budgetary or other restrictions on expenses established by the City.

(6) Be fully documented.

(7) The Subrecipient shall reimburse the City any costs and expenses declared ineligible by the City which may have been reimbursed erroneously to the Subrecipient by the City under whatever conditions.

D. Ineligible Costs. Ineligible costs shall be as follows:

(1) Accounting. Costs of maintaining central accounting records necessary for overall local government purposes, such as appropriation of fund accounts by the Treasurer, or similar officials, are considered general expenses of the Subrecipient

and are ineligible costs. However, the cost of establishing and maintaining accounting or other information systems required for the management of the program are eligible costs including costs incurred by central services agencies for these purposes.

(2) Bad Debts. Any losses arising from uncollectible accounts and other claims, and related costs.

(3) Budget. Costs of a central budget office, except the costs of employees in the central budget office of the Subrecipient directly involved in the program as set forth in the Scope of Services, hereto, and clearly identifiable. However, costs incurred for the development, preparation, presentation, and execution of program and project budgets performed by the Subrecipient are eligible costs.

(4) Contingencies. Contribution to a contingency reserve or any similar provision for unforeseen events.

(5) Contributions and Donations. Political, charitable and fundraising solicitations, payments, gifts and expenses.

(6) Entertainment. Costs of amusements, social activities, and incidental costs, such as meals, beverages, lodgings, and gratuities, relating to entertainment.

(7) Board Expenses. The salary and expenses if any, of the Chairman of the Board of the Subrecipient are considered a cost of the Subrecipient and are not eligible costs in any way to this Contract.

(8) Fines and Penalties. Costs resulting from violations of or failure to comply with federal, state and local laws and regulations.

(9) Interest and other Financial Costs. Interest on borrowing (however represented); bond discounts, cost of financing and refinancing operations and legal and

professional fees paid in connection therewith.

(10) Legal Fees. Costs for legal advice or work are ineligible, except those required directly for the administration of the program, which are eligible.

(11) Legislative Expenses. Costs for lobbying or testimony before the legislature or any of its committees, whether incurred for the purposes of legislation or executive direction, are not eligible.

(12) Membership Expenses. Cost of membership in any organization is ineligible.

(13) Travel. Costs in excess of those allowed by the City for its employees are ineligible.

(14) Meeting Attendance. Costs of attending meetings which are not included in the budget are ineligible.

(15) Expenses Related to Fundraising. Cost of postage, printing or external subcontracting for grant writers or development specialists.

XIII. SPECIAL PROVISIONS

A. The Subrecipient realizes that the availability of funds for the activity covered by the "Scope of Services," herein and for performance of this Agreement, depend solely on the provisions of said funds by HUD, such provisions being contingent on the City's approval of these activities as eligible under the Housing and Community Development Act of 1974, the National Affordable Housing Act of 1990 and other pertinent federal regulations. However, the City shall notify the Subrecipient in writing within five days of receipt by the City of any determination by HUD to terminate CDBG funding.

B. In the event the Subrecipient or its organization is dissolved or discontinues

making loans as provided herein, or this Agreement is not renewed after it expires, the Subrecipient shall upon such dissolution, discontinuation or within sixty (60) days after expiration of this Agreement if its renewal has not in the meantime been executed:

(1) Return to the City all unexpended Community Development Block Grant funds received from the City and CDBG program income in the possession of the Subrecipient that have not been already obligated through contracts.

(2) Assign and transfer to the City the equity on all outstanding loans and mortgages which have been provided by the Subrecipient from Community Development grant funds and related program income under this and previous agreements. The Subrecipient shall provide the City with a listing of the borrowers and outstanding amounts, together with up-to-date records of principal and interest payments and balances of the accounts of said borrowers.

XIV. CONFLICT OF INTEREST

The Subrecipient agrees to abide by the provision of 2 CFR Part 200 and 570.611, which include (but are not limited to) the following:

A. Interest of Members of City: No officer, employee, or agent of the City who exercises any functions or responsibilities in connection with the planning and carrying out any of the provisions of this Contract, or any other person who exercises any functions or responsibilities in connection with any of the provisions of the Contract, shall have any personal financial interest, direct or indirect, in this Contract; and the Subrecipient shall take appropriate steps to assure compliance.

B. Interest of Subrecipient and Employees: The Subrecipient shall not allow any person who presently exercises any functions or responsibilities in connection with

the provisions of this Contract, to have personal financial interests, direct or indirect, in this Contract. The Subrecipient further shall not allow in the performance of this Contract any person having any conflicting interest to be employed by the Subrecipient. Any interest on the part of the Subrecipient or its employees must be disclosed to the City. Provided, however, that this paragraph shall be interpreted in such a manner so as not to unreasonably impede the requirement that maximum opportunity for employment of area residents and resident participation shall be of primary concern to the Subrecipient.

Should the subrecipient discover a potential conflict of interest, the subrecipient shall immediately disclose in writing to the City and specifically ask for guidance on how to resolve the conflict and prior to any act in furtherance of the conflict. The disclosure shall include a description of the nature of the conflict; the name, position, phone number and address of the person with the conflict; the date of the notification; and requested action to address the conflict. Disclosures of real, apparent or perceived conflicts of interest shall be made to the City and the City must agree in writing to a proper course of subsequent action prior to the disbursement of CDBG funds.

C. Certification:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the State, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of a Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid

or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the State shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.

XV. DISCRIMINATION PROHIBITED

A. In all hiring or employment made possible by or resulting from this Contract, there (1) will not be any discrimination against any employee or applicant for employment because of race, color, age, religion, sex, sexual orientation, national origin, and physical or mental disability; and (2) affirmative action will be taken to ensure that qualified applicants are employed, and that employees are treated during employment without regard to their race, color, age, religion, sex, sexual orientation, national origin, and physical or mental disability. This requirement shall apply, without limitation, to the following: employment, upgrading, demotion or transfer, recruitment advertising, layoff or termination, and selection for training, including apprenticeship. There shall be posted in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this clause. All solicitations or advertisements for employees shall state that all qualified applicants will receive consideration for employment without regard to race, color, age, religion, sex, sexual orientation, national origin, and physical or mental disability.

B. No person in the United States shall, on account of race, color, age, religion, sex, sexual orientation, national origin, and physical or mental disability, be excluded from participating in, denied the benefits of, or subjected to discrimination under

this Contract or activity made possible by or resulting from the Contract.

C. Subrecipient will abide by all requirements of the Americans with Disabilities Act. Subrecipient shall be kept informed of employee discrimination prevention requirements and program and facility accessibility standards.

XVI. WOMEN- AND MINORITY- OWNED BUSINESSES (W/MBE)

The Subrecipient will use its best efforts to afford small businesses, minority business enterprises, and women's business enterprises the maximum practicable opportunity to participate in the performance of this contract. As used in this contract, the terms "small business" means a business that meets the criteria set forth in section 3(a) of the Small Business Act, as amended (15USC 632), and "minority and women's business enterprise" means a business at least fifty-one (51) percent owned and controlled by minority group members or women. For the purpose of this definition, "minority group members" are Afro-Americans, Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian-Americans, and American Indians. The Subrecipient may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

XVII. POLITICAL ACTIVITY PROHIBITED

None of the funds, materials, property or services provided for directly or indirectly under this Contract shall be used in the performance of this Contract for any political activity prohibited by Federal, State or local law.

XVIII. CONFIDENTIALITY

Any confidential information provided to or developed by the Subrecipient in the performance of this Contract shall be kept confidential and shall not be made available to any individual or organization by the Subrecipient without the prior written approval of the

City.

XIX. REPRESENTATIONS IN SUBMITTALS

The City has relied on all representations in the Subrecipient's submittals in awarding this Agreement and the Subrecipient warrants the accuracy of all representations. Misrepresentations in the submittals will be cause for termination of this Agreement.

XX. AMENDMENT

This Contract shall not be altered, changed or amended except by amendment in writing executed by the parties hereto.

XXI. NOTICES AND ADDRESSES

Any notices required to be given under this agreement shall be in writing and served by personal delivery or by mail, postage prepaid, to the parties at the following addresses:

For the City, notices may be sent to:

City of Santa Fe
Office of Affordable Housing
P.O. Box 909
Santa Fe, New Mexico 87504-0909

For the Subrecipient, notices may

Housing Trust
1111 Agua Fria
Santa Fe, NM 87501

XXII. ASSIGNABILITY

The Subrecipient shall not assign any interest in this Contract and shall not transfer any interest in the same (whether by assignment or otherwise) without the prior written consent of the City.

XXIIII. WARRANTY OF AUTHORITY

The Subrecipient warrants that it has full corporate and other authority, under its

articles of corporation, bylaws, resolutions, other pertinent corporate documents, instruments, and agreements, and otherwise to enter into this agreement, to bind itself under this agreement, and to perform this Agreement in accordance with the terms and provisions of this Agreement.

XXIV. BINDING EFFECT

This Agreement is binding upon and inures to the benefit of the successors, successors-in interest, assigns and transferees of the City and the Subrecipient.

XXV. SEVERABILITY

In case any one or more of the provisions contained in this Agreement or any application thereof shall be invalid, illegal or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions contained herein and any other application thereof shall not in any way be affected or impaired thereby.

XXVI. DISPOSITION OF PROPERTY

A. All non-expendable property acquired by the Subrecipient pursuant to this Contract shall be recorded in the property records of the City prior to reimbursement to the Subrecipient for expenses incurred in order to acquire said property. For purposes of this Contract, the term "non-expendable property" means items of tangible, personal property that are non-perishable such as equipment, software, and furniture. The use and disposition of real property and equipment under this Contract shall be in compliance with the requirements of 24 CFR Part 84 and 24 CFR 570.502, 570.503, and 570.504, as applicable.

B. Subrecipient shall be accountable for all recorded non-expendable property which is recorded as City property for a period of five years as established by the City.

C. All non-expendable property acquired pursuant to this Contract shall remain

in the possession of and shall be used only by the Subrecipient, provided that said property continues to be used for the same purposes and in the same manner as originally intended.

D. If the Subrecipient cannot continue to effectively use recorded non-expendable property for the same purposes and in the same manner as originally intended and described in this Contract, all such non-expendable property shall remain in the possession of, and shall be used by the Subrecipient for similar purposes and in a similar manner as initially used; provided, however, that conversion of said property to a similar use in another similar program must first receive the express written consent of the City.

E. If the Subrecipient can neither continue to effectively use recorded non-expendable property for the same purposes and in the same manner originally intended nor continue to effectively use said property for the same or similar purposes and in a similar manner as permitted by this Contract, the City may provide for the disposition of said property wholly and entirely at the City's discretion.

F. The City may, in writing, waive and relinquish all claims the City may have in and to recorded non-expendable property.

G. When the Subrecipient's period of accountability for any non-expendable property expires, said property shall revert to the City unless otherwise provided for in a written agreement between the Subrecipient and the City. Assets on hand at the expiration of the Contract in excess of twenty-five thousand dollars ($25,000) shall be disbursed in accordance with reversion of assets of 24 CFR 570.503 Agreements with Subrecipients of the CDBG regulation; or

(i) The Subrecipient shall pay to the City an amount equal to the current

market value of the property less any portion of the value attributable to the expenditures of non-CDBG funds for the acquisition of, or improvement to, the property. The payment is program income to the City. (No payment is required after the period of time specified in 24 CFR 570.503(b)(7)(i).

XXVII. COMPLIANCE WITH LOCAL LAW

The Subrecipient shall comply at its own cost with all applicable laws, ordinances and codes of the State and the City.

XXVIII. THIRD PARTY BENEFICIARIES

By entering into this Contract, the parties do not intend to create any right, title or interest in or for the benefit of any person other than the City and the Subrecipient. No person shall claim any right, title or interest under this Contract or seek to enforce this Contract as a third party beneficiary of this Contract.

XXIX. JURISDICTION CLAUSE

This Contract shall be performed in Santa Fe, New Mexico. Any legal action or cause of action arising in connection herewith shall be within the jurisdiction and venue of the appropriate court in Santa Fe, New Mexico, for all purposes.

XXX. SUSPENSION AND TERMINATION

A. This Contract 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. By such termination, neither party may nullify obligations already incurred for performance or failure to perform prior to the date of termination. In addition, the City may terminate this agreement for convenience in accordance with 2 CFR Part 200.

B. The City may enforce remedies for noncompliance in accordance with 2 CFR Part 200. The City may also suspend or terminate this Contract, in whole or in part,

if the Subrecipient materially fails to comply with any term of this Contract, or with any of the rules, regulations or provisions referred to herein; and the City may declare the Subrecipient ineligible for any further participation in the City's contracts, in addition to other remedies as provided by law. In the event there is probable cause to believe the Subrecipient is not in compliance with any applicable rules or regulations, the City may withhold up to fifteen percent (15%) of said contract funds until such time as the Subrecipient is found to be in compliance by the City, or is otherwise adjudicated to be in compliance.

XXXI 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.

XXXII. 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.

A. Commercial General Liability insurance shall be written on an occurrence basis and be a broad as ISO Form CG 00 01 with limits not less than $2,000,000 per occurrence and $2,000,000 in the aggregate for claims against bodily injury, personal and advertising injury, and property damage. Said policy shall include broad form Contractual Liability coverage and be endorsed to name the City of Santa Fe their officials, officers, employees, and agents as additional insured.

B. Business Automobile Liability insurance for all owned, non-owned automobiles, with a combined single limit not less than $1,000,000 per accident.

C. Broader Coverage and Limits. The insurance requirements under this Agreement shall be the greater of (1) the minimum coverage and limits specified in this Agreement, or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the Named Insured. It is agreed that these insurance requirements shall not in any way act to reduce coverage that is broader or that includes higher limits than the minimums required herein. No representation is made that the minimum insurance requirements of this Agreement are sufficient to cover the obligations of Contractor hereunder.

D. 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.

XXXIII. INDEMNIFICATION

The Subrecipient shall indemnify, hold harmless and defend the City from all losses, damages, claims or judgments, including payments of all attorneys' fees and costs on account of any suit, judgment, execution, claim, action or demand whatsoever arising from Subrecipient's performance under this Agreement as well as the performance of Subrecipient's employees, agents, representatives and subcontractors.

XXXIV. ENTIRE CONTRACT

This Contract constitutes the entire contract between the parties hereto. Prior contracts, whether written or oral, or assertion of statement, of understanding, or other commitment antecedent to this Contract shall have no force or effect whatsoever, unless the same is mutually agreed to by the parties hereto and reduced to writing.

XXXV. GENERAL CONDITIONS

A. General Compliance: The Subrecipient agrees to comply with the requirements of Title 24 of the Code of Federal Regulations, Part 570 (the Housing and Urban Development regulations concerning Community Development Block Grants (CDBG)). The Subrecipient also agrees to comply with all other applicable Federal, state and local laws, regulations, and policies governing the funds provided under this contract and as set forth at 24 CFR Part 570 subpart K, except that the Subrecipient does not assume the recipient's environmental responsibilities under 24 CFR 570.604 and 24 CFR Part 52. The Subrecipient further agrees to utilize funds available under this Contract to supplement rather than supplant funds otherwise available.

B. Grantor Recognition: The Subrecipient shall ensure recognition of the role of the City in providing services through this contract. All activities, facilities and items utilized pursuant to this contract shall be prominently labeled as to funding source. In addition, the Subrecipient will include a reference to the support provided herein in all publications made possible with funds made available under this contract.

XXXVI. ADMINISTRATIVE REQUIREMENTS

A. Financial Management

1. Accounting Standards. The Subrecipient agrees to comply with 2 CFR Part 200 and agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation

for all costs incurred.

2. Cost Principles. The Subrecipient shall administer its program in conformance with the Uniform Administrative Requirements of 24 CFR 570.502, 24 CFR 570.503, and 2 CFR Part 200. These principles shall be applied for all costs incurred whether charged on a direct or indirect basis.

XXXVII. DOCUMENTATION AND RECORD KEEPING

A. Records to be Maintained. The Subrecipient shall maintain all records required by the Federal regulations specified in 24 CFR 570.506 that are pertinent to the activities to be funded under this Contract. Such records shall include but not be limited to:

(1) Records providing a full description of each activity undertaken;

(2) Records demonstrating that each activity undertaken meets one of the National Objectives of the CDBG program;

(3) Records required to determine the eligibility of activities;

(4) Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG assistance;

(5) Records documenting compliance with the fair housing and equal opportunity components of the CDBG program;

(6) Records documenting compliance with EPLS/SAM for each sub-contractor;

(7) Financial records as required by 24 CFR 570.502, and 2 CFR Part 200;

(8) Other records necessary to document compliance with Subpart K of 24 CFR Part 570.

(9) Other records necessary to document compliance with Sections 1012 and 1013 of Title X amending the Lead-based Paint Poisoning Prevention Act of 1971 and title 24 of the Code of Federal Regulations as part of 35 (24 CFR 35).

XXXVIII. CLIENT DATA

The Subrecipient shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, income level or other basis for determining eligibility, and description of service provided. Such information shall be made available to the City or its designees for review upon request.

XXXVIX. DISCLOSURE

The Subrecipient understands that client information collected under this Contract is private and the use or disclosure of such information, when not directly connected with the administration of the City's or Subrecipient's responsibilities with respect to services provided under this contract, is prohibited by the State of New Mexico unless written consent is obtained from such person receiving service and, in the case of a minor, that of a responsible parent or guardian.

XL. PROPERTY RECORDS

The Subrecipient shall maintain real property inventory records, which clearly identify properties purchased, improved or sold. Properties retained shall continue to meet eligibility criteria and shall conform to the "changes in use" restrictions specified in 24 CFR 570.503 (b) (8), as applicable.

XLI. RELOCATION, REAL PROPERTY ACQUISITION AND ONE-FOR-ONE HOUSING REPLACEMENT

The Subrecipient agrees to comply with (a) the Uniform Relocation Assistance and

Real Property Acquisition Policies Act of 1970, as amended (URA), and implementing regulations at 49 CFR Part 24 and 24 CFR 570.606(b); (b) the requirements of 24 CFR 570.606(c) governing the Residential Anti-displacement and Relocation Assistance Plan under section 104(d) of the HCD Act; and (c) the requirements in 24 CFR 570.606(d) governing optional relocation policies.

XLII. ENVIRONMENTAL CONDITIONS

A. Air and Water: The Subrecipient agrees to comply with the following requirements insofar as they apply to the performance of this Contract:

(1) Clean Air Act, 42 USC, 7401, *et seq.*;

(2) Federal Water Pollution Control Act, as amended, 33 USC, 1251, *et seq.*, as amended 1318 relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder;

(3) Environmental Protection Agency (EPA) regulations pursuant to 40 CFR Part 50, as amended.

B. Flood Disaster Protection: In accordance with requirements of the Flood Disaster Protection Act of 1973 (42 USC 4001), the Subrecipient shall assure that for activities located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, flood insurance under the National Flood Insurance Program is obtained and maintained as a condition of financial assistance for acquisition or construction purposes (including rehabilitation).

C. Lead-Based Paint: The Subrecipient agrees that any construction or rehabilitation of residential structures with assistance provided under this Contract shall be subject to HUD Lead-Based Paint Regulations at 24 CFR 570.608, and 24 CFR Part

35, Subpart B. Such regulations pertain to all CDBG-assisted housing and require that all owners, prospective owners, and tenants of properties constructed prior to 1978 be property notified that such properties may include lead-based paint. Such notification shall point out the hazards of lead-based paint and explain the symptoms, treatment and precautions that should be taken when dealing with lead-based paint poisoning and the advisability and availability of blood lead level screening for children under seven. The notice should also point out that if lead-based paint is found on the property, abatement measures may be undertaken. The regulations further require that, depending on the amount of Federal funds applied to a property, paint testing, risk assessment, treatment and/or abatement may be conducted.

D. Historic Preservation: The Subrecipient agrees to comply with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, as amended (16 USC 470) and the procedures set forth in 36 CFR Part 800, Advisory Council on Historic Preservation Procedures for Protection of Historic Properties, insofar as they apply to the performance of this agreement. In general, this requires concurrence from the State Historic Preservation Officer for all rehabilitation and demolition of historic properties that are fifty years old or older or that are included on a Federal, state, or local historic property list.

XLIII. CLOSE OUTS

The Subrecipient's obligation to the City shall not end until all closeout requirements are completed. Activities during this close-out period shall include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the City), and determining the custodianship of records.

XLIV. LAND COVENANTS

This Contract is subject to the requirements of Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and 24 CFR 570.601 and 602. In regard to the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under this contract, the Subrecipient shall cause or require a covenant running with the land to be inserted in the deed or lease for such transfer, prohibiting discrimination as herein defined, in the sale, lease or rental, or in the use or occupancy of such land, or in any improvements erected or to be erected thereon, providing that the City and the United States are beneficiaries of and entitled to enforce such covenants. The Subrecipient, in undertaking its obligation to carry out the program assisted hereunder, agrees to take such measures as are necessary to enforce such covenant, and will not itself so discriminate.

XLV. SECTION 504

The Subrecipient agrees to comply with any Federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973 (29 USC 794), which prohibits discrimination against the handicapped in any Federally assisted program.

XLVI. PROHIBITED ACTIVITY

The Subrecipient is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities; sectarian or religious activities; lobbying, political patronage, and nepotism activities.

XLVII. LABOR STANDARDS

A. The Subrecipient agrees to comply with the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act as amended, the provisions of Contract Work Hours and Safety Standards Act (40 USC 327 *et seq.*), the Copeland "Anti-

Kickback" Act (18 USC 874 *et seq.*), its implementing regulations of the U.S. Department of Labor at 29 CFR Part 5, and all other applicable Federal, state and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this contract. The Subrecipient shall maintain documentation which demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to the City for review upon request.

B. The Subrecipient agrees that, except with respect to the rehabilitation or construction of residential property containing less than eight units, all contractors engaged under contracts in excess of two thousand dollars ($2,000.00) for construction, renovation or repair work financed in whole or in part with assistance provided under this contract, shall comply with Federal requirements adopted by the City pertaining to such contracts and with the applicable requirements of the regulations of the Department of Labor, under 29 CFR Parts 1, 3, 5 and 7 governing the payment of wages and ratio of apprentices and trainees to journey workers; provided, that if wage rates higher than those required under the regulations are imposed by state or local law, nothing hereunder is intended to relieve the Subrecipient of its obligation, if any, to require payment of the higher wage. The Subrecipient shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions meeting the requirements of this paragraph.

XLVIII. COMPLIANCE

A. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR 135, ("Section 3") and all applicable rules and orders issued thereunder prior to the execution of this contract, shall be a condition of the Federal financial assistance provided under this contract and binding upon the City, the Subrecipient and any of the

Subrecipient's subcontractors. Failure to fulfill these requirements shall subject the City, the Subrecipient and any of the Subrecipient's subcontractors, their successors and assigns, to those sanctions specified by the contract through which Federal assistance is provided. The Subrecipient certifies and agrees that no contractual or other disability exists which would prevent compliance with these requirements.

B. The Subrecipient further agrees to comply with "Section 3" requirements and to include the following language in all subcontracts executed under this Contract.

"The work to be performed under this contract is a project assisted under a program providing direct Federal financial assistance from HUD and is subject to the requirements of "Section 3" of the Housing and Urban Development Act of 1968, as amended (12 USC 1701). "Section 3" requires that to the greatest extent feasible opportunities for training and employment be given to low and very low-income residents of the project area and contracts for work in connection with the project be awarded to business concerns that provide economic opportunities for low-and very low-income persons residing in the metropolitan area in which the project is located".

XLIX. NOTIFICATIONS

The Subrecipient agrees to send to each labor organization or representative of workers with which it has a collective bargaining contract or other contract or understanding, if any, a notice advising said labor organization or worker's representative of its commitments under the above-referenced "Section 3" clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

L. SUBCONTRACTS

The Subrecipient will include the above-referenced "Section 3" clause in every

subcontract and will take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the City. The Subrecipient will not subcontract with any entity where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR 135 and will not let any subcontract unless the entity has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

LI. RESPONSIBILITY FOR PAYMENT OF EMPLOYEES AND SUBCONTRACTORS

A. The Subrecipient shall be solely responsible for payment of wages, salaries and benefits to any and all employees or subcontractors retained by the Subrecipient in the performance of the services under this Contract.

B. The Contractor shall comply with City of Santa Fe Minimum Wage, Article 28-1-SFCC 1987, as well as any subsequent changes to such article throughout the term of this Agreement. .

LII. WAIVER

The Grantee's failure to act with respect to a breach by the Subrecipient does not waive its right to act with respect to subsequent or similar breaches. The failure of the City to exercise or enforce any right or provision shall not constitute a waiver of such right or provision.

LIII. NEW MEXICO TORT CLAIMS ACT

Any liability incurred by the City of Santa Fe in connection with this Contract is subject to the immunities and limitations of the New Mexico Tort Claims Act, Section 41-4-1, *et seq.* NMSA 1978, as amended. The City and its "public employees" as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity, do not waive any defense and do not waive any limitation of liability pursuant to law. No provision in this

Contract modifies or waives any provision of the New Mexico Tort Claims Act.

LIV. RELEASE

The Subrecipient, upon final payment of the amount due under this Contract, releases the City, its officers and employees, from all liabilities, claims and obligations whatsoever arising from or under this Contract. The Subrecipient agrees not to purport to bind the City to any obligation not assumed herein by the City unless the Subrecipient has express written authority to do so, and then only within the strict limits of that authority.

LV. ENTIRE AGREEMENT

This agreement constitutes the entire agreement between the City and the Subrecipient for the use of funds received under this Contract and it supersedes all prior or contemporaneous communications and proposals, whether electronic, oral, or written between the City and the Subrecipient with respect to this Contract.

IN WITNESS WHEREOF, the City and the Subrecipient have executed this Contract on the dates set forth below.

APPROVED AND AUTHORIZED:

ATTEST:

_____
ALAN WEBBER, MAYOR
DATE: _____

_____
YOLANDA Y. VIGIL
CITY CLERK

SUBRECIPIENT:
SANTA FE COMMUNITY HOUSING TRUST

_____
JUSTIN ROBISON
EXECUTIVE DIRECTOR
DATE: _____
New Mexico Taxation and Revenue Dept.
CRS No. 02-171649-00-8
City of Santa Fe Business Registration No. 227214

CITY ATTORNEY'S OFFICE:

Marcos Martinez
Marcos Martinez (May 12, 2020)

SENIOR ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

MARY MCCOY
FINANCE DIRECTOR

2402750.510500
BUSINESS UNIT/LINE ITEM

EXHIBIT A: Per Section V.B. of the Professional Services Agreement and per 24 CFR 570.503(b)(1).

Addendum Project Budget for (Housing Trust) – (Principal Reduction)

Type of funding	Source/ Amount	Source/ Amount	Source/ Amount	Totals
Final CDBG AMOUNT				**$150,000**
Other Federal Funds (for amortizing loans)				
Other Federal Funds (for amortizing loans)	CDFI $675,000			**$675,000**
Amortizing funds				
City Funding (i.e. Youth and Family, Human Services Divisions)				**$**
State funds (i.e. MFA)				**$**
Other (i.e. in-kind, private funds)	Housing Trust $90,000	1st Mortgages $4,305,000	Homebuyer Cash $135,000	**$4,530,000**
				$
Total of all funding sources				**$5,355,000**

The following chart details how the secured funding amount will support the various aspects of (Housing Trust – Principal Reduction).

Cost	CDBG Allocation
	$150,000
Cost	Private Leveraged Funds
Other	$90,000
	$4,305,000
	$135,000
Total	$5,355,000

City of Santa Fe

Real Estate Summary of Contracts, Agreements, Amendments & Leases

Section to be completed by department

1. Munis Contract # **3201895**

Contractor: **Santa Fe Community Housing Trust**

Description: **Agreement provides home purchase financial assistance for 15 households in the low to moderate income range...**

Contract ☐ Agreement ☉ Lease / Rent ☐ Amendment ☐

Term Start Date: **7/01/2020** Term End Date: **6/30/2021**

☐ Approved by Council Date: _____

Contract / Lease: $150,000.00

Amendment # _____ to the Original Contract / Lease # _____

Increase/(Decrease) Amount $ _____

Extend Termination Date to: _____

☐ Approved by Council Date: _____

Amendment is for:

2. **HISTORY** of Contract, Amendments & Lease / Rent - Please Elaborate (option: attach spreadsheet if multiple amendments)
Agreement is for a one-year term, 7/01/2020 - 6/30/2021

3. **Procurement History:** **RFP #20/16/P**

Purchasing Officer Review: Date:

Comment & Exceptions: _____

4. **Funding Source:** **240** **Org / Object:** **2402750.510500**

Alexis Lotero

Budget Officer Approval: Date:

Comment & Exceptions: _____

Staff Contact who completed this form: **Roberta Catanach** Phone # **505-955-6421**

Email: **rlcatanach@santafenm.gov**

To be recorded by City Clerk:

Clerk # _____

Date of Execution: _____

CITY OF SANTA FE PROCUREMENT CHECKLIST

Contractor Name: Santa Fe Community Housing Trust

Procurement Title: 20/16/P (CDBG)

Procurement Method: State Price Agreement ☐ Cooperative ☐ Sole Source ☐ Other ☐

Exempt ☐ Request For Proposal (RFP) ☐ Invitation To Bid (ITB) ☐ Contract under 60K ☐ Contract over 60K ☐

Department Requesting Office of Affordable Housin Staff Name Roberta Catanach

Procurement Requirements:

A procurement file shall be maintained for all contracts, regardless of the method of procurement. The procurement file shall contain the basis on which the award is made, all submitted bids, all evaluation materials, score sheets, quotations and all other documentation related to or prepared in conjunction with evaluation, negotiation, and the award process. The procurement shall contain a written determination from the Requesting Department, signed by the purchasing officer, setting forth the reasoning for the contract award decision before submitting to the Committees.

REQUIRED DOCUMENTS FOR APPROVAL BY PURCHASING*

YES	N/A	
•		Approved Procurement Checklist (by Purchasing)
•		Memo addressed to City Manager (under 60K) Committees/City Council (over 60K)
	•	State Price Agreement
•		RFP
•		Evaluation Committee Report
	•	ITB
	•	Bib Tab
	•	Quotes (3 valid current quotes)
	•	Cooperative Agreement
	•	Sole Source Request and Determination Form
	•	Contractors Exempt Letter
	•	Purchasing Officers approval for exempt procurement
	•	BAR
	•	FIR
•		Executed Contract, Agreement or Amendment
•		Current Business Registration and CRS numbers on contract or agreement
•		Summary of Contracts and Agreements form
•		Certificate of Insurance
•		All documentation presented to Committees
•		Other:

Roberta Catanach, Contracts Administrator 5/11/2020

Department Rep Printed Name (attesting that all information included) Title Date

Erin Dunaway (May 12, 2020 10:53 MDT)

Purchasing Officer (attesting that all information is reviewed) Title Date

Include all other substantive documents and records of communication that pertain to the procurement and contract.

City of Santa Fe
FY20 Fiscal Impact Analysis (Non-Personnel Expenditures)

General Information

Department Name:	General Government	Department Name:	
Division Name:	Office of Affordable Housing	Division Name:	

Financial Information

Amount Requested:	$150,000	Munis Fund Number:	240
Vendor Name:	Santa Fe Community Housing Trust	Munis Org Number:	2402750
Approved by Director?	Yes	Munis Object Code:	510500

Expenditure Information

1. Describe the purchase of goods/services. Is this one-time or recurring? Please explain why this is the lowest cost option for this expenditure.

This contract delivers services for projects that serve low to moderate-income residents within the Santa Fe City limits based on current HUD Area Median Income data for Santa Fe as follows: Provide mortgage principal reduction assistance for an approximate minimum of twelve (12) households at or below 80% AMI -assistance will be capped at $20,000 per household. This is one-time commitment of funds for an ongoing program. This is a low cost way of delivering housing programs/projects/services because it relies on the capacity of community partners, rather than the City's bureaucracy to deliver services/provide housing.

2. Please describe which legally required City service does this procurement support? Does this procurement provide support for compliance with City, State and Federal requirements? If yes, please explain.

This procurement is aligned with requirements of the City's CDBG entitlement funding. If grant funds are not drawn, the City will jeopardize compliance with its grant agreement with HUD.

3. Can these services be performed by City employees in your department or in other departments? If the answer is no, please explain.

No, these housing programs/projects/services are provided by expert organizations and cannot be provided within the City's internal delivery system.

4. Would there be any adverse health, safety or economic implications if this expenditure was not approved? What impact will there be on the department and the City operations if this expenditure is not approved.

Without the housing programs/projects/services funded through this contract, the low-mod income residents of Santa Fe will have limited access to housing and community development opportunities.

5. If this purchase is not approved with City funds, what are alternative funding sources for the proposed expenditure? Does this duplicate efforts being provided by other governmental, for profit or non-profit entities?

These are federal grant funds, the expenditure of which does not affect the City's budget. These funds are used to leverage additional complementary funding sources to support housing programs/projects/services in our community.

Fran Dunaway (Jun 12, 2020 10:53 MDT)	Alexis Lotero (Jun 12, 2020 10:36 MDT)	
Procurement Office Signature	Budget Office Signature	Finance Director Signature

SANTFEC-02 JSANCHEZ3

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 2/25/2020

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER License # 0757776
HUB International Insurance Services (NMX)
2905 Rodeo Park Drive East
Building 6, Suite 100
Santa Fe, NM 87505

CONTACT NAME: Johanna Sanchez
PHONE (A/C, No, Ext): (505) 992-1849 FAX (A/C, No): (866) 621-0427
E-MAIL ADDRESS: johanna.sanchez@hubinternational.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Central Mutual Insurance Company	20230
INSURER B : New Mexico Mutual Casualty Company	40627
INSURER C : Philadelphia Indemnity Insurance Company	18058
INSURER D :	
INSURER E :	
INSURER F :	

INSURED
Santa Fe Community Housing Trust
and Tierra Contenta
P O Box 713
Santa Fe, NM 87504

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE X OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: X POLICY PRO-JECT LOC OTHER:	X		CLP8889277	1/1/2020	1/1/2021	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	$ 1,000,000 $ 300,000 $ 10,000 $ 1,000,000 $ 2,000,000 $ 2,000,000
A	AUTOMOBILE LIABILITY ANY AUTO OWNED AUTOS ONLY SCHEDULED AUTOS X HIRED AUTOS ONLY X NON-OWNED AUTOS ONLY			CLP8889277	1/1/2020	1/1/2021	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ 1,000,000 $ $ $
	UMBRELLA LIAB OCCUR EXCESS LIAB CLAIMS-MADE DED RETENTION $						EACH OCCURRENCE AGGREGATE	$ $
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y/N N/A If yes, describe under DESCRIPTION OF OPERATIONS below	N/A		99999101	6/27/2019	6/27/2020	PER STATUTE OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	$ 1,000,000 $ 1,000,000 $ 1,000,000
A	Employee Theft			CLP8889277	1/1/2020	1/1/2021	$1,000 Ded/Limit	25,000
C	Directors & Officers			PHSD1500868	1/1/2020	1/1/2021		1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER

City of Santa Fe
PO Box 909
Santa Fe, NM 87504-0909

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

GENERAL LIABILITY PLUS ENDORSEMENT

This endorsement modifies insurance provided under the following:
COMMERCIAL GENERAL LIABILITY COVERAGE PART
This endorsement amends the policy by adding the following; please read each section carefully.

EMPLOYEE BENEFITS LIABILITY COVERAGE
ADDITIONAL INSURED - OWNERS, LESSEES, OR CONTRACTORS - AUTOMATIC STATUS
ADDITIONAL INSURED - MANAGERS OR LESSORS OF PREMISES - AUTOMATIC STATUS
ADDITIONAL INSURED - LESSOR OF LEASED EQUIPMENT - AUTOMATIC STATUS
ADDITIONAL INSURED - VENDORS - AUTOMATIC STATUS
INCLUDE DIRECTORS OR TRUSTEES ON COMMITTEES AS EMPLOYEES
WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHER TO US
NEWLY FORMED OR ACQUIRED ORGANIZATIONS
NOTICE OF OCCURRENCE, KNOWLEDGE OF OCCURRENCE, UNINTENTIONAL OMISSION
VOLUNTARY PROPERTY DAMAGE
NON-OWNED WATERCRAFT AND NON-OWNED AIRCRAFT LIABILITY
FIRE, SPRINKLER LEAKAGE OR EXPLOSION
POLLUTION COVERAGE FOR UPSET OF MOBILE EQUIPMENT
AGGREGATE LIMITS OF INSURANCE AMENDMENT
SUPPLEMENTARY PAYMENTS - HIGHER LIMITS
REASONABLE FORCE EXPANSION - PROPERTY DAMAGE
LOST KEY COVERAGE
PERSONAL AND ADVERTISING INJURY DEFINITION AMENDED

These modifications are subject to the terms and conditions applicable to coverage in the policy except as provided below.

A. Employee Benefits Liability Coverage

The following is added to Section I - Coverages: EMPLOYEE BENEFITS LIABILITY COVERAGE.

1. Insuring Agreement.

a. We will pay those sums that the insured becomes legally obligated to pay as damages because of any act, error or omission of the insured, or of any other person for whose acts the insured is legally liable, to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages to which this insurance does not apply. We may, at our discretion, investigate any report of an act, error or omission and settle any "claim" or "suit" that may result. But:

1) The amount we will pay for damages is limited as described in SECTION **III** LIMITS OF INSURANCE for Employee Benefits Liability Coverage and

2) Our right and duty to defend end when we have used up the applicable limit of insurance in the payment of judgments or settlements.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments.

b. This insurance applies to damages only if:

1) The act, error or omission is negligently committed in the "administration" of your "employee benefit program";

2) The act, error or omission is caused by an "occurrence" that takes place in the

"coverage territory"; and

3) The act, error or omission occurs during the policy period.

2. **Exclusions**

This insurance does not apply to:

a. **Dishonesty, Fraud Or Criminal Act**

Damages arising out of any dishonest, fraudulent, criminal or malicious act or omission, committed by any insured, including the willful or reckless violation of any statute.

b. **Bodily Injury, Property Damage, Or Personal And Advertising Injury**

"Bodily injury," "property damage" or "personal and advertising injury."

c. **Failure To Perform A Contract**

Damages arising out of failure of performance of contract by any insurer.

d. **Insufficiency Of Funds**

Damages arising out of an insufficiency of funds to meet any obligations under any plan included in the "employee benefit program."

e. **Inadequacy Of Performance Of Investment/Advice Given To Participate**

Any "claim" or "suit" based upon:

1) Failure of any investment to perform;

2) Errors in providing information on past performance of investment vehicles; or

3) Advice given to any person to participate or not to participate in any plan included in the "employee benefit program."

f. **Workers Compensation And Similar Laws**

Damages arising out of any "claim" related to any workers compensation, unemployment compensation insurance, social security or disability benefits law or any similar law.

g. **ERISA**

Damages for which the insured is liable because of liability imposed on a fiduciary by the Employee Retirement Income Security Act of 1974, as now or hereafter amended, or any similar federal, state or local laws.

h. **Available Benefits**

Any "claim" for benefits to the extent that such benefits are available, with reasonable effort and cooperation of the insured, from the applicable funds accrued or other collectible insurance.

i. **Taxes, Fines Or Penalties**

1) Taxes, fines or penalties, including those imposed under the Internal Revenue Code or any similar state or local law; or

2) Loss or damages arising out of the imposition of such taxes, fines or penalties.

j. **Employment-Related Practices**

Damages arising out of wrongful termination of employment, discrimination, or other employment-related practices.

3. **Supplementary Payments - Coverages A and B**

For the purposes of the coverage provided by Employee Benefits Liability Coverage, the Supplementary Payments - Coverages **A** and **B** apply except for Paragraphs **1.b.** and **2.**

SECTION II - WHO IS AN INSURED, Paragraphs **2.** and **3.** are replaced by the following for Employee Benefits Liability Coverage:

2. Each of the following is also an insured:

a. Each of your "employees" who is or was authorized to administer your "employee benefit program."

b. Any persons, organizations or "employees" having proper temporary authorization to administer your "employee benefit program" if you die, but only until your legal representative is appointed.

c. Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this Endorsement.

3. Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and over which you maintain ownership or majority interest, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:

   a. Coverage under this provision is afforded only until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier.

   b. Coverage under this provision does not apply to any act, error or omission that occurred before you acquired or formed the organization.

SECTION III - LIMITS OF INSURANCE is replaced by the following for the Employee Benefits Liability Coverage:

1) The Limits of Insurance shown below and the rules below fix the most we will pay regardless of the number of:
   a) Insureds;
   b) "Claims" made or "suits" brought;
   c) Persons or organizations making "claims" or bringing "suits";
   d) Acts, error or omissions which result in loss; or
   e) Benefits included in your "employee benefit program."

2) $2,000,000 is the most we will pay for all damages because of acts, errors or omissions committed in the "administration" of your "employee benefit program."

3) Subject to the above Limit, $1,000,000 is the most we will pay for all damages sustained by any one "employee," including damages sustained by such "employee's" dependents and beneficiaries, as a result of:
   a) An act, error or omission; or
   b) A series of acts, errors or omissions

   negligently committed in the "administration" of your "employee benefit program."

   However, the amount paid under this endorsement shall not exceed, and will be subject to, the limits and restrictions that apply to the payment of benefits in any plan included in the "employee benefit program."

The Limits of Insurance of this endorsement apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations of the policy to which this endorsement is attached, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits Of Insurance.

4. **Deductible**

   a. Our obligation to pay damages on behalf of the insured applies only to the amount of damages in excess of $1,000. The limits of insurance shall not be reduced by the amount of this deductible.

   b. The deductible amount applies to all damages sustained by any one "employee," including such "employee's" dependents and beneficiaries, because of all acts, errors or omissions to which this insurance applies.

   c. The terms of this insurance, including those with respect to:

      1) Our right and duty to defend any "suits" seeking those damages; and

      2) Your duties, and the duties of any other involved insured, in the event of an act, error or omission, "claim" or "suit"

      apply irrespective of the application of the deductible amount.

   d. We may pay any part or all of the deductible amount to effect settlement of any "claim" or

"suit" and, upon notification of the action taken, you shall promptly reimburse us for such part of the deductible amount as we have paid.

SECTION IV - CONDITIONS, Paragraphs **2.** and **4.** are replaced by the following for the Employee Benefits Liability Coverage:

2. Duties In The Event Of An Act, Error Or Omission, "Claim" Or "Suit"

a. You must see to it that we are notified as soon as practicable of an act, error or omission which may result in a "claim." To the extent possible, notice should include:

1) What the act, error or omission was and when it occurred; and

2) The names and addresses of anyone who may suffer damages as a result of the act, error or omission.

b. If a "claim" is made or "suit" is brought against any insured, you must:

1) Immediately record the specifics of the "claims" or "suit" and the date received; and

2) Notify us as soon as practicable.

You must see to it that we receive written notice of the "claim" or "suit" as soon as practicable.

c. You and any other involved insured must:

1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the "claim" or "suit";

2) Authorize us to obtain records and other information;

3) Cooperate with us in the investigation or settlement of the "claim" or defense against the "suit"; and

4) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of an act, error or omission to which this insurance may also apply.

d. No insured will, except at the insured's own cost, voluntarily make a payment, assume any obligation or incur any expense without our consent.

4. Other Insurance

If other valid and collectible insurance is available to the insured for a loss we cover under this endorsement, our obligations are limited as follows:

a. Primary Insurance

This insurance is primary except when **b.** below applies. If this insurance is primary, our obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described in **c.** below.

b. Excess Insurance

Any other primary insurance available to you covering acts, errors or omissions for which you have been added as an additional insured.

When this insurance is excess, we will have no duty to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit." If no other insurer defends, we may undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

1) The total amount that all such other insurance would pay for the loss in absence of this insurance; and

2) The total of all deductible and self-insured amounts under all that other insurance.

We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown.

c. Method Of Sharing

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limits of insurance of all insurers.

SECTION V - DEFINITIONS is amended by adding the following definitions for Employee Benefits Liability Coverage:

1. "Administration" means:
   a. Providing information to "employees," including their dependents and beneficiaries, with respect to eligibility for or scope of "employee benefit programs";
   b. Handling records in connection with the "employee benefit program"; or
   c. Effecting, continuing or terminating any "employee's" participation in any benefit included in the "employee benefit program."

   However, "administration" does not include handling payroll deductions.
2. "Cafeteria plans" means plans authorized by the applicable law to allow employees to elect to pay for certain benefits with pre-tax dollars.
3. "Claim" means any demand, or "suit," made by an "employee" or an "employee's" dependents and beneficiaries, for damages as the result of an act, error or omission.
4. "Employee benefit program" means a program providing some or all of the following benefits to "employees," whether provided through a "cafeteria plan" or otherwise.
   a. Group life insurance; group accident or health insurance; dental, vision and hearing plans; and flexible spending accounts; provided that no one other than an "employee" may subscribe to such benefits and such benefits are made generally available to those "employees" who satisfy the plan's eligibility requirements;
   b. Profit sharing plans, employee savings plans, employee stock ownership plans, pension plans and stock subscription plans, provided that no one other than an "employee" may subscribe to such benefits and such benefits are made generally available to all "employees" who are eligible for such benefits;
   c. Unemployment insurance, social security benefits, workers compensation and disability benefits;
   d. Vacation plans, including buy and sell programs; leave of absence programs, including military, maternity, family, and civil leave; tuition assistance plans; transportation and health club subsidies.

SECTION V - DEFINITIONS - the definition of "employee" and "suit" is replaced for Employee Benefits Liability Coverage by the following:

"Employee" means a person actively employed, formerly employed, on leave of absence or disabled, or retired. "Employee" includes a "leased worker." "Employee" does not include a "temporary worker."

"Suit" means a civil proceeding in which damages because of an act, error or omission to which this insurance applies are alleged. "Suit" includes:

a. An arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with our consent; or
b. Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent.

B. Additional Insured - Owners, Lessees, or Contractors - Automatic Status (not applicable to Employee Benefits Liability Coverage)

1. Section II - Who Is An Insured is amended to include as an additional insured any person or

organization for whom you are performing operations when you and such person or organization have agreed in writing in a contract or agreement that such person or organization be added as an additional insured on your policy and any other person or organization you are required to add as an additional insured under the contract or agreement. Such person or organization is an additional insured only with respect to liability for "bodily injury," "property damage" or "personal and advertising injury" caused, in whole or in part, by:

a. Your acts or omissions; or

b. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured.

Except as provided for in the exception to **2.b.** below, a person's or organization's status as an additional insured under this endorsement ends when your operations for that additional insured are completed.

However, the insurance afforded to such additional insured described above:

a. only applies to the extent permitted by law; and

b. will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

2. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to:

a. "Bodily injury," "property damage" or "personal and advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:

1) The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or

2) Supervisory, inspection, architectural or engineering activities.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage", or the offense which caused the "personal and advertising injury", involved the rendering of, or failure to render, any professional architectural, engineering or surveying services.

b. "Bodily injury" or "property damage" occurring after:

1) All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or

2) That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

However, exclusion **b.** does not apply when in conflict with the requirements of a written contract or agreement.

3. The most we will pay on behalf of the additional insured is the amount of insurance required by the contract or agreement you have entered into with the additional insured or the amount of insurance available under the applicable Limits of Insurance shown in the Declarations or Change Endorsement, whichever is less. These Limits of Insurance are inclusive and not in addition to the Limits of Insurance shown in the Declarations or Change Endorsement.

C. Additional Insured - Managers or Lessors of Premises - Automatic Status (not applicable to Employee Benefits Liability Coverage)

1. Section **II** - Who Is An Insured is amended to include as an insured any person or organization when you and such person or organization have agreed in writing in a contract or agreement that such

person or organization be added as an additional insured on your policy, but only with respect to liability arising out of the ownership, maintenance or use of that part of the premises leased to you and subject to the following additional exclusions:

This insurance does not apply to:

a. Any "occurrence" which takes place after you cease to be a tenant in that premises.

b. Structural alterations, new construction or demolition operations performed by or on behalf of the additional insured.

However, the insurance afforded to such additional insured described above:

a. only applies to the extent permitted by law; and

b. will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

2. The most we will pay on behalf of the additional insured is the amount of insurance required by the contract or agreement you have entered into with the additional insured or the amount of insurance available under the applicable Limits of Insurance shown in the Declarations or Change Endorsement, whichever is less. These Limits of Insurance are inclusive and not in addition to the Limits of Insurance shown in the Declarations or Change Endorsement.

D. Additional Insured - Lessor of Leased Equipment - Automatic Status (not applicable to Employee Benefits Liability Coverage)

1. Section **II** - Who Is An Insured is amended to include as an additional insured any person or organization from whom you lease equipment when you and such person or organization have agreed in writing in a contract or agreement that such person or organization be added as an additional insured on your policy. Such person or organization is an insured only with respect to liability for "bodily injury," "property damage" or "personal and advertising injury" caused, in whole or in part, by your maintenance, operation or use of equipment leased to you by such person or organization.

However, the insurance afforded to such additional insured described above:

a. only applies to the extent permitted by law; and

b. will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

A person's or organization's status as an additional insured under this endorsement ends when their contract or agreement with you for such leased equipment ends.

2. With respect to the insurance afforded to these additional insureds, this insurance does not apply to any "occurrence" which takes place after the equipment lease expires.

3. The most we will pay on behalf of the additional insured is the amount of insurance required by the contract or agreement you have entered into with the additional insured or the amount of insurance available under the applicable Limits of Insurance shown in the Declarations or Change Endorsement, whichever is less. These Limits of Insurance are inclusive and not in addition to the Limits of Insurance shown in the Declarations or Change Endorsement.

E. Additional Insured - Vendors - Automatic Status (not applicable to Employee Benefits Liability Coverage)

1. Section **II** - Who Is An Insured is amended to include as an insured any person or organization (referred to below as vendor) when you and such person or organization have agreed in writing in a contract or agreement that such person or organization be added as an additional insured on your policy, but only with respect to "bodily injury" or "property damage" arising out of "your products" shown in the Schedule, Declarations or Change Endorsement which are distributed or sold in the regular course of the vendor's business.

However, the insurance afforded to such additional insured described above:

a. only applies to the extent permitted by law; and

b. will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

2. With respect to the insurance afforded to these vendors, the following additional exclusions apply:

a. "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;

b. An express warranty unauthorized by you;

c. Any physical or chemical change in the product made intentionally by the vendor;

d. Repackaging, except when unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;

e. Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;

f. Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;

g. Products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor; or

h. "Bodily injury" or "property damage" arising out of the sole negligence of the vendor for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:

1) The exceptions contained in Sub-paragraphs **d.** or **f.**; or

2) Such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.

3. This insurance does not apply to any insured person or organization, from whom you have acquired such products, or any ingredient, part or container, entering into, accompanying or containing such products.

4. The most we will pay on behalf of the vendor is the amount of insurance required by the contract or agreement you have entered into with the additional insured or the amount of insurance available under the applicable Limits of Insurance shown in the Declarations or Change Endorsement, whichever is less. These Limits of Insurance are inclusive and not in addition to the Limits of Insurance shown in the Declarations or Change Endorsement.

F. Include Directors Or Trustees On Committees As Employees (not applicable to Employee Benefits Liability Coverage)

SECTION V - DEFINITIONS is amended by the addition of the following to definition **5.**:

"Employee" also includes any of your directors or trustees acting as a member of any of your elected or appointed committees to perform on your behalf specific, as distinguished from general, directorial acts.

G. Waiver Of Transfer Of Rights Of Recovery Against Others To Us

The TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US, SECTION **IV** CONDITION **8.**, is
amended by the addition of the following:

We waive any right of recovery we may have against any person or organization because of payments we make for injury or damage arising out of your ongoing operations or "your work" done under a contract with that person or organization and included in the "products-completed operations hazard." This waiver applies only to the person or organization which, before the loss, you have agreed in writing to waive your right of recovery.

H. Newly Formed Or Acquired Organizations (not applicable to Employee Benefits Liability Coverage)
SECTION II - WHO IS AN INSURED is amended to include any organization you newly acquire or form, other than a partnership or joint venture, and over which you maintain ownership or majority interest, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:

1. Coverage under this provision is afforded only until 180 days after you acquire or form the organization or the end of the policy period, whichever is earlier.
2. Coverage A does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and
3. Coverage B does not apply to "personal injury and advertising injury" arising out of an offense committed before you acquired or formed the organization.

I. Notice Of Occurrence, Knowledge Of Occurrence, Unintentional Omission

The following is added to SECTION IV.2. - DUTIES IN THE EVENT OF OCCURRENCE, OFFENSE, CLAIM OR SUIT:

e. Notice of Accident/Occurrence

When you report to your Workers Compensation carrier the occurrence of any accident which later develops into a liability claim covered under this policy, failure to report the accident to us at the time of occurrence is not in violation of the Conditions of this policy. However, as soon as you are definitely made aware of the fact that the particular accident is a liability claim rather than a Workers Compensation claim prompt notification must be given to us.

f. Unintentional Errors and Omissions

The insurance afforded by this policy is not invalidated by any unintentional errors, omissions or improper description of premises or your unintentional failure to disclose all hazards existing at inception date of the policy.

g. Knowledge of Accident/Occurrence

Knowledge of an accident/occurrence by your agent, servant or employee is not knowledge by you unless an executive officer of your Corporation received such notice from its agent, servant or employee.

J. Voluntary Property Damage

1. We will pay, at your request, for loss due to "Property Damage" to property of others caused by you, or while in your possession, arising out of your business operations.
2. "Loss" means unintentional damage or destruction but does not include disappearance, theft, or loss of use.
3. Limits of Insurance - The most we will pay for "loss" under the Voluntary Property Damage is **$2,500** for each "occurrence." The most we will pay for the sum of all damages because of "Property Damage" is an annual policy aggregate limit of **$25,000.**
4. Deductible - We will not pay for "loss" in any one "occurrence" until the amount of "loss" exceeds **$250.**

   We may pay any part or all of the deductible amount to effect settlement of any "claim" or "suit" and, upon notification of the action taken, you shall promptly reimburse us for such part of the deductible amount as we have paid.
5. The insurance under the Voluntary Property Damage shall not apply:
   a. To "loss" of property at premises owned, rented, leased, operated, or used by you;
   b. To "loss" of property while in transit;
   c. To "loss" of property owned by, rented to, leased to, borrowed by or used by you;
   d. To the cost of repairing or replacing (1) any work defectively or incorrectly done, (2) any product manufactured, sold or supplied by you, unless the "Property Damage" is caused directly by you after delivery of the product or completion of the work and resulting from a subsequent undertaking;
   e. To "loss" of property included within the "Products/Completed Operations Hazard";
   f. To "loss" of property which is an "auto" or "mobile equipment."
   g. To "loss" of property caused by "pollutants."
6. In the event of "loss" covered by this endorsement, you shall, if requested by us, replace the property or furnish the labor and materials necessary for repairs thereto at your actual cost, excluding profit or overhead charges.

K. Non-Owned Watercraft And Non-Owned Aircraft Liability

SECTION I - COVERAGE A, exclusion 2.g. is replaced by the following:

g. "Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft owned or operated by or rented or loaned to any insured. Use includes operation and "loading or unloading." This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage" involved the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft that is owned or operated by or rented or loaned to any insured.

This exclusion does not apply to:

1) A watercraft while ashore on premises you own or rent;

2) A watercraft you do not own that is:

a) Less than 60 feet long; and

b) Not being used to carry persons or property for a charge;

3) Parking an "auto" on, or on the ways next to, premises you own or rent, provided the "auto" is not owned by or rented or loaned to you or the insured;

4) Liability assumed under any "insured contract" for the ownership, maintenance or use of aircraft or watercraft; or

5) "Bodily injury" or "property damage" arising out of:

a) The operation of machinery or equipment that is attached to, or part of, a land vehicle that would qualify under the definition of "mobile equipment" if it were not subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged; or

b) The operation of any of the machinery or equipment listed in paragraph f.2) or f.3) of the definition of "mobile equipment."

6) An aircraft you do not own provided it is not operated by any insured.

L. Fire, Sprinkler Leakage Or Explosion

1. **SECTION I - GENERAL LIABILITY COVERAGES** is amended as follows:
   a. The last paragraph of **2. Exclusions** under **A. Bodily Injury and Property Damage Liability** is replaced by the following:
   Exclusions c. through q. do not apply to damage by fire, sprinkler leakage or explosion to premises while rented to you or temporarily occupied by you with permission of the owner.
   A separate limit of insurance applies to this coverage as described in Section III - Limits of Insurance.
   But the Limit for Damage to Premises Rented To You shown in the Declaration will apply to all damage proximately caused by the same event, whether such damage results from fire, sprinkler leakage or explosion or any combination of the three.
   b. **Section III - Limits of Insurance** is amended to replace paragraph 6. with the following:
   6. Subject to Paragraph 5. above, the Damage To Premises Rented to You Limit is the most we will pay under Paragraph A. Bodily Injury And Property Damage Liability for damages because of "property damage" to any one premises, while rented to you, or in the case of damage by fire, sprinkler leakage, or explosion, while rented to you or temporarily occupied by you with permission of the owner.
   But the Limit of Insurance shown in the Declaration will apply to all damage proximately caused by the same event whether such damage results from fire, sprinkler leakage or explosion or any combination of the three.
2. The Damage to Premises Rented To You Limit is $300,000 unless a higher limit is shown on the declaration or change endorsement.

3. Paragraph 4.b. of the Other Insurance is amended as follows:
   The term "Fire" in Paragraph B. (1)(a)(i) is replaced by "Fire, Sprinkler Leakage, or Explosion"
4. Section 9.a. under SECTION V - DEFINITIONS is amended as follows:
   The term "fire" is replaced by "fire, sprinkler leakage, or explosion"

M. Pollution Coverage For Upset Of Mobile Equipment

The Insuring Agreement for "property damage" liability with respect to your operations is extended as follows:

1. We will pay those sums which you become legally obligated to pay for "property damage" cause directly by immediate, abrupt and accidental upset, overturn or collision of your "mobile equipment" while transporting "pollutants" which are intended for and normally used in your operations. The operations must be in compliance with local, state, and federal ordinances and laws.
2. **EXCLUSIONS**
   a. With regard only to the coverage provided by this extension K., SECTION I - COVERAGES, COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY, 2. Exclusions, f. is deleted and replaced by the following for this extension only:
      f. Pollution

      Any loss, cost or expense arising out of any:

      1) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or
      2) Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of "pollutants."
      3) Premises, site or location which is or was at any time owned, rented or loaned to any insured.

N. Aggregate Limits Of Insurance (not applicable to Employee Benefits Liability Coverage)

The General Aggregate Limit under SECTION III - LIMITS OF INSURANCE, Paragraph 2. applies separately to each of your "location(s)" owned by or rented to you or "project(s)" away from "location(s)" owned by or rented to you.

"Location" and/or "project" means premises involving the same or connecting lots, or premises whose connection is interrupted only by a street, roadway, waterway or right-of-way of a railroad.

O. Supplementary Payments - Higher Limits

Under SECTION I - SUPPLEMENTARY PAYMENTS - COVERAGES A AND B:

Paragraph **1.b.** is replaced by the following:
Up to $2000 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.

Paragraph **1.d.** is replaced by the following:

All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit," including actual loss of earnings up to $400 a day because of time off from work.

P. Reasonable Force Expansion - Property Damage

Exclusion 2.a. of Coverage A is replaced with the following:

a. Expected Or Intended Injury

   "Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This

exclusion does not apply to "bodily injury" or "property damage" resulting from the use of reasonable force to protect persons or property.

Q. Lost Key Coverage

1. SECTION I - COVERAGES

   COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY

   Exclusion **2.j.4)** Personal property in the care, custody or control of the insured is amended to add:

   However, coverage for property of others in the care, custody or control of the insured is provided for the loss of keys which are in the possession of the insured or his "employees" subject to the following additional provisions:

   a. The insurance afforded with respect to Lost Key Coverage shall not apply to "property damage" caused by misappropriation, secretion, conversion, infidelity or any dishonest act on the part of any insured or his employees or agents;

   b. Our liability for all damages because of "property damage" to which this coverage applies shall be limited to the actual cost of keys, adjustment of locks to accept new keys or, if required, new locks including cost of their installation. Subject to such limitation, our total liability for all damages as the result of any one occurrence shall not exceed $25,000. Each claim is subject to a $250 deductible.

2. SECTION II - WHO IS AN INSURED

   The following is added to item **2.a.2)b):**

   However, coverage is provided for the loss of keys which are in the possession of the insured or his"employees," subject to the following additional provisions:

   a. The insurance afforded with respect to Lost Key Coverage shall not apply to "property damage" caused by misappropriation, secretion, conversion, infidelity or any dishonest act on the part of any insured or his ¿employees¿ or agents;

   b. Our liability for all damages because of "property damage" to which this coverage applies shall be limited to the actual cost of keys, adjustment of locks to accept new keys or, if required, new locks including cost of their installation. Subject to such limitation, our total liability for all damages as the result of any one occurrence shall not exceed $25,000. Each claim is subject to a $250 deductible.

R. Personal and Advertising Injury Definition

Under SECTION V – DEFINITIONS, 14.c. is replaced with the following:

The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person or organization occupies, committed by or on behalf of its owner, landlord or lessor.

S. The following is added to SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS, 4. OTHER INSURANCE:

When this General Liability Plus endorsement provides coverage and such coverage is also provided by any other provision of this policy:

a. There shall be no duplication of the Limits of Insurance.

b. Any loss payment made under such other provisions shall reduce by such loss payments the Limits of Insurance available under the General Liability Plus endorsement.

T. SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS is amended by adding:

LIBERALIZATION

If we adopt a change in our Comprehensive General Liability Coverage forms or rules that would broaden the coverage without extra charge, the broader coverage will apply to this Coverage Form. It will apply when the change becomes effective in your state.

City of Santa Fe
Treasury Department
200 Lincoln Ave.
Santa Fe, New Mexico 87504-0909
505-955-6551

BUSINESS REGISTRATION

Business Name: SANTA FE COMMUNITY HOUSING
DBA: SANTA FE COMMUNITY HOUSING

Business Location: 1111 AGUA FRIA ST
SANTA FE, NM 87501

Owner:

License Number: 227214

Issued Date: April 08, 2020

Expiration Date: December 31, 2020

Description: NON-PROFIT

License Type: Business License - Renewable

Classification: Business Registration - Standard

Fees Paid: $35.00

SANTA FE COMMUNITY HOUSING
PO BOX 713
SANTA FE, NM 87504

THIS IS NOT A CONSTRUCTION PERMIT OR SIGN PERMIT. APPROPRIATE PERMITS MUST BE OBTAINED FROM THE CITY OF SANTA FE BUILDING PERMIT DIVISION PRIOR TO COMMENCEMENT OF ANY CONSTRUCTION OR THE INSTALLATION OF ANY EXTERIOR SIGN.

THIS REGISTRATION/LICENSE IS NOT TRANSFERRABLE TO OTHER BUSINESSES OR PREMISES.

TO BE POSTED IN A CONSPICUOUS PLACE

Z18

Ver. 16 2/7/2020

CITY OF SANTA FE

COMMUNITY DEVELOPMENT BLOCK GRANT CONTRACT

THIS CONTRACT is made and entered into this _____ day of _____ _____, 2020 by and between the City of Santa Fe, a municipal corporation, (the "City") and Interfaith Community Shelter Group, Inc (the "Subrecipient").

RECITALS

1. The Subrecipient has applied for and received funds from the United States Government under Title 1 of the Housing and Community Development Act of 1974, Public Law 93-383.

2. The City desires to engage the Subrecipient to render certain services to the City and its citizens.

3. The Subrecipient further certifies that it is willing and able to perform these services and that said services to be performed are within the Subrecipient's legal powers and capabilities.

4. The City desires to engage the Subrecipient to render these certain services in connection therewith as more particularly set forth hereafter.

AGREEMENTS

NOW, THEREFORE, the parties hereto mutually agree as follows:

I. SCOPE OF SERVICES

The Subrecipient agrees to utilize CDBG funds for a public service project that serves the homeless and low to moderate-income residents within the Santa Fe City limits based on current HUD Area Median Income data for Santa Fe as follows:

A. Funding will support 30% of the cost of nightly staffing at the Women's Summer Safe Haven Shelter which is open between mid-May through October. A minimum of one hundred and sixty (160) ELI women will be served at the facility.

B. Contractor will report to the City on a quarterly basis the use of funds, program outcomes achieved, AMI% of assisted households, size of household, and other demographic information as required by the City's CDBG quarterly reporting form.

II. NATIONAL OBJECTIVES

The Subrecipient certifies that the service carried out with funds provided under this Contract will meet one or more of the Community Development Block Grant (hereinafter "CDBG") Program's National Objectives:

A. Benefit low/moderate income persons.

B. Benefit extremely low income persons.

C. Benefit homeless and elderly persons.

III. PERFORMANCE MONITORING

The City shall monitor the performance of the Subrecipient against goals and levels of accomplishment as stated above. Substandard performance as determined by the City will constitute noncompliance with this Contract. If action to correct such substandard performance is not taken by the Subrecipient within a reasonable period of time after being notified by the Grantee, contract suspension or termination procedures will be initiated.

IV. WORK PLAN AND REPORTING

A. Work Plan: The Subrecipient shall provide the City, within sixty (60) days from signing this Agreement, a revised work plan outlining the major tasks or activities, the measurable objectives for each task or activity, and the time frames to be taken by the Subrecipient in the performance of this Agreement. Included in this report should be information regarding how much funding was leveraged during the program year and from which sources.

B. Annual Budget: All project activities will be in accordance with the attached budget and work plan (Exhibit A) per 24 CFR 570.503(b)(1).

C. Invoicing: The Subrecipient shall submit to the City quarterly reports in order to receive reimbursement for these services. Quarterly reports must be filed no later than the 15th calendar day for the preceding month. A fund requisition with documentation in support of each budgetary category will be submitted. This documentation must include the original or a certified copy or copies of invoices, vouchers, statements, etc. All costs chargeable to the City must be in accordance with budgetary and other restrictions of expenses established by this Contract. Funds for reimbursement can be disbursed on any Friday of each month during the contract period. In order for the City to meet this deadline, the Subrecipient is required to submit its request for reimbursement by Monday, 5:00 p.m., in order to receive payment by the following Friday. The Subrecipient shall submit a Final Project Report assessing the comparison of results achieved in relation to stated goals and objectives in the Scope of Services approved by the City. This report is due to the Office of Affordable Housing fifteen (15) days after the completion of the Contract.

D. Final Payment: Since all payments under this Contract shall be quarterly on a cost reimbursement basis, the City shall be entitled to withhold the final ten percent (10%) due hereunder, pending final approval by the City of the services rendered. Upon receipt and acceptance of a final project report prior to the final payment, the Subrecipient shall furnish the City proof in documentary form that all claims, liens, salaries or other obligations incurred by it in accordance with the services specified herein, have been properly paid and released.

E. Program Monitoring and Financial Audits: At such time and in such form as the City may require there shall be furnished to the City such statements, records, reports, data and information as the City may request pertaining to matters covered by this Contract. Furthermore, at any time during normal business hours and as often as the City may deem necessary, there shall be made available to the City or its designee for examination, all records maintained by the Subrecipient with respect to all matters covered by this Contract; and, the Subrecipient will permit the City to audit, examine and make excerpts or transcripts from such records, and make audits of all contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all matters covered by this Contract subject to the limitations set out above. Any Subrecipient receiving City CDBG funds in excess of fifteen thousand dollars ($15,000) or any combination of public (City, State, or Federal) monies in excess of twenty-five thousand dollars ($25,000) shall perform a final audit on all funds received from all sources for the program no later than ninety (90) days after completion of the sub-recipient's fiscal year, and shall furnish the City with said audit. This audit shall be performed by an independent agency. Any Subrecipient receiving a sum of less than fifteen thousand dollars ($15,000) in City CDBG funds must submit an audited financial

statement on all funds received from all sources for the program after completion of the sub-recipient's fiscal year, and shall furnish the City with said financial statements.

V. STATUS OF CONTRACTOR

The Subrecipient, and its agents and employees, are independent contractors performing professional services for the City and are not employees of the City. The Subrecipient, 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 Contract.

VI. COMPENSATION

A. The City shall pay to the Contractor in full payment for services satisfactorily performed, such compensation shall not exceed thirty thousand dollars ($30,000). **The total amount payable to the Contractor under this Agreement, including gross receipts tax and expenses, shall not exceed ($30,000). 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.**

B. Invoice must include documentation of staff costs incurred, including time sheets or payroll reports showing amount of staff time paid by CDBG funds.

C. 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. All invoices MUST BE received by the City no later than thirty 30) days after the termination of the Fiscal Year in which the services were delivered. Invoices received after such date WILL NOT BE PAID.

VII. TERM

THIS AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED BY THE CITY. This Agreement shall terminate on **June 30, 2021** unless terminated pursuant to paragraph 4 (Termination), or paragraph 5 (Appropriations). In accordance with Section 13-1-150 NMSA 1978, no contract term for a professional services contract, including extensions and renewals, shall exceed four years, except as set forth in Section 13-1-150 NMSA 1978.

VIII. ADDITIONAL CONTRIBUTIONS

The Subrecipient may use the funds of the City granted herein to obtain Federal, State or other grants to carry out the Scope of Services herein.

A. Program Income: Program income received may be retained by the Subrecipient, but may be used only for support of the programs detailed in the Scope of Services section of this Contract. Program income on hand at the time of completion of the Contract period shall continue to be subject to the eligibility requirements and other applicable provisions of 24 CFR 570.504, Program Income of the Administrative Regulations of the CDBG program.

IX. APPROPRIATIONS

The terms of this Contract are contingent upon sufficient appropriations and authorization made by the City for the performance of this Contract. If sufficient appropriations and authorizations are not made by the City, this Contract shall terminate upon written notice being given by the City to the Subrecipient. The City's decision as to whether sufficient appropriations are available shall be accepted by the Subrecipient and shall be final.

X. FISCAL AGENT

The New Mexico Community Foundation will act as Coming Home's Fiscal Agent and will defend, indemnify and hold harmless the City from any and all liability, costs and expenses whatsoever for expenditure of funds pursuant to the Scope of Services of this Contract.

XI. BUDGET REVISIONS The Subrecipient will inform the City of any "line item" revisions to the attached budget, within the maximum compensation shown in this Agreement and will obtain the City's prior written approval of any change that represents at least 25 percent or more of the line item amount per the latest approved budget. Any budget revisions must be eligible expenditures under this Agreement and Title I of the Community Development Act.

XII. ELIGIBLE AND INELIGIBLE COSTS

A. Criteria. This section provides criteria for the determination of whether costs are eligible or ineligible for funding under this Contract. Costs incurred, which are determined by the City to be ineligible under these criteria, may not be charged to this Contract.

B. Standards. All costs incurred must be reasonable and of a nature which

clearly relates to the specific purposes and end product of the contract under which the services are being performed. Care must be exercised by all concerned in incurring costs to assure that expenditures conform to these general standards, including 2 CFR Part 200, and the following criteria for eligible costs.

C. Eligible Costs. To be eligible for inclusion, the cost must:

(1) Be necessary and reasonable for proper and efficient execution of the contractual requirements and in accordance with an approved budget.

(2) Be in conformance with any limitations, exclusions and provisions pursuant to this Contract, State and Local Laws, or other governing limitations.

(3) Be accorded consistent treatment through application of accounting policy and procedures approved and/or prescribed.

(4) Be net after allowance of all applicable credits such as purchase discounts, rebates or allowances, sales or publication of materials, or other income or refunds.

(5) Be in accordance with budgetary or other restrictions on expenses established by the City.

(6) Be fully documented.

(7) The Subrecipient shall reimburse the City any costs and expenses declared ineligible by the City which may have been reimbursed erroneously to the Subrecipient by the City under whatever conditions.

D. Ineligible Costs. Ineligible costs shall be as follows:

(1) Accounting. Costs of maintaining central accounting records necessary for overall local government purposes, such as appropriation of fund accounts by the Treasurer, or similar officials, are considered general expenses of the Subrecipient

and are ineligible costs. However, the cost of establishing and maintaining accounting or other information systems required for the management of the program are eligible costs including costs incurred by central services agencies for these purposes.

(2) Bad Debts. Any losses arising from uncollectible accounts and other claims, and related costs.

(3) Budget. Costs of a central budget office, except the costs of employees in the central budget office of the Subrecipient directly involved in the program as set forth in the Scope of Services, hereto, and clearly identifiable. However, costs incurred for the development, preparation, presentation, and execution of program and project budgets performed by the Subrecipient are eligible costs.

(4) Contingencies. Contribution to a contingency reserve or any similar provision for unforeseen events.

(5) Contributions and Donations. Political, charitable and fundraising solicitations, payments, gifts and expenses.

(6) Entertainment. Costs of amusements, social activities, and incidental costs, such as meals, beverages, lodgings, and gratuities, relating to entertainment.

(7) Board Expenses. The salary and expenses if any, of the Chairman of the Board of the Subrecipient are considered a cost of the Subrecipient and are not eligible costs in any way to this Contract.

(8) Fines and Penalties. Costs resulting from violations of or failure to comply with federal, state and local laws and regulations.

(9) Interest and other Financial Costs. Interest on borrowing (however represented); bond discounts, cost of financing and refinancing operations and legal and

professional fees paid in connection therewith.

(10) Legal Fees. Costs for legal advice or work are ineligible, except those required directly for the administration of the program, which are eligible.

(11) Legislative Expenses. Costs for lobbying or testimony before the legislature or any of its committees, whether incurred for the purposes of legislation or executive direction, are not eligible.

(12) Membership Expenses. Cost of membership in any organization is ineligible.

(13) Travel. Costs in excess of those allowed by the City for its employees are ineligible.

(14) Meeting Attendance. Costs of attending meetings which are not included in the budget are ineligible.

(15) Expenses Related to Fundraising. Cost of postage, printing or external subcontracting for grant writers or development specialists.

XIII. SPECIAL PROVISIONS

A. The Subrecipient realizes that the availability of funds for the activity covered by the "Scope of Services," herein and for performance of this Agreement, depend solely on the provisions of said funds by HUD, such provisions being contingent on the City's approval of these activities as eligible under the Housing and Community Development Act of 1974, the National Affordable Housing Act of 1990 and other pertinent federal regulations. However, the City shall notify the Subrecipient in writing within five days of receipt by the City of any determination by HUD to terminate CDBG funding.

B. In the event the Subrecipient or its organization is dissolved or discontinues

making loans as provided herein, or this Agreement is not renewed after it expires, the Subrecipient shall upon such dissolution, discontinuation or within sixty (60) days after expiration of this Agreement if its renewal has not in the meantime been executed:

(1) Return to the City all unexpended Community Development Block Grant funds received from the City and CDBG program income in the possession of the Subrecipient that have not been already obligated through contracts.

(2) Assign and transfer to the City the equity on all outstanding loans and mortgages which have been provided by the Subrecipient from Community Development grant funds and related program income under this and previous agreements. The Subrecipient shall provide the City with a listing of the borrowers and outstanding amounts, together with up-to-date records of principal and interest payments and balances of the accounts of said borrowers.

XIV. CONFLICT OF INTEREST

The Subrecipient agrees to abide by the provision of 2 CFR Part 200 and 570.611, which include (but are not limited to) the following:

A. Interest of Members of City: No officer, employee, or agent of the City who exercises any functions or responsibilities in connection with the planning and carrying out any of the provisions of this Contract, or any other person who exercises any functions or responsibilities in connection with any of the provisions of the Contract, shall have any personal financial interest, direct or indirect, in this Contract; and the Subrecipient shall take appropriate steps to assure compliance.

B. Interest of Subrecipient and Employees: The Subrecipient shall not allow any person who presently exercises any functions or responsibilities in connection with

the provisions of this Contract, to have personal financial interests, direct or indirect, in this Contract. The Subrecipient further shall not allow in the performance of this Contract any person having any conflicting interest to be employed by the Subrecipient. Any interest on the part of the Subrecipient or its employees must be disclosed to the City. Provided, however, that this paragraph shall be interpreted in such a manner so as not to unreasonably impede the requirement that maximum opportunity for employment of area residents and resident participation shall be of primary concern to the Subrecipient.

Should the subrecipient discover a potential conflict of interest, the subrecipient shall immediately disclose in writing to the City and specifically ask for guidance on how to resolve the conflict and prior to any act in furtherance of the conflict. The disclosure shall include a description of the nature of the conflict; the name, position, phone number and address of the person with the conflict; the date of the notification; and requested action to address the conflict. Disclosures of real, apparent or perceived conflicts of interest shall be made to the City and the City must agree in writing to a proper course of subsequent action prior to the disbursement of CDBG funds.

C. Certification:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the State, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of a Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid

or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the State shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.

XV. DISCRIMINATION PROHIBITED

A. In all hiring or employment made possible by or resulting from this Contract, there (1) will not be any discrimination against any employee or applicant for employment because of race, color, age, religion, sex, sexual orientation, national origin, and physical or mental disability; and (2) affirmative action will be taken to ensure that qualified applicants are employed, and that employees are treated during employment without regard to their race, color, age, religion, sex, sexual orientation, national origin, and physical or mental disability. This requirement shall apply, without limitation, to the following: employment, upgrading, demotion or transfer, recruitment advertising, layoff or termination, and selection for training, including apprenticeship. There shall be posted in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this clause. All solicitations or advertisements for employees shall state that all qualified applicants will receive consideration for employment without regard to race, color, age, religion, sex, sexual orientation, national origin, and physical or mental disability.

B. No person in the United States shall, on account of race, color, age, religion, sex, sexual orientation, national origin, and physical or mental disability, be excluded from participating in, denied the benefits of, or subjected to discrimination under

this Contract or activity made possible by or resulting from the Contract.

C. Subrecipient will abide by all requirements of the Americans with Disabilities Act. Subrecipient shall be kept informed of employee discrimination prevention requirements and program and facility accessibility standards.

XVI. WOMEN- AND MINORITY- OWNED BUSINESSES (W/MBE)

The Subrecipient will use its best efforts to afford small businesses, minority business enterprises, and women's business enterprises the maximum practicable opportunity to participate in the performance of this contract. As used in this contract, the terms "small business" means a business that meets the criteria set forth in section 3(a) of the Small Business Act, as amended (15USC 632), and "minority and women's business enterprise" means a business at least fifty-one (51) percent owned and controlled by minority group members or women. For the purpose of this definition, "minority group members" are Afro-Americans, Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian-Americans, and American Indians. The Subrecipient may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

XVII. POLITICAL ACTIVITY PROHIBITED

None of the funds, materials, property or services provided for directly or indirectly under this Contract shall be used in the performance of this Contract for any political activity prohibited by Federal, State or local law.

XVIII. CONFIDENTIALITY

Any confidential information provided to or developed by the Subrecipient in the performance of this Contract shall be kept confidential and shall not be made available to any individual or organization by the Subrecipient without the prior written approval of the

City.

XIX. REPRESENTATIONS IN SUBMITTALS

The City has relied on all representations in the Subrecipient's submittals in awarding this Agreement and the Subrecipient warrants the accuracy of all representations. Misrepresentations in the submittals will be cause for termination of this Agreement.

XX. AMENDMENT

This Contract shall not be altered, changed or amended except by amendment in writing executed by the parties hereto.

XXI. NOTICES AND ADDRESSES

Any notices required to be given under this agreement shall be in writing and served by personal delivery or by mail, postage prepaid, to the parties at the following addresses:

For the City, notices may be sent to:

City of Santa Fe
Office of Affordable Housing
P.O. Box 909
Santa Fe, New Mexico 87504-0909

For the Subrecipient, notices may

Interfaith Community Shelter Group
PO Box 22653
Santa Fe, NM 87502

XXII. ASSIGNABILITY

The Subrecipient shall not assign any interest in this Contract and shall not transfer any interest in the same (whether by assignment or otherwise) without the prior written consent of the City.

XXIIII. WARRANTY OF AUTHORITY

The Subrecipient warrants that it has full corporate and other authority, under its

articles of corporation, bylaws, resolutions, other pertinent corporate documents, instruments, and agreements, and otherwise to enter into this agreement, to bind itself under this agreement, and to perform this Agreement in accordance with the terms and provisions of this Agreement.

XXIV. BINDING EFFECT

This Agreement is binding upon and inures to the benefit of the successors, successors-in interest, assigns and transferees of the City and the Subrecipient.

XXV. SEVERABILITY

In case any one or more of the provisions contained in this Agreement or any application thereof shall be invalid, illegal or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions contained herein and any other application thereof shall not in any way be affected or impaired thereby.

XXVI. DISPOSITION OF PROPERTY

A. All non-expendable property acquired by the Subrecipient pursuant to this Contract shall be recorded in the property records of the City prior to reimbursement to the Subrecipient for expenses incurred in order to acquire said property. For purposes of this Contract, the term "non-expendable property" means items of tangible, personal property that are non-perishable such as equipment, software, and furniture. The use and disposition of real property and equipment under this Contract shall be in compliance with the requirements of 24 CFR Part 84 and 24 CFR 570.502, 570.503, and 570.504, as applicable.

B. Subrecipient shall be accountable for all recorded non-expendable property which is recorded as City property for a period of five years as established by the City.

C. All non-expendable property acquired pursuant to this Contract shall remain

in the possession of and shall be used only by the Subrecipient, provided that said property continues to be used for the same purposes and in the same manner as originally intended.

D. If the Subrecipient cannot continue to effectively use recorded non-expendable property for the same purposes and in the same manner as originally intended and described in this Contract, all such non-expendable property shall remain in the possession of, and shall be used by the Subrecipient for similar purposes and in a similar manner as initially used; provided, however, that conversion of said property to a similar use in another similar program must first receive the express written consent of the City.

E. If the Subrecipient can neither continue to effectively use recorded non-expendable property for the same purposes and in the same manner originally intended nor continue to effectively use said property for the same or similar purposes and in a similar manner as permitted by this Contract, the City may provide for the disposition of said property wholly and entirely at the City's discretion.

F. The City may, in writing, waive and relinquish all claims the City may have in and to recorded non-expendable property.

G. When the Subrecipient's period of accountability for any non-expendable property expires, said property shall revert to the City unless otherwise provided for in a written agreement between the Subrecipient and the City. Assets on hand at the expiration of the Contract in excess of twenty-five thousand dollars ($25,000) shall be disbursed in accordance with reversion of assets of 24 CFR 570.503 Agreements with Subrecipients of the CDBG regulation; or

(i) The Subrecipient shall pay to the City an amount equal to the current

market value of the property less any portion of the value attributable to the expenditures of non-CDBG funds for the acquisition of, or improvement to, the property. The payment is program income to the City. (No payment is required after the period of time specified in 24 CFR 570.503(b)(7)(i).

XXVII. COMPLIANCE WITH LOCAL LAW

The Subrecipient shall comply at its own cost with all applicable laws, ordinances and codes of the State and the City.

XXVIII. THIRD PARTY BENEFICIARIES

By entering into this Contract, the parties do not intend to create any right, title or interest in or for the benefit of any person other than the City and the Subrecipient. No person shall claim any right, title or interest under this Contract or seek to enforce this Contract as a third party beneficiary of this Contract.

XXIX. JURISDICTION CLAUSE

This Contract shall be performed in Santa Fe, New Mexico. Any legal action or cause of action arising in connection herewith shall be within the jurisdiction and venue of the appropriate court in Santa Fe, New Mexico, for all purposes.

XXX. SUSPENSION AND TERMINATION

A. This Contract 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. By such termination, neither party may nullify obligations already incurred for performance or failure to perform prior to the date of termination. In addition, the City may terminate this agreement for convenience in accordance with 2 CFR Part 200.

B. The City may enforce remedies for noncompliance in accordance with 2 CFR Part 200. The City may also suspend or terminate this Contract, in whole or in part,

if the Subrecipient materially fails to comply with any term of this Contract, or with any of the rules, regulations or provisions referred to herein; and the City may declare the Subrecipient ineligible for any further participation in the City's contracts, in addition to other remedies as provided by law. In the event there is probable cause to believe the Subrecipient is not in compliance with any applicable rules or regulations, the City may withhold up to fifteen percent (15%) of said contract funds until such time as the Subrecipient is found to be in compliance by the City, or is otherwise adjudicated to be in compliance.

XXXI 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.

XXXII. 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.

A. Commercial General Liability insurance shall be written on an occurrence basis and be a broad as ISO Form CG 00 01 with limits not less than $2,000,000 per occurrence and $2,000,000 in the aggregate for claims against bodily injury, personal and advertising injury, and property damage. Said policy shall include broad form Contractual Liability coverage and be endorsed to name the City of Santa Fe their officials, officers, employees, and agents as additional insured.

B. Business Automobile Liability insurance for all owned, non-owned automobiles, with a combined single limit not less than $1,000,000 per accident.

C. Broader Coverage and Limits. The insurance requirements under this Agreement shall be the greater of (1) the minimum coverage and limits specified in this Agreement, or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the Named Insured. It is agreed that these insurance requirements shall not in any way act to reduce coverage that is broader or that includes higher limits than the minimums required herein. No representation is made that the minimum insurance requirements of this Agreement are sufficient to cover the obligations of Contractor hereunder.

D. 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.

XXXIII. INDEMNIFICATION

The Subrecipient shall indemnify, hold harmless and defend the City from all losses, damages, claims or judgments, including payments of all attorneys' fees and costs on account of any suit, judgment, execution, claim, action or demand whatsoever arising from Subrecipient's performance under this Agreement as well as the

performance of Subrecipient's employees, agents, representatives and subcontractors.

XXXIV. ENTIRE CONTRACT

This Contract constitutes the entire contract between the parties hereto. Prior contracts, whether written or oral, or assertion of statement, of understanding, or other commitment antecedent to this Contract shall have no force or effect whatsoever, unless the same is mutually agreed to by the parties hereto and reduced to writing.

XXXV. GENERAL CONDITIONS

A. General Compliance: The Subrecipient agrees to comply with the requirements of Title 24 of the Code of Federal Regulations, Part 570 (the Housing and Urban Development regulations concerning Community Development Block Grants (CDBG)). The Subrecipient also agrees to comply with all other applicable Federal, state and local laws, regulations, and policies governing the funds provided under this contract and as set forth at 24 CFR Part 570 subpart K, except that the Subrecipient does not assume the recipient's environmental responsibilities under 24 CFR 570.604 and 24 CFR Part 52. The Subrecipient further agrees to utilize funds available under this Contract to supplement rather than supplant funds otherwise available.

B. Grantor Recognition: The Subrecipient shall ensure recognition of the role of the City in providing services through this contract. All activities, facilities and items utilized pursuant to this contract shall be prominently labeled as to funding source. In addition, the Subrecipient will include a reference to the support provided herein in all publications made possible with funds made available under this contract.

XXXVI. ADMINISTRATIVE REQUIREMENTS

A. Financial Management

1. Accounting Standards. The Subrecipient agrees to comply with 2

CFR Part 200 and agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.

2. Cost Principles. The Subrecipient shall administer its program in conformance with the Uniform Administrative Requirements of 24 CFR 570.502, 24 CFR 570.503, and 2 CFR Part 200. These principles shall be applied for all costs incurred whether charged on a direct or indirect basis.

XXXVII. DOCUMENTATION AND RECORD KEEPING

A. Records to be Maintained. The Subrecipient shall maintain all records required by the Federal regulations specified in 24 CFR 570.506 that are pertinent to the activities to be funded under this Contract. Such records shall include but not be limited to:

(1) Records providing a full description of each activity undertaken;

(2) Records demonstrating that each activity undertaken meets one of the National Objectives of the CDBG program;

(3) Records required to determine the eligibility of activities;

(4) Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG assistance;

(5) Records documenting compliance with the fair housing and equal opportunity components of the CDBG program;

(6) Records documenting compliance with EPLS/SAM for each sub-contractor;

(7) Financial records as required by 24 CFR 570.502, and 2 CFR Part 200;

(8) Other records necessary to document compliance with Subpart K of 24 CFR Part 570.

(9) Other records necessary to document compliance with Sections 1012 and 1013 of Title X amending the Lead-based Paint Poisoning Prevention Act of 1971 and title 24 of the Code of Federal Regulations as part of 35 (24 CFR 35).

XXXVIII. CLIENT DATA

The Subrecipient shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, income level or other basis for determining eligibility, and description of service provided. Such information shall be made available to the City or its designees for review upon request.

XXXVIX. DISCLOSURE

The Subrecipient understands that client information collected under this Contract is private and the use or disclosure of such information, when not directly connected with the administration of the City's or Subrecipient's responsibilities with respect to services provided under this contract, is prohibited by the State of New Mexico unless written consent is obtained from such person receiving service and, in the case of a minor, that of a responsible parent or guardian.

XL . PROPERTY RECORDS

The Subrecipient shall maintain real property inventory records, which clearly identify properties purchased, improved or sold. Properties retained shall continue to meet eligibility criteria and shall conform to the "changes in use" restrictions specified in 24 CFR 570.503 (b) (8), as applicable.

XLI. RELOCATION, REAL PROPERTY ACQUISITION AND ONE-FOR-ONE HOUSING REPLACEMENT

The Subrecipient agrees to comply with (a) the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), and implementing regulations at 49 CFR Part 24 and 24 CFR 570.606(b); (b) the requirements of 24 CFR 570.606(c) governing the Residential Anti-displacement and Relocation Assistance Plan under section 104(d) of the HCD Act; and (c) the requirements in 24 CFR 570.606(d) governing optional relocation policies.

XLII. ENVIRONMENTAL CONDITIONS

A. Air and Water: The Subrecipient agrees to comply with the following requirements insofar as they apply to the performance of this Contract:

(1) Clean Air Act, 42 USC, 7401, *et seq.*;

(2) Federal Water Pollution Control Act, as amended, 33 USC, 1251, *et seq.*, as amended 1318 relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder;

(3) Environmental Protection Agency (EPA) regulations pursuant to 40 CFR Part 50, as amended.

B. Flood Disaster Protection: In accordance with requirements of the Flood Disaster Protection Act of 1973 (42 USC 4001), the Subrecipient shall assure that for activities located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, flood insurance under the National Flood Insurance Program is obtained and maintained as a condition of financial assistance for acquisition or construction purposes (including rehabilitation).

C. Lead-Based Paint: The Subrecipient agrees that any construction or rehabilitation of residential structures with assistance provided under this Contract shall be subject to HUD Lead-Based Paint Regulations at 24 CFR 570.608, and 24 CFR Part 35, Subpart B. Such regulations pertain to all CDBG-assisted housing and require that all owners, prospective owners, and tenants of properties constructed prior to 1978 be property notified that such properties may include lead-based paint. Such notification shall point out the hazards of lead-based paint and explain the symptoms, treatment and precautions that should be taken when dealing with lead-based paint poisoning and the advisability and availability of blood lead level screening for children under seven. The notice should also point out that if lead-based paint is found on the property, abatement measures may be undertaken. The regulations further require that, depending on the amount of Federal funds applied to a property, paint testing, risk assessment, treatment and/or abatement may be conducted.

D. Historic Preservation: The Subrecipient agrees to comply with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, as amended (16 USC 470) and the procedures set forth in 36 CFR Part 800, Advisory Council on Historic Preservation Procedures for Protection of Historic Properties, insofar as they apply to the performance of this agreement. In general, this requires concurrence from the State Historic Preservation Officer for all rehabilitation and demolition of historic properties that are fifty years old or older or that are included on a Federal, state, or local historic property list.

XLIII. CLOSE OUTS

The Subrecipient's obligation to the City shall not end until all closeout requirements are completed. Activities during this close-out period shall include, but are

not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the City), and determining the custodianship of records.

XLIV. LAND COVENANTS

This Contract is subject to the requirements of Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and 24 CFR 570.601 and 602. In regard to the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under this contract, the Subrecipient shall cause or require a covenant running with the land to be inserted in the deed or lease for such transfer, prohibiting discrimination as herein defined, in the sale, lease or rental, or in the use or occupancy of such land, or in any improvements erected or to be erected thereon, providing that the City and the United States are beneficiaries of and entitled to enforce such covenants. The Subrecipient, in undertaking its obligation to carry out the program assisted hereunder, agrees to take such measures as are necessary to enforce such covenant, and will not itself so discriminate.

XLV. SECTION 504

The Subrecipient agrees to comply with any Federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973 (29 USC 794), which prohibits discrimination against the handicapped in any Federally assisted program.

XLVI. PROHIBITED ACTIVITY

The Subrecipient is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities; sectarian or religious activities; lobbying, political patronage, and nepotism activities.

XLVII. LABOR STANDARDS

A. The Subrecipient agrees to comply with the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act as amended, the provisions of Contract Work Hours and Safety Standards Act (40 USC 327 *et seq.*), the Copeland "Anti-Kickback" Act (18 USC 874 *et seq.*), its implementing regulations of the U.S. Department of Labor at 29 CFR Part 5, and all other applicable Federal, state and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this contract. The Subrecipient shall maintain documentation which demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to the City for review upon request.

B. The Subrecipient agrees that, except with respect to the rehabilitation or construction of residential property containing less than eight units, all contractors engaged under contracts in excess of two thousand dollars ($2,000.00) for construction, renovation or repair work financed in whole or in part with assistance provided under this contract, shall comply with Federal requirements adopted by the City pertaining to such contracts and with the applicable requirements of the regulations of the Department of Labor, under 29 CFR Parts 1, 3, 5 and 7 governing the payment of wages and ratio of apprentices and trainees to journey workers; provided, that if wage rates higher than those required under the regulations are imposed by state or local law, nothing hereunder is intended to relieve the Subrecipient of its obligation, if any, to require payment of the higher wage. The Subrecipient shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions meeting the requirements of this paragraph.

XLVIII. COMPLIANCE

A. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR 135, ("Section 3") and all applicable rules and orders issued thereunder prior to the execution of this contract, shall be a condition of the Federal financial assistance provided under this contract and binding upon the City, the Subrecipient and any of the Subrecipient's subcontractors. Failure to fulfill these requirements shall subject the City, the Subrecipient and any of the Subrecipient's subcontractors, their successors and assigns, to those sanctions specified by the contract through which Federal assistance is provided. The Subrecipient certifies and agrees that no contractual or other disability exists which would prevent compliance with these requirements.

B. The Subrecipient further agrees to comply with "Section 3" requirements and to include the following language in all subcontracts executed under this Contract.

"The work to be performed under this contract is a project assisted under a program providing direct Federal financial assistance from HUD and is subject to the requirements of "Section 3" of the Housing and Urban Development Act of 1968, as amended (12 USC 1701). "Section 3" requires that to the greatest extent feasible opportunities for training and employment be given to low and very low-income residents of the project area and contracts for work in connection with the project be awarded to business concerns that provide economic opportunities for low-and very low-income persons residing in the metropolitan area in which the project is located".

XLIX. NOTIFICATIONS

The Subrecipient agrees to send to each labor organization or representative of workers with which it has a collective bargaining contract or other contract or understanding, if any, a notice advising said labor organization or worker's representative

of its commitments under the above-referenced "Section 3" clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

L. SUBCONTRACTS

The Subrecipient will include the above-referenced "Section 3" clause in every subcontract and will take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the City. The Subrecipient will not subcontract with any entity where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR 135 and will not let any subcontract unless the entity has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

LI. RESPONSIBILITY FOR PAYMENT OF EMPLOYEES AND SUBCONTRACTORS

A. The Subrecipient shall be solely responsible for payment of wages, salaries and benefits to any and all employees or subcontractors retained by the Subrecipient in the performance of the services under this Contract.

B. The Contractor shall comply with City of Santa Fe Minimum Wage, Article 28-1-SFCC 1987, as well as any subsequent changes to such article throughout the term of this Agreement. .

LII. WAIVER

The Grantee's failure to act with respect to a breach by the Subrecipient does not waive its right to act with respect to subsequent or similar breaches. The failure of the City to exercise or enforce any right or provision shall not constitute a waiver of such right or provision.

LIII. NEW MEXICO TORT CLAIMS ACT

Any liability incurred by the City of Santa Fe in connection with this Contract is subject to the immunities and limitations of the New Mexico Tort Claims Act, Section 41-4-1, *et seq.* NMSA 1978, as amended. The City and its "public employees" as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity, do not waive any defense and do not waive any limitation of liability pursuant to law. No provision in this Contract modifies or waives any provision of the New Mexico Tort Claims Act.

LIV. RELEASE

The Subrecipient, upon final payment of the amount due under this Contract, releases the City, its officers and employees, from all liabilities, claims and obligations whatsoever arising from or under this Contract. The Subrecipient agrees not to purport to bind the City to any obligation not assumed herein by the City unless the Subrecipient has express written authority to do so, and then only within the strict limits of that authority.

LV. ENTIRE AGREEMENT

This agreement constitutes the entire agreement between the City and the Subrecipient for the use of funds received under this Contract and it supersedes all prior or contemporaneous communications and proposals, whether electronic, oral, or written between the City and the Subrecipient with respect to this Contract.

IN WITNESS WHEREOF, the City and the Subrecipient have executed this Contract on the dates set forth below.

APPROVED AND AUTHORIZED:

_____
ALAN WEBBER, MAYOR
DATE: _____

ATTEST:

YOLANDA Y. VIGIL
CITY CLERK

SUBRECIPIENT:
INTERFAITH COMMUNITY SHELTER

JOSEPH JORDAN-BERENIS
EXECUTIVE DIRECTOR
DATE:

New Mexico Taxation and Revenue Dept.
CRS No. 03-194010-00-2
City of Santa Fe Business Registration No. 222294

CITY ATTORNEY'S OFFICE:

Marcos Martinez
Marcos Martinez (May 12, 2020)

SENIOR ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

MARY MCCOY
FINANCE DIRECTOR

2402750.510400
BUSINESS UNIT/LINE ITEM

EXHIBIT A: Per Section V.B. of the Professional Services Agreement and per 24 CFR 570.503(b)(1).

Addendum Project Budget for (Interfaith) – (Womens Safe Haven)

Type of funding	Source/ Amount	Source/ Amount	Source/ Amount	Totals
Final CDBG AMOUNT				**$30,000**
Other Federal Funds (for amortizing loans)				
Other Federal Funds (for amortizing loans)				
Amortizing funds				
City Funding (i.e. Youth and Family, Human Services Divisions)				**$**
State funds (i.e. MFA)				**$**
Other (i.e. in-kind, private funds)				**$170,994**
				$
Total of all funding sources				**$200,994**

The following chart details how the secured funding amount will support the various aspects of (Interfaith) (Women's Safe Haven).

Cost	CDBG Allocation
	$30,000
Cost	Private Leveraged Funds
Other	$170,994
Total	$200,994

City of Santa Fe

Real Estate Summary of Contracts, Agreements, Amendments & Leases

Section to be completed by department

1. Munis Contract # **3201896**

Contractor: **Interfaith Community Shelter Group, Inc.**

Description: **Agreement provides funding for staffing for support services/emergency shelter: Women's Summer Safe Haven, a hospitable shelter and food to chronically homeless women & children...**

Contract ☐ Agreement ☉ Lease / Rent ☐ Amendment ☐

Term Start Date: **7/01/2020** Term End Date: **6/30/2021**

☐ Approved by Council Date: _____

Contract / Lease: $30,000.00

Amendment # _____ to the Original Contract / Lease # _____

Increase/(Decrease) Amount $ _____

Extend Termination Date to: _____

☐ Approved by Council Date: _____

Amendment is for:

2. **HISTORY of Contract, Amendments & Lease / Rent - Please Elaborate** (option: attach spreadsheet if multiple amendments)
Agreement is for a one-year term, 7/01/2020 - 6/30/2021

3. **Procurement History:** **RFP #20/16/P**

Fran Dunaway (PO 4/6/20 Fran Dunaway (Jun 12, 2020 11:56 MDT)
Purchasing Officer Review: Date:

Comment & Exceptions: _____

4. **Funding Source:** **240** **Org / Object:** **2402750.510400**

Alexis Lotero Alexis Lotero (Jun 11, 2020 14:31 MDT)
Budget Officer Approval: Date:

Comment & Exceptions: _____

Staff Contact who completed this form: **Roberta Catanach** Phone # **505-955-6421**

Email: **rlcatanach@santafenm.gov**

To be recorded by City Clerk:

Clerk # _____

Date of Execution: _____

CITY OF SANTA FE PROCUREMENT CHECKLIST

Contractor Name: Interfaith Community Shelter Group, Inc.

Procurement Title: 20/16/P (CDBG)

Procurement Method: State Price Agreement [ ] Cooperative [ ] Sole Source [ ] Other [ ]

Exempt [ ] Request For Proposal (RFP) [•] Invitation To Bid (ITB) [ ] Contract under 60K [ ] Contract over 60K [ ]

Department Requesting Office of Affordable Housin Staff Name Roberta Catanach

Procurement Requirements:

A procurement file shall be maintained for all contracts, regardless of the method of procurement. The procurement file shall contain the basis on which the award is made, all submitted bids, all evaluation materials, score sheets, quotations and all other documentation related to or prepared in conjunction with evaluation, negotiation, and the award process. The procurement shall contain a written determination from the Requesting Department, signed by the purchasing officer, setting forth the reasoning for the contract award decision before submitting to the Committees.

REQUIRED DOCUMENTS FOR APPROVAL BY PURCHASING*

YES	N/A	
•		Approved Procurement Checklist (by Purchasing)
•		Memo addressed to City Manager (under 60K) Committees/City Council (over 60K)
	•	State Price Agreement
•		RFP
•		Evaluation Committee Report
	•	ITB
	•	Bib Tab
	•	Quotes (3 valid current quotes)
	•	Cooperative Agreement
	•	Sole Source Request and Determination Form
	•	Contractors Exempt Letter
	•	Purchasing Officers approval for exempt procurement
	•	BAR
	•	FIR
•		Executed Contract, Agreement or Amendment
•		Current Business Registration and CRS numbers on contract or agreement
•		Summary of Contracts and Agreements form
•		Certificate of Insurance
•		All documentation presented to Committees
•		Other:

Roberta Catanach, Contracts Administrator 5/11/2020

Department Rep Printed Name (attesting that all information included) Title Date

Purchasing Officer (attesting that all information is reviewed) Title Date

Fran Dunaway 6/11/20

Fran Dunaway (Jun 12, 2020 11:06 MDT)

Include all other substantive documents and records of communication that pertain to the procurement and contract.

City of Santa Fe
FY20 Fiscal Impact Analysis (Non-Personnel Expenditures)

General Information

Department Name:	General Government	Department Name:	
Division Name:	Office of Affordable Housing	Division Name:	

Financial Information

Amount Requested:	$30,000	Munis Fund Number:	240
Vendor Name:	Interfaith Community Shelter Group, Inc.	Munis Org Number:	2402750
Approved by Director?	Yes	Munis Object Code:	510400

Expenditure Information

1. Describe the purchase of goods/services. Is this one-time or recurring? Please explain why this is the lowest cost option for this expenditure.

This contract delivers services for a public service project that serves the homeless and low to moderate-income residents within the Santa Fe City limits based on current HUD Area Median Income data for Santa Fe as follows: Funding will support 30% of the cost of nightly staffing at the Women's Summer Safe Haven Shelter which is open between mid-May through October -a minimum of one hundred and sixty (160) ELI women will be served at the facility. This is one-time commitment of funds for an ongoing program. This is a low cost way of delivering housing programs/projects/services because it relies on the capacity of community partners, rather than the City's bureaucracy to deliver services/provide housing.

2. Please describe which legally required City service does this procurement support? Does this procurement provide support for compliance with City, State and Federal requirements? If yes, please explain.

This procurement is aligned with requirements of the City's CDBG entitlement funding. If grant funds are not drawn, the City will jeopardize compliance with its grant agreement with HUD.

3. Can these services be performed by City employees in your department or in other departments? If the answer is no, please explain.

No, these housing programs/projects/services are provided by expert organizations and cannot be provided within the City's internal delivery system.

4. Would there be any adverse health, safety or economic implications if this expenditure was not approved? What impact will there be on the department and the City operations if this expenditure is not approved.

Without the housing programs/projects/services funded through this contract, the low-mod income residents of Santa Fe will have limited access to housing and community development opportunities.

5. If this purchase is not approved with City funds, what are alternative funding sources for the proposed expenditure? Does this duplicate efforts being provided by other governmental, for profit or non-profit entities?

These are federal grant funds, the expenditure of which does not affect the City's budget. These funds are used to leverage additional complementary funding sources to support housing programs/projects/services in our community.

Fran Dunaway (Jun 12, 2020 11:06 MDT)	Alexis Lotero (Jun 11, 2020 14:37 MDT)	
Procurement Office Signature	Budget Office Signature	Finance Director Signature

INTECOM-09 MMARTINEZ1

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 4/17/2020

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER License # 0757776
HUB International Insurance Services (NMX)
2905 Rodeo Park Drive East
Building 6, Suite 100
Santa Fe, NM 87505

CONTACT NAME: Melanie Martinez
PHONE (A/C, No, Ext): (505) 428-4266 FAX (A/C, No): (866) 621-0427
E-MAIL ADDRESS: melanie.martinez@hubinternational.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Philadelphia Indemnity Insurance Company	18058
INSURER B : New Mexico Employer's Assurance Company	13674
INSURER C :	
INSURER D :	
INSURER E :	
INSURER F :	

INSURED
Interfaith Community Shelter Group Inc.
PO Box 22653
Santa Fe, NM 87502

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY						EACH OCCURRENCE	$ 1,000,000
	CLAIMS-MADE X OCCUR	X		PHPK2038817	11/1/2019	11/1/2020	DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 100,000
							MED EXP (Any one person)	$ 20,000
							PERSONAL & ADV INJURY	$ 1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$ 2,000,000
	POLICY PRO-JECT LOC						PRODUCTS - COMP/OP AGG	$ 2,000,000
	OTHER:							$
A	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident)	$ 1,000,000
	ANY AUTO			PHPK2038817	11/1/2019	11/1/2020	BODILY INJURY (Per person)	$
	OWNED AUTOS ONLY / SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	X HIRED AUTOS ONLY / X NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	$
								$
A	X UMBRELLA LIAB X OCCUR						EACH OCCURRENCE	$ 2,000,000
	EXCESS LIAB CLAIMS-MADE			PHUB694195	11/1/2019	11/1/2020	AGGREGATE	$
	DED X RETENTION $ 10,000							$ 2,000,000
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						PER STATUTE / OTH-ER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y / N (Mandatory in NH)	N / A		63790.111	11/1/2019	11/1/2020	E.L. EACH ACCIDENT	$ 500,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	$ 500,000
							E.L. DISEASE - POLICY LIMIT	$ 500,000
A	Professional Liab			PHPK2038817	11/1/2019	11/1/2020	Each Occurrence	1,000,000
A	Professional Liab			PHPK2038817	11/1/2019	11/1/2020	Aggregate	2,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

SEE ATTACHED ACORD 101

CERTIFICATE HOLDER

City of Santa Fe
PO Box 909
Santa Fe, NM 87504

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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AGENCY CUSTOMER ID: INTECOM-09 MMARTINEZ1

LOC #: 1

ADDITIONAL REMARKS SCHEDULE

AGENCY	License # 0757776	NAMED INSURED
HUB International Insurance Services (NMX)		Interfaith Community Shelter Group Inc. PO Box 22653 Santa Fe, NM 87502
POLICY NUMBER		
SEE PAGE 1		
CARRIER	NAIC CODE	EFFECTIVE DATE: SEE PAGE 1
SEE PAGE 1	SEE P 1	

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,

FORM NUMBER: ACORD 25 FORM TITLE: Certificate of Liability Insurance

Description of Operations/Locations/Vehicles:
Where required by written contract of agreement, the City of Santa Fe is included as an additional insured with respects to general liability

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

GENERAL LIABILITY DELUXE ENDORSEMENT: HUMAN SERVICES

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE

It is understood and agreed that the following extensions only apply in the event that no other specific coverage for the indicated loss exposure is provided under this policy. If such specific coverage applies, the terms, conditions and limits of that coverage are the sole and exclusive coverage applicable under this policy, unless otherwise noted on this endorsement. The following is a summary of the Limits of Insurance and additional coverages provided by this endorsement. For complete details on specific coverages, consult the policy contract wording.

Coverage Applicable	Limit of Insurance	Page #
Extended Property Damage	Included	2
Limited Rental Lease Agreement Contractual Liability	$50,000 limit	2
Non-Owned Watercraft	Less than 58 feet	2
Damage to Property You Own, Rent, or Occupy	$30,000 limit	2
Damage to Premises Rented to You	$1,000,000	3
HIPAA	Clarification	4
Medical Payments	$20,000	5
Medical Payments – Extended Reporting Period	3 years	5
Athletic Activities	Amended	5
Supplementary Payments – Bail Bonds	$5,000	5
Supplementary Payment – Loss of Earnings	$1,000 per day	5
Employee Indemnification Defense Coverage	$25,000	5
Key and Lock Replacement – Janitorial Services Client Coverage	$10,000 limit	6
Additional Insured – Newly Acquired Time Period	Amended	6
Additional Insured – Medical Directors and Administrators	Included	7
Additional Insured – Managers and Supervisors (with Fellow Employee Coverage)	Included	7
Additional Insured – Broadened Named Insured	Included	7
Additional Insured – Funding Source	Included	7
Additional Insured – Home Care Providers	Included	7
Additional Insured – Managers, Landlords, or Lessors of Premises	Included	7
Additional Insured – Lessor of Leased Equipment	Included	7
Additional Insured – Grantor of Permits	Included	8
Additional Insured – Vendor	Included	8
Additional Insured – Franchisor	Included	9
Additional Insured – When Required by Contract	Included	9
Additional Insured – Owners, Lessees, or Contractors	Included	9
Additional Insured – State or Political Subdivisions	Included	10

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Duties in the Event of Occurrence, Claim or Suit	Included	10
Unintentional Failure to Disclose Hazards	Included	10
Transfer of Rights of Recovery Against Others To Us	Clarification	10
Liberalization	Included	11
Bodily Injury – includes Mental Anguish	Included	11
Personal and Advertising Injury – includes Abuse of Process, Discrimination	Included	11

A. Extended Property Damage

SECTION I – COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY, Subsection **2. Exclusions**, Paragraph **a.** is deleted in its entirety and replaced by the following:

a. Expected or Intended Injury

"Bodily injury" or property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" or "property damage" resulting from the use of reasonable force to protect persons or property.

B. Limited Rental Lease Agreement Contractual Liability

SECTION I – COVERAGES, COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY, Subsection **2. Exclusions**, Paragraph **b. Contractual Liability** is amended to include the following:

(3) Based on the named insured's request at the time of claim, we agree to indemnify the named insured for their liability assumed in a contract or agreement regarding the rental or lease of a premises on behalf of their client, up to $50,000. This coverage extension only applies to rental lease agreements. This coverage is excess over any renter's liability insurance of the client.

C. Non-Owned Watercraft

SECTION I – COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY, Subsection **2. Exclusions,** Paragraph g. **(2)** is deleted in its entirety and replaced by the following:

(2) A watercraft you do not own that is:

(a) Less than 58 feet long; and

(b) Not being used to carry persons or property for a charge;

This provision applies to any person, who with your consent, either uses or is responsible for the use of a watercraft. This insurance is excess over any other valid and collectible insurance available to the insured whether primary, excess or contingent.

D. Damage to Property You Own, Rent or Occupy

SECTION I – COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE

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LIABILITY, Subsection **2. Exclusions**, Paragraph **j. Damage to Property**, Item **(1)** is deleted in its entirety and replaced with the following:

(1) Property you own, rent, or occupy, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property, unless the damage to property is caused by your client, up to a $30,000 limit. A client is defined as a person under your direct care and supervision.

E. Damage to Premises Rented to You

1. If damage by fire to premises rented to you is not otherwise excluded from this Coverage Part, the word "fire" is changed to "fire, lightning, explosion, smoke, or leakage from automatic fire protective systems" where it appears in:

   a. The last paragraph of **SECTION I – COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY**, Subsection **2. Exclusions**; is deleted in its entirety and replaced by the following:

      Exclusions **c.** through **n.** do not apply to damage by fire, lightning, explosion, smoke, or leakage from automatic fire protective systems to premises while rented to you or temporarily occupied by you with permission of the owner. A separate limit of insurance applies to this coverage as described in **SECTION III – LIMITS OF INSURANCE.**

   b. **SECTION III – LIMITS OF INSURANCE**, Paragraph 6. is deleted in its entirety and replaced by the following:

      Subject to Paragraph 5. above, the Damage To Premises Rented To You Limit is the most we will pay under Coverage A for damages because of "property damage" to any one premises, while rented to you, or in the case of damage by fire, lightning, explosion, smoke, or leakage from automatic fire protective systems while rented to you or temporarily occupied by you with permission of the owner.

   c. **SECTION V – DEFINITIONS**, Paragraph 9.a., is deleted in its entirety and replaced by the following:

      A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire, lightning, explosion, smoke, or leakage from automatic fire protective systems to premises while rented to you or temporarily occupied by you with permission of the owner is not an "insured contract";

2. **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS**, Subsection **4. Other Insurance**, Paragraph **b. Excess Insurance**, **(1) (a) (ii)** is deleted in its entirety and replaced by the following:

   That is insurance for fire, lightning, explosion, smoke, or leakage from automatic fire protective systems for premises rented to you or temporarily occupied by you with permission of the owner;

3. The Damage To Premises Rented To You Limit section of the Declarations is amended to the greater of:

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a. $1,000,000; or

b. The amount shown in the Declarations as the Damage to Premises Rented to You Limit.

This is the most we will pay for all damage proximately caused by the same event, whether such damage results from fire, lightning, explosion, smoke, or leaks from automatic fire protective systems or any combination thereof.

F. HIPAA

SECTION I – COVERAGES, COVERAGE B PERSONAL AND ADVERTISING INJURY LIABILITY, is amended as follows:

1. Paragraph **1. Insuring Agreement** is amended to include the following:

   We will pay those sums that the insured becomes legally obligated to pay as damages because of a "violation(s)" of the Health Insurance Portability and Accountability Act (HIPAA). We have the right and the duty to defend the insured against any "suit," "investigation," or "civil proceeding" seeking these damages. However, we will have no duty to defend the insured against any "suit" seeking damages, "investigation," or "civil proceeding" to which this insurance does not apply.

2. Paragraph **2. Exclusions** is amended to include the following additional exclusions:

   This insurance does not apply to:

   a. **Intentional, Willful, or Deliberate Violations**

      Any willful, intentional, or deliberate "violation(s)" by any insured.

   b. **Criminal Acts**

      Any "violation" which results in any criminal penalties under the HIPAA.

   c. **Other Remedies**

      Any remedy other than monetary damages for penalties assessed.

   d. **Compliance Reviews or Audits**

      Any compliance reviews by the Department of Health and Human Services.

3. **SECTION V – DEFINITIONS** is amended to include the following additional definitions:

   a. "Civil proceeding" means an action by the Department of Health and Human Services (HHS) arising out of "violations."

   b. "Investigation" means an examination of an actual or alleged "violation(s)" by HHS. However, "investigation" does not include a Compliance Review.

   c. "Violation" means the actual or alleged failure to comply with the regulations included in the HIPAA.

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G. Medical Payments – Limit Increased to $20,000, Extended Reporting Period

If COVERAGE C MEDICAL PAYMENTS is not otherwise excluded from this Coverage Part:

1. The Medical Expense Limit is changed subject to all of the terms of **SECTION III - LIMITS OF INSURANCE** to the greater of:

   a. $20,000; or
   b. The Medical Expense Limit shown in the Declarations of this Coverage Part.

2. **SECTION I – COVERAGE, COVERAGE C MEDICAL PAYMENTS**, Subsection **1. Insuring Agreement**, a. (3) (b) is deleted in its entirety and replaced by the following:

   (b) The expenses are incurred and reported to us within three years of the date of the accident.

H. Athletic Activities

SECTION I – COVERAGES, COVERAGE C MEDICAL PAYMENTS, Subsection **2. Exclusions**, Paragraph **e. Athletic Activities** is deleted in its entirety and replaced with the following:

e. Athletic Activities

To a person injured while taking part in athletics.

I. Supplementary Payments

SECTION I – COVERAGES, SUPPLEMENTARY PAYMENTS - COVERAGE A AND B are amended as follows:

1. b. is deleted in its entirety and replaced by the following:

1. **b.** Up to $5000 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these.

1.d. is deleted in its entirety and replaced by the following:

1. **d.** All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to **$1,000** a day because of time off from work.

J. Employee Indemnification Defense Coverage

SECTION I – COVERAGES, SUPPLEMENTARY PAYMENTS – COVERAGES A AND B the following is added:

We will pay, on your behalf, defense costs incurred by an "employee" in a criminal proceeding occurring in the course of employment.

The most we will pay for any "employee" who is alleged to be directly involved in a criminal proceeding is $25,000 regardless of the numbers of "employees," claims or "suits" brought or persons or organizations making claims or bringing "suits.

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K. Key and Lock Replacement – Janitorial Services Client Coverage

SECTION I – COVERAGES, SUPPLEMENTARY PAYMENTS – COVERAGES A AND B is amended to include the following:

We will pay for the cost to replace keys and locks at the "clients" premises due to theft or other loss to keys entrusted to you by your "client," up to a $10,000 limit per occurrence and $10,000 policy aggregate.

We will not pay for loss or damage resulting from theft or any other dishonest or criminal act that you or any of your partners, members, officers, "employees", "managers", directors, trustees, authorized representatives or any one to whom you entrust the keys of a "client" for any purpose commit, whether acting alone or in collusion with other persons.

The following, when used on this coverage, are defined as follows:

a. "Client" means an individual, company or organization with whom you have a written contract or work order for your services for a described premises and have billed for your services.

b. "Employee" means:

(1) Any natural person:

(a) While in your service or for 30 days after termination of service;

(b) Who you compensate directly by salary, wages or commissions; and

(c) Who you have the right to direct and control while performing services for you; or

(2) Any natural person who is furnished temporarily to you:

(a) To substitute for a permanent "employee" as defined in Paragraph **(1)** above, who is on leave; or

(b) To meet seasonal or short-term workload conditions;

while that person is subject to your direction and control and performing services for you.

(3) "Employee" does not mean:

(a) Any agent, broker, person leased to you by a labor leasing firm, factor, commission merchant, consignee, independent contractor or representative of the same general character; or

(b) Any "manager," director or trustee except while performing acts coming within the scope of the usual duties of an "employee."

c. "Manager" means a person serving in a directorial capacity for a limited liability company.

L. Additional Insureds

SECTION II – WHO IS AN INSURED is amended as follows:

1. If coverage for newly acquired or formed organizations is not otherwise excluded from this

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Coverage Part, Paragraph **3.a.** is deleted in its entirely and replaced by the following:

a. Coverage under this provision is afforded until the end of the policy period.

2. Each of the following is also an insured:

a. Medical Directors and Administrators – Your medical directors and administrators, but only while acting within the scope of and during the course of their duties as such. Such duties do not include the furnishing or failure to furnish professional services of any physician or psychiatrist in the treatment of a patient.

b. Managers and Supervisors – Your managers and supervisors are also insureds, but only with respect to their duties as your managers and supervisors. Managers and supervisors who are your "employees" are also insureds for "bodily injury" to a co-"employee" while in the course of his or her employment by you or performing duties related to the conduct of your business.

This provision does not change Item 2.a.(1)(a) as it applies to managers of a limited liability company.

c. Broadened Named Insured – Any organization and subsidiary thereof which you control and actively manage on the effective date of this Coverage Part. However, coverage does not apply to any organization or subsidiary not named in the Declarations as Named Insured, if they are also insured under another similar policy, but for its termination or the exhaustion of its limits of insurance.

d. Funding Source – Any person or organization with respect to their liability arising out of:

(1) Their financial control of you; or

(2) Premises they own, maintain or control while you lease or occupy these premises.

This insurance does not apply to structural alterations, new construction and demolition operations performed by or for that person or organization.

e. Home Care Providers – At the first Named Insured's option, any person or organization under your direct supervision and control while providing for you private home respite or foster home care for the developmentally disabled.

f. Managers, Landlords, or Lessors of Premises – Any person or organization with respect to their liability arising out of the ownership, maintenance or use of that part of the premises leased or rented to you subject to the following additional exclusions:

This insurance does not apply to:

(1) Any "occurrence" which takes place after you cease to be a tenant in that premises; or

(2) Structural alterations, new construction or demolition operations performed by or on behalf of that person or organization.

g. Lessor of Leased Equipment – Automatic Status When Required in Lease Agreement With You – Any person or organization from whom you lease equipment when you and such person or organization have agreed in writing in a contract or agreement that such person or organization is to be added as an additional insured on your policy. Such person or

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organization is an insured only with respect to liability for "bodily injury," "property damage" or "personal and advertising injury" caused, in whole or in part, by your maintenance, operation or use of equipment leased to you by such person or organization.

A person's or organization's status as an additional insured under this endorsement ends when their contract or agreement with you for such leased equipment ends.

With respect to the insurance afforded to these additional insureds, this insurance does not apply to any "occurrence" which takes place after the equipment lease expires.

h. **Grantors of Permits** – Any state or political subdivision granting you a permit in connection with your premises subject to the following additional provision:

(1) This insurance applies only with respect to the following hazards for which the state or political subdivision has issued a permit in connection with the premises you own, rent or control and to which this insurance applies:

(a) The existence, maintenance, repair, construction, erection, or removal of advertising signs, awnings, canopies, cellar entrances, coal holes, driveways, manholes, marquees, hoist away openings, sidewalk vaults, street banners or decorations and similar exposures;

(b) The construction, erection, or removal of elevators; or

(c) The ownership, maintenance, or use of any elevators covered by this insurance.

i. **Vendors** – Only with respect to "bodily injury" or "property damage" arising out of "your products" which are distributed or sold in the regular course of the vendor's business, subject to the following additional exclusions:

(1) The insurance afforded the vendor does not apply to:

(a) "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;

(b) Any express warranty unauthorized by you;

(c) Any physical or chemical change in the product made intentionally by the vendor;

(d) Repackaging, except when unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;

(e) Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;

(f) Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;

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(g) Products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor; or

(h) "Bodily injury" or "property damage" arising out of the sole negligence of the vendor for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:

(i) The exceptions contained in Sub-paragraphs **(d)** or **(f)**; or

(ii) Such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.

(2) This insurance does not apply to any insured person or organization, from whom you have acquired such products, or any ingredient, part or container, entering into, accompanying or containing.

j. **Franchisor –** Any person or organization with respect to their liability as the grantor of a franchise to you.

k. **As Required by Contract –** Any person or organization where required by a written contract executed prior to the occurrence of a loss. Such person or organization is an additional insured for "bodily injury," "property damage" or "personal and advertising injury" but only for liability arising out of the negligence of the named insured. The limits of insurance applicable to these additional insureds are the lesser of the policy limits or those limits specified in a contract or agreement. These limits are included within and not in addition to the limits of insurance shown in the Declarations

l. **Owners, Lessees or Contractors –** Any person or organization, but only with respect to liability for "bodily injury," "property damage" or "personal and advertising injury" caused, in whole or in part, by:

(1) Your acts or omissions; or

(2) The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured when required by a contract.

With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to "bodily injury" or "property damage" occurring after:

(a) All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or

(b) That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

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m. **State or Political Subdivisions –** Any state or political subdivision as required, subject to the following provisions:

(1) This insurance applies only with respect to operations performed by you or on your behalf for which the state or political subdivision has issued a permit, and is required by contract.

(2) This insurance does not apply to:

(a) "Bodily injury," "property damage" or "personal and advertising injury" arising out of operations performed for the state or municipality; or

(b) "Bodily injury" or "property damage" included within the "products-completed operations hazard."

M. Duties in the Event of Occurrence, Claim or Suit

SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS, Paragraph **2.** is amended as follows:

a. is amended to include:

This condition applies only when the "occurrence" or offense is known to:

(1) You, if you are an individual;

(2) A partner, if you are a partnership; or

(3) An executive officer or insurance manager, if you are a corporation.

b. is amended to include:

This condition will not be considered breached unless the breach occurs after such claim or "suit" is known to:

(1) You, if you are an individual;

(2) A partner, if you are a partnership; or

(3) An executive officer or insurance manager, if you are a corporation.

N. Unintentional Failure To Disclose Hazards

SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS, 6. Representations is amended to include the following:

It is agreed that, based on our reliance on your representations as to existing hazards, if you should unintentionally fail to disclose all such hazards prior to the beginning of the policy period of this Coverage Part, we shall not deny coverage under this Coverage Part because of such failure.

O. Transfer of Rights of Recovery Against Others To Us

SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS, 8. Transfer of Rights of

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Recovery Against Others To Us is deleted in its entirety and replaced by the following:

If the insured has rights to recover all or part of any payment we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them.

Therefore, the insured can waive the insurer's rights of recovery prior to the occurrence of a loss, provided the waiver is made in a written contract.

P. Liberalization

SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS, is amended to include the following:

If we revise this endorsement to provide more coverage without additional premium charge, we will automatically provide the additional coverage to all endorsement holders as of the day the revision is effective in your state.

Q. Bodily Injury – Mental Anguish

SECTION V – DEFINITIONS, Paragraph **3.** Is deleted in its entirety and replaced by the following:

"Bodily injury" means:

a. Bodily injury, sickness or disease sustained by a person, and includes mental anguish resulting from any of these; and

b. Except for mental anguish, includes death resulting from the foregoing (Item **a.** above) at any time.

R. Personal and Advertising Injury – Abuse of Process, Discrimination

If **COVERAGE B PERSONAL AND ADVERTISING INJURY LIABILITY COVERAGE** is not otherwise excluded from this Coverage Part, the definition of "personal and advertising injury" is amended as follows:

1. **SECTION V – DEFINITIONS**, Paragraph 14.b. is deleted in its entirety and replaced by the following:

   b. Malicious prosecution or abuse of process;

2. **SECTION V – DEFINITIONS**, Paragraph 14. is amended by adding the following:

   Discrimination based on race, color, religion, sex, age or national origin, except when:

   a. Done intentionally by or at the direction of, or with the knowledge or consent of:

   (1) Any insured; or

   (2) Any executive officer, director, stockholder, partner or member of the insured;

   b. Directly or indirectly related to the employment, former or prospective employment, termination of employment, or application for employment of any person or persons by an insured;

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c. Directly or indirectly related to the sale, rental, lease or sublease or prospective sales, rental, lease or sub-lease of any room, dwelling or premises by or at the direction of any insured; or

d. Insurance for such discrimination is prohibited by or held in violation of law, public policy, legislation, court decision or administrative ruling.

The above does not apply to fines or penalties imposed because of discrimination.

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City of Santa Fe
Treasury Department
200 Lincoln Ave.
Santa Fe, New Mexico 87504-0909
505-955-6551

BUSINESS REGISTRATION

Business Name: INTERFAITH COMMUNITY SHELTER
DBA: INTERFAITH COMMUNITY SHELTER

Business Location: 2801 CERRILLOS RD
SANTA FE, NM 87501

Owner: KENNETH SEMAON

License Number: 222294

Issued Date: March 11, 2020

Expiration Date: December 31, 2020

CRS Number: 03113253007

License Type: Business License - Renewable

Classification: Business Registration - Standard

Fees Paid: $35.00

INTERFAITH COMMUNITY SHELTER
POO BOX 22653
SANTA FE, NM 87502

THIS IS NOT A CONSTRUCTION PERMIT OR SIGN PERMIT. APPROPRIATE PERMITS MUST BE OBTAINED FROM THE CITY OF SANTA FE BUILDING PERMIT DIVISION PRIOR TO COMMENCEMENT OF ANY CONSTRUCTION OR THE INSTALLATION OF ANY EXTERIOR SIGN.

THIS REGISTRATION/LICENSE IS NOT TRANSFERRABLE TO OTHER BUSINESSES OR PREMISES.

TO BE POSTED IN A CONSPICUOUS PLACE

Ver. 16 2/7/2020

CITY OF SANTA FE

COMMUNITY DEVELOPMENT BLOCK GRANT CONTRACT

THIS CONTRACT is made and entered into this _____ day of _____ _____, 2020 by and between the City of Santa Fe, a municipal corporation, (the "City") and Santa Fe Civic Housing Authority Community Shelter Group, Inc (the "Subrecipient").

RECITALS

1. The Subrecipient has applied for and received funds from the United States Government under Title 1 of the Housing and Community Development Act of 1974, Public Law 93-383.

2. The City desires to engage the Subrecipient to render certain services to the City and its citizens.

3. The Subrecipient further certifies that it is willing and able to perform these services and that said services to be performed are within the Subrecipient's legal powers and capabilities.

4. The City desires to engage the Subrecipient to render these certain services in connection therewith as more particularly set forth hereafter.

AGREEMENTS

NOW, THEREFORE, the parties hereto mutually agree as follows:

I. SCOPE OF SERVICES

The Subrecipient agrees to utilize CDBG funds for projects that serve low to moderate-income residents within the Santa Fe City limits based on current HUD Area Median Income data for Santa Fe as follows:

A. Funding will be used for the acquisition and rehabilitation of nine (9) units of senior housing for very low income seniors who were previously homeless or at risk of homelessness. Specific deferred maintenance costs for which CDBG funds may be used include upgrades to the interior of units (flooring, appliances, cabinetry), fixtures and HVAC systems, energy efficiency improvements, and exterior improvements (stucco, windows, doors, landscaping, paving and roofing).

B. Contractor will submit three (3) cost proposals detailing the proposed work to the City with a written justification for which proposal is accepted before work commences.

C. Contractor will comply with all federal regulations related to the use of federal funds as applicable (for instance, Davis-Bacon Act, Section 3, Fair Housing Act, lead-based paint regulations, etc.)

D. Contractor will report to the City on a quarterly basis the use of funds, program outcomes achieved, AMI% of assisted households, size of household, addresses of assisted homes, and other demographic information as required by the City's CDBG quarterly reporting form.

II. NATIONAL OBJECTIVES

The Subrecipient certifies that the service carried out with funds provided under this Contract will meet one or more of the Community Development Block Grant (hereinafter "CDBG") Program's National Objectives:

A. Benefit low/moderate income persons.

B. Benefit extremely low income persons.

C. Benefit homeless and elderly persons.

III. PERFORMANCE MONITORING

The City shall monitor the performance of the Subrecipient against goals and levels of accomplishment as stated above. Substandard performance as determined by the City will constitute noncompliance with this Contract. If action to correct such substandard performance is not taken by the Subrecipient within a reasonable period of time after being notified by the Grantee, contract suspension or termination procedures will be initiated.

IV. WORK PLAN AND REPORTING

A. Work Plan: The Subrecipient shall provide the City, within sixty (60) days from signing this Agreement, a revised work plan outlining the major tasks or activities, the measurable objectives for each task or activity, and the time frames to be taken by the Subrecipient in the performance of this Agreement. Included in this report should be information regarding how much funding was leveraged during the program year and from which sources.

B. Annual Budget: All project activities will be in accordance with the attached budget and work plan (Exhibit A) per 24 CFR 570.503(b)(1).

C. Invoicing: The Subrecipient shall submit to the City quarterly reports in order to receive reimbursement for these services. Quarterly reports must be filed no later than the 15th calendar day for the preceding month. A fund requisition with documentation in support of each budgetary category will be submitted. This documentation must include the original or a certified copy or copies of invoices, vouchers, statements, etc. All costs

chargeable to the City must be in accordance with budgetary and other restrictions of expenses established by this Contract. Funds for reimbursement can be disbursed on any Friday of each month during the contract period. In order for the City to meet this deadline, the Subrecipient is required to submit its request for reimbursement by Monday, 5:00 p.m., in order to receive payment by the following Friday. The Subrecipient shall submit a Final Project Report assessing the comparison of results achieved in relation to stated goals and objectives in the Scope of Services approved by the City. This report is due to the Office of Affordable Housing fifteen (15) days after the completion of the Contract.

D. Final Payment: Since all payments under this Contract shall be quarterly on a cost reimbursement basis, the City shall be entitled to withhold the final ten percent (10%) due hereunder, pending final approval by the City of the services rendered. Upon receipt and acceptance of a final project report prior to the final payment, the Subrecipient shall furnish the City proof in documentary form that all claims, liens, salaries or other obligations incurred by it in accordance with the services specified herein, have been properly paid and released.

E. Program Monitoring and Financial Audits: At such time and in such form as the City may require there shall be furnished to the City such statements, records, reports, data and information as the City may request pertaining to matters covered by this Contract. Furthermore, at any time during normal business hours and as often as the City may deem necessary, there shall be made available to the City or its designee for examination, all records maintained by the Subrecipient with respect to all matters covered by this Contract; and, the Subrecipient will permit the City to audit, examine and make excerpts or transcripts from such records, and make audits of all contracts,

invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all matters covered by this Contract subject to the limitations set out above. Any Subrecipient receiving City CDBG funds in excess of fifteen thousand dollars ($15,000) or any combination of public (City, State, or Federal) monies in excess of twenty-five thousand dollars ($25,000) shall perform a final audit on all funds received from all sources for the program no later than ninety (90) days after completion of the sub-recipient's fiscal year, and shall furnish the City with said audit. This audit shall be performed by an independent agency. Any Subrecipient receiving a sum of less than fifteen thousand dollars ($15,000) in City CDBG funds must submit an audited financial statement on all funds received from all sources for the program after completion of the sub-recipient's fiscal year, and shall furnish the City with said financial statements.

V. STATUS OF CONTRACTOR

The Subrecipient, and its agents and employees, are independent contractors performing professional services for the City and are not employees of the City. The Subrecipient, 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 Contract.

VI. COMPENSATION

A. The City shall pay to the Contractor in full payment for services satisfactorily performed, such compensation shall not exceed one hundred thousand dollars ($100,000). **The total amount payable to the Contractor under this Agreement, including gross receipts tax and expenses, shall not exceed ($100,000). 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.

B. Invoice must include documentation of staff costs incurred, including time sheets or payroll reports showing amount of staff time paid by CDBG funds.

C. 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. All invoices MUST BE received by the City no later than thirty 30) days after the termination of the Fiscal Year in which the services were delivered. Invoices received after such date WILL NOT BE PAID.

VII. TERM

THIS AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED BY THE CITY. This Agreement shall terminate on **June 30, 2021** unless terminated pursuant to paragraph 4 (Termination), or paragraph 5 (Appropriations). In accordance with Section 13-1-150 NMSA 1978, no contract term for a professional services contract, including extensions and renewals, shall exceed four years, except as set forth in Section 13-1-150 NMSA 1978.

VIII. ADDITIONAL CONTRIBUTIONS

The Subrecipient may use the funds of the City granted herein to obtain Federal, State or other grants to carry out the Scope of Services herein.

A. Program Income: Program income received may be retained by the Subrecipient, but may be used only for support of the programs detailed in the Scope of Services section of this Contract. Program income on hand at the time of completion of the Contract period shall continue to be subject to the eligibility requirements and other applicable provisions of 24 CFR 570.504, Program Income of the Administrative Regulations of the CDBG program.

IX. APPROPRIATIONS

The terms of this Contract are contingent upon sufficient appropriations and authorization made by the City for the performance of this Contract. If sufficient appropriations and authorizations are not made by the City, this Contract shall terminate upon written notice being given by the City to the Subrecipient. The City's decision as to whether sufficient appropriations are available shall be accepted by the Subrecipient and shall be final.

X. FISCAL AGENT

The New Mexico Community Foundation will act as Coming Home's Fiscal Agent and will defend, indemnify and hold harmless the City from any and all liability, costs and expenses whatsoever for expenditure of funds pursuant to the Scope of Services of this Contract.

XI. BUDGET REVISIONS The Subrecipient will inform the City of any "line item" revisions to the attached budget, within the maximum compensation shown in this Agreement and will obtain the City's prior written approval of any change that represents

at least 25 percent or more of the line item amount per the latest approved budget. Any budget revisions must be eligible expenditures under this Agreement and Title I of the Community Development Act.

XII. ELIGIBLE AND INELIGIBLE COSTS

A. Criteria. This section provides criteria for the determination of whether costs are eligible or ineligible for funding under this Contract. Costs incurred, which are determined by the City to be ineligible under these criteria, may not be charged to this Contract.

B. Standards. All costs incurred must be reasonable and of a nature which clearly relates to the specific purposes and end product of the contract under which the services are being performed. Care must be exercised by all concerned in incurring costs to assure that expenditures conform to these general standards, including 2 CFR Part 200, and the following criteria for eligible costs.

C. Eligible Costs. To be eligible for inclusion, the cost must:

(1) Be necessary and reasonable for proper and efficient execution of the contractual requirements and in accordance with an approved budget.

(2) Be in conformance with any limitations, exclusions and provisions pursuant to this Contract, State and Local Laws, or other governing limitations.

(3) Be accorded consistent treatment through application of accounting policy and procedures approved and/or prescribed.

(4) Be net after allowance of all applicable credits such as purchase discounts, rebates or allowances, sales or publication of materials, or other income or refunds.

(5) Be in accordance with budgetary or other restrictions on expenses established by the City.

(6) Be fully documented.

(7) The Subrecipient shall reimburse the City any costs and expenses declared ineligible by the City which may have been reimbursed erroneously to the Subrecipient by the City under whatever conditions.

D. Ineligible Costs. Ineligible costs shall be as follows:

(1) Accounting. Costs of maintaining central accounting records necessary for overall local government purposes, such as appropriation of fund accounts by the Treasurer, or similar officials, are considered general expenses of the Subrecipient and are ineligible costs. However, the cost of establishing and maintaining accounting or other information systems required for the management of the program are eligible costs including costs incurred by central services agencies for these purposes.

(2) Bad Debts. Any losses arising from uncollectible accounts and other claims, and related costs.

(3) Budget. Costs of a central budget office, except the costs of employees in the central budget office of the Subrecipient directly involved in the program as set forth in the Scope of Services, hereto, and clearly identifiable. However, costs incurred for the development, preparation, presentation, and execution of program and project budgets performed by the Subrecipient are eligible costs.

(4) Contingencies. Contribution to a contingency reserve or any similar provision for unforeseen events.

(5) Contributions and Donations. Political, charitable and fundraising solicitations, payments, gifts and expenses.

(6) Entertainment. Costs of amusements, social activities, and incidental costs, such as meals, beverages, lodgings, and gratuities, relating to entertainment.

(7) Board Expenses. The salary and expenses if any, of the Chairman of the Board of the Subrecipient are considered a cost of the Subrecipient and are not eligible costs in any way to this Contract.

(8) Fines and Penalties. Costs resulting from violations of or failure to comply with federal, state and local laws and regulations.

(9) Interest and other Financial Costs. Interest on borrowing (however represented); bond discounts, cost of financing and refinancing operations and legal and professional fees paid in connection therewith.

(10) Legal Fees. Costs for legal advice or work are ineligible, except those required directly for the administration of the program, which are eligible.

(11) Legislative Expenses. Costs for lobbying or testimony before the legislature or any of its committees, whether incurred for the purposes of legislation or executive direction, are not eligible.

(12) Membership Expenses. Cost of membership in any organization is ineligible.

(13) Travel. Costs in excess of those allowed by the City for its employees are ineligible.

(14) Meeting Attendance. Costs of attending meetings which are not included in the budget are ineligible.

(15) Expenses Related to Fundraising. Cost of postage, printing or external subcontracting for grant writers or development specialists.

XIII. SPECIAL PROVISIONS

A. The Subrecipient realizes that the availability of funds for the activity covered by the "Scope of Services," herein and for performance of this Agreement, depend solely on the provisions of said funds by HUD, such provisions being contingent on the City's approval of these activities as eligible under the Housing and Community Development Act of 1974, the National Affordable Housing Act of 1990 and other pertinent federal regulations. However, the City shall notify the Subrecipient in writing within five days of receipt by the City of any determination by HUD to terminate CDBG funding.

B. In the event the Subrecipient or its organization is dissolved or discontinues making loans as provided herein, or this Agreement is not renewed after it expires, the Subrecipient shall upon such dissolution, discontinuation or within sixty (60) days after expiration of this Agreement if its renewal has not in the meantime been executed:

(1) Return to the City all unexpended Community Development Block Grant funds received from the City and CDBG program income in the possession of the Subrecipient that have not been already obligated through contracts.

(2) Assign and transfer to the City the equity on all outstanding loans and mortgages which have been provided by the Subrecipient from Community Development grant funds and related program income under this and previous agreements. The Subrecipient shall provide the City with a listing of the borrowers and outstanding amounts, together with up-to-date records of principal and interest payments and balances of the accounts of said borrowers.

XIV. CONFLICT OF INTEREST

The Subrecipient agrees to abide by the provision of 2 CFR Part 200 and 570.611, which include (but are not limited to) the following:

A. Interest of Members of City: No officer, employee, or agent of the City who exercises any functions or responsibilities in connection with the planning and carrying out any of the provisions of this Contract, or any other person who exercises any functions or responsibilities in connection with any of the provisions of the Contract, shall have any personal financial interest, direct or indirect, in this Contract; and the Subrecipient shall take appropriate steps to assure compliance.

B. Interest of Subrecipient and Employees: The Subrecipient shall not allow any person who presently exercises any functions or responsibilities in connection with the provisions of this Contract, to have personal financial interests, direct or indirect, in this Contract. The Subrecipient further shall not allow in the performance of this Contract any person having any conflicting interest to be employed by the Subrecipient. Any interest on the part of the Subrecipient or its employees must be disclosed to the City. Provided, however, that this paragraph shall be interpreted in such a manner so as not to unreasonably impede the requirement that maximum opportunity for employment of area residents and resident participation shall be of primary concern to the Subrecipient.

Should the subrecipient discover a potential conflict of interest, the subrecipient shall immediately disclose in writing to the City and specifically ask for guidance on how to resolve the conflict and prior to any act in furtherance of the conflict. The disclosure shall include a description of the nature of the conflict; the name, position, phone number and address of the person with the conflict; the date of the notification; and requested action to address the conflict. Disclosures of real, apparent or perceived conflicts of

interest shall be made to the City and the City must agree in writing to a proper course of subsequent action prior to the disbursement of CDBG funds.

C. Certification:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the State, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of a Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the State shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.

XV. DISCRIMINATION PROHIBITED

A. In all hiring or employment made possible by or resulting from this Contract, there (1) will not be any discrimination against any employee or applicant for employment because of race, color, age, religion, sex, sexual orientation, national origin, and physical or mental disability; and (2) affirmative action will be taken to ensure that qualified applicants are employed, and that employees are treated during employment without regard to their race, color, age, religion, sex, sexual orientation, national origin, and

physical or mental disability. This requirement shall apply, without limitation, to the following: employment, upgrading, demotion or transfer, recruitment advertising, layoff or termination, and selection for training, including apprenticeship. There shall be posted in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this clause. All solicitations or advertisements for employees shall state that all qualified applicants will receive consideration for employment without regard to race, color, age, religion, sex, sexual orientation, national origin, and physical or mental disability.

B. No person in the United States shall, on account of race, color, age, religion, sex, sexual orientation, national origin, and physical or mental disability, be excluded from participating in, denied the benefits of, or subjected to discrimination under this Contract or activity made possible by or resulting from the Contract.

C. Subrecipient will abide by all requirements of the Americans with Disabilities Act. Subrecipient shall be kept informed of employee discrimination prevention requirements and program and facility accessibility standards.

XVI. WOMEN- AND MINORITY- OWNED BUSINESSES (W/MBE)

The Subrecipient will use its best efforts to afford small businesses, minority business enterprises, and women's business enterprises the maximum practicable opportunity to participate in the performance of this contract. As used in this contract, the terms "small business" means a business that meets the criteria set forth in section 3(a) of the Small Business Act, as amended (15USC 632), and "minority and women's business enterprise" means a business at least fifty-one (51) percent owned and controlled by minority group members or women. For the purpose of this definition, "minority group members" are Afro-Americans, Spanish-speaking, Spanish surnamed or

Spanish-heritage Americans, Asian-Americans, and American Indians. The Subrecipient may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

XVII. POLITICAL ACTIVITY PROHIBITED

None of the funds, materials, property or services provided for directly or indirectly under this Contract shall be used in the performance of this Contract for any political activity prohibited by Federal, State or local law.

XVIII. CONFIDENTIALITY

Any confidential information provided to or developed by the Subrecipient in the performance of this Contract shall be kept confidential and shall not be made available to any individual or organization by the Subrecipient without the prior written approval of the City.

XIX. REPRESENTATIONS IN SUBMITTALS

The City has relied on all representations in the Subrecipient's submittals in awarding this Agreement and the Subrecipient warrants the accuracy of all representations. Misrepresentations in the submittals will be cause for termination of this Agreement.

XX. AMENDMENT

This Contract shall not be altered, changed or amended except by amendment in writing executed by the parties hereto.

XXI. NOTICES AND ADDRESSES

Any notices required to be given under this agreement shall be in writing and served by personal delivery or by mail, postage prepaid, to the parties at the following addresses:

For the City, notices may be sent to:

City of Santa Fe
Office of Affordable Housing
P.O. Box 909
Santa Fe, New Mexico 87504-0909

For the Subrecipient, notices may

Santa Fe Civic Housing Authority
664 Alta Vista St.
Santa Fe, NM 87505

XXII. ASSIGNABILITY

The Subrecipient shall not assign any interest in this Contract and shall not transfer any interest in the same (whether by assignment or otherwise) without the prior written consent of the City.

XXIIII. WARRANTY OF AUTHORITY

The Subrecipient warrants that it has full corporate and other authority, under its articles of corporation, bylaws, resolutions, other pertinent corporate documents, instruments, and agreements, and otherwise to enter into this agreement, to bind itself under this agreement, and to perform this Agreement in accordance with the terms and provisions of this Agreement.

XXIV. BINDING EFFECT

This Agreement is binding upon and inures to the benefit of the successors, successors-in interest, assigns and transferees of the City and the Subrecipient.

XXV. SEVERABILITY

In case any one or more of the provisions contained in this Agreement or any application thereof shall be invalid, illegal or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions contained herein and any other application thereof shall not in any way be affected or impaired thereby.

XXVI. DISPOSITION OF PROPERTY

A. All non-expendable property acquired by the Subrecipient pursuant to this Contract shall be recorded in the property records of the City prior to reimbursement to the Subrecipient for expenses incurred in order to acquire said property. For purposes of this Contract, the term "non-expendable property" means items of tangible, personal property that are non-perishable such as equipment, software, and furniture. The use and disposition of real property and equipment under this Contract shall be in compliance with the requirements of 24 CFR Part 84 and 24 CFR 570.502, 570.503, and 570.504, as applicable.

B. Subrecipient shall be accountable for all recorded non-expendable property which is recorded as City property for a period of five years as established by the City.

C. All non-expendable property acquired pursuant to this Contract shall remain in the possession of and shall be used only by the Subrecipient, provided that said property continues to be used for the same purposes and in the same manner as originally intended.

D. If the Subrecipient cannot continue to effectively use recorded non-expendable property for the same purposes and in the same manner as originally intended and described in this Contract, all such non-expendable property shall remain in the possession of, and shall be used by the Subrecipient for similar purposes and in a similar manner as initially used; provided, however, that conversion of said property to a similar use in another similar program must first receive the express written consent of the City.

E. If the Subrecipient can neither continue to effectively use recorded non-

expendable property for the same purposes and in the same manner originally intended nor continue to effectively use said property for the same or similar purposes and in a similar manner as permitted by this Contract, the City may provide for the disposition of said property wholly and entirely at the City's discretion.

F. The City may, in writing, waive and relinquish all claims the City may have in and to recorded non-expendable property.

G. When the Subrecipient's period of accountability for any non-expendable property expires, said property shall revert to the City unless otherwise provided for in a written agreement between the Subrecipient and the City. Assets on hand at the expiration of the Contract in excess of twenty-five thousand dollars ($25,000) shall be disbursed in accordance with reversion of assets of 24 CFR 570.503 Agreements with Subrecipients of the CDBG regulation; or

(i) The Subrecipient shall pay to the City an amount equal to the current market value of the property less any portion of the value attributable to the expenditures of non-CDBG funds for the acquisition of, or improvement to, the property. The payment is program income to the City. (No payment is required after the period of time specified in 24 CFR 570.503(b)(7)(i).

XXVII. COMPLIANCE WITH LOCAL LAW

The Subrecipient shall comply at its own cost with all applicable laws, ordinances and codes of the State and the City.

XXVIII. THIRD PARTY BENEFICIARIES

By entering into this Contract, the parties do not intend to create any right, title or interest in or for the benefit of any person other than the City and the Subrecipient. No person shall claim any right, title or interest under this Contract or seek to enforce this

Contract as a third party beneficiary of this Contract.

XXIX. JURISDICTION CLAUSE

This Contract shall be performed in Santa Fe, New Mexico. Any legal action or cause of action arising in connection herewith shall be within the jurisdiction and venue of the appropriate court in Santa Fe, New Mexico, for all purposes.

XXX. SUSPENSION AND TERMINATION

A. This Contract 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. By such termination, neither party may nullify obligations already incurred for performance or failure to perform prior to the date of termination. In addition, the City may terminate this agreement for convenience in accordance with 2 CFR Part 200.

B. The City may enforce remedies for noncompliance in accordance with 2 CFR Part 200. The City may also suspend or terminate this Contract, in whole or in part, if the Subrecipient materially fails to comply with any term of this Contract, or with any of the rules, regulations or provisions referred to herein; and the City may declare the Subrecipient ineligible for any further participation in the City's contracts, in addition to other remedies as provided by law. In the event there is probable cause to believe the Subrecipient is not in compliance with any applicable rules or regulations, the City may withhold up to fifteen percent (15%) of said contract funds until such time as the Subrecipient is found to be in compliance by the City, or is otherwise adjudicated to be in compliance.

XXXI 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.

XXXII. 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.

A. **Commercial General Liability** insurance shall be written on an occurrence basis and be a broad as ISO Form CG 00 01 with limits not less than $2,000,000 per occurrence and $2,000,000 in the aggregate for claims against bodily injury, personal and advertising injury, and property damage. Said policy shall include broad form Contractual Liability coverage and be endorsed to name the City of Santa Fe their officials, officers, employees, and agents as additional insured.

B. **Business Automobile Liability** insurance for all owned, non-owned automobiles, with a combined single limit not less than $1,000,000 per accident.

C. **Broader Coverage and Limits**. The insurance requirements under this Agreement shall be the greater of (1) the minimum coverage and limits specified in this Agreement, or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the Named Insured. It is agreed that these insurance requirements shall not in any way act to reduce coverage that is broader or that includes higher limits than the minimums required herein. No

representation is made that the minimum insurance requirements of this Agreement are sufficient to cover the obligations of Contractor hereunder.

D. 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.

XXXIII. INDEMNIFICATION

The Subrecipient shall indemnify, hold harmless and defend the City from all losses, damages, claims or judgments, including payments of all attorneys' fees and costs on account of any suit, judgment, execution, claim, action or demand whatsoever arising from Subrecipient's performance under this Agreement as well as the performance of Subrecipient's employees, agents, representatives and subcontractors.

XXXIV.ENTIRE CONTRACT

This Contract constitutes the entire contract between the parties hereto. Prior contracts, whether written or oral, or assertion of statement, of understanding, or other commitment antecedent to this Contract shall have no force or effect whatsoever, unless the same is mutually agreed to by the parties hereto and reduced to writing.

XXXV. GENERAL CONDITIONS

A. General Compliance: The Subrecipient agrees to comply with the requirements of Title 24 of the Code of Federal Regulations, Part 570 (the Housing and Urban Development regulations concerning Community Development Block Grants (CDBG)). The Subrecipient also agrees to comply with all other applicable Federal, state

and local laws, regulations, and policies governing the funds provided under this contract and as set forth at 24 CFR Part 570 subpart K, except that the Subrecipient does not assume the recipient's environmental responsibilities under 24 CFR 570.604 and 24 CFR Part 52. The Subrecipient further agrees to utilize funds available under this Contract to supplement rather than supplant funds otherwise available.

B. Grantor Recognition: The Subrecipient shall ensure recognition of the role of the City in providing services through this contract. All activities, facilities and items utilized pursuant to this contract shall be prominently labeled as to funding source. In addition, the Subrecipient will include a reference to the support provided herein in all publications made possible with funds made available under this contract.

XXXVI. ADMINISTRATIVE REQUIREMENTS

A. Financial Management

1. Accounting Standards. The Subrecipient agrees to comply with 2 CFR Part 200 and agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.

2. Cost Principles. The Subrecipient shall administer its program in conformance with the Uniform Administrative Requirements of 24 CFR 570.502, 24 CFR 570.503, and 2 CFR Part 200. These principles shall be applied for all costs incurred whether charged on a direct or indirect basis.

XXXVII. DOCUMENTATION AND RECORD KEEPING

A. Records to be Maintained. The Subrecipient shall maintain all records required by the Federal regulations specified in 24 CFR 570.506 that are pertinent to the activities to be funded under this Contract. Such records shall include but not be limited

to:

(1) Records providing a full description of each activity undertaken;

(2) Records demonstrating that each activity undertaken meets one of the National Objectives of the CDBG program;

(3) Records required to determine the eligibility of activities;

(4) Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG assistance;

(5) Records documenting compliance with the fair housing and equal opportunity components of the CDBG program;

(6) Records documenting compliance with EPLS/SAM for each sub-contractor;

(7) Financial records as required by 24 CFR 570.502, and 2 CFR Part 200;

(8) Other records necessary to document compliance with Subpart K of 24 CFR Part 570.

(9) Other records necessary to document compliance with Sections 1012 and 1013 of Title X amending the Lead-based Paint Poisoning Prevention Act of 1971 and title 24 of the Code of Federal Regulations as part of 35 (24 CFR 35).

XXXVIII. CLIENT DATA

The Subrecipient shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, income level or other basis for determining eligibility, and description of service provided. Such information shall be made available to the City or its designees for review upon request.

XXXVIX. DISCLOSURE

The Subrecipient understands that client information collected under this Contract is private and the use or disclosure of such information, when not directly connected with the administration of the City's or Subrecipient's responsibilities with respect to services provided under this contract, is prohibited by the State of New Mexico unless written consent is obtained from such person receiving service and, in the case of a minor, that of a responsible parent or guardian.

XL . PROPERTY RECORDS

The Subrecipient shall maintain real property inventory records, which clearly identify properties purchased, improved or sold. Properties retained shall continue to meet eligibility criteria and shall conform to the "changes in use" restrictions specified in 24 CFR 570.503 (b) (8), as applicable.

XLI. RELOCATION, REAL PROPERTY ACQUISITION AND ONE-FOR-ONE HOUSING REPLACEMENT

The Subrecipient agrees to comply with (a) the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), and implementing regulations at 49 CFR Part 24 and 24 CFR 570.606(b); (b) the requirements of 24 CFR 570.606(c) governing the Residential Anti-displacement and Relocation Assistance Plan under section 104(d) of the HCD Act; and (c) the requirements in 24 CFR 570.606(d) governing optional relocation policies.

XLII. ENVIRONMENTAL CONDITIONS

A. Air and Water: The Subrecipient agrees to comply with the following requirements insofar as they apply to the performance of this Contract:

(1) Clean Air Act, 42 USC, 7401, *et seq.*;

(2) Federal Water Pollution Control Act, as amended, 33 USC, 1251, *et seq.*, as amended 1318 relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder;

(3) Environmental Protection Agency (EPA) regulations pursuant to 40 CFR Part 50, as amended.

B. Flood Disaster Protection: In accordance with requirements of the Flood Disaster Protection Act of 1973 (42 USC 4001), the Subrecipient shall assure that for activities located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, flood insurance under the National Flood Insurance Program is obtained and maintained as a condition of financial assistance for acquisition or construction purposes (including rehabilitation).

C. Lead-Based Paint: The Subrecipient agrees that any construction or rehabilitation of residential structures with assistance provided under this Contract shall be subject to HUD Lead-Based Paint Regulations at 24 CFR 570.608, and 24 CFR Part 35, Subpart B. Such regulations pertain to all CDBG-assisted housing and require that all owners, prospective owners, and tenants of properties constructed prior to 1978 be property notified that such properties may include lead-based paint. Such notification shall point out the hazards of lead-based paint and explain the symptoms, treatment and precautions that should be taken when dealing with lead-based paint poisoning and the advisability and availability of blood lead level screening for children under seven. The notice should also point out that if lead-based paint is found on the property, abatement measures may be undertaken. The regulations further require that, depending on the amount of Federal funds applied to a property, paint testing, risk assessment, treatment

and/or abatement may be conducted.

D. Historic Preservation: The Subrecipient agrees to comply with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, as amended (16 USC 470) and the procedures set forth in 36 CFR Part 800, Advisory Council on Historic Preservation Procedures for Protection of Historic Properties, insofar as they apply to the performance of this agreement. In general, this requires concurrence from the State Historic Preservation Officer for all rehabilitation and demolition of historic properties that are fifty years old or older or that are included on a Federal, state, or local historic property list.

XLIII. CLOSE OUTS

The Subrecipient's obligation to the City shall not end until all closeout requirements are completed. Activities during this close-out period shall include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the City), and determining the custodianship of records.

XLIV. LAND COVENANTS

This Contract is subject to the requirements of Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and 24 CFR 570.601 and 602. In regard to the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under this contract, the Subrecipient shall cause or require a covenant running with the land to be inserted in the deed or lease for such transfer, prohibiting discrimination as herein defined, in the sale, lease or rental, or in the use or occupancy of such land, or in any improvements erected or to be erected thereon, providing that the City and the United States are beneficiaries of and entitled to enforce such covenants. The Subrecipient, in

undertaking its obligation to carry out the program assisted hereunder, agrees to take such measures as are necessary to enforce such covenant, and will not itself so discriminate.

XLV. SECTION 504

The Subrecipient agrees to comply with any Federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973 (29 USC 794), which prohibits discrimination against the handicapped in any Federally assisted program.

XLVI. PROHIBITED ACTIVITY

The Subrecipient is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities; sectarian or religious activities; lobbying, political patronage, and nepotism activities.

XLVII. LABOR STANDARDS

A. The Subrecipient agrees to comply with the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act as amended, the provisions of Contract Work Hours and Safety Standards Act (40 USC 327 *et seq.*), the Copeland "Anti-Kickback" Act (18 USC 874 *et seq.*), its implementing regulations of the U.S. Department of Labor at 29 CFR Part 5, and all other applicable Federal, state and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this contract. The Subrecipient shall maintain documentation which demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to the City for review upon request.

B. The Subrecipient agrees that, except with respect to the rehabilitation or construction of residential property containing less than eight units, all contractors engaged under contracts in excess of two thousand dollars ($2,000.00) for construction,

renovation or repair work financed in whole or in part with assistance provided under this contract, shall comply with Federal requirements adopted by the City pertaining to such contracts and with the applicable requirements of the regulations of the Department of Labor, under 29 CFR Parts 1, 3, 5 and 7 governing the payment of wages and ratio of apprentices and trainees to journey workers; provided, that if wage rates higher than those required under the regulations are imposed by state or local law, nothing hereunder is intended to relieve the Subrecipient of its obligation, if any, to require payment of the higher wage. The Subrecipient shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions meeting the requirements of this paragraph.

XLVIII. COMPLIANCE

A. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR 135, ("Section 3") and all applicable rules and orders issued thereunder prior to the execution of this contract, shall be a condition of the Federal financial assistance provided under this contract and binding upon the City, the Subrecipient and any of the Subrecipient's subcontractors. Failure to fulfill these requirements shall subject the City, the Subrecipient and any of the Subrecipient's subcontractors, their successors and assigns, to those sanctions specified by the contract through which Federal assistance is provided. The Subrecipient certifies and agrees that no contractual or other disability exists which would prevent compliance with these requirements.

B. The Subrecipient further agrees to comply with "Section 3" requirements and to include the following language in all subcontracts executed under this Contract.

"The work to be performed under this contract is a project assisted under a program providing direct Federal financial assistance from HUD and is subject to the

requirements of "Section 3" of the Housing and Urban Development Act of 1968, as amended (12 USC 1701). "Section 3" requires that to the greatest extent feasible opportunities for training and employment be given to low and very low-income residents of the project area and contracts for work in connection with the project be awarded to business concerns that provide economic opportunities for low-and very low-income persons residing in the metropolitan area in which the project is located".

XLIX. NOTIFICATIONS

The Subrecipient agrees to send to each labor organization or representative of workers with which it has a collective bargaining contract or other contract or understanding, if any, a notice advising said labor organization or worker's representative of its commitments under the above-referenced "Section 3" clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

L. SUBCONTRACTS

The Subrecipient will include the above-referenced "Section 3" clause in every subcontract and will take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the City. The Subrecipient will not subcontract with any entity where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR 135 and will not let any subcontract unless the entity has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

LI. RESPONSIBILITY FOR PAYMENT OF EMPLOYEES AND SUBCONTRACTORS

A. The Subrecipient shall be solely responsible for payment of wages, salaries and benefits to any and all employees or subcontractors retained by the Subrecipient in

the performance of the services under this Contract.

B. The Contractor shall comply with City of Santa Fe Minimum Wage, Article 28-1-SFCC 1987, as well as any subsequent changes to such article throughout the term of this Agreement. .

LII. WAIVER

The Grantee's failure to act with respect to a breach by the Subrecipient does not waive its right to act with respect to subsequent or similar breaches. The failure of the City to exercise or enforce any right or provision shall not constitute a waiver of such right or provision.

LIII. NEW MEXICO TORT CLAIMS ACT

Any liability incurred by the City of Santa Fe in connection with this Contract is subject to the immunities and limitations of the New Mexico Tort Claims Act, Section 41-4-1, *et seq.* NMSA 1978, as amended. The City and its "public employees" as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity, do not waive any defense and do not waive any limitation of liability pursuant to law. No provision in this Contract modifies or waives any provision of the New Mexico Tort Claims Act.

LIV. RELEASE

The Subrecipient, upon final payment of the amount due under this Contract, releases the City, its officers and employees, from all liabilities, claims and obligations whatsoever arising from or under this Contract. The Subrecipient agrees not to purport to bind the City to any obligation not assumed herein by the City unless the Subrecipient has express written authority to do so, and then only within the strict limits of that authority.

LV. ENTIRE AGREEMENT

This agreement constitutes the entire agreement between the City and the Subrecipient for the use of funds received under this Contract and it supersedes all prior or contemporaneous communications and proposals, whether electronic, oral, or written between the City and the Subrecipient with respect to this Contract.

IN WITNESS WHEREOF, the City and the Subrecipient have executed this Contract on the dates set forth below.

APPROVED AND AUTHORIZED:

_____
ALAN WEBBER, MAYOR
DATE: _____

ATTEST:

SUBRECIPIENT:
SANTA FE CIVIC HOUSING AUTHORITY

_____
YOLANDA Y. VIGIL
CITY CLERK

_____
ED ROMERO
EXECUTIVE DIRECTOR
DATE:_____

New Mexico Taxation and Revenue Dept.
CRS No. 01-505902-00-2
City of Santa Fe Business Registration No. 67971

CITY ATTORNEY'S OFFICE:

Marcos Martinez
Marcos Martinez (May 12, 2020)

_____
SENIOR ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

MARY MCCOY
FINANCE DIRECTOR

2402750.510500
BUSINESS UNIT/LINE ITEM

EXHIBIT A: Per Section V.B. of the Professional Services Agreement and per 24 CFR 570.503(b)(1).

Addendum Project Budget for (Santa Fe Civic Housing) – (Siringo Senior Apts)

Type of funding	Source/ Amount	Source/ Amount	Source/ Amount	Totals
Final CDBG AMOUNT				**$100,000**
Other Federal Funds (for amortizing loans)				
Other Federal Funds (for amortizing loans)				
Amortizing funds				
City Funding (i.e. Youth and Family, Human Services Divisions)				**$**
State funds (i.e. MFA)				**$**
Other (i.e. in-kind, private funds)	$300,000	$550,000	$300,000	**$1,150,000**
				$
Total of all funding sources				**$1,250,000**

The following chart details how the secured funding amount will support the various aspects of (Santa Fe Civic Housing Authority) (Siringo Senior Apts).

Cost	CDBG Allocation
	$100,000
Cost	Private Leveraged Funds
Other	$300,000
	$550,000
	$300,000
Total	$1,250,000

CITY OF SANTA FE PROCUREMENT CHECKLIST

Contractor Name: Santa Fe Civic Housing - Siringo Senior Apts Acquisition-Rehab

Procurement Title: 20/16/P (CDBG)

Procurement Method: State Price Agreement ☐ Cooperative ☐ Sole Source ☐ Other ☐

Exempt ☐ Request For Proposal (RFP) ☐ Invitation To Bid (ITB) ☐ Contract under 60K ☐ Contract over 60K ☐

Department Requesting Office of Affordable Housin Staff Name Roberta Catanach

Procurement Requirements:

A procurement file shall be maintained for all contracts, regardless of the method of procurement. The procurement file shall contain the basis on which the award is made, all submitted bids, all evaluation materials, score sheets, quotations and all other documentation related to or prepared in conjunction with evaluation, negotiation, and the award process. The procurement shall contain a written determination from the Requesting Department, signed by the purchasing officer, setting forth the reasoning for the contract award decision before submitting to the Committees.

REQUIRED DOCUMENTS FOR APPROVAL BY PURCHASING*

YES	N/A	
•		Approved Procurement Checklist (by Purchasing)
•		Memo addressed to City Manager (under 60K) Committees/City Council (over 60K)
	•	State Price Agreement
•		RFP
•		Evaluation Committee Report
	•	ITB
	•	Bib Tab
	•	Quotes (3 valid current quotes)
	•	Cooperative Agreement
	•	Sole Source Request and Determination Form
	•	Contractors Exempt Letter
	•	Purchasing Officers approval for exempt procurement
	•	BAR
	•	FIR
•		Executed Contract, Agreement or Amendment
•		Current Business Registration and CRS numbers on contract or agreement
•		Summary of Contracts and Agreements form
•		Certificate of Insurance
•		All documentation presented to Committees
•		Other:

Roberta Catanach, Contracts Administrator 5/11/2020

Department Rep Printed Name (attesting that all information included) Title Date

Purchasing Officer (attesting that all information is reviewed) Title Date

Brae Dunaway (Feb 12, 2020 10:55 MDT)

Include all other substantive documents and records of communication that pertain to the procurement and contract.

City of Santa Fe

Real Estate Summary of Contracts, Agreements, Amendments & Leases

Section to be completed by department

1. Munis Contract # **3201897**

Contractor: **Santa Fe Civic Housing - Siringo Senior Apts Acquisition-Rehab**

Description: **Agreement delivers services for acquisition/rehabilitation funds for the purchase and rehab of a 9 unit complex on Siringo Road currently owned by St. Elizibeth Shelter for its continued use for Affordable Housing...**

Contract ☐ Agreement ☉ Lease / Rent ☐ Amendment ☐

Term Start Date: **7/01/2020** Term End Date: **6/30/2021**

☐ Approved by Council Date: _____

Contract / Lease: $100,000.00

Amendment # _____ to the Original Contract / Lease # _____

Increase/(Decrease) Amount $ _____

Extend Termination Date to: _____

☐ Approved by Council Date: _____

Amendment is for:

2. **HISTORY of Contract, Amendments & Lease / Rent - Please Elaborate** (option: attach spreadsheet if multiple amendments)
Agreement is for one-year term, 7/01/2020 - 6/30/2021

3. **Procurement History:** **RFP #20/16/P**

Fran Dunaway (Jun 12, 2020 10:55 MDT) _____

Purchasing Officer Review: Date: _____

Comment & Exceptions: _____

4. **Funding Source:** **240** **Org / Object:** **2402750.510500**

Alexis Lotero (Jun 12, 2020 10:43 MDT) _____

Budget Officer Approval: Date: _____

Comment & Exceptions: _____

Staff Contact who completed this form: **Roberta Catanach** Phone # **505-955-6421**

Email: **rlcatanach@santafenm.gov**

To be recorded by City Clerk:

Clerk # _____

Date of Execution: _____

City of Santa Fe
FY20 Fiscal Impact Analysis (Non-Personnel Expenditures)

General Information

Department Name:	General Government	Department Name:	
Division Name:	Office of Affordable Housing	Division Name:	

Financial Information

Amount Requested:	$100,000	Munis Fund Number:	240
Vendor Name:	Santa Fe Civic Housing - Siringo Senior Apts Acquisition-Rehab	Munis Org Number:	2402750
Approved by Director?	Yes	Munis Object Code:	510500

Expenditure Information

1. Describe the purchase of goods/services. Is this one-time or recurring? Please explain why this is the lowest cost option for this expenditure.

This contract delivers services for acquisition/rehabilitation funds for the purchase and rehab of a 9 unit complex on Siringo Road currently owned by St. Elizibeth Shelter for its continued use for Affordable Housing. Currently 8 of 9 units are leased to tenants requiring affordable housing subsidy and part of the acquisition contract requires the guarantee of continued housing of those residents for 5 years after acquisition. An estimate of $300,000 in deferred maintenance is required for this site. This is one-time commitment of funds for a one-time project program. This is a low cost way of delivering housing programs/projects/services because it relies on the capacity of community partners, rather than the City's bureaucracy to deliver services/provide housing.

2. Please describe which legally required City service does this procurement support? Does this procurement provide support for compliance with City, State and Federal requirements? If yes, please explain.

This procurement is aligned with requirements of the City's CDBG entitlement funding. If grant funds are not drawn, the City will jeopardize compliance with its grant agreement with HUD.

3. Can these services be performed by City employees in your department or in other departments? If the answer is no, please explain.

No, these housing programs/projects/services are provided by expert organizations and cannot be provided within the City's internal delivery system.

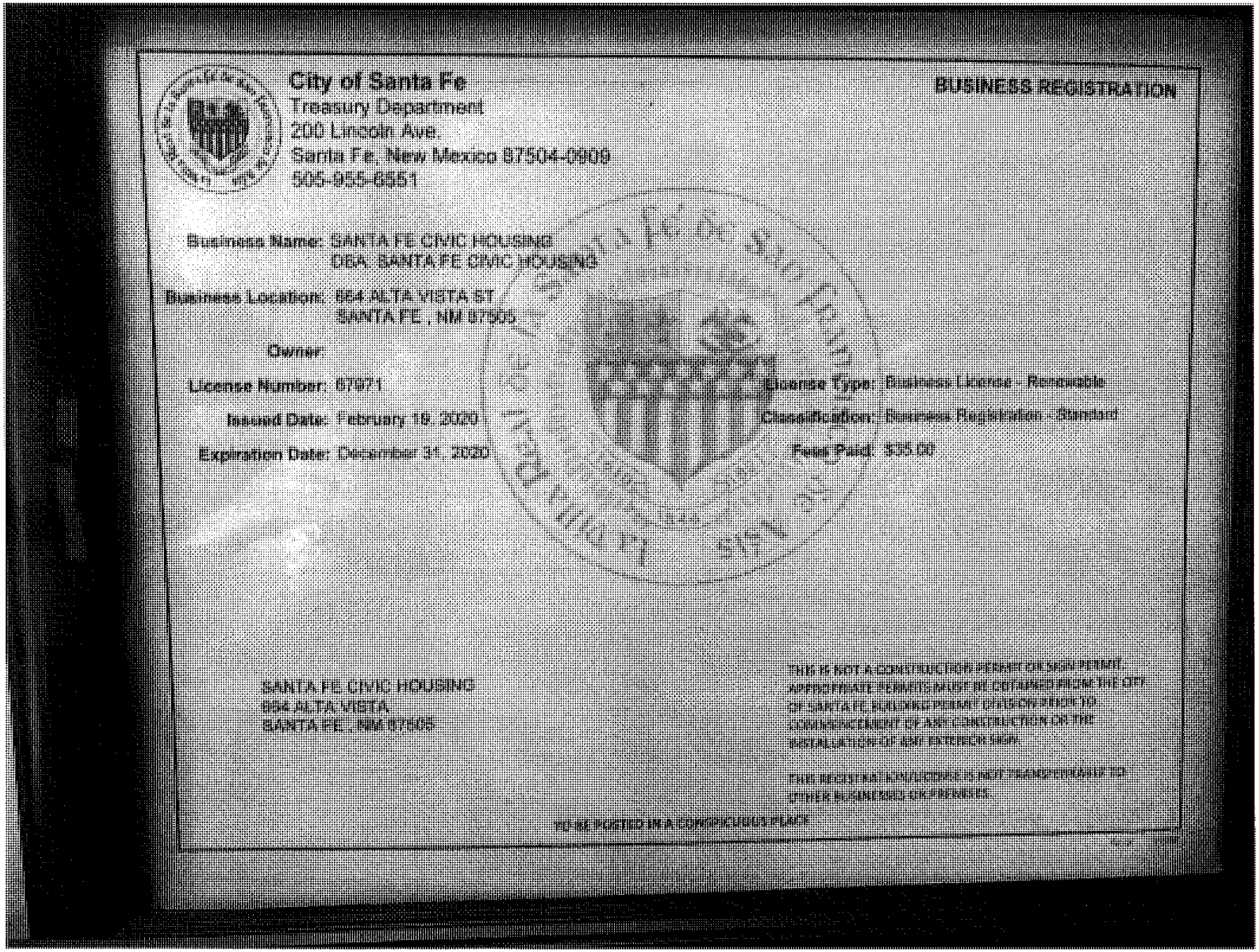
4. Would there be any adverse health, safety or economic implications if this expenditure was not approved? What impact will there be on the department and the City operations if this expenditure is not approved.

Without the housing programs/projects/services funded through this contract, the low-mod income residents of Santa Fe will have limited access to housing and community development opportunities.

5. If this purchase is not approved with City funds, what are alternative funding sources for the proposed expenditure? Does this duplicate efforts being provided by other governmental, for profit or non-profit entities?

These are federal grant funds, the expenditure of which does not affect the City's budget. These funds are used to leverage additional complementary funding sources to support housing programs/projects/services in our community.

Stan Dunaway (CFO 6/12/20) Stan Dunaway (Jun 12, 2020 10:55 MDT)	Alexis Lotero Alexis Lotero (Jun 12, 2020 10:41 MDT)	
Procurement Office Signature	Budget Office Signature	Finance Director Signature



City of Santa Fe
Treasury Department
200 Lincoln Ave.
Santa Fe, New Mexico 87504-0909
505-955-6551

BUSINESS REGISTRATION

Business Name: SANTA FE CIVIC HOUSING
DBA: SANTA FE CIVIC HOUSING

Business Location: 664 ALTA VISTA ST
SANTA FE , NM 87505

Owner:

License Number: 67971

License Type: Business License - Renewable

Issued Date: February 19, 2020

Classification: Business Registration - Standard

Expiration Date: December 31, 2020

Fees Paid: $35.00

SANTA FE CIVIC HOUSING
664 ALTA VISTA
SANTA FE , NM 87505

THIS IS NOT A CONSTRUCTION PERMIT OR SIGN PERMIT.
APPROPRIATE PERMITS MUST BE OBTAINED FROM THE CITY
OF SANTA FE BUILDING PERMIT DIVISION PRIOR TO
COMMENCEMENT OF ANY CONSTRUCTION OR THE
INSTALLATION OF ANY EXTERIOR SIGN.

THIS BUSINESS LICENSE IS NOT TRANSFERABLE TO
OTHER BUSINESSES OR PREMISES.

TO BE POSTED IN A CONSPICUOUS PLACE

RESOSSL-01 BSTIERWALT

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 5/15/2020

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
Berger Briggs Insurance & Risk Solutions, Inc. An ISU Network Member
4333 Pan American Fwy NE, Suite A
Albuquerque, NM 87107

CONTACT NAME: Barbara Stierwalt
PHONE (A/C, No, Ext): (505) 247-0444 FAX (A/C, No):
E-MAIL ADDRESS: bstierwalt@bbirs.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Cincinnati Indemnity Company	23280
INSURER B :	
INSURER C :	
INSURER D :	
INSURER E :	
INSURER F :	

INSURED
Resolana SF, LLC and Santa Fe Civic Housing Authority
664 Alta Vista Street
Santa Fe, NM 87505

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY							
	CLAIMS-MADE X OCCUR			ENP 0577624	5/11/2020	5/11/2021	EACH OCCURRENCE	$ 1,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence)	$
							MED EXP (Any one person)	$ 10,000
							PERSONAL & ADV INJURY	$ 1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$ 2,000,000
	POLICY PRO-JECT LOC						PRODUCTS - COMP/OP AGG	$ 2,000,000
	X OTHER: Professional Liab						Prof Liab	$ 1,000,000
	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident)	$
	ANY AUTO						BODILY INJURY (Per person)	$
	OWNED AUTOS ONLY / SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	HIRED AUTOS ONLY / NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	$
								$
	UMBRELLA LIAB OCCUR						EACH OCCURRENCE	$
	EXCESS LIAB CLAIMS-MADE						AGGREGATE	$
	OED RETENTION $							$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						PER STATUTE / OTH-ER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y/N (Mandatory in NH)	N/A					E.L. EACH ACCIDENT	$
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	$
							E.L. DISEASE - POLICY LIMIT	$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

SEE ATTACHED ACORD 101

CERTIFICATE HOLDER

City of Santa Fe
PO Box 909
Santa Fe, NM 87504-0909

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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AGENCY CUSTOMER ID: RESOSSL-01 BSTIERWALT

LOC #: 1

ADDITIONAL REMARKS SCHEDULE

AGENCY		NAMED INSURED
Berger Briggs Insurance & Risk Solutions, Inc. An ISU Network Member		Resolana SF, LLC and Santa Fe Civic Housing Authority 664 Alta Vista Street Santa Fe, NM 87505
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

Description of Operations/Locations/Vehicles:
Professional Liability $1,000,000 / $3,000,000

The policies include a blanket additional insured endorsement (or provision) and/or waiver of subrogation endorsement (or provision) that provides additional insured status and/or waiver of subrogation for the certificate holder only when there is a written contract between the named insured and the certificate holder that requires such status.

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ACORD®

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 12/4/2018

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	CONTACT NAME:	
Arthur J. Gallagher & Co. Insurance Brokers of CA, Inc. LIC #0726293 18201 Von Karman, Suite 200 Irvine CA 92612	PHONE (A/C, No, Ext): 949-349-9857	FAX (A/C, No): 949-349-9957
	E-MAIL ADDRESS:	
	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A : Safety National Casualty Corporation	15105
INSURED City of Santa Fe Barbara Boltrek P.O. Box 909 Santa Fe NM 87504	INSURER B :	
	INSURER C :	
	INSURER D :	
	INSURER E :	
	INSURER F :	

COVERAGES **CERTIFICATE NUMBER:** 35731549 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
	COMMERCIAL GENERAL LIABILITY						EACH OCCURRENCE	$
	☐ CLAIMS-MADE ☐ OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	$
							MED EXP (Any one person)	$
							PERSONAL & ADV INJURY	$
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$
	☐ POLICY ☐ PRO-JECT ☐ LOC						PRODUCTS - COMP/OP AGG	$
	☐ OTHER:							$
	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident)	$
	☐ ANY AUTO						BODILY INJURY (Per person)	$
	☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	☐ HIRED AUTOS ONLY ☐ NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	$
								$
	☐ UMBRELLA LIAB ☐ OCCUR						EACH OCCURRENCE	$
	☐ EXCESS LIAB ☐ CLAIMS-MADE						AGGREGATE	$
	☐ DED ☐ RETENTION $							$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y / N			SP4059030	7/1/2018	7/1/2020	X PER STATUTE ☐ OTH-ER	
	ANYPROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? ☐	N / A					E.L. EACH ACCIDENT	$ 1,000,000
	(Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	$ 1,000,000
							E.L. DISEASE - POLICY LIMIT	$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER

Evidence of Coverage

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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CITY OF SANTA FE

COMMUNITY DEVELOPMENT BLOCK GRANT CONTRACT

THIS CONTRACT is made and entered into this _____ day of _____ _____, 2020 by and between the City of Santa Fe, a municipal corporation, (the "City") and Youth Shelters and Family Services, (the "Subrecipient").

RECITALS

1. The Subrecipient has applied for and received funds from the United States Government under Title 1 of the Housing and Community Development Act of 1974, Public Law 93-383.

2. The City desires to engage the Subrecipient to render certain services to the City and its citizens.

3. The Subrecipient further certifies that it is willing and able to perform these services and that said services to be performed are within the Subrecipient's legal powers and capabilities.

4. The City desires to engage the Subrecipient to render these certain services in connection therewith as more particularly set forth hereafter.

AGREEMENTS

NOW, THEREFORE, the parties hereto mutually agree as follows:

I. SCOPE OF SERVICES

The Subrecipient agrees to utilize CDBG funds for projects that serve low to moderate-income residents within the Santa Fe City limits based on current HUD Area Median Income data for Santa Fe as follows:

A. Funding will be used to support staff hours to operate the Cold Weather Shelter, offering 8 beds for youth (age 18-21) during the winter months. Age appropriate services will also be provided including transportation, warm meals, hygiene supplies, crisis intervention and referrals to other community services. Staff also conducts outreach to bring young people to the shelter and linkages to longer term housing opportunities.

B. Contractor will report to the City on a quarterly basis the use of funds, program outcomes achieved, AMI% of assisted households, size of household, and other demographic information as required by the City's CDBG quarterly reporting form.

II. NATIONAL OBJECTIVES

The Subrecipient certifies that the service carried out with funds provided under this Contract will meet one or more of the Community Development Block Grant (hereinafter "CDBG") Program's National Objectives:

A. Benefit low/moderate income persons.

B. Benefit extremely low income persons.

C. Benefit homeless and elderly persons.

III. PERFORMANCE MONITORING

The City shall monitor the performance of the Subrecipient against goals and levels of accomplishment as stated above. Substandard performance as determined by the City will constitute noncompliance with this Contract. If action to correct such

substandard performance is not taken by the Subrecipient within a reasonable period of time after being notified by the Grantee, contract suspension or termination procedures will be initiated.

IV. WORK PLAN AND REPORTING

A. Work Plan: The Subrecipient shall provide the City, within sixty (60) days from signing this Agreement, a revised work plan outlining the major tasks or activities, the measurable objectives for each task or activity, and the time frames to be taken by the Subrecipient in the performance of this Agreement. Included in this report should be information regarding how much funding was leveraged during the program year and from which sources.

B. Annual Budget: All project activities will be in accordance with the attached budget and work plan (Exhibit A) per 24 CFR 570.503(b)(1).

C. Invoicing: The Subrecipient shall submit to the City quarterly reports in order to receive reimbursement for these services. Quarterly reports must be filed no later than the 15th calendar day for the preceding month. A fund requisition with documentation in support of each budgetary category will be submitted. This documentation must include the original or a certified copy or copies of invoices, vouchers, statements, etc. All costs chargeable to the City must be in accordance with budgetary and other restrictions of expenses established by this Contract. Funds for reimbursement can be disbursed on any Friday of each month during the contract period. In order for the City to meet this deadline, the Subrecipient is required to submit its request for reimbursement by Monday, 5:00 p.m., in order to receive payment by the following Friday. The Subrecipient shall submit a Final Project Report assessing the comparison of results achieved in relation to stated goals and objectives in the Scope of Services approved by the City. This report is

due to the Office of Affordable Housing fifteen (15) days after the completion of the Contract.

D. Final Payment: Since all payments under this Contract shall be quarterly on a cost reimbursement basis, the City shall be entitled to withhold the final ten percent (10%) due hereunder, pending final approval by the City of the services rendered. Upon receipt and acceptance of a final project report prior to the final payment, the Subrecipient shall furnish the City proof in documentary form that all claims, liens, salaries or other obligations incurred by it in accordance with the services specified herein, have been properly paid and released.

E. Program Monitoring and Financial Audits: At such time and in such form as the City may require there shall be furnished to the City such statements, records, reports, data and information as the City may request pertaining to matters covered by this Contract. Furthermore, at any time during normal business hours and as often as the City may deem necessary, there shall be made available to the City or its designee for examination, all records maintained by the Subrecipient with respect to all matters covered by this Contract; and, the Subrecipient will permit the City to audit, examine and make excerpts or transcripts from such records, and make audits of all contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all matters covered by this Contract subject to the limitations set out above. Any Subrecipient receiving City CDBG funds in excess of fifteen thousand dollars ($15,000) or any combination of public (City, State, or Federal) monies in excess of twenty-five thousand dollars ($25,000) shall perform a final audit on all funds received from all sources for the program no later than ninety (90) days after completion of the sub-recipient's fiscal year, and shall furnish the City with said audit. This audit shall be

performed by an independent agency. Any Subrecipient receiving a sum of less than fifteen thousand dollars ($15,000) in City CDBG funds must submit an audited financial statement on all funds received from all sources for the program after completion of the sub-recipient's fiscal year, and shall furnish the City with said financial statements.

V. STATUS OF CONTRACTOR

The Subrecipient, and its agents and employees, are independent contractors performing professional services for the City and are not employees of the City. The Subrecipient, 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 Contract.

VI. COMPENSATION

A. The City shall pay to the Contractor in full payment for services satisfactorily performed, such compensation shall not exceed fifteen thousand dollars ($15,000). **The total amount payable to the Contractor under this Agreement, including gross receipts tax and expenses, shall not exceed ($15,000). 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.**

B. Invoice must include documentation of staff costs incurred, including time sheets or payroll reports showing amount of staff time paid by CDBG funds.

C. 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. All invoices MUST BE received by the City no later than thirty 30) days after the termination of the Fiscal Year in which the services were delivered. Invoices received after such date WILL NOT BE PAID.

VII. TERM

THIS AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED BY THE CITY. This Agreement shall terminate on **June 30, 2021** unless terminated pursuant to paragraph 4 (Termination), or paragraph 5 (Appropriations). In accordance with Section 13-1-150 NMSA 1978, no contract term for a professional services contract, including extensions and renewals, shall exceed four years, except as set forth in Section 13-1-150 NMSA 1978.

VIII. ADDITIONAL CONTRIBUTIONS

The Subrecipient may use the funds of the City granted herein to obtain Federal, State or other grants to carry out the Scope of Services herein.

A. Program Income: Program income received may be retained by the Subrecipient, but may be used only for support of the programs detailed in the Scope of Services section of this Contract. Program income on hand at the time of completion of the Contract period shall continue to be subject to the eligibility requirements and other applicable provisions of 24 CFR 570.504, Program Income of the Administrative

Regulations of the CDBG program.

IX. APPROPRIATIONS

The terms of this Contract are contingent upon sufficient appropriations and authorization made by the City for the performance of this Contract. If sufficient appropriations and authorizations are not made by the City, this Contract shall terminate upon written notice being given by the City to the Subrecipient. The City's decision as to whether sufficient appropriations are available shall be accepted by the Subrecipient and shall be final.

X. FISCAL AGENT

The New Mexico Community Foundation will act as Coming Home's Fiscal Agent and will defend, indemnify and hold harmless the City from any and all liability, costs and expenses whatsoever for expenditure of funds pursuant to the Scope of Services of this Contract.

XI. BUDGET REVISIONS The Subrecipient will inform the City of any "line item" revisions to the attached budget, within the maximum compensation shown in this Agreement and will obtain the City's prior written approval of any change that represents at least 25 percent or more of the line item amount per the latest approved budget. Any budget revisions must be eligible expenditures under this Agreement and Title I of the Community Development Act.

XII. ELIGIBLE AND INELIGIBLE COSTS

A. Criteria. This section provides criteria for the determination of whether costs are eligible or ineligible for funding under this Contract. Costs incurred, which are determined by the City to be ineligible under these criteria, may not be charged to this

Contract.

B. Standards. All costs incurred must be reasonable and of a nature which clearly relates to the specific purposes and end product of the contract under which the services are being performed. Care must be exercised by all concerned in incurring costs to assure that expenditures conform to these general standards, including 2 CFR Part 200, and the following criteria for eligible costs.

C. Eligible Costs. To be eligible for inclusion, the cost must:

(1) Be necessary and reasonable for proper and efficient execution of the contractual requirements and in accordance with an approved budget.

(2) Be in conformance with any limitations, exclusions and provisions pursuant to this Contract, State and Local Laws, or other governing limitations.

(3) Be accorded consistent treatment through application of accounting policy and procedures approved and/or prescribed.

(4) Be net after allowance of all applicable credits such as purchase discounts, rebates or allowances, sales or publication of materials, or other income or refunds.

(5) Be in accordance with budgetary or other restrictions on expenses established by the City.

(6) Be fully documented.

(7) The Subrecipient shall reimburse the City any costs and expenses declared ineligible by the City which may have been reimbursed erroneously to the Subrecipient by the City under whatever conditions.

D. Ineligible Costs. Ineligible costs shall be as follows:

(1) Accounting. Costs of maintaining central accounting records

necessary for overall local government purposes, such as appropriation of fund accounts by the Treasurer, or similar officials, are considered general expenses of the Subrecipient and are ineligible costs. However, the cost of establishing and maintaining accounting or other information systems required for the management of the program are eligible costs including costs incurred by central services agencies for these purposes.

(2) Bad Debts. Any losses arising from uncollectible accounts and other claims, and related costs.

(3) Budget. Costs of a central budget office, except the costs of employees in the central budget office of the Subrecipient directly involved in the program as set forth in the Scope of Services, hereto, and clearly identifiable. However, costs incurred for the development, preparation, presentation, and execution of program and project budgets performed by the Subrecipient are eligible costs.

(4) Contingencies. Contribution to a contingency reserve or any similar provision for unforeseen events.

(5) Contributions and Donations. Political, charitable and fundraising solicitations, payments, gifts and expenses.

(6) Entertainment. Costs of amusements, social activities, and incidental costs, such as meals, beverages, lodgings, and gratuities, relating to entertainment.

(7) Board Expenses. The salary and expenses if any, of the Chairman of the Board of the Subrecipient are considered a cost of the Subrecipient and are not eligible costs in any way to this Contract.

(8) Fines and Penalties. Costs resulting from violations of or failure to comply with federal, state and local laws and regulations.

(9) Interest and other Financial Costs. Interest on borrowing (however represented); bond discounts, cost of financing and refinancing operations and legal and professional fees paid in connection therewith.

(10) Legal Fees. Costs for legal advice or work are ineligible, except those required directly for the administration of the program, which are eligible.

(11) Legislative Expenses. Costs for lobbying or testimony before the legislature or any of its committees, whether incurred for the purposes of legislation or executive direction, are not eligible.

(12) Membership Expenses. Cost of membership in any organization is ineligible.

(13) Travel. Costs in excess of those allowed by the City for its employees are ineligible.

(14) Meeting Attendance. Costs of attending meetings which are not included in the budget are ineligible.

(15) Expenses Related to Fundraising. Cost of postage, printing or external subcontracting for grant writers or development specialists.

XIII. SPECIAL PROVISIONS

A. The Subrecipient realizes that the availability of funds for the activity covered by the "Scope of Services," herein and for performance of this Agreement, depend solely on the provisions of said funds by HUD, such provisions being contingent on the City's approval of these activities as eligible under the Housing and Community Development Act of 1974, the National Affordable Housing Act of 1990 and other pertinent federal regulations. However, the City shall notify the Subrecipient in writing within five days of receipt by the City of any determination by HUD to terminate CDBG

funding.

B. In the event the Subrecipient or its organization is dissolved or discontinues making loans as provided herein, or this Agreement is not renewed after it expires, the Subrecipient shall upon such dissolution, discontinuation or within sixty (60) days after expiration of this Agreement if its renewal has not in the meantime been executed:

(1) Return to the City all unexpended Community Development Block Grant funds received from the City and CDBG program income in the possession of the Subrecipient that have not been already obligated through contracts.

(2) Assign and transfer to the City the equity on all outstanding loans and mortgages which have been provided by the Subrecipient from Community Development grant funds and related program income under this and previous agreements. The Subrecipient shall provide the City with a listing of the borrowers and outstanding amounts, together with up-to-date records of principal and interest payments and balances of the accounts of said borrowers.

XIV. CONFLICT OF INTEREST

The Subrecipient agrees to abide by the provision of 2 CFR Part 200 and 570.611, which include (but are not limited to) the following:

A. Interest of Members of City: No officer, employee, or agent of the City who exercises any functions or responsibilities in connection with the planning and carrying out any of the provisions of this Contract, or any other person who exercises any functions or responsibilities in connection with any of the provisions of the Contract, shall have any personal financial interest, direct or indirect, in this Contract; and the Subrecipient shall take appropriate steps to assure compliance.

B. Interest of Subrecipient and Employees: The Subrecipient shall not allow any person who presently exercises any functions or responsibilities in connection with the provisions of this Contract, to have personal financial interests, direct or indirect, in this Contract. The Subrecipient further shall not allow in the performance of this Contract any person having any conflicting interest to be employed by the Subrecipient. Any interest on the part of the Subrecipient or its employees must be disclosed to the City. Provided, however, that this paragraph shall be interpreted in such a manner so as not to unreasonably impede the requirement that maximum opportunity for employment of area residents and resident participation shall be of primary concern to the Subrecipient.

Should the subrecipient discover a potential conflict of interest, the subrecipient shall immediately disclose in writing to the City and specifically ask for guidance on how to resolve the conflict and prior to any act in furtherance of the conflict. The disclosure shall include a description of the nature of the conflict; the name, position, phone number and address of the person with the conflict; the date of the notification; and requested action to address the conflict. Disclosures of real, apparent or perceived conflicts of interest shall be made to the City and the City must agree in writing to a proper course of subsequent action prior to the disbursement of CDBG funds.

C. Certification:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the State, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of a Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative

agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the State shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.

XV. DISCRIMINATION PROHIBITED

A. In all hiring or employment made possible by or resulting from this Contract, there (1) will not be any discrimination against any employee or applicant for employment because of race, color, age, religion, sex, sexual orientation, national origin, and physical or mental disability; and (2) affirmative action will be taken to ensure that qualified applicants are employed, and that employees are treated during employment without regard to their race, color, age, religion, sex, sexual orientation, national origin, and physical or mental disability. This requirement shall apply, without limitation, to the following: employment, upgrading, demotion or transfer, recruitment advertising, layoff or termination, and selection for training, including apprenticeship. There shall be posted in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this clause. All solicitations or advertisements for employees shall state that all qualified applicants will receive consideration for employment without regard to race, color, age, religion, sex, sexual orientation, national origin, and physical or mental disability.

B. No person in the United States shall, on account of race, color, age,

religion, sex, sexual orientation, national origin, and physical or mental disability, be excluded from participating in, denied the benefits of, or subjected to discrimination under this Contract or activity made possible by or resulting from the Contract.

C. Subrecipient will abide by all requirements of the Americans with Disabilities Act. Subrecipient shall be kept informed of employee discrimination prevention requirements and program and facility accessibility standards.

XVI. WOMEN- AND MINORITY- OWNED BUSINESSES (W/MBE)

The Subrecipient will use its best efforts to afford small businesses, minority business enterprises, and women's business enterprises the maximum practicable opportunity to participate in the performance of this contract. As used in this contract, the terms "small business" means a business that meets the criteria set forth in section 3(a) of the Small Business Act, as amended (15USC 632), and "minority and women's business enterprise" means a business at least fifty-one (51) percent owned and controlled by minority group members or women. For the purpose of this definition, "minority group members" are Afro-Americans, Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian-Americans, and American Indians. The Subrecipient may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

XVII. POLITICAL ACTIVITY PROHIBITED

None of the funds, materials, property or services provided for directly or indirectly under this Contract shall be used in the performance of this Contract for any political activity prohibited by Federal, State or local law.

XVIII. CONFIDENTIALITY

Any confidential information provided to or developed by the Subrecipient in the

performance of this Contract shall be kept confidential and shall not be made available to any individual or organization by the Subrecipient without the prior written approval of the City.

XIX. REPRESENTATIONS IN SUBMITTALS

The City has relied on all representations in the Subrecipient's submittals in awarding this Agreement and the Subrecipient warrants the accuracy of all representations. Misrepresentations in the submittals will be cause for termination of this Agreement.

XX. AMENDMENT

This Contract shall not be altered, changed or amended except by amendment in writing executed by the parties hereto.

XXI. NOTICES AND ADDRESSES

Any notices required to be given under this agreement shall be in writing and served by personal delivery or by mail, postage prepaid, to the parties at the following addresses:

For the City, notices may be sent to:

City of Santa Fe
Office of Affordable Housing
P.O. Box 909
Santa Fe, New Mexico 87504-0909

For the Subrecipient, notices may

Youth Shelters & Family Services
PO Box 28279
Santa Fe, NM 87592

XXII. ASSIGNABILITY

The Subrecipient shall not assign any interest in this Contract and shall not transfer any interest in the same (whether by assignment or otherwise) without the prior written consent of the City.

XXIIII. WARRANTY OF AUTHORITY

The Subrecipient warrants that it has full corporate and other authority, under its articles of corporation, bylaws, resolutions, other pertinent corporate documents, instruments, and agreements, and otherwise to enter into this agreement, to bind itself under this agreement, and to perform this Agreement in accordance with the terms and provisions of this Agreement.

XXIV. BINDING EFFECT

This Agreement is binding upon and inures to the benefit of the successors, successors-in interest, assigns and transferees of the City and the Subrecipient.

XXV. SEVERABILITY

In case any one or more of the provisions contained in this Agreement or any application thereof shall be invalid, illegal or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions contained herein and any other application thereof shall not in any way be affected or impaired thereby.

XXVI. DISPOSITION OF PROPERTY

A. All non-expendable property acquired by the Subrecipient pursuant to this Contract shall be recorded in the property records of the City prior to reimbursement to the Subrecipient for expenses incurred in order to acquire said property. For purposes of this Contract, the term "non-expendable property" means items of tangible, personal property that are non-perishable such as equipment, software, and furniture. The use and disposition of real property and equipment under this Contract shall be in compliance with the requirements of 24 CFR Part 84 and 24 CFR 570.502, 570.503, and 570.504, as applicable.

B. Subrecipient shall be accountable for all recorded non-expendable property

which is recorded as City property for a period of five years as established by the City.

C. All non-expendable property acquired pursuant to this Contract shall remain in the possession of and shall be used only by the Subrecipient, provided that said property continues to be used for the same purposes and in the same manner as originally intended.

D. If the Subrecipient cannot continue to effectively use recorded non-expendable property for the same purposes and in the same manner as originally intended and described in this Contract, all such non-expendable property shall remain in the possession of, and shall be used by the Subrecipient for similar purposes and in a similar manner as initially used; provided, however, that conversion of said property to a similar use in another similar program must first receive the express written consent of the City.

E. If the Subrecipient can neither continue to effectively use recorded non-expendable property for the same purposes and in the same manner originally intended nor continue to effectively use said property for the same or similar purposes and in a similar manner as permitted by this Contract, the City may provide for the disposition of said property wholly and entirely at the City's discretion.

F. The City may, in writing, waive and relinquish all claims the City may have in and to recorded non-expendable property.

G. When the Subrecipient's period of accountability for any non-expendable property expires, said property shall revert to the City unless otherwise provided for in a written agreement between the Subrecipient and the City. Assets on hand at the expiration of the Contract in excess of twenty-five thousand dollars ($25,000) shall be disbursed in accordance with reversion of assets of 24 CFR 570.503 Agreements with

Subrecipients of the CDBG regulation; or

(i) The Subrecipient shall pay to the City an amount equal to the current market value of the property less any portion of the value attributable to the expenditures of non-CDBG funds for the acquisition of, or improvement to, the property. The payment is program income to the City. (No payment is required after the period of time specified in 24 CFR 570.503(b)(7)(i).

XXVII. COMPLIANCE WITH LOCAL LAW

The Subrecipient shall comply at its own cost with all applicable laws, ordinances and codes of the State and the City.

XXVIII. THIRD PARTY BENEFICIARIES

By entering into this Contract, the parties do not intend to create any right, title or interest in or for the benefit of any person other than the City and the Subrecipient. No person shall claim any right, title or interest under this Contract or seek to enforce this Contract as a third party beneficiary of this Contract.

XXIX. JURISDICTION CLAUSE

This Contract shall be performed in Santa Fe, New Mexico. Any legal action or cause of action arising in connection herewith shall be within the jurisdiction and venue of the appropriate court in Santa Fe, New Mexico, for all purposes.

XXX. SUSPENSION AND TERMINATION

A. This Contract 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. By such termination, neither party may nullify obligations already incurred for performance or failure to perform prior to the date of termination. In addition, the City may terminate this agreement for convenience in accordance with 2 CFR Part 200.

B. The City may enforce remedies for noncompliance in accordance with 2 CFR Part 200. The City may also suspend or terminate this Contract, in whole or in part, if the Subrecipient materially fails to comply with any term of this Contract, or with any of the rules, regulations or provisions referred to herein; and the City may declare the Subrecipient ineligible for any further participation in the City's contracts, in addition to other remedies as provided by law. In the event there is probable cause to believe the Subrecipient is not in compliance with any applicable rules or regulations, the City may withhold up to fifteen percent (15%) of said contract funds until such time as the Subrecipient is found to be in compliance by the City, or is otherwise adjudicated to be in compliance.

XXXI 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.

XXXII. 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.

A. Commercial General Liability insurance shall be written on an occurrence basis and be a broad as ISO Form CG 00 01 with limits not less than $2,000,000 per occurrence and $2,000,000 in the aggregate for claims against bodily injury, personal and advertising injury, and property damage. Said policy shall include

broad form Contractual Liability coverage and be endorsed to name the City of Santa Fe their officials, officers, employees, and agents as additional insured.

B. Business Automobile Liability insurance for all owned, non-owned automobiles, with a combined single limit not less than $1,000,000 per accident.

C. Broader Coverage and Limits. The insurance requirements under this Agreement shall be the greater of (1) the minimum coverage and limits specified in this Agreement, or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the Named Insured. It is agreed that these insurance requirements shall not in any way act to reduce coverage that is broader or that includes higher limits than the minimums required herein. No representation is made that the minimum insurance requirements of this Agreement are sufficient to cover the obligations of Contractor hereunder.

D. 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.

XXXIII. INDEMNIFICATION

The Subrecipient shall indemnify, hold harmless and defend the City from all losses, damages, claims or judgments, including payments of all attorneys' fees and costs on account of any suit, judgment, execution, claim, action or demand whatsoever

arising from Subrecipient's performance under this Agreement as well as the performance of Subrecipient's employees, agents, representatives and subcontractors.

XXXIV. ENTIRE CONTRACT

This Contract constitutes the entire contract between the parties hereto. Prior contracts, whether written or oral, or assertion of statement, of understanding, or other commitment antecedent to this Contract shall have no force or effect whatsoever, unless the same is mutually agreed to by the parties hereto and reduced to writing.

XXXV. GENERAL CONDITIONS

A. General Compliance: The Subrecipient agrees to comply with the requirements of Title 24 of the Code of Federal Regulations, Part 570 (the Housing and Urban Development regulations concerning Community Development Block Grants (CDBG)). The Subrecipient also agrees to comply with all other applicable Federal, state and local laws, regulations, and policies governing the funds provided under this contract and as set forth at 24 CFR Part 570 subpart K, except that the Subrecipient does not assume the recipient's environmental responsibilities under 24 CFR 570.604 and 24 CFR Part 52. The Subrecipient further agrees to utilize funds available under this Contract to supplement rather than supplant funds otherwise available.

B. Grantor Recognition: The Subrecipient shall ensure recognition of the role of the City in providing services through this contract. All activities, facilities and items utilized pursuant to this contract shall be prominently labeled as to funding source. In addition, the Subrecipient will include a reference to the support provided herein in all publications made possible with funds made available under this contract.

XXXVI. ADMINISTRATIVE REQUIREMENTS

A. Financial Management

1. Accounting Standards. The Subrecipient agrees to comply with 2 CFR Part 200 and agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.

2. Cost Principles. The Subrecipient shall administer its program in conformance with the Uniform Administrative Requirements of 24 CFR 570.502, 24 CFR 570.503, and 2 CFR Part 200. These principles shall be applied for all costs incurred whether charged on a direct or indirect basis.

XXXVII. DOCUMENTATION AND RECORD KEEPING

A. Records to be Maintained. The Subrecipient shall maintain all records required by the Federal regulations specified in 24 CFR 570.506 that are pertinent to the activities to be funded under this Contract. Such records shall include but not be limited to:

(1) Records providing a full description of each activity undertaken;

(2) Records demonstrating that each activity undertaken meets one of the National Objectives of the CDBG program;

(3) Records required to determine the eligibility of activities;

(4) Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG assistance;

(5) Records documenting compliance with the fair housing and equal opportunity components of the CDBG program;

(6) Records documenting compliance with EPLS/SAM for each sub-contractor;

(7) Financial records as required by 24 CFR 570.502, and 2 CFR Part

200;

(8) Other records necessary to document compliance with Subpart K of 24 CFR Part 570.

(9) Other records necessary to document compliance with Sections 1012 and 1013 of Title X amending the Lead-based Paint Poisoning Prevention Act of 1971 and title 24 of the Code of Federal Regulations as part of 35 (24 CFR 35).

XXXVIII. CLIENT DATA

The Subrecipient shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, income level or other basis for determining eligibility, and description of service provided. Such information shall be made available to the City or its designees for review upon request.

XXXVIX. DISCLOSURE

The Subrecipient understands that client information collected under this Contract is private and the use or disclosure of such information, when not directly connected with the administration of the City's or Subrecipient's responsibilities with respect to services provided under this contract, is prohibited by the State of New Mexico unless written consent is obtained from such person receiving service and, in the case of a minor, that of a responsible parent or guardian.

XL . PROPERTY RECORDS

The Subrecipient shall maintain real property inventory records, which clearly identify properties purchased, improved or sold. Properties retained shall continue to meet eligibility criteria and shall conform to the "changes in use" restrictions specified in 24 CFR 570.503 (b) (8), as applicable.

XLI. RELOCATION, REAL PROPERTY ACQUISITION AND ONE-FOR-ONE HOUSING REPLACEMENT

The Subrecipient agrees to comply with (a) the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), and implementing regulations at 49 CFR Part 24 and 24 CFR 570.606(b); (b) the requirements of 24 CFR 570.606(c) governing the Residential Anti-displacement and Relocation Assistance Plan under section 104(d) of the HCD Act; and (c) the requirements in 24 CFR 570.606(d) governing optional relocation policies.

XLII. ENVIRONMENTAL CONDITIONS

A. Air and Water: The Subrecipient agrees to comply with the following requirements insofar as they apply to the performance of this Contract:

(1) Clean Air Act, 42 USC, 7401, *et seq.*;

(2) Federal Water Pollution Control Act, as amended, 33 USC, 1251, *et seq.*, as amended 1318 relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder;

(3) Environmental Protection Agency (EPA) regulations pursuant to 40 CFR Part 50, as amended.

B. Flood Disaster Protection: In accordance with requirements of the Flood Disaster Protection Act of 1973 (42 USC 4001), the Subrecipient shall assure that for activities located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, flood insurance under the National Flood Insurance Program is obtained and maintained as a condition of financial assistance for acquisition or construction purposes (including rehabilitation).

C. Lead-Based Paint: The Subrecipient agrees that any construction or rehabilitation of residential structures with assistance provided under this Contract shall be subject to HUD Lead-Based Paint Regulations at 24 CFR 570.608, and 24 CFR Part 35, Subpart B. Such regulations pertain to all CDBG-assisted housing and require that all owners, prospective owners, and tenants of properties constructed prior to 1978 be property notified that such properties may include lead-based paint. Such notification shall point out the hazards of lead-based paint and explain the symptoms, treatment and precautions that should be taken when dealing with lead-based paint poisoning and the advisability and availability of blood lead level screening for children under seven. The notice should also point out that if lead-based paint is found on the property, abatement measures may be undertaken. The regulations further require that, depending on the amount of Federal funds applied to a property, paint testing, risk assessment, treatment and/or abatement may be conducted.

D. Historic Preservation: The Subrecipient agrees to comply with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, as amended (16 USC 470) and the procedures set forth in 36 CFR Part 800, Advisory Council on Historic Preservation Procedures for Protection of Historic Properties, insofar as they apply to the performance of this agreement. In general, this requires concurrence from the State Historic Preservation Officer for all rehabilitation and demolition of historic properties that are fifty years old or older or that are included on a Federal, state, or local historic property list.

XLIII. CLOSE OUTS

The Subrecipient's obligation to the City shall not end until all closeout requirements are completed. Activities during this close-out period shall include, but are

not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the City), and determining the custodianship of records.

XLIV. LAND COVENANTS

This Contract is subject to the requirements of Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and 24 CFR 570.601 and 602. In regard to the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under this contract, the Subrecipient shall cause or require a covenant running with the land to be inserted in the deed or lease for such transfer, prohibiting discrimination as herein defined, in the sale, lease or rental, or in the use or occupancy of such land, or in any improvements erected or to be erected thereon, providing that the City and the United States are beneficiaries of and entitled to enforce such covenants. The Subrecipient, in undertaking its obligation to carry out the program assisted hereunder, agrees to take such measures as are necessary to enforce such covenant, and will not itself so discriminate.

XLV. SECTION 504

The Subrecipient agrees to comply with any Federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973 (29 USC 794), which prohibits discrimination against the handicapped in any Federally assisted program.

XLVI. PROHIBITED ACTIVITY

The Subrecipient is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities; sectarian or religious activities; lobbying, political patronage, and nepotism activities.

XLVII. LABOR STANDARDS

A. The Subrecipient agrees to comply with the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act as amended, the provisions of Contract Work Hours and Safety Standards Act (40 USC 327 *et seq.*), the Copeland "Anti-Kickback" Act (18 USC 874 *et seq.*), its implementing regulations of the U.S. Department of Labor at 29 CFR Part 5, and all other applicable Federal, state and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this contract. The Subrecipient shall maintain documentation which demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to the City for review upon request.

B. The Subrecipient agrees that, except with respect to the rehabilitation or construction of residential property containing less than eight units, all contractors engaged under contracts in excess of two thousand dollars ($2,000.00) for construction, renovation or repair work financed in whole or in part with assistance provided under this contract, shall comply with Federal requirements adopted by the City pertaining to such contracts and with the applicable requirements of the regulations of the Department of Labor, under 29 CFR Parts 1, 3, 5 and 7 governing the payment of wages and ratio of apprentices and trainees to journey workers; provided, that if wage rates higher than those required under the regulations are imposed by state or local law, nothing hereunder is intended to relieve the Subrecipient of its obligation, if any, to require payment of the higher wage. The Subrecipient shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions meeting the requirements of this paragraph.

XLVIII. COMPLIANCE

A. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR 135, ("Section 3") and all applicable rules and orders issued thereunder prior to the execution of this contract, shall be a condition of the Federal financial assistance provided under this contract and binding upon the City, the Subrecipient and any of the Subrecipient's subcontractors. Failure to fulfill these requirements shall subject the City, the Subrecipient and any of the Subrecipient's subcontractors, their successors and assigns, to those sanctions specified by the contract through which Federal assistance is provided. The Subrecipient certifies and agrees that no contractual or other disability exists which would prevent compliance with these requirements.

B. The Subrecipient further agrees to comply with "Section 3" requirements and to include the following language in all subcontracts executed under this Contract.

"The work to be performed under this contract is a project assisted under a program providing direct Federal financial assistance from HUD and is subject to the requirements of "Section 3" of the Housing and Urban Development Act of 1968, as amended (12 USC 1701). "Section 3" requires that to the greatest extent feasible opportunities for training and employment be given to low and very low-income residents of the project area and contracts for work in connection with the project be awarded to business concerns that provide economic opportunities for low-and very low-income persons residing in the metropolitan area in which the project is located".

XLIX. NOTIFICATIONS

The Subrecipient agrees to send to each labor organization or representative of workers with which it has a collective bargaining contract or other contract or understanding, if any, a notice advising said labor organization or worker's representative

of its commitments under the above-referenced "Section 3" clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

L. SUBCONTRACTS

The Subrecipient will include the above-referenced "Section 3" clause in every subcontract and will take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the City. The Subrecipient will not subcontract with any entity where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR 135 and will not let any subcontract unless the entity has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

LI. RESPONSIBILITY FOR PAYMENT OF EMPLOYEES AND SUBCONTRACTORS

A. The Subrecipient shall be solely responsible for payment of wages, salaries and benefits to any and all employees or subcontractors retained by the Subrecipient in the performance of the services under this Contract.

B. The Contractor shall comply with City of Santa Fe Minimum Wage, Article 28-1-SFCC 1987, as well as any subsequent changes to such article throughout the term of this Agreement. .

LII. WAIVER

The Grantee's failure to act with respect to a breach by the Subrecipient does not waive its right to act with respect to subsequent or similar breaches. The failure of the City to exercise or enforce any right or provision shall not constitute a waiver of such right or provision.

LIII. NEW MEXICO TORT CLAIMS ACT

Any liability incurred by the City of Santa Fe in connection with this Contract is subject to the immunities and limitations of the New Mexico Tort Claims Act, Section 41-4-1, *et seq.* NMSA 1978, as amended. The City and its "public employees" as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity, do not waive any defense and do not waive any limitation of liability pursuant to law. No provision in this Contract modifies or waives any provision of the New Mexico Tort Claims Act.

LIV. RELEASE

The Subrecipient, upon final payment of the amount due under this Contract, releases the City, its officers and employees, from all liabilities, claims and obligations whatsoever arising from or under this Contract. The Subrecipient agrees not to purport to bind the City to any obligation not assumed herein by the City unless the Subrecipient has express written authority to do so, and then only within the strict limits of that authority.

LV. ENTIRE AGREEMENT

This agreement constitutes the entire agreement between the City and the Subrecipient for the use of funds received under this Contract and it supersedes all prior or contemporaneous communications and proposals, whether electronic, oral, or written between the City and the Subrecipient with respect to this Contract.

IN WITNESS WHEREOF, the City and the Subrecipient have executed this Contract on the dates set forth below.

APPROVED AND AUTHORIZED:

_____

ALAN WEBBER, MAYOR
DATE: _____

ATTEST:

YOLANDA Y. VIGIL
CITY CLERK

SUBRECIPIENT:
YOUTH SHELTERS & FAMILY SERVICES

SHELLY FELT
EXECUTIVE DIRECTOR

New Mexico Taxation and Revenue Dept.
CRS No. 02-010414-00-6
City of Santa Fe Business Registration No. 224084

CITY ATTORNEY'S OFFICE:

Marcos Martinez
Marcos Martinez (May 12, 2020)
SENIOR ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

MARY MCCOY
FINANCE DIRECTOR

2402750.510400
BUSINESS UNIT/LINE ITEM

EXHIBIT A: Per Section V.B. of the Professional Services Agreement and per 24 CFR 570.503(b)(1).

Addendum Project Budget for (Youth Shelters – Cold Weather Shelter)

Type of funding	Source/ Amount	Source/ Amount	Source/ Amount	Totals
Final CDBG AMOUNT				**$15,000**
Other Federal Funds (for amortizing loans)	$5,000			**$5,000**
Other Federal Funds (for amortizing loans)				
Amortizing funds				
City Funding (i.e. Youth and Family, Human Services Divisions)				
State funds (i.e. MFA)				**$**
Other (i.e. in-kind, private funds)	$5,000			**$5,00**
				$
Total of all funding sources				**$25,000**

The following chart details how the secured funding amount will support the various aspects of (Youth Shelter – Cold Weather Shelter)

Cost	CDBG Allocation
	$15,000
Cost	Private Leveraged Funds
Other Federal Funds	$5,000
Other	$5,000
Total	$25,000

City of Santa Fe

Real Estate Summary of Contracts, Agreements, Amendments & Leases

Section to be completed by department

1. Munis Contract # **3201898**

Contractor: **Youth Shelters and Family Services - Cold Weather Shelter**

Description: **Agreement delivers services for a winter emergency shelter with 8 beds where youth can stay nightly during the coldest months. The shelter offers age-appropriate services to transitional-aged youth (18-21)...**

Contract ☐ Agreement ☉ Lease / Rent ☐ Amendment ☐

Term Start Date: **7/01/2020** Term End Date: **6/30/2021**

☐ Approved by Council Date: _____

Contract / Lease: $15,000.00

Amendment # _____ to the Original Contract / Lease # _____

Increase/(Decrease) Amount $ _____

Extend Termination Date to: _____

☐ Approved by Council Date: _____

Amendment is for:

2. **HISTORY of Contract, Amendments & Lease / Rent - Please Elaborate** (option: attach spreadsheet if multiple amendments)
Agreement is for one-year term, 7/01/2020 - 6/30/2021

3. **Procurement History:** **RFP #20/16/P**

Purchasing Officer Review: _____ Date: _____

Comment & Exceptions: _____

4. **Funding Source:** **240** **Org / Object:** **2402750.510400**

Alexis Lotero
Alexis Lotero (Jun 11, 2020 13:46 MDT)

Budget Officer Approval: _____ Date: _____

Comment & Exceptions: _____

Staff Contact who completed this form: **Roberta Catanach** Phone # **505-955-6421**

Email: **rlcatanach@santafenm.gov**

To be recorded by City Clerk:

Clerk # _____

Date of Execution: _____

CITY OF SANTA FE PROCUREMENT CHECKLIST

Contractor Name: Youth Shelters and Family Services - Cold Weather Shelter

Procurement Title: 20/16/P (CDBG)

Procurement Method: State Price Agreement [ ] Cooperative [ ] Sole Source [ ] Other [ ]

Exempt [ ] Request For Proposal (RFP) [•] Invitation To Bid (ITB) [ ] Contract under 60K [ ] Contract over 60K [ ]

Department Requesting Office of Affordable Housin Staff Name Roberta Catanach

Procurement Requirements:

A procurement file shall be maintained for all contracts, regardless of the method of procurement. The procurement file shall contain the basis on which the award is made, all submitted bids, all evaluation materials, score sheets, quotations and all other documentation related to or prepared in conjunction with evaluation, negotiation, and the award process. The procurement shall contain a written determination from the Requesting Department, signed by the purchasing officer, setting forth the reasoning for the contract award decision before submitting to the Committees.

REQUIRED DOCUMENTS FOR APPROVAL BY PURCHASING*

YES	N/A	
[•]	[ ]	Approved Procurement Checklist (by Purchasing)
[•]	[ ]	Memo addressed to City Manager (under 60K) Committees/City Council (over 60K)
[ ]	[•]	State Price Agreement
[•]	[ ]	RFP
[•]	[ ]	Evaluation Committee Report
[ ]	[•]	ITB
[ ]	[•]	Bib Tab
[ ]	[•]	Quotes (3 valid current quotes)
[ ]	[•]	Cooperative Agreement
[ ]	[•]	Sole Source Request and Determination Form
[ ]	[•]	Contractors Exempt Letter
[ ]	[•]	Purchasing Officers approval for exempt procurement
[ ]	[•]	BAR
[ ]	[•]	FIR
[•]	[ ]	Executed Contract, Agreement or Amendment
[•]	[ ]	Current Business Registration and CRS numbers on contract or agreement
[•]	[ ]	Summary of Contracts and Agreements form
[•]	[ ]	Certificate of Insurance
[•]	[ ]	All documentation presented to Committees
[•]	[ ]	Other:

Roberta Catanach, Contracts Administrator 5/11/2020

Department Rep Printed Name (attesting that all information included) Title Date

Purchasing Officer (attesting that all information is reviewed) Title Date

Fran Duenway (Jun 17, 2020 11:00 MDT)

Include all other substantive documents and records of communication that pertain to the procurement and contract.

City of Santa Fe
FY20 Fiscal Impact Analysis (Non-Personnel Expenditures)

General Information

Department Name:	General Government	Department Name:	
Division Name:	Office of Affordable Housing	Division Name:	

Financial Information

Amount Requested:	$15,000	Munis Fund Number:	240
Vendor Name:	Youth Shelters and Family Services - Cold Weather Shelter	Munis Org Number:	2402750
Approved by Director?	Yes	Munis Object Code:	510400

Expenditure Information

1. Describe the purchase of goods/services. Is this one-time or recurring? Please explain why this is the lowest cost option for this expenditure.
This contract delivers services for a winter emergency shelter with 8 beds where youth can stay nightly during the coldest months. The shelter offers age-appropriate services to transitional-aged youth (18-21), including transportation, warm meals, hygiene supplies, access to housing opportunities, crisis intervention, and community referrals. This is one-time commitment of funds for an ongoing program. This is a low cost way of delivering housing programs/projects/services because it relies on the capacity of community partners, rather than the City's bureaucracy to deliver services/provide housing.

2. Please describe which legally required City service does this procurement support? Does this procurement provide support for compliance with City, State and Federal requirements? If yes, please explain.
This procurement is aligned with requirements of the City's CDBG entitlement funding. If grant funds are not drawn, the City will jeopardize compliance with its grant agreement with HUD.

3. Can these services be performed by City employees in your department or in other departments? If the answer is no, please explain.
No, these housing programs/projects/services are provided by expert organizations and cannot be provided within the City's internal delivery system.

4. Would there be any adverse health, safety or economic implications if this expenditure was not approved? What impact will there be on the department and the City operations if this expenditure is not approved.
Without the housing programs/projects/services funded through this contract, the low-mod income residents of Santa Fe will have limited access to housing and community development opportunities.

5. If this purchase is not approved with City funds, what are alternative funding sources for the proposed expenditure? Does this duplicate efforts being provided by other governmental, for profit or non-profit entities?
These are federal grant funds, the expenditure of which does not affect the City's budget. These funds are used to leverage additional complementary funding sources to support housing programs/projects/services in our community.

Fran Dunaway [Jun 12, 2020 11:00 MDT]	Alexis Lotero [Jun 17, 2020 10:46 MDT]	
Procurement Office Signature	Budget Office Signature	Finance Director Signature

City of Santa Fe
Treasury Department
200 Lincoln Ave.
Santa Fe, New Mexico 87504-0909
505-955-6551

BUSINESS REGISTRATION

Business Name: YOUTH SHELTERS & FAMILY SVS ADMN
DBA: YOUTH SHELTERS & FAMILY SVS ADMN

Business Location: 5686 AGUA FRIA ST B ANNX2
SANTA FE , NM 87501

Owner: DAVID BLOCK

License Number: 112630

Issued Date: January 17, 2020

Expiration Date: December 31, 2020

CRS Number: 02010414006

License Type: Business License - Renewable

Classification: Business Registration - Standard

Fees Paid: $35.00

YOUTH SHELTERS & FAMILY SVS ADMN
PO BOX 28279
SANTA FE, NM 87592

THIS IS NOT A CONSTRUCTION PERMIT OR SIGN PERMIT. APPROPRIATE PERMITS MUST BE OBTAINED FROM THE CITY OF SANTA FE BUILDING PERMIT DIVISION PRIOR TO COMMENCEMENT OF ANY CONSTRUCTION OR THE INSTALLATION OF ANY EXTERIOR SIGN.

THIS REGISTRATION/LICENSE IS NOT TRANSFERRABLE TO OTHER BUSINESSES OR PREMISES.

TO BE POSTED IN A CONSPICUOUS PLACE

Ver 15 1/3/2020

YOUTSHE-01 MMARTINEZ1

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 3/5/2020

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER License # 0757776
HUB International Insurance Services (NMX)
2905 Rodeo Park Drive East
Building 6, Suite 100
Santa Fe, NM 87505

CONTACT NAME: Melanie Martinez
PHONE (A/C, No, Ext): (505) 428-4266 FAX (A/C, No): (866) 621-0427
E-MAIL ADDRESS: melanie.martinez@hubinternational.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Philadelphia Indemnity Insurance Company	18058
INSURER B : New Mexico Safety Casualty Company	15351
INSURER C :	
INSURER D :	
INSURER E :	
INSURER F :	

INSURED
Youth Shelters & Family Services
PO Box 28279
Santa Fe, NM 87592-8279

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE [X] OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: [X] POLICY [ ] PRO-JECT [ ] LOC OTHER:	X		PHPK1999244	7/1/2019	7/1/2020	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG PROFESSIONAL LI	$ 1,000,000 $ 1,000,000 $ 20,000 $ 1,000,000 $ 3,000,000 $ 3,000,000 $ 3,000,000
A	AUTOMOBILE LIABILITY ANY AUTO [X] OWNED AUTOS ONLY [ ] SCHEDULED AUTOS [X] HIRED AUTOS ONLY [X] NON-OWNED AUTOS ONLY			PHPK1999244	7/1/2019	7/1/2020	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ 1,000,000 $ $ $
	UMBRELLA LIAB [ ] OCCUR EXCESS LIAB [ ] CLAIMS-MADE DED [ ] RETENTION $						EACH OCCURRENCE AGGREGATE	$ $
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y / N [ ] If yes, describe under DESCRIPTION OF OPERATIONS below	N / A		10413.127	7/1/2019	7/1/2020	PER STATUTE [ ] OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	$ 100,000 $ 100,000 $ 500,000
A	Professional Liab			PHPK1999244	7/1/2019	7/1/2020	Limit	3,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

SEE ATTACHED ACORD 101

CERTIFICATE HOLDER

City of Santa Fe
PO Box 909
Santa Fe, NM 87502

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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AGENCY CUSTOMER ID: YOUTSHE-01 MMARTINEZ1

LOC #: 1

ADDITIONAL REMARKS SCHEDULE

AGENCY	License # 0757776	NAMED INSURED
HUB International Insurance Services (NMX)		Youth Shelters & Family Services PO Box 28279 Santa Fe, NM 87592-8279
POLICY NUMBER		
SEE PAGE 1		
CARRIER	NAIC CODE	
SEE PAGE 1	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

Description of Operations/Locations/Vehicles:
The City of Santa Fe is included as additional insured in regards to General Liability.

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CITY OF SANTA FE

COMMUNITY DEVELOPMENT BLOCK GRANT CONTRACT

THIS CONTRACT is made and entered into this _____ day of _____ _____, 2020 by and between the City of Santa Fe, a municipal corporation, (the "City") and Youth Shelters and Family Services, (the "Subrecipient").

RECITALS

1. The Subrecipient has applied for and received funds from the United States Government under Title 1 of the Housing and Community Development Act of 1974, Public Law 93-383.

2. The City desires to engage the Subrecipient to render certain services to the City and its citizens.

3. The Subrecipient further certifies that it is willing and able to perform these services and that said services to be performed are within the Subrecipient's legal powers and capabilities.

4. The City desires to engage the Subrecipient to render these certain services in connection therewith as more particularly set forth hereafter.

AGREEMENTS

NOW, THEREFORE, the parties hereto mutually agree as follows:

I. SCOPE OF SERVICES

The Subrecipient agrees to utilize CDBG funds for projects that serve low to moderate-income residents within the Santa Fe City limits based on current HUD Area Median Income data for Santa Fe as follows:

A. Funds will be used to replace the roof of the Transitional Living Program apartment building to mitigate long-term damage from water leaks and reduce annual maintenance costs.

B. Contractor will follow procurement processes consistent with the state procurement code, including 3 bids for proposed scope of work.

C. Contractor will report to the City on a quarterly basis the use of funds and other demographic information as required by the City's CDBG quarterly reporting form.

II. NATIONAL OBJECTIVES

The Subrecipient certifies that the service carried out with funds provided under this Contract will meet one or more of the Community Development Block Grant (hereinafter "CDBG") Program's National Objectives:

A. Benefit low/moderate income persons.

B. Benefit extremely low income persons.

C. Benefit homeless and elderly persons.

III. PERFORMANCE MONITORING

The City shall monitor the performance of the Subrecipient against goals and levels of accomplishment as stated above. Substandard performance as determined by the City will constitute noncompliance with this Contract. If action to correct such substandard performance is not taken by the Subrecipient within a reasonable period of

time after being notified by the Grantee, contract suspension or termination procedures will be initiated.

IV. WORK PLAN AND REPORTING

A. Work Plan: The Subrecipient shall provide the City, within sixty (60) days from signing this Agreement, a revised work plan outlining the major tasks or activities, the measurable objectives for each task or activity, and the time frames to be taken by the Subrecipient in the performance of this Agreement. Included in this report should be information regarding how much funding was leveraged during the program year and from which sources.

B. Annual Budget: All project activities will be in accordance with the attached budget and work plan (Exhibit A) per 24 CFR 570.503(b)(1).

C. Invoicing: The Subrecipient shall submit to the City quarterly reports in order to receive reimbursement for these services. Quarterly reports must be filed no later than the 15th calendar day for the preceding month. A fund requisition with documentation in support of each budgetary category will be submitted. This documentation must include the original or a certified copy or copies of invoices, vouchers, statements, etc. All costs chargeable to the City must be in accordance with budgetary and other restrictions of expenses established by this Contract. Funds for reimbursement can be disbursed on any Friday of each month during the contract period. In order for the City to meet this deadline, the Subrecipient is required to submit its request for reimbursement by Monday, 5:00 p.m., in order to receive payment by the following Friday. The Subrecipient shall submit a Final Project Report assessing the comparison of results achieved in relation to stated goals and objectives in the Scope of Services approved by the City. This report is due to the Office of Affordable Housing fifteen (15) days after the completion of the

Contract.

D. Final Payment: Since all payments under this Contract shall be quarterly on a cost reimbursement basis, the City shall be entitled to withhold the final ten percent (10%) due hereunder, pending final approval by the City of the services rendered. Upon receipt and acceptance of a final project report prior to the final payment, the Subrecipient shall furnish the City proof in documentary form that all claims, liens, salaries or other obligations incurred by it in accordance with the services specified herein, have been properly paid and released.

E. Program Monitoring and Financial Audits: At such time and in such form as the City may require there shall be furnished to the City such statements, records, reports, data and information as the City may request pertaining to matters covered by this Contract. Furthermore, at any time during normal business hours and as often as the City may deem necessary, there shall be made available to the City or its designee for examination, all records maintained by the Subrecipient with respect to all matters covered by this Contract; and, the Subrecipient will permit the City to audit, examine and make excerpts or transcripts from such records, and make audits of all contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all matters covered by this Contract subject to the limitations set out above. Any Subrecipient receiving City CDBG funds in excess of fifteen thousand dollars ($15,000) or any combination of public (City, State, or Federal) monies in excess of twenty-five thousand dollars ($25,000) shall perform a final audit on all funds received from all sources for the program no later than ninety (90) days after completion of the sub-recipient's fiscal year, and shall furnish the City with said audit. This audit shall be performed by an independent agency. Any Subrecipient receiving a sum of less than

fifteen thousand dollars ($15,000) in City CDBG funds must submit an audited financial statement on all funds received from all sources for the program after completion of the sub-recipient's fiscal year, and shall furnish the City with said financial statements.

V. STATUS OF CONTRACTOR

The Subrecipient, and its agents and employees, are independent contractors performing professional services for the City and are not employees of the City. The Subrecipient, 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 Contract.

VI. COMPENSATION

A. The City shall pay to the Contractor in full payment for services satisfactorily performed, such compensation shall not exceed twenty five thousand dollars ($25,000). **The total amount payable to the Contractor under this Agreement, including gross receipts tax and expenses, shall not exceed ($25,000). 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.**

B. Invoice must include documentation of staff costs incurred, including time sheets or payroll reports showing amount of staff time paid by CDBG funds.

C. 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. All invoices MUST BE received by the City no later than thirty 30) days after the termination of the Fiscal Year in which the services were delivered. Invoices received after such date WILL NOT BE PAID.

VII. TERM

THIS AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED BY THE CITY. This Agreement shall terminate on **June 30, 2021** unless terminated pursuant to paragraph 4 (Termination), or paragraph 5 (Appropriations). In accordance with Section 13-1-150 NMSA 1978, no contract term for a professional services contract, including extensions and renewals, shall exceed four years, except as set forth in Section 13-1-150 NMSA 1978.

VIII. ADDITIONAL CONTRIBUTIONS

The Subrecipient may use the funds of the City granted herein to obtain Federal, State or other grants to carry out the Scope of Services herein.

A. Program Income: Program income received may be retained by the Subrecipient, but may be used only for support of the programs detailed in the Scope of Services section of this Contract. Program income on hand at the time of completion of the Contract period shall continue to be subject to the eligibility requirements and other applicable provisions of 24 CFR 570.504, Program Income of the Administrative

Regulations of the CDBG program.

IX. APPROPRIATIONS

The terms of this Contract are contingent upon sufficient appropriations and authorization made by the City for the performance of this Contract. If sufficient appropriations and authorizations are not made by the City, this Contract shall terminate upon written notice being given by the City to the Subrecipient. The City's decision as to whether sufficient appropriations are available shall be accepted by the Subrecipient and shall be final.

X. FISCAL AGENT

The New Mexico Community Foundation will act as Coming Home's Fiscal Agent and will defend, indemnify and hold harmless the City from any and all liability, costs and expenses whatsoever for expenditure of funds pursuant to the Scope of Services of this Contract.

XI. BUDGET REVISIONS The Subrecipient will inform the City of any "line item" revisions to the attached budget, within the maximum compensation shown in this Agreement and will obtain the City's prior written approval of any change that represents at least 25 percent or more of the line item amount per the latest approved budget. Any budget revisions must be eligible expenditures under this Agreement and Title I of the Community Development Act.

XII. ELIGIBLE AND INELIGIBLE COSTS

A. Criteria. This section provides criteria for the determination of whether costs are eligible or ineligible for funding under this Contract. Costs incurred, which are determined by the City to be ineligible under these criteria, may not be charged to this

Contract.

B. Standards. All costs incurred must be reasonable and of a nature which clearly relates to the specific purposes and end product of the contract under which the services are being performed. Care must be exercised by all concerned in incurring costs to assure that expenditures conform to these general standards, including 2 CFR Part 200, and the following criteria for eligible costs.

C. Eligible Costs. To be eligible for inclusion, the cost must:

(1) Be necessary and reasonable for proper and efficient execution of the contractual requirements and in accordance with an approved budget.

(2) Be in conformance with any limitations, exclusions and provisions pursuant to this Contract, State and Local Laws, or other governing limitations.

(3) Be accorded consistent treatment through application of accounting policy and procedures approved and/or prescribed.

(4) Be net after allowance of all applicable credits such as purchase discounts, rebates or allowances, sales or publication of materials, or other income or refunds.

(5) Be in accordance with budgetary or other restrictions on expenses established by the City.

(6) Be fully documented.

(7) The Subrecipient shall reimburse the City any costs and expenses declared ineligible by the City which may have been reimbursed erroneously to the Subrecipient by the City under whatever conditions.

D. Ineligible Costs. Ineligible costs shall be as follows:

(1) Accounting. Costs of maintaining central accounting records

necessary for overall local government purposes, such as appropriation of fund accounts by the Treasurer, or similar officials, are considered general expenses of the Subrecipient and are ineligible costs. However, the cost of establishing and maintaining accounting or other information systems required for the management of the program are eligible costs including costs incurred by central services agencies for these purposes.

(2) Bad Debts. Any losses arising from uncollectible accounts and other claims, and related costs.

(3) Budget. Costs of a central budget office, except the costs of employees in the central budget office of the Subrecipient directly involved in the program as set forth in the Scope of Services, hereto, and clearly identifiable. However, costs incurred for the development, preparation, presentation, and execution of program and project budgets performed by the Subrecipient are eligible costs.

(4) Contingencies. Contribution to a contingency reserve or any similar provision for unforeseen events.

(5) Contributions and Donations. Political, charitable and fundraising solicitations, payments, gifts and expenses.

(6) Entertainment. Costs of amusements, social activities, and incidental costs, such as meals, beverages, lodgings, and gratuities, relating to entertainment.

(7) Board Expenses. The salary and expenses if any, of the Chairman of the Board of the Subrecipient are considered a cost of the Subrecipient and are not eligible costs in any way to this Contract.

(8) Fines and Penalties. Costs resulting from violations of or failure to comply with federal, state and local laws and regulations.

(9) Interest and other Financial Costs. Interest on borrowing (however represented); bond discounts, cost of financing and refinancing operations and legal and professional fees paid in connection therewith.

(10) Legal Fees. Costs for legal advice or work are ineligible, except those required directly for the administration of the program, which are eligible.

(11) Legislative Expenses. Costs for lobbying or testimony before the legislature or any of its committees, whether incurred for the purposes of legislation or executive direction, are not eligible.

(12) Membership Expenses. Cost of membership in any organization is ineligible.

(13) Travel. Costs in excess of those allowed by the City for its employees are ineligible.

(14) Meeting Attendance. Costs of attending meetings which are not included in the budget are ineligible.

(15) Expenses Related to Fundraising. Cost of postage, printing or external subcontracting for grant writers or development specialists.

XIII. SPECIAL PROVISIONS

A. The Subrecipient realizes that the availability of funds for the activity covered by the "Scope of Services," herein and for performance of this Agreement, depend solely on the provisions of said funds by HUD, such provisions being contingent on the City's approval of these activities as eligible under the Housing and Community Development Act of 1974, the National Affordable Housing Act of 1990 and other pertinent federal regulations. However, the City shall notify the Subrecipient in writing within five days of receipt by the City of any determination by HUD to terminate CDBG

funding.

B. In the event the Subrecipient or its organization is dissolved or discontinues making loans as provided herein, or this Agreement is not renewed after it expires, the Subrecipient shall upon such dissolution, discontinuation or within sixty (60) days after expiration of this Agreement if its renewal has not in the meantime been executed:

(1) Return to the City all unexpended Community Development Block Grant funds received from the City and CDBG program income in the possession of the Subrecipient that have not been already obligated through contracts.

(2) Assign and transfer to the City the equity on all outstanding loans and mortgages which have been provided by the Subrecipient from Community Development grant funds and related program income under this and previous agreements. The Subrecipient shall provide the City with a listing of the borrowers and outstanding amounts, together with up-to-date records of principal and interest payments and balances of the accounts of said borrowers.

XIV. CONFLICT OF INTEREST

The Subrecipient agrees to abide by the provision of 2 CFR Part 200 and 570.611, which include (but are not limited to) the following:

A. Interest of Members of City: No officer, employee, or agent of the City who exercises any functions or responsibilities in connection with the planning and carrying out any of the provisions of this Contract, or any other person who exercises any functions or responsibilities in connection with any of the provisions of the Contract, shall have any personal financial interest, direct or indirect, in this Contract; and the Subrecipient shall take appropriate steps to assure compliance.

B. Interest of Subrecipient and Employees: The Subrecipient shall not allow any person who presently exercises any functions or responsibilities in connection with the provisions of this Contract, to have personal financial interests, direct or indirect, in this Contract. The Subrecipient further shall not allow in the performance of this Contract any person having any conflicting interest to be employed by the Subrecipient. Any interest on the part of the Subrecipient or its employees must be disclosed to the City. Provided, however, that this paragraph shall be interpreted in such a manner so as not to unreasonably impede the requirement that maximum opportunity for employment of area residents and resident participation shall be of primary concern to the Subrecipient.

Should the subrecipient discover a potential conflict of interest, the subrecipient shall immediately disclose in writing to the City and specifically ask for guidance on how to resolve the conflict and prior to any act in furtherance of the conflict. The disclosure shall include a description of the nature of the conflict; the name, position, phone number and address of the person with the conflict; the date of the notification; and requested action to address the conflict. Disclosures of real, apparent or perceived conflicts of interest shall be made to the City and the City must agree in writing to a proper course of subsequent action prior to the disbursement of CDBG funds.

C. Certification:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the State, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of a Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative

agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the State shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.

XV. DISCRIMINATION PROHIBITED

A. In all hiring or employment made possible by or resulting from this Contract, there (1) will not be any discrimination against any employee or applicant for employment because of race, color, age, religion, sex, sexual orientation, national origin, and physical or mental disability; and (2) affirmative action will be taken to ensure that qualified applicants are employed, and that employees are treated during employment without regard to their race, color, age, religion, sex, sexual orientation, national origin, and physical or mental disability. This requirement shall apply, without limitation, to the following: employment, upgrading, demotion or transfer, recruitment advertising, layoff or termination, and selection for training, including apprenticeship. There shall be posted in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this clause. All solicitations or advertisements for employees shall state that all qualified applicants will receive consideration for employment without regard to race, color, age, religion, sex, sexual orientation, national origin, and physical or mental disability.

B. No person in the United States shall, on account of race, color, age,

religion, sex, sexual orientation, national origin, and physical or mental disability, be excluded from participating in, denied the benefits of, or subjected to discrimination under this Contract or activity made possible by or resulting from the Contract.

C. Subrecipient will abide by all requirements of the Americans with Disabilities Act. Subrecipient shall be kept informed of employee discrimination prevention requirements and program and facility accessibility standards.

XVI. WOMEN- AND MINORITY- OWNED BUSINESSES (W/MBE)

The Subrecipient will use its best efforts to afford small businesses, minority business enterprises, and women's business enterprises the maximum practicable opportunity to participate in the performance of this contract. As used in this contract, the terms "small business" means a business that meets the criteria set forth in section 3(a) of the Small Business Act, as amended (15USC 632), and "minority and women's business enterprise" means a business at least fifty-one (51) percent owned and controlled by minority group members or women. For the purpose of this definition, "minority group members" are Afro-Americans, Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian-Americans, and American Indians. The Subrecipient may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

XVII. POLITICAL ACTIVITY PROHIBITED

None of the funds, materials, property or services provided for directly or indirectly under this Contract shall be used in the performance of this Contract for any political activity prohibited by Federal, State or local law.

XVIII. CONFIDENTIALITY

Any confidential information provided to or developed by the Subrecipient in the

performance of this Contract shall be kept confidential and shall not be made available to any individual or organization by the Subrecipient without the prior written approval of the City.

XIX. REPRESENTATIONS IN SUBMITTALS

The City has relied on all representations in the Subrecipient's submittals in awarding this Agreement and the Subrecipient warrants the accuracy of all representations. Misrepresentations in the submittals will be cause for termination of this Agreement.

XX. AMENDMENT

This Contract shall not be altered, changed or amended except by amendment in writing executed by the parties hereto.

XXI. NOTICES AND ADDRESSES

Any notices required to be given under this agreement shall be in writing and served by personal delivery or by mail, postage prepaid, to the parties at the following addresses:

For the City, notices may be sent to:

City of Santa Fe
Office of Affordable Housing
P.O. Box 909
Santa Fe, New Mexico 87504-0909

For the Subrecipient, notices may

Youth Shelters & Family Services
PO Box 28279
Santa Fe, NM 87592

XXII. ASSIGNABILITY

The Subrecipient shall not assign any interest in this Contract and shall not transfer any interest in the same (whether by assignment or otherwise) without the prior written consent of the City.

XXIIII. WARRANTY OF AUTHORITY

The Subrecipient warrants that it has full corporate and other authority, under its articles of corporation, bylaws, resolutions, other pertinent corporate documents, instruments, and agreements, and otherwise to enter into this agreement, to bind itself under this agreement, and to perform this Agreement in accordance with the terms and provisions of this Agreement.

XXIV. BINDING EFFECT

This Agreement is binding upon and inures to the benefit of the successors, successors-in interest, assigns and transferees of the City and the Subrecipient.

XXV. SEVERABILITY

In case any one or more of the provisions contained in this Agreement or any application thereof shall be invalid, illegal or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions contained herein and any other application thereof shall not in any way be affected or impaired thereby.

XXVI. DISPOSITION OF PROPERTY

A. All non-expendable property acquired by the Subrecipient pursuant to this Contract shall be recorded in the property records of the City prior to reimbursement to the Subrecipient for expenses incurred in order to acquire said property. For purposes of this Contract, the term "non-expendable property" means items of tangible, personal property that are non-perishable such as equipment, software, and furniture. The use and disposition of real property and equipment under this Contract shall be in compliance with the requirements of 24 CFR Part 84 and 24 CFR 570.502, 570.503, and 570.504, as applicable.

B. Subrecipient shall be accountable for all recorded non-expendable property

which is recorded as City property for a period of five years as established by the City.

C. All non-expendable property acquired pursuant to this Contract shall remain in the possession of and shall be used only by the Subrecipient, provided that said property continues to be used for the same purposes and in the same manner as originally intended.

D. If the Subrecipient cannot continue to effectively use recorded non-expendable property for the same purposes and in the same manner as originally intended and described in this Contract, all such non-expendable property shall remain in the possession of, and shall be used by the Subrecipient for similar purposes and in a similar manner as initially used; provided, however, that conversion of said property to a similar use in another similar program must first receive the express written consent of the City.

E. If the Subrecipient can neither continue to effectively use recorded non-expendable property for the same purposes and in the same manner originally intended nor continue to effectively use said property for the same or similar purposes and in a similar manner as permitted by this Contract, the City may provide for the disposition of said property wholly and entirely at the City's discretion.

F. The City may, in writing, waive and relinquish all claims the City may have in and to recorded non-expendable property.

G. When the Subrecipient's period of accountability for any non-expendable property expires, said property shall revert to the City unless otherwise provided for in a written agreement between the Subrecipient and the City. Assets on hand at the expiration of the Contract in excess of twenty-five thousand dollars ($25,000) shall be disbursed in accordance with reversion of assets of 24 CFR 570.503 Agreements with

Subrecipients of the CDBG regulation; or

(i) The Subrecipient shall pay to the City an amount equal to the current market value of the property less any portion of the value attributable to the expenditures of non-CDBG funds for the acquisition of, or improvement to, the property. The payment is program income to the City. (No payment is required after the period of time specified in 24 CFR 570.503(b)(7)(i).

XXVII. COMPLIANCE WITH LOCAL LAW

The Subrecipient shall comply at its own cost with all applicable laws, ordinances and codes of the State and the City.

XXVIII. THIRD PARTY BENEFICIARIES

By entering into this Contract, the parties do not intend to create any right, title or interest in or for the benefit of any person other than the City and the Subrecipient. No person shall claim any right, title or interest under this Contract or seek to enforce this Contract as a third party beneficiary of this Contract.

XXIX. JURISDICTION CLAUSE

This Contract shall be performed in Santa Fe, New Mexico. Any legal action or cause of action arising in connection herewith shall be within the jurisdiction and venue of the appropriate court in Santa Fe, New Mexico, for all purposes.

XXX. SUSPENSION AND TERMINATION

A. This Contract 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. By such termination, neither party may nullify obligations already incurred for performance or failure to perform prior to the date of termination. In addition, the City may terminate this agreement for convenience in accordance with 2 CFR Part 200.

B. The City may enforce remedies for noncompliance in accordance with 2 CFR Part 200. The City may also suspend or terminate this Contract, in whole or in part, if the Subrecipient materially fails to comply with any term of this Contract, or with any of the rules, regulations or provisions referred to herein; and the City may declare the Subrecipient ineligible for any further participation in the City's contracts, in addition to other remedies as provided by law. In the event there is probable cause to believe the Subrecipient is not in compliance with any applicable rules or regulations, the City may withhold up to fifteen percent (15%) of said contract funds until such time as the Subrecipient is found to be in compliance by the City, or is otherwise adjudicated to be in compliance.

XXXI 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.

XXXII. 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.

A. Commercial General Liability insurance shall be written on an occurrence basis and be a broad as ISO Form CG 00 01 with limits not less than $2,000,000 per occurrence and $2,000,000 in the aggregate for claims against bodily injury, personal and advertising injury, and property damage. Said policy shall include

broad form Contractual Liability coverage and be endorsed to name the City of Santa Fe their officials, officers, employees, and agents as additional insured.

B. Business Automobile Liability insurance for all owned, non-owned automobiles, with a combined single limit not less than $1,000,000 per accident.

C. Broader Coverage and Limits. The insurance requirements under this Agreement shall be the greater of (1) the minimum coverage and limits specified in this Agreement, or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the Named Insured. It is agreed that these insurance requirements shall not in any way act to reduce coverage that is broader or that includes higher limits than the minimums required herein. No representation is made that the minimum insurance requirements of this Agreement are sufficient to cover the obligations of Contractor hereunder.

D. 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.

XXXIII. INDEMNIFICATION

The Subrecipient shall indemnify, hold harmless and defend the City from all losses, damages, claims or judgments, including payments of all attorneys' fees and costs on account of any suit, judgment, execution, claim, action or demand whatsoever

arising from Subrecipient's performance under this Agreement as well as the performance of Subrecipient's employees, agents, representatives and subcontractors.

XXXIV. ENTIRE CONTRACT

This Contract constitutes the entire contract between the parties hereto. Prior contracts, whether written or oral, or assertion of statement, of understanding, or other commitment antecedent to this Contract shall have no force or effect whatsoever, unless the same is mutually agreed to by the parties hereto and reduced to writing.

XXXV. GENERAL CONDITIONS

A. General Compliance: The Subrecipient agrees to comply with the requirements of Title 24 of the Code of Federal Regulations, Part 570 (the Housing and Urban Development regulations concerning Community Development Block Grants (CDBG)). The Subrecipient also agrees to comply with all other applicable Federal, state and local laws, regulations, and policies governing the funds provided under this contract and as set forth at 24 CFR Part 570 subpart K, except that the Subrecipient does not assume the recipient's environmental responsibilities under 24 CFR 570.604 and 24 CFR Part 52. The Subrecipient further agrees to utilize funds available under this Contract to supplement rather than supplant funds otherwise available.

B. Grantor Recognition: The Subrecipient shall ensure recognition of the role of the City in providing services through this contract. All activities, facilities and items utilized pursuant to this contract shall be prominently labeled as to funding source. In addition, the Subrecipient will include a reference to the support provided herein in all publications made possible with funds made available under this contract.

XXXVI. ADMINISTRATIVE REQUIREMENTS

A. Financial Management

1. Accounting Standards. The Subrecipient agrees to comply with 2 CFR Part 200 and agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.

2. Cost Principles. The Subrecipient shall administer its program in conformance with the Uniform Administrative Requirements of 24 CFR 570.502, 24 CFR 570.503, and 2 CFR Part 200. These principles shall be applied for all costs incurred whether charged on a direct or indirect basis.

XXXVII. DOCUMENTATION AND RECORD KEEPING

A. Records to be Maintained. The Subrecipient shall maintain all records required by the Federal regulations specified in 24 CFR 570.506 that are pertinent to the activities to be funded under this Contract. Such records shall include but not be limited to:

(1) Records providing a full description of each activity undertaken;

(2) Records demonstrating that each activity undertaken meets one of the National Objectives of the CDBG program;

(3) Records required to determine the eligibility of activities;

(4) Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG assistance;

(5) Records documenting compliance with the fair housing and equal opportunity components of the CDBG program;

(6) Records documenting compliance with EPLS/SAM for each sub-contractor;

(7) Financial records as required by 24 CFR 570.502, and 2 CFR Part

200;

(8) Other records necessary to document compliance with Subpart K of 24 CFR Part 570.

(9) Other records necessary to document compliance with Sections 1012 and 1013 of Title X amending the Lead-based Paint Poisoning Prevention Act of 1971 and title 24 of the Code of Federal Regulations as part of 35 (24 CFR 35).

XXXVIII. CLIENT DATA

The Subrecipient shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, income level or other basis for determining eligibility, and description of service provided. Such information shall be made available to the City or its designees for review upon request.

XXXVIX. DISCLOSURE

The Subrecipient understands that client information collected under this Contract is private and the use or disclosure of such information, when not directly connected with the administration of the City's or Subrecipient's responsibilities with respect to services provided under this contract, is prohibited by the State of New Mexico unless written consent is obtained from such person receiving service and, in the case of a minor, that of a responsible parent or guardian.

XL . PROPERTY RECORDS

The Subrecipient shall maintain real property inventory records, which clearly identify properties purchased, improved or sold. Properties retained shall continue to meet eligibility criteria and shall conform to the "changes in use" restrictions specified in 24 CFR 570.503 (b) (8), as applicable.

XLI. RELOCATION, REAL PROPERTY ACQUISITION AND ONE-FOR-ONE HOUSING REPLACEMENT

The Subrecipient agrees to comply with (a) the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), and implementing regulations at 49 CFR Part 24 and 24 CFR 570.606(b); (b) the requirements of 24 CFR 570.606(c) governing the Residential Anti-displacement and Relocation Assistance Plan under section 104(d) of the HCD Act; and (c) the requirements in 24 CFR 570.606(d) governing optional relocation policies.

XLII. ENVIRONMENTAL CONDITIONS

A. Air and Water: The Subrecipient agrees to comply with the following requirements insofar as they apply to the performance of this Contract:

(1) Clean Air Act, 42 USC, 7401, *et seq.*;

(2) Federal Water Pollution Control Act, as amended, 33 USC, 1251, *et seq.*, as amended 1318 relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder;

(3) Environmental Protection Agency (EPA) regulations pursuant to 40 CFR Part 50, as amended.

B. Flood Disaster Protection: In accordance with requirements of the Flood Disaster Protection Act of 1973 (42 USC 4001), the Subrecipient shall assure that for activities located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, flood insurance under the National Flood Insurance Program is obtained and maintained as a condition of financial assistance for acquisition or construction purposes (including rehabilitation).

C. Lead-Based Paint: The Subrecipient agrees that any construction or rehabilitation of residential structures with assistance provided under this Contract shall be subject to HUD Lead-Based Paint Regulations at 24 CFR 570.608, and 24 CFR Part 35, Subpart B. Such regulations pertain to all CDBG-assisted housing and require that all owners, prospective owners, and tenants of properties constructed prior to 1978 be property notified that such properties may include lead-based paint. Such notification shall point out the hazards of lead-based paint and explain the symptoms, treatment and precautions that should be taken when dealing with lead-based paint poisoning and the advisability and availability of blood lead level screening for children under seven. The notice should also point out that if lead-based paint is found on the property, abatement measures may be undertaken. The regulations further require that, depending on the amount of Federal funds applied to a property, paint testing, risk assessment, treatment and/or abatement may be conducted.

D. Historic Preservation: The Subrecipient agrees to comply with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, as amended (16 USC 470) and the procedures set forth in 36 CFR Part 800, Advisory Council on Historic Preservation Procedures for Protection of Historic Properties, insofar as they apply to the performance of this agreement. In general, this requires concurrence from the State Historic Preservation Officer for all rehabilitation and demolition of historic properties that are fifty years old or older or that are included on a Federal, state, or local historic property list.

XLIII. CLOSE OUTS

The Subrecipient's obligation to the City shall not end until all closeout requirements are completed. Activities during this close-out period shall include, but are

not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the City), and determining the custodianship of records.

XLIV. LAND COVENANTS

This Contract is subject to the requirements of Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and 24 CFR 570.601 and 602. In regard to the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under this contract, the Subrecipient shall cause or require a covenant running with the land to be inserted in the deed or lease for such transfer, prohibiting discrimination as herein defined, in the sale, lease or rental, or in the use or occupancy of such land, or in any improvements erected or to be erected thereon, providing that the City and the United States are beneficiaries of and entitled to enforce such covenants. The Subrecipient, in undertaking its obligation to carry out the program assisted hereunder, agrees to take such measures as are necessary to enforce such covenant, and will not itself so discriminate.

XLV. SECTION 504

The Subrecipient agrees to comply with any Federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973 (29 USC 794), which prohibits discrimination against the handicapped in any Federally assisted program.

XLVI. PROHIBITED ACTIVITY

The Subrecipient is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities; sectarian or religious activities; lobbying, political patronage, and nepotism activities.

XLVII. LABOR STANDARDS

A. The Subrecipient agrees to comply with the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act as amended, the provisions of Contract Work Hours and Safety Standards Act (40 USC 327 *et seq.*), the Copeland "Anti-Kickback" Act (18 USC 874 *et seq.*), its implementing regulations of the U.S. Department of Labor at 29 CFR Part 5, and all other applicable Federal, state and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this contract. The Subrecipient shall maintain documentation which demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to the City for review upon request.

B. The Subrecipient agrees that, except with respect to the rehabilitation or construction of residential property containing less than eight units, all contractors engaged under contracts in excess of two thousand dollars ($2,000.00) for construction, renovation or repair work financed in whole or in part with assistance provided under this contract, shall comply with Federal requirements adopted by the City pertaining to such contracts and with the applicable requirements of the regulations of the Department of Labor, under 29 CFR Parts 1, 3, 5 and 7 governing the payment of wages and ratio of apprentices and trainees to journey workers; provided, that if wage rates higher than those required under the regulations are imposed by state or local law, nothing hereunder is intended to relieve the Subrecipient of its obligation, if any, to require payment of the higher wage. The Subrecipient shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions meeting the requirements of this paragraph.

XLVIII. COMPLIANCE

A. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR 135, ("Section 3") and all applicable rules and orders issued thereunder prior to the execution of this contract, shall be a condition of the Federal financial assistance provided under this contract and binding upon the City, the Subrecipient and any of the Subrecipient's subcontractors. Failure to fulfill these requirements shall subject the City, the Subrecipient and any of the Subrecipient's subcontractors, their successors and assigns, to those sanctions specified by the contract through which Federal assistance is provided. The Subrecipient certifies and agrees that no contractual or other disability exists which would prevent compliance with these requirements.

B. The Subrecipient further agrees to comply with "Section 3" requirements and to include the following language in all subcontracts executed under this Contract.

"The work to be performed under this contract is a project assisted under a program providing direct Federal financial assistance from HUD and is subject to the requirements of "Section 3" of the Housing and Urban Development Act of 1968, as amended (12 USC 1701). "Section 3" requires that to the greatest extent feasible opportunities for training and employment be given to low and very low-income residents of the project area and contracts for work in connection with the project be awarded to business concerns that provide economic opportunities for low-and very low-income persons residing in the metropolitan area in which the project is located".

XLIX. NOTIFICATIONS

The Subrecipient agrees to send to each labor organization or representative of workers with which it has a collective bargaining contract or other contract or understanding, if any, a notice advising said labor organization or worker's representative

of its commitments under the above-referenced "Section 3" clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

L. SUBCONTRACTS

The Subrecipient will include the above-referenced "Section 3" clause in every subcontract and will take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the City. The Subrecipient will not subcontract with any entity where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR 135 and will not let any subcontract unless the entity has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

LI. RESPONSIBILITY FOR PAYMENT OF EMPLOYEES AND SUBCONTRACTORS

A. The Subrecipient shall be solely responsible for payment of wages, salaries and benefits to any and all employees or subcontractors retained by the Subrecipient in the performance of the services under this Contract.

B. The Contractor shall comply with City of Santa Fe Minimum Wage, Article 28-1-SFCC 1987, as well as any subsequent changes to such article throughout the term of this Agreement. .

LII. WAIVER

The Grantee's failure to act with respect to a breach by the Subrecipient does not waive its right to act with respect to subsequent or similar breaches. The failure of the City to exercise or enforce any right or provision shall not constitute a waiver of such right or provision.

LIII. NEW MEXICO TORT CLAIMS ACT

Any liability incurred by the City of Santa Fe in connection with this Contract is subject to the immunities and limitations of the New Mexico Tort Claims Act, Section 41-4-1, *et seq.* NMSA 1978, as amended. The City and its "public employees" as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity, do not waive any defense and do not waive any limitation of liability pursuant to law. No provision in this Contract modifies or waives any provision of the New Mexico Tort Claims Act.

LIV. RELEASE

The Subrecipient, upon final payment of the amount due under this Contract, releases the City, its officers and employees, from all liabilities, claims and obligations whatsoever arising from or under this Contract. The Subrecipient agrees not to purport to bind the City to any obligation not assumed herein by the City unless the Subrecipient has express written authority to do so, and then only within the strict limits of that authority.

LV. ENTIRE AGREEMENT

This agreement constitutes the entire agreement between the City and the Subrecipient for the use of funds received under this Contract and it supersedes all prior or contemporaneous communications and proposals, whether electronic, oral, or written between the City and the Subrecipient with respect to this Contract.

IN WITNESS WHEREOF, the City and the Subrecipient have executed this Contract on the dates set forth below.

APPROVED AND AUTHORIZED:

_____

ALAN WEBBER, MAYOR
DATE: _____

ATTEST:

YOLANDA Y. VIGIL
CITY CLERK

SUBRECIPIENT:
YOUTH SHELTERS & FAMILY SERVICES

SHELLY FELT
EXECUTIVE DIRECTOR

New Mexico Taxation and Revenue Dept.
CRS No. 02-010414-00-6
City of Santa Fe Business Registration No. 224084

CITY ATTORNEY'S OFFICE:

Marcos Martinez
Marcos Martinez (May 12, 2020)

SENIOR ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

MARY MCCOY
FINANCE DIRECTOR

2402750.510500
BUSINESS UNIT/LINE ITEM

EXHIBIT A: Per Section V.B. of the Professional Services Agreement and per 24 CFR 570.503(b)(1).

Addendum Project Budget for (Youth Shelters – Transitional Living)

Type of funding	Source/ Amount	Source/ Amount	Source/ Amount	Totals
Final CDBG AMOUNT				**$25,000**
Other Federal Funds (for amortizing loans)				
Other Federal Funds (for amortizing loans)				
Amortizing funds				
City Funding (i.e. Youth and Family, Human Services Divisions)				
State funds (i.e. MFA)				**$**
Other (i.e. in-kind, private funds)	$6,500			**$6,500**
				$
Total of all funding sources				**$31,500**

The following chart details how the secured funding amount will support the various aspects of (Youth Shelters – Transitional Living)

Cost	CDBG Allocation
	$25,000
Cost	Private Leveraged Funds
Other	$6,500
Total	$31,500

City of Santa Fe

Real Estate Summary of Contracts, Agreements, Amendments & Leases

Section to be completed by department

1. Munis Contract # **3201899**

Contractor: **Youth Shelters and Family Services - Transitional Living New Roof**

Description: **Agreement delivers services where YSFS will replace the roof of the TLP apartment building. This will prevent continuous costly repairs due to leaks after wet weather, as well as prevent displacement of youth from their apartments...**

Contract ☐ Agreement ☉ Lease / Rent ☐ Amendment ☐

Term Start Date: **7/01/2020** Term End Date: **6/30/2021**

☐ Approved by Council Date: _____

Contract / Lease: $25,000.00

Amendment # _____ to the Original Contract / Lease # _____

Increase/(Decrease) Amount $ _____

Extend Termination Date to: _____

☐ Approved by Council Date: _____

Amendment is for:

2. **HISTORY** of Contract, Amendments & Lease / Rent - Please Elaborate (option: attach spreadsheet if multiple amendments)
Agreement is for one-year term, 7/01/2020 - 6/30/2021

3. **Procurement History:** **RFP #20/16/P**

Purchasing Officer Review: Date:

Comment & Exceptions: _____

4. **Funding Source:** **240** **Org / Object:** **2402750.510500**

Alexis Lotero

Budget Officer Approval: Date:

Comment & Exceptions: _____

Staff Contact who completed this form: **Roberta Catanach** Phone # **505-955-6421**

Email: **rlcatanach@santafenm.gov**

To be recorded by City Clerk:

Clerk # _____

Date of Execution: _____

CITY OF SANTA FE PROCUREMENT CHECKLIST

Contractor Name: Youth Shelters and Family Services - Transitional Living New Roof

Procurement Title: 20/16/P (CDBG)

Procurement Method: State Price Agreement ☐ Cooperative ☐ Sole Source ☐ Other ☐

Exempt ☐ Request For Proposal (RFP) ☐ Invitation To Bid (ITB) ☐ Contract under 60K ☐ Contract over 60K ☐

Department Requesting Office of Affordable Housin Staff Name Roberta Catanach

Procurement Requirements:

A procurement file shall be maintained for all contracts, regardless of the method of procurement. The procurement file shall contain the basis on which the award is made, all submitted bids, all evaluation materials, score sheets, quotations and all other documentation related to or prepared in conjunction with evaluation, negotiation, and the award process. The procurement shall contain a written determination from the Requesting Department, signed by the purchasing officer, setting forth the reasoning for the contract award decision before submitting to the Committees.

REQUIRED DOCUMENTS FOR APPROVAL BY PURCHASING*

YES	N/A	
☑	☐	Approved Procurement Checklist (by Purchasing)
☑	☐	Memo addressed to City Manager (under 60K) Committees/City Council (over 60K)
☐	☑	State Price Agreement
☑	☐	RFP
☑	☐	Evaluation Committee Report
☐	☑	ITB
☐	☑	Bib Tab
☐	☑	Quotes (3 valid current quotes)
☐	☑	Cooperative Agreement
☐	☑	Sole Source Request and Determination Form
☐	☑	Contractors Exempt Letter
☐	☑	Purchasing Officers approval for exempt procurement
☐	☑	BAR
☐	☑	FIR
☑	☐	Executed Contract, Agreement or Amendment
☑	☐	Current Business Registration and CRS numbers on contract or agreement
☑	☐	Summary of Contracts and Agreements form
☑	☐	Certificate of Insurance
☑	☐	All documentation presented to Committees
☑	☐	Other:

Roberta Catanach, Contracts Administrator 5/11/2020

Department Rep Printed Name (attesting that all information included) Title Date

Fran Dunaway Jun 12, 2020 11:01 MDT

Purchasing Officer (attesting that all information is reviewed) Title Date

Include all other substantive documents and records of communication that pertain to the procurement and contract.

City of Santa Fe
FY20 Fiscal Impact Analysis (Non-Personnel Expenditures)

General Information

Department Name:	General Government	Department Name:	
Division Name:	Office of Affordable Housing	Division Name:	

Financial Information

Amount Requested:	$25,000	Munis Fund Number:	240
Vendor Name:	Youth Shelters and Family Services - Transitional Living New Roof	Munis Org Number:	2402750
Approved by Director?	Yes	Munis Object Code:	510500

Expenditure Information

1. Describe the purchase of goods/services. Is this one-time or recurring? Please explain why this is the lowest cost option for this expenditure.

This contract delivers services where YSFS will replace the roof of the TLP apartment building. This will prevent continuous costly repairs due to leaks after wet weather, as well as prevent displacement of youth from their apartments while water damage is repaired. This is one-time commitment of funds for a one-time project program. This is a low cost way of delivering housing programs/projects/services because it relies on the capacity of community partners, rather than the City's bureaucracy to deliver services/provide housing.

2. Please describe which legally required City service does this procurement support? Does this procurement provide support for compliance with City, State and Federal requirements? If yes, please explain.

This procurement is aligned with requirements of the City's CDBG entitlement funding. If grant funds are not drawn, the City will jeopardize compliance with its grant agreement with HUD.

3. Can these services be performed by City employees in your department or in other departments? If the answer is no, please explain.

No, these housing programs/projects/services are provided by expert organizations and cannot be provided within the City's internal delivery system.

4. Would there be any adverse health, safety or economic implications if this expenditure was not approved? What impact will there be on the department and the City operations if this expenditure is not approved.

Without the housing programs/projects/services funded through this contract, the low-mod income residents of Santa Fe will have limited access to housing and community development opportunities.

5. If this purchase is not approved with City funds, what are alternative funding sources for the proposed expenditure? Does this duplicate efforts being provided by other governmental, for profit or non-profit entities?

These are federal grant funds, the expenditure of which does not affect the City's budget. These funds are used to leverage additional complementary funding sources to support housing programs/projects/services in our community.

Fran Dunaway (Jun 12, 2020 11:03 MDT)	Alexis Lotero (Jun 12, 2020 10:47 MDT)	
Procurement Office Signature	Budget Office Signature	Finance Director Signature

City of Santa Fe
Treasury Department
200 Lincoln Ave.
Santa Fe, New Mexico 87504-0909
505-955-6551

BUSINESS REGISTRATION

Business Name: YOUTH SHELTERS AND FAMILY SERVICES
DBA: YOUTH SHELTERS AND FAMILY SERVICES

Business Location: 4435 AIRPORT RD
SANTA FE, NM 87507

Owner: DAVID BLOCK

License Number: 224084

Issued Date: January 17, 2020

Expiration Date: December 31, 2020

CRS Number: 02010414006

License Type: Business License - Renewable

Classification: Business Registration - Standard

Fees Paid: $35.00

YOUTH SHELTERS AND FAMILY SERVICES
PO BOX 28279
SANTA FE, NM 87592

THIS IS NOT A CONSTRUCTION PERMIT OR SIGN PERMIT. APPROPRIATE PERMITS MUST BE OBTAINED FROM THE CITY OF SANTA FE BUILDING PERMIT DIVISION PRIOR TO COMMENCEMENT OF ANY CONSTRUCTION OR THE INSTALLATION OF ANY EXTERIOR SIGN.

THIS REGISTRATION/LICENSE IS NOT TRANSFERRABLE TO OTHER BUSINESSES OR PREMISES.

TO BE POSTED IN A CONSPICUOUS PLACE

Ver. 15 1/1/2020

YOUTSHE-01 MMARTINEZ1

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 3/5/2020

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER License # 0757776
HUB International Insurance Services (NMX)
2905 Rodeo Park Drive East
Building 6, Suite 100
Santa Fe, NM 87505

CONTACT NAME: Melanie Martinez
PHONE (A/C, No, Ext): (505) 428-4266 FAX (A/C, No): (866) 621-0427
E-MAIL ADDRESS: melanie.martinez@hubinternational.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Philadelphia Indemnity Insurance Company	18058
INSURER B : New Mexico Safety Casualty Company	15351
INSURER C :	
INSURER D :	
INSURER E :	
INSURER F :	

INSURED
Youth Shelters & Family Services
PO Box 28279
Santa Fe, NM 87592-8279

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE [X] OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: X POLICY PRO-JECT LOC OTHER:	X		PHPK1999244	7/1/2019	7/1/2020	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG PROFESSIONAL LI	$ 1,000,000 $ 1,000,000 $ 20,000 $ 1,000,000 $ 3,000,000 $ 3,000,000 $ 3,000,000
A	AUTOMOBILE LIABILITY ANY AUTO X OWNED AUTOS ONLY SCHEDULED AUTOS X HIRED AUTOS ONLY X NON-OWNED AUTOS ONLY			PHPK1999244	7/1/2019	7/1/2020	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ 1,000,000 $ $ $
	UMBRELLA LIAB OCCUR EXCESS LIAB CLAIMS-MADE DED RETENTION $						EACH OCCURRENCE AGGREGATE	$ $ $
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y/N (Mandatory in NH) N/A If yes, describe under DESCRIPTION OF OPERATIONS below	N/A		10413.127	7/1/2019	7/1/2020	PER STATUTE OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	$ 100,000 $ 100,000 $ 500,000
A	Professional Liab			PHPK1999244	7/1/2019	7/1/2020	Limit	3,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

SEE ATTACHED ACORD 101

CERTIFICATE HOLDER

City of Santa Fe
PO Box 909
Santa Fe, NM 87502

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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AGENCY CUSTOMER ID: YOUTSHE-01 MMARTINEZ1

LOC #: 1

ADDITIONAL REMARKS SCHEDULE

AGENCY	License # 0757776	NAMED INSURED
HUB International Insurance Services (NMX)		Youth Shelters & Family Services PO Box 28279 Santa Fe, NM 87592-8279
POLICY NUMBER		
SEE PAGE 1		
CARRIER	NAIC CODE	EFFECTIVE DATE: SEE PAGE 1
SEE PAGE 1	SEE P 1	

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,

FORM NUMBER: ACORD 25 FORM TITLE: Certificate of Liability Insurance

Description of Operations/Locations/Vehicles:
The City of Santa Fe is included as additional insured in regards to General Liability.

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ACTION SHEET
ITEM FROM QUALITY OF LIFE COMMITTEE MEETING OF 06/17/2020
FOR CITY COUNCIL MEETING OF 06/24/2020

ISSUE:

Request for Approval of Amendments to extend the Term of Performance on four (4) Housing Contracts through June 30, 2021 (Alexandra Ladd, Director, Office of Affordable Housing, agladd@santafenm.gov; 505-303-9868):

1. Amendment #1 to Mortgage Principal Reduction Contracts
a. Habitat for Humanity – (AHTF) – Contract amount $80,000 (current balance is $40,000)
b. Housing Trust – (AHTF) – contract amount $157,500 (Current balance - $76,000)
c. Homewise (CDBG) – Contract amount $188,000 (Current balance - $163,308.61)

2. Amendment #4 to Home Repair Contract
a. Homewise Home Repair (CDBG) – Contract amount $ 75,000 (Current balance - $ 25,716.44)

QUALITY OF LIFE COMMITTEE ACTION: Approved on consent

SPECIAL CONDITIONS OR AMENDMENTS:

SEND TO:

VOTE	**FOR**	**AGAINST**	**ABSTAIN**
CHAIRPERSON ROMERO-WIRTH	X		
COUNCILOR VILLARREAL	X		
COUNCILOR RIVERA	X		
COUNCILOR GARCIA	X		
COUNCILOR CASSUTT-SANCHEZ	X		

CITY OF SANTA FE
AMENDMENT No. 1 TO
PROFESSIONAL SERVICES AGREEMENT

AMENDMENT No. 1 (the "Amendment") to the CITY OF SANTA FE PROFESSIONAL SERVICES AGREEMENT, dated April 24, 2019 (the "Agreement"), between the City of Santa Fe (the "City") and Santa Fe Habitat For Humanity (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 Agreement, Contractor shall utilize funds to provide zero percent mortgage principal reduction funding for four (4) low-income homebuyer households earning at or less than 60% of AMI, in the Las Soleras subdivision.

B. Pursuant to Article 18 of the Agreement, 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. TERM

Article 3 of the Agreement is hereby deleted. A new Article 3 of the Agreement is inserted to extend the term of the Agreement, so that Article 3 reads in its entirety as follows:

This Agreement shall not become effective until approved by the City. This Agreement shall terminate on June 30, 2021 unless terminated pursuant to paragraph 4 (Termination), or paragraph 5 (Appropriations). In accordance with Section 13-1-150 NMSA 1978, no contract term for a professional services contract, including extensions and renewals, shall exceed four years, except as set forth in Section 13-1-150 NMSA 1978.

2. AGREEMENT 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 City of Santa Fe Professional Services Agreement as of the date signed by the City set forth below.

CITY OF SANTA FE:

_____
ALAN M. WEBBER, MAYOR

Date: _____

ATTEST:

_____
YOLANDA Y. VIGIL, CITY CLERK

CONTRACTOR:
SANTA FE HABITAT FOR HUMANITY

By: _____
KURT KRAHN
EXECUTIVE DIRECTOR

CITY ATTORNEY'S OFFICE:

Marcos Martinez
Marcos Martinez (Jun 4, 2020 13:58 MDT)
SENIOR ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

_____
MARY MCCOY
FINANCE DIRECTOR

2402750.510500
ORG/OBJ#

ITEM # 19-0347

CITY OF SANTA FE
AFFORDABLE HOUSING TRUST FUND (AHTF)
PROFESSIONAL SERVICES CONTRACT

THIS AGREEMENT is made and entered into by and between the City of Santa Fe, New Mexico, hereinafter referred to as the "City," and **Santa Fe Habitat For Humanity** hereinafter referred to as the "Contractor," and is effective as of the date set forth below upon which it is executed by the Parties.

IT IS AGREED BETWEEN THE PARTIES:

1. **Scope of Work.**

The Contractor shall perform the following work:

A. Provide zero percent mortgage principal reduction funding for four (4) low-income homebuyer households earning at or less than 60% of AMI, in the Las Soleras subdivision.

B. Upon resale, liens will be repaid to the Contractor and revolved back into its down payment assistance program.

C. Contractor will report to the City on a quarterly basis the use of funds, including any income from prior allocations that was revolved as financial assistance to homebuyers.

D. Provide accurate and thorough recordkeeping copies on file for annual monitoring to include income verification, certification, and other supporting documentation for financial assistance provided.

E. Performance Measures.

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

2. The Contractor agrees to obtain and maintain throughout the term of this

Agreement, all applicable professional and business licenses required by law, for itself, its employees, agents, representatives and subcontractors

2. **Compensation.**

A. The City shall pay to the Contractor in full payment for services satisfactorily performed at the rate of eighty thousand dollars ($80,000), such compensation not to exceed ($80,000), inclusive of applicable gross receipts tax

B. **The total amount payable to the Contractor under this Agreement, including gross receipts tax, shall not exceed ($80,000). 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 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. All invoices MUST BE received by the City no later than thirty 30) days after the termination of the Fiscal Year in which the services were delivered. Invoices received after such date WILL NOT BE PAID.

D. Contractor must submit a detailed statement accounting for all services performed and expenses 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.

3. Term.

THIS AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED BY THE CITY. This Agreement shall terminate on June 30, 2020 unless terminated pursuant to paragraph 4 (Termination), or paragraph 5 (Appropriations). In accordance with Section 13-1-150 NMSA 1978, no contract term for a professional services contract, including extensions and renewals, shall exceed four years, except as set forth in Section 13-1-150 NMSA 1978.

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 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 state 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 State of New Mexico. The Contractor and its agents and employees shall not accrue leave, retirement, insurance, bonding, use of state vehicles, or any other benefits afforded to employees of the State of New Mexico 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 State of New Mexico 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 of the amounts due under this Agreement shall operate as a release of the City, its officers and employees, and the State of New Mexico 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.

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.

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, Sections 13-1-28 through 13-1-199, NMSA 1978, 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 executive orders of the Governor of the State of New Mexico, 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 Section 38-3-1 (G) NMSA 1978. 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.

A. Workers Compensation (including accident and disease coverage) at the statutory limit.

Employers liability: $100,000.

B. 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:

a. Bodily injury: $1,000,000 per person /$1,000,000 per occurrence.

b. Property damage or combined single limit coverage: $1,000,000.

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

d. Umbrella: $1,000,000.

C. 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 defend, indemnify and hold harmless the City from all actions, proceeding, claims, demands, costs, damages, attorneys' fees and all other liabilities and expenses of any kind from any source which may arise out of the performance of this Agreement, caused by the negligent act or failure to act of the Contractor, its officers, employees, servants, subcontractors or agents, or if caused by the actions of any client of the Contractor resulting in injury or damage to persons or property during the time when the Contractor or any officer, agent, employee, servant or

subcontractor thereof has or is performing services pursuant to this Agreement. 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.

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. 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: Office of Affordable Housing
PO Box 909
Santa Fe, NM 87504-0909
rlcatanach@ci.santa-fenm.us

To the Contractor: Santa Fe Habitat For Humanity
2520 Camino Entrada, Ste A
Santa Fe, NM 87507

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.

27. **New Mexico Tort Claims Act**

Any liability incurred by the City of Santa Fe in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, Section 41-4-1, et. seq. NMSA 1978, as amended. The City and its "public employees" as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity, do not waive any defense and do not waive any limitation of liability pursuant to law. No provision in this Agreement modifies or waives any provision of the New Mexico Tort Claims Act.

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:

ALAN WEBBER, MAYOR

DATE: 5/9/19

SANTA FE HABITAT FOR HUMANITY

TED SWISHER
EXECUTIVE DIRECTOR

CRS# 02-070960-00-9

Registration # 19-00088313

ATTEST:

Yolanda Y. Vigil
YOLANDA Y. VIGIL
CITY CLERK
cc mtg 4/24/2019

APPROVED AS TO FORM:

3/1
ERIN K. MCSHERRY
CITY ATTORNEY

APPROVED:

Mary McCoy
MARY MCCOY
FINANCE DIRECTOR

22831.510500
Business Unit/Line Item

CITY OF SANTA FE
AMENDMENT No. 1 TO
AFFORDABLE HOUSING TRUST FUND (AHTF)
PROFESSIONAL SERVICES CONTRACT

AMENDMENT No. 1 (the "Amendment") to the CITY OF SANTA FE PROFESSIONAL SERVICES CONTRACT, dated April 24, 2019 (the "Agreement"), between the City of Santa Fe (the "City") and Santa Fe Community Housing Trust (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 Agreement, Contractor shall utilize funds to provide zero percent mortgage principal reduction funding to a minimum of eight (8) client households at or below 120% AMI that have completed homebuyer training and are certified as "mortgage ready".

B. Pursuant to Article 13 of the Agreement, 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. TERM

Article 3 of the Agreement is hereby deleted. A new Article 3 of the Agreement is inserted to extend the term of the Agreement, so that Article 3 reads in its entirety as follows:

THIS AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED BY THE CITY. This Agreement shall terminate on June 30, 2021 unless terminated pursuant to paragraph 4 (Termination), or paragraph 5 (Appropriations). In accordance with Section 13-1-150 NMSA 1978, no contract term for a professional services

contract, including extensions and renewals, shall exceed four years, except as set forth in Section 13-1-150 NMSA 1978.

2. AGREEMENT 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 City of Santa Fe Professional Services Contract as of the date signed by the City set forth below.

CITY OF SANTA FE:

ALAN M. WEBBER, MAYOR

ATTEST:

YOLANDA Y. VIGIL, CITY CLERK

CITY ATTORNEY'S OFFICE:

Marcos Martinez
Marcos Martinez (Jun 4, 2020 15:49 MDT)

SENIOR ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

MARY MCCOY
FINANCE DIRECTOR

2402750.510500
ORG/OBJ

CONTRACTOR:
SANTA FE COMMUNITY HOUSING TRUST

JUSTIN ROBISON
EXECUTIVE DIRECTOR

ITEM # 19·0345

CITY OF SANTA FE
AFFORDABLE HOUSING TRUST FUND (AHTF)
PROFESSIONAL SERVICES CONTRACT

THIS AGREEMENT is made and entered into by and between the City of Santa Fe, New Mexico, hereinafter referred to as the "City," and **Santa Fe Community Housing Trust**, hereinafter referred to as the "Contractor," and is effective as of the date set forth below upon which it is executed by the Parties.

IT IS AGREED BETWEEN THE PARTIES:

1. **Scope of Work.**
The Contractor shall provide the following services for the City:

A. Provide zero percent mortgage principal reduction funding to a minimum of eight (8) client households at or below 120% AMI that have completed homebuyer training and are certified as "mortgage ready".

B. Upon resale, liens will be repaid to the Contractor and revolved back into its down payment assistance program.

C. Contractor will report to the City on a quarterly basis the use of funds, including any income from prior allocations that was revolved as down payment assistance to new homebuyers.

D. Provide accurate and thorough recordkeeping copies on file for annual monitoring to include income verification, certification, and other supporting documentation for financial assistance provided.

E. Performance Measures.

1. The Contractor represents that it possesses the personnel, experience and knowledge necessary to perform the services described under this Agreement. 2.

The Contractor agrees to obtain and maintain throughout the term of this Agreement, all applicable professional and business licenses required by law, for itself, its employees, agents, representatives and subcontractors

2. **Compensation.**

A. The City shall pay to the Contractor in full payment for services satisfactorily performed at the rate of one hundred fifty-seven thousand five hundred dollars ($157,500), inclusive of applicable gross receipts tax.

B. The Contractor shall be responsible for payment of gross receipts taxes levied by the State of New Mexico on the sums paid under this Agreement.

C. Payment shall be made upon receipt and approval by the City of detailed statements containing a report of services completed. Compensation shall be paid only for services actually performed.

D. The total amount payable to the Contractor under this Agreement, including gross receipts tax, shall not exceed ($157,500). 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.

E. 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. All invoices MUST BE received by the City no later than thirty 30) days after the termination of the Fiscal Year in which the services were delivered. Invoices received after such date WILL NOT BE PAID.

F. Contractor must submit a detailed statement accounting for all services performed and expenses 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.

3. Term.

THIS AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED BY THE CITY. This Agreement shall terminate on June 30, 2020 unless terminated pursuant to paragraph 4 (Termination), or paragraph 5 (Appropriations). In accordance with Section 13-1-150 NMSA 1978, no contract term for a professional services contract, including extensions and renewals, shall exceed four years, except as set forth in Section 13-1-150 NMSA 1978.

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 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 state 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 State of New Mexico. The Contractor and its agents and employees shall not accrue leave, retirement, insurance, bonding, use of state vehicles, or any other benefits afforded to employees of the State of New Mexico 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 State of New Mexico 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 of the amounts due under this Agreement shall operate as a release of the City, its officers and employees, and the State of New Mexico 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.

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.

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, Sections 13-1-28 through 13-1-199, NMSA 1978, 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 executive orders of the Governor of the State of New Mexico, 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 Section 38-3-1 (G) NMSA 1978. 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.

A. Workers Compensation (including accident and disease coverage) at the statutory limit.

Employers liability: $100,000.

B. 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:

a. Bodily injury: $1,000,000 per person /$1,000,000 per occurrence.

b. Property damage or combined single limit coverage: $1,000,000.

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

d. Umbrella: $1,000,000.

C. 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 defend, indemnify and hold harmless the City from all actions, proceeding, claims, demands, costs, damages, attorneys' fees and all other liabilities and expenses of

any kind from any source which may arise out of the performance of this Agreement, caused by the negligent act or failure to act of the Contractor, its officers, employees, servants, subcontractors or agents, or if caused by the actions of any client of the Contractor resulting in injury or damage to persons or property during the time when the Contractor or any officer, agent, employee, servant or subcontractor thereof has or is performing services pursuant to this Agreement. 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.

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.** 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: Office of Affordable Housing
PO Box 909
Santa Fe, NM 87504-0909
rlcatanach@ci.santa-fenm.us

To the Contractor: Santa Fe Community Housing Trust
1111 Agua Fria St
Santa Fe, NM 87501

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.

27. New Mexico Tort Claims Act

Any liability incurred by the City of Santa Fe in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, Section 41-4-1, et. seq. NMSA 1978, as amended. The City and its "public employees" as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity, do not waive any defense and do not waive any limitation of liability pursuant to law. No provision in this Agreement modifies or waives any provision of the New Mexico Tort Claims Act.

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:

ALAN WEBBER, MAYOR

DATE: 5/9/19

ATTEST:

YOLANDA Y. VIGIL
CITY CLERK
CC mtg. 4/24/2019

APPROVED AS TO FORM:

3/1
ERIN K. MCSHERRY
CITY ATTORNEY

APPROVED:

MARY MCCOY
FINANCE DIRECTOR

22831.510500
Business Unit/Line Item

SANTA FE COMMUNTIY HOUSING TRUST:

JUSTIN ROBISON
EXECUTIVE DIRECTOR

CRS# 02-171649-008

Registration # 19-00063137

City of Santa Fe, New Mexico

memo

Date: June 11, 2020

To: Quality of Life Committee – June 17, 2020
Public Works Committee – June 22, 2020
City Council – June 24, 2020

From: Alexandra Ladd, Director, Office of Affordable Housing

Re: Request approval of three (3) amendments to extend term of housing contracts to provide mortgage principal reduction loans through June 30, 2021

ACTION REQUESTED:
Approve three (3) amendments to affordable housing contracts to extend the term of the contract through June 30, 2021. Note that the scope of work and compensation amounts are unchanged. Four contracts are proposed for extension:

- Habitat for Humanity – (AHTF) – Contract amount $80,000 (current balance is $40,000)
- Housing Trust – (AHTF) – contract amount $157,500 (Current balance - $76,000)
- Homewise (CDBG) – Contract amount $188,000 (Current balance - $163,308.61)

BACKGROUND:
In 2019, RFP 19/23/P was released calling for proposals to use Community Development Block Grant (CDBG) and # 19/24/P for Affordable Housing Trust Fund (AHTF) funds. Three programs were funded to provide mortgage principal reduction loans (also known as down payment assistance) for income-qualified homebuyers. This type of loan lowers the amount of the mortgage required to buy the home and is held by a no-interest, no-payment "soft second" lien which does not require payment until the home is sold. The loans are limited by amount ($20,000 cap) and income percentile (80% area median income-AMI for CDBG and 120%AMI for AHTF).

ITEM and ISSUE:
The COVID-19 pandemic contributed to funds not being fully expended. Homebuyer training and qualification processes which are typically conducted in-person were not held or were modified with a slower timetable. For the Habitat project, construction was dramatically slowed (affecting the rate of financial closings) as much of the construction labor is provided through volunteers and it was not safe to have them on the job site.

The Homewise contract was further slowed because several CDBG loans from prior years were paid off, generating program income. The CDBG program requires that program income must be used first before entitlement funds. While performance targets were substantially met, many mortgage principal reduction loans were funded through program income, leaving a substantial balance of entitlement funds. Extending the term of the contract ensures continued access to the funds, increasing the numbers of homebuyers who are assisted.

CITY OF SANTA FE
AMENDMENT No. 1 TO
COMMUNITY DEVELOPMENT BLOCK GRANT CONTRACT
Item #19-0344

AMENDMENT No. 1 (the "Amendment") to the CITY OF SANTA FE COMMUNITY DEVELOPMENT BLOCK GRANT CONTRACT, dated April 24, 2019 (the "Contract"), between the City of Santa Fe (the "City") and Homewise (the "Subrecipient"). The date of this Amendment shall be the date when it is executed by the City and the Contractor, whichever occurs last.

RECITALS

A. The Subrecipient has applied for and received funds from the United States Government under Title 1 of the Housing and Community Development Act of 1974, Public Law 93-383.

B. The City desires to engage the Subrecipient to render certain services to the City and it's citizens.

C. The Subrecipient further certified that it is willing and able to perform these services and that said services to be performed are within the Subrecipient's legal powers and capabilities.

D. The City desires to engage the Subrecipient to render these certain services in connection therewith as more particularly set forth hereafter.

1. TERM

Article VII of the Contract is hereby deleted. A new Article VII of this Contract is inserted to extend the term so that Article VII reads in its entirety as follows:

This Agreement shall not become effective until approved by the City. This Agreement shall terminate on June 30, 2021 unless terminated pursuant to paragraph 4 (Termination), or pargraph 5 (Appropriations). In accordance with Section 13-1-150 NMSA 1978,

no contract term for a professional services contract, including extensions and renewals, shall exceed four years, except as set forth in Section 13-1-150 NMSA 1978.

2. AGREEMENT 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 City of Santa Fe Community Development Block Grant Contract as of the date signed by the City set forth below.

CITY OF SANTA FE:

_____
ALAN M. WEBBER, MAYOR

Date: _____

ATTEST:

_____
YOLANDA Y. VIGIL, CITY CLERK

HOMEWISE:

By: _____
MIKE LOFTIN
EXECUTIVE DIRECTOR

CITY ATTORNEY'S OFFICE:

Marcos Martinez
Marcos Martinez (Jun 10, 2020 09:52 MDT)

SENIOR ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

MARY MCCOY
FINANCE DIRECTOR

2402750.510400
BUSINESS UNIT/LINE ITEM

ITEM # 19-0344

CITY OF SANTA FE

COMMUNITY DEVELOPMENT BLOCK GRANT CONTRACT

THIS CONTRACT is made and entered into this 24 day of April _____, 2019 by and between the City of Santa Fe, a municipal corporation, (the "City") and Homewise, Inc, (the "Subrecipient").

RECITALS

1. The Subrecipient has applied for and received funds from the United States Government under Title 1 of the Housing and Community Development Act of 1974, Public Law 93-383.

2. The City desires to engage the Subrecipient to render certain services to the City and its citizens.

3. The Subrecipient further certifies that it is willing and able to perform these services and that said services to be performed are within the Subrecipient's legal powers and capabilities.

4. The City desires to engage the Subrecipient to render these certain services in connection therewith as more particularly set forth hereafter.

AGREEMENTS

NOW, THEREFORE, the parties hereto mutually agree as follows:

I. SCOPE OF SERVICES

The Subrecipient agrees to utilize CDBG funds for projects that serve low to moderate-income residents within the Santa Fe City limits based on current HUD Area Median Income data for Santa Fe as follows:

A. Provide mortgage principal reduction assistance for an approximate minimum of twelve (12) households at or below 80% AMI.

B. Contractor will report to the City on a quarterly basis the use of funds.

II. NATIONAL OBJECTIVES

The Subrecipient certifies that the service carried out with funds provided under this Contract will meet one or more of the Community Development Block Grant (hereinafter "CDBG") Program's National Objectives:

A. Benefit low/moderate income persons.

B. Aid in the prevention or elimination of slums or blight.

C. Meet community development needs having a particular urgency, as defined in 24 CFR 570.208.

III. PERFORMANCE MONITORING

The City shall monitor the performance of the Subrecipient against goals and levels of accomplishment as stated above. Substandard performance as determined by the City will constitute noncompliance with this Contract. If action to correct such substandard performance is not taken by the Subrecipient within a reasonable period of time after being notified by the Grantee, contract suspension or termination procedures will be initiated.

IV. WORK PLAN AND REPORTING

A. Work Plan: The Subrecipient shall provide the City, within sixty (60) days from signing this Agreement, a revised work plan outlining the major tasks or activities, the measurable objectives for each task or activity, and the time frames to be taken by the Subrecipient in the performance of this Agreement. Included in this report should be information regarding how much funding was leveraged during the program year and from which sources.

B. Annual Budget: All project activities will be in accordance with the attached budget and work plan (Exhibit A) per 24 CFR 570.503(b)(1).

C. Invoicing: The Subrecipient shall submit to the City quarterly reports in order to receive reimbursement for these services. Quarterly reports must be filed no later than the 15th calendar day for the preceding month. A fund requisition with documentation in support of each budgetary category will be submitted. This documentation must include the original or a certified copy or copies of invoices, vouchers, statements, etc. All costs chargeable to the City must be in accordance with budgetary and other restrictions of expenses established by this Contract. Funds for reimbursement can be disbursed on any Friday of each month during the contract period. In order for the City to meet this deadline, the Subrecipient is required to submit its request for reimbursement by Monday, 5:00 p.m., in order to receive payment by the following Friday. The Subrecipient shall submit a Final Project Report assessing the comparison of results achieved in relation to stated goals and objectives in the Scope of Services approved by the City. This report is due to the Office of Affordable Housing fifteen (15) days after the completion of the Contract.

D. Final Payment: Since all payments under this Contract shall be quarterly on

a cost reimbursement basis, the City shall be entitled to withhold the final ten percent (10%) due hereunder, pending final approval by the City of the services rendered. Upon receipt and acceptance of a final project report prior to the final payment, the Subrecipient shall furnish the City proof in documentary form that all claims, liens, salaries or other obligations incurred by it in accordance with the services specified herein, have been properly paid and released.

E. Program Monitoring and Financial Audits: At such time and in such form as the City may require there shall be furnished to the City such statements, records, reports, data and information as the City may request pertaining to matters covered by this Contract. Furthermore, at any time during normal business hours and as often as the City may deem necessary, there shall be made available to the City or its designee for examination, all records maintained by the Subrecipient with respect to all matters covered by this Contract; and, the Subrecipient will permit the City to audit, examine and make excerpts or transcripts from such records, and make audits of all contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all matters covered by this Contract subject to the limitations set out above. Any Subrecipient receiving City CDBG funds in excess of fifteen thousand dollars ($15,000) or any combination of public (City, State, or Federal) monies in excess of twenty-five thousand dollars ($25,000) shall perform a final audit on all funds received from all sources for the program no later than ninety (90) days after completion of the sub-recipient's fiscal year, and shall furnish the City with said audit. This audit shall be performed by an independent agency. Any Subrecipient receiving a sum of less than fifteen thousand dollars ($15,000) in City CDBG funds must submit an audited financial statement on all funds received from all sources for the program after completion of the

sub-recipient's fiscal year, and shall furnish the City with said financial statements.

V. STATUS OF CONTRACTOR

The Subrecipient, and its agents and employees, are independent contractors performing professional services for the City and are not employees of the City. The Subrecipient, 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 Contract.

VI. COMPENSATION

A. The City shall pay to the Contractor in full payment for services satisfactorily performed at the rate of one hundred eighty eight thousand dollars ($188,000), such compensation not to exceed ($188,000), including gross receipts tax. **The total amount payable to the Contractor under this Agreement, including gross receipts tax and expenses, shall not exceed ($188,000). 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.**

B. 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. All invoices MUST BE received by the City no later than thirty (30) days after the termination of the Fiscal Year in which the services were delivered. Invoices received after such date WILL NOT BE PAID.

VII. TERM

THIS AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED BY THE CITY. This Agreement shall terminate on **June 30, 2020** unless terminated pursuant to paragraph 4 (Termination), or paragraph 5 (Appropriations). In accordance with Section 13-1-150 NMSA 1978, no contract term for a professional services contract, including extensions and renewals, shall exceed four years, except as set forth in Section 13-1-150 NMSA 1978.

VIII. ADDITIONAL CONTRIBUTIONS

The Subrecipient may use the funds of the City granted herein to obtain Federal, State or other grants to carry out the Scope of Services herein.

A. Program Income: 80% of unspent program income received may be retained by the Subrecipient, but may be used only for support of the programs detailed in the Scope of Services section of this Contract. Program income on hand at the time of completion of the Contract period shall continue to be subject to the eligibility requirements and other applicable provisions of 24 CFR 570.504, Program Income of the Administrative Regulations of the CDBG program. The City requires 20% of unspent Program Income at the end of the fiscal year to be returned to the City for reimbursement of the 20% allocated Program Income administrative costs mandated by HUD and associated with the program requirements for the City as the Entitlement Grantee.

IX. APPROPRIATIONS

The terms of this Contract are contingent upon sufficient appropriations and authorization made by the City for the performance of this Contract. If sufficient appropriations and authorizations are not made by the City, this Contract shall terminate upon written notice being given by the City to the Subrecipient. The City's decision as to whether sufficient appropriations are available shall be accepted by the Subrecipient and shall be final.

X. FISCAL AGENT

The Subrecipient will act as its own Fiscal Agent and will defend, indemnify and hold harmless the City from any and all liability, costs and expenses whatsoever for the expenditure of funds pursuant to the Scope of Services of this Contract.

XI. BUDGET REVISIONS The Subrecipient will inform the City of any "line item" revisions to the attached budget, within the maximum compensation shown in this Agreement and will obtain the City's prior written approval of any change that represents at least 25 percent or more of the line item amount per the latest approved budget. Any budget revisions must be eligible expenditures under this Agreement and Title I of the Community Development Act.

XII. ELIGIBLE AND INELIGIBLE COSTS

A. Criteria. This section provides criteria for the determination of whether costs are eligible or ineligible for funding under this Contract. Costs incurred, which are determined by the City to be ineligible under these criteria, may not be charged to this Contract.

B. Standards. All costs incurred must be reasonable and of a nature which

clearly relates to the specific purposes and end product of the contract under which the services are being performed. Care must be exercised by all concerned in incurring costs to assure that expenditures conform to these general standards, including 2 CFR Part 200, and the following criteria for eligible costs.

C. Eligible Costs. To be eligible for inclusion, the cost must:

(1) Be necessary and reasonable for proper and efficient execution of the contractual requirements and in accordance with an approved budget.

(2) Be in conformance with any limitations, exclusions and provisions pursuant to this Contract, State and Local Laws, or other governing limitations.

(3) Be accorded consistent treatment through application of accounting policy and procedures approved and/or prescribed.

(4) Be net after allowance of all applicable credits such as purchase discounts, rebates or allowances, sales or publication of materials, or other income or refunds.

(5) Be in accordance with budgetary or other restrictions on expenses established by the City.

(6) Be fully documented.

(7) The Subrecipient shall reimburse the City any costs and expenses declared ineligible by the City which may have been reimbursed erroneously to the Subrecipient by the City under whatever conditions.

D. Ineligible Costs. Ineligible costs shall be as follows:

(1) Accounting. Costs of maintaining central accounting records necessary for overall local government purposes, such as appropriation of fund accounts by the Treasurer, or similar officials, are considered general expenses of the Subrecipient

and are ineligible costs. However, the cost of establishing and maintaining accounting or other information systems required for the management of the program are eligible costs including costs incurred by central services agencies for these purposes.

(2) Bad Debts. Any losses arising from uncollectible accounts and other claims, and related costs.

(3) Budget. Costs of a central budget office, except the costs of employees in the central budget office of the Subrecipient directly involved in the program as set forth in the Scope of Services, hereto, and clearly identifiable. However, costs incurred for the development, preparation, presentation, and execution of program and project budgets performed by the Subrecipient are eligible costs.

(4) Contingencies. Contribution to a contingency reserve or any similar provision for unforeseen events.

(5) Contributions and Donations. Political, charitable and fundraising solicitations, payments, gifts and expenses.

(6) Entertainment. Costs of amusements, social activities, and incidental costs, such as meals, beverages, lodgings, and gratuities, relating to entertainment.

(7) Board Expenses. The salary and expenses if any, of the Chairman of the Board of the Subrecipient are considered a cost of the Subrecipient and are not eligible costs in any way to this Contract.

(8) Fines and Penalties. Costs resulting from violations of or failure to comply with federal, state and local laws and regulations.

(9) Interest and other Financial Costs. Interest on borrowing (however represented); bond discounts, cost of financing and refinancing operations and legal and

professional fees paid in connection therewith.

(10) Legal Fees. Costs for legal advice or work are ineligible, except those required directly for the administration of the program, which are eligible.

(11) Legislative Expenses. Costs for lobbying or testimony before the legislature or any of its committees, whether incurred for the purposes of legislation or executive direction, are not eligible.

(12) Membership Expenses. Cost of membership in any organization is ineligible.

(13) Travel. Costs in excess of those allowed by the City for its employees are ineligible.

(14) Meeting Attendance. Costs of attending meetings which are not included in the budget are ineligible.

(15) Expenses Related to Fundraising. Cost of postage, printing or external subcontracting for grant writers or development specialists.

XIII. SPECIAL PROVISIONS

A. The Subrecipient realizes that the availability of funds for the activity covered by the "Scope of Services," herein and for performance of this Agreement, depend solely on the provisions of said funds by HUD, such provisions being contingent on the City's approval of these activities as eligible under the Housing and Community Development Act of 1974, the National Affordable Housing Act of 1990 and other pertinent federal regulations. However, the City shall notify the Subrecipient in writing within five days of receipt by the City of any determination by HUD to terminate CDBG funding.

B. In the event the Subrecipient or its organization is dissolved or discontinues

making loans as provided herein, or this Agreement is not renewed after it expires, the Subrecipient shall upon such dissolution, discontinuation or within sixty (60) days after expiration of this Agreement if its renewal has not in the meantime been executed:

(1) Return to the City all unexpended Community Development Block Grant funds received from the City and CDBG program income in the possession of the Subrecipient that have not been already obligated through contracts.

(2) Assign and transfer to the City the equity on all outstanding loans and mortgages which have been provided by the Subrecipient from Community Development grant funds and related program income under this and previous agreements. The Subrecipient shall provide the City with a listing of the borrowers and outstanding amounts, together with up-to-date records of principal and interest payments and balances of the accounts of said borrowers.

XIV. CONFLICT OF INTEREST

The Subrecipient agrees to abide by the provision of 2 CFR Part 200 and 570.611, which include (but are not limited to) the following:

A. Interest of Members of City: No officer, employee, or agent of the City who exercises any functions or responsibilities in connection with the planning and carrying out any of the provisions of this Contract, or any other person who exercises any functions or responsibilities in connection with any of the provisions of the Contract, shall have any personal financial interest, direct or indirect, in this Contract; and the Subrecipient shall take appropriate steps to assure compliance.

B. Interest of Subrecipient and Employees: The Subrecipient shall not allow any person who presently exercises any functions or responsibilities in connection with

the provisions of this Contract, to have personal financial interests, direct or indirect, in this Contract. The Subrecipient further shall not allow in the performance of this Contract any person having any conflicting interest to be employed by the Subrecipient. Any interest on the part of the Subrecipient or its employees must be disclosed to the City. Provided, however, that this paragraph shall be interpreted in such a manner so as not to unreasonably impede the requirement that maximum opportunity for employment of area residents and resident participation shall be of primary concern to the Subrecipient.

Should the subrecipient discover a potential conflict of interest, the subrecipient shall immediately disclose in writing to the City and specifically ask for guidance on how to resolve the conflict and prior to any act in furtherance of the conflict. The disclosure shall include a description of the nature of the conflict; the name, position, phone number and address of the person with the conflict; the date of the notification; and requested action to address the conflict. Disclosures of real, apparent or perceived conflicts of interest shall be made to the City and the City must agree in writing to a proper course of subsequent action prior to the disbursement of CDBG funds.

C. Certification:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the State, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of a Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid

or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the State shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.

XV. DISCRIMINATION PROHIBITED

A. In all hiring or employment made possible by or resulting from this Contract, there (1) will not be any discrimination against any employee or applicant for employment because of race, color, age, religion, sex, sexual orientation, national origin, and physical or mental disability; and (2) affirmative action will be taken to ensure that qualified applicants are employed, and that employees are treated during employment without regard to their race, color, age, religion, sex, sexual orientation, national origin, and physical or mental disability. This requirement shall apply, without limitation, to the following: employment, upgrading, demotion or transfer, recruitment advertising, layoff or termination, and selection for training, including apprenticeship. There shall be posted in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this clause. All solicitations or advertisements for employees shall state that all qualified applicants will receive consideration for employment without regard to race, color, age, religion, sex, sexual orientation, national origin, and physical or mental disability.

B. No person in the United States shall, on account of race, color, age, religion, sex, sexual orientation, national origin, and physical or mental disability, be excluded from participating in, denied the benefits of, or subjected to discrimination under

this Contract or activity made possible by or resulting from the Contract.

C. Subrecipient will abide by all requirements of the Americans with Disabilities Act. Subrecipient shall be kept informed of employee discrimination prevention requirements and program and facility accessibility standards.

XVI. WOMEN- AND MINORITY- OWNED BUSINESSES (W/MBE)

The Subrecipient will use its best efforts to afford small businesses, minority business enterprises, and women's business enterprises the maximum practicable opportunity to participate in the performance of this contract. As used in this contract, the terms "small business" means a business that meets the criteria set forth in section 3(a) of the Small Business Act, as amended (15USC 632), and "minority and women's business enterprise" means a business at least fifty-one (51) percent owned and controlled by minority group members or women. For the purpose of this definition, "minority group members" are Afro-Americans, Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian-Americans, and American Indians. The Subrecipient may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

XVII. POLITICAL ACTIVITY PROHIBITED

None of the funds, materials, property or services provided for directly or indirectly under this Contract shall be used in the performance of this Contract for any political activity prohibited by Federal, State or local law.

XVIII. CONFIDENTIALITY

Any confidential information provided to or developed by the Subrecipient in the performance of this Contract shall be kept confidential and shall not be made available to any individual or organization by the Subrecipient without the prior written approval of the

City.

XIX. REPRESENTATIONS IN SUBMITTALS

The City has relied on all representations in the Subrecipient's submittals in awarding this Agreement and the Subrecipient warrants the accuracy of all representations. Misrepresentations in the submittals will be cause for termination of this Agreement.

XX. AMENDMENT

This Contract shall not be altered, changed or amended except by amendment in writing executed by the parties hereto.

XXI. NOTICES AND ADDRESSES

Any notices required to be given under this agreement shall be in writing and served by personal delivery or by mail, postage prepaid, to the parties at the following addresses:

For the City, notices may be sent to:

City of Santa Fe
Office of Affordable Housing
P.O. Box 909
Santa Fe, New Mexico 87504-0909

For the Subrecipient, notices may

Homewise, Inc
1301 Siler Road, Bldg D
Santa Fe, New Mexico 87507

XXII. ASSIGNABILITY

The Subrecipient shall not assign any interest in this Contract and shall not transfer any interest in the same (whether by assignment or otherwise) without the prior written consent of the City.

XXIIII. WARRANTY OF AUTHORITY

The Subrecipient warrants that it has full corporate and other authority, under its articles of corporation, bylaws, resolutions, other pertinent corporate documents,

instruments, and agreements, and otherwise to enter into this agreement, to bind itself under this agreement, and to perform this Agreement in accordance with the terms and provisions of this Agreement.

XXIV. BINDING EFFECT

This Agreement is binding upon and inures to the benefit of the successors, successors-in interest, assigns and transferees of the City and the Subrecipient.

XXV. SEVERABILITY

In case any one or more of the provisions contained in this Agreement or any application thereof shall be invalid, illegal or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions contained herein and any other application thereof shall not in any way be affected or impaired thereby.

XXVI. DISPOSITION OF PROPERTY

A. All non-expendable property acquired by the Subrecipient pursuant to this Contract shall be recorded in the property records of the City prior to reimbursement to the Subrecipient for expenses incurred in order to acquire said property. For purposes of this Contract, the term "non-expendable property" means items of tangible, personal property that are non-perishable such as equipment, software, and furniture. The use and disposition of real property and equipment under this Contract shall be in compliance with the requirements of 24 CFR Part 84 and 24 CFR 570.502, 570.503, and 570.504, as applicable.

B. Subrecipient shall be accountable for all recorded non-expendable property which is recorded as City property for a period of five years as established by the City.

C. All non-expendable property acquired pursuant to this Contract shall remain in the possession of and shall be used only by the Subrecipient, provided that said

property continues to be used for the same purposes and in the same manner as originally intended.

D. If the Subrecipient cannot continue to effectively use recorded non-expendable property for the same purposes and in the same manner as originally intended and described in this Contract, all such non-expendable property shall remain in the possession of, and shall be used by the Subrecipient for similar purposes and in a similar manner as initially used; provided, however, that conversion of said property to a similar use in another similar program must first receive the express written consent of the City.

E. If the Subrecipient can neither continue to effectively use recorded non-expendable property for the same purposes and in the same manner originally intended nor continue to effectively use said property for the same or similar purposes and in a similar manner as permitted by this Contract, the City may provide for the disposition of said property wholly and entirely at the City's discretion.

F. The City may, in writing, waive and relinquish all claims the City may have in and to recorded non-expendable property.

G. When the Subrecipient's period of accountability for any non-expendable property expires, said property shall revert to the City unless otherwise provided for in a written agreement between the Subrecipient and the City. Assets on hand at the expiration of the Contract in excess of twenty-five thousand dollars ($25,000) shall be disbursed in accordance with reversion of assets of 24 CFR 570.503 Agreements with Subrecipients of the CDBG regulation; or

(i) The Subrecipient shall pay to the City an amount equal to the current market value of the property less any portion of the value attributable to the expenditures

of non-CDBG funds for the acquisition of, or improvement to, the property. The payment is program income to the City. (No payment is required after the period of time specified in 24 CFR 570.503(b)(7)(i).

XXVII. COMPLIANCE WITH LOCAL LAW

The Subrecipient shall comply at its own cost with all applicable laws, ordinances and codes of the State and the City.

XXVIII. THIRD PARTY BENEFICIARIES

By entering into this Contract, the parties do not intend to create any right, title or interest in or for the benefit of any person other than the City and the Subrecipient. No person shall claim any right, title or interest under this Contract or seek to enforce this Contract as a third party beneficiary of this Contract.

XXIX. JURISDICTION CLAUSE

This Contract shall be performed in Santa Fe, New Mexico. Any legal action or cause of action arising in connection herewith shall be within the jurisdiction and venue of the appropriate court in Santa Fe, New Mexico, for all purposes.

XXX. SUSPENSION AND TERMINATION

A. This Contract 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. By such termination, neither party may nullify obligations already incurred for performance or failure to perform prior to the date of termination. In addition, the City may terminate this agreement for convenience in accordance with 2 CFR Part 200.

B. The City may enforce remedies for noncompliance in accordance with 2 CFR Part 200. The City may also suspend or terminate this Contract, in whole or in part, if the Subrecipient materially fails to comply with any term of this Contract, or with any of

the rules, regulations or provisions referred to herein; and the City may declare the Subrecipient ineligible for any further participation in the City's contracts, in addition to other remedies as provided by law. In the event there is probable cause to believe the Subrecipient is not in compliance with any applicable rules or regulations, the City may withhold up to fifteen percent (15%) of said contract funds until such time as the Subrecipient is found to be in compliance by the City, or is otherwise adjudicated to be in compliance.

XXXI 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.

XXXII. 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.

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

B. 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:

a. Bodily injury: $1,000,000 per person /$1,000,000 per occurrence.

b. Property damage or combined single limit coverage: $1,000,000.

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

d. Umbrella: $1,000,000.

C. 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.

D. The Subrecipient shall comply with the bonding and insurance requirements of 2 CFR Part 200, Bonding and Insurance.

XXXIII. INDEMNIFICATION

The Subrecipient shall indemnify, hold harmless and defend the City from all losses, damages, claims or judgments, including payments of all attorneys' fees and costs on account of any suit, judgment, execution, claim, action or demand whatsoever arising from Subrecipient's performance under this Agreement as well as the performance of Subrecipient's employees, agents, representatives and subcontractors.

XXXIV.ENTIRE CONTRACT

This Contract constitutes the entire contract between the parties hereto. Prior contracts, whether written or oral, or assertion of statement, of understanding, or other commitment antecedent to this Contract shall have no force or effect whatsoever, unless the same is mutually agreed to by the parties hereto and reduced to writing.

XXXV. GENERAL CONDITIONS

A. General Compliance: The Subrecipient agrees to comply with the requirements of Title 24 of the Code of Federal Regulations, Part 570 (the Housing and Urban Development regulations concerning Community Development Block Grants (CDBG)). The Subrecipient also agrees to comply with all other applicable Federal, state and local laws, regulations, and policies governing the funds provided under this contract and as set forth at 24 CFR Part 570 subpart K, except that the Subrecipient does not assume the recipient's environmental responsibilities under 24 CFR 570.604 and 24 CFR Part 52. The Subrecipient further agrees to utilize funds available under this Contract to supplement rather than supplant funds otherwise available.

B. Grantor Recognition: The Subrecipient shall ensure recognition of the role of the City in providing services through this contract. All activities, facilities and items utilized pursuant to this contract shall be prominently labeled as to funding source. In addition, the Subrecipient will include a reference to the support provided herein in all publications made possible with funds made available under this contract.

XXXVI. ADMINISTRATIVE REQUIREMENTS

A. Financial Management

1. Accounting Standards. The Subrecipient agrees to comply with 2 CFR Part 200 and agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.

2. Cost Principles. The Subrecipient shall administer its program in conformance with the Uniform Administrative Requirements of 24 CFR 570.502, 24 CFR 570.503, and 2 CFR Part 200. These principles shall be applied for all costs incurred

whether charged on a direct or indirect basis.

XXXVII. DOCUMENTATION AND RECORD KEEPING

A. Records to be Maintained. The Subrecipient shall maintain all records required by the Federal regulations specified in 24 CFR 570.506 that are pertinent to the activities to be funded under this Contract. Such records shall include but not be limited to:

(1) Records providing a full description of each activity undertaken;

(2) Records demonstrating that each activity undertaken meets one of the National Objectives of the CDBG program;

(3) Records required to determine the eligibility of activities;

(4) Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG assistance;

(5) Records documenting compliance with the fair housing and equal opportunity components of the CDBG program;

(6) Records documenting compliance with EPLS/SAM for each sub-contractor;

(7) Financial records as required by 24 CFR 570.502, and 2 CFR Part 200;

(8) Other records necessary to document compliance with Subpart K of 24 CFR Part 570.

(9) Other records necessary to document compliance with Sections 1012 and 1013 of Title X amending the Lead-based Paint Poisoning Prevention Act of 1971 and title 24 of the Code of Federal Regulations as part of 35 (24 CFR 35).

XXXVIII. CLIENT DATA

The Subrecipient shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, income level or other basis for determining eligibility, and description of service provided. Such information shall be made available to the City or its designees for review upon request.

XXXVIX. DISCLOSURE

The Subrecipient understands that client information collected under this Contract is private and the use or disclosure of such information, when not directly connected with the administration of the City's or Subrecipient's responsibilities with respect to services provided under this contract, is prohibited by the State of New Mexico unless written consent is obtained from such person receiving service and, in the case of a minor, that of a responsible parent or guardian.

XL . PROPERTY RECORDS

The Subrecipient shall maintain real property inventory records, which clearly identify properties purchased, improved or sold. Properties retained shall continue to meet eligibility criteria and shall conform to the "changes in use" restrictions specified in 24 CFR 570.503 (b) (8), as applicable.

XLI. RELOCATION, REAL PROPERTY ACQUISITION AND ONE-FOR-ONE HOUSING REPLACEMENT

The Subrecipient agrees to comply with (a) the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), and implementing regulations at 49 CFR Part 24 and 24 CFR 570.606(b); (b) the requirements of 24 CFR 570.606(c) governing the Residential Anti-displacement and Relocation Assistance Plan

under section 104(d) of the HCD Act; and (c) the requirements in 24 CFR 570.606(d) governing optional relocation policies.

XLII. ENVIRONMENTAL CONDITIONS

A. Air and Water: The Subrecipient agrees to comply with the following requirements insofar as they apply to the performance of this Contract:

(1) Clean Air Act, 42 USC, 7401, *et seq.*;

(2) Federal Water Pollution Control Act, as amended, 33 USC, 1251, *et seq.*, as amended 1318 relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder;

(3) Environmental Protection Agency (EPA) regulations pursuant to 40 CFR Part 50, as amended.

B. Flood Disaster Protection: In accordance with requirements of the Flood Disaster Protection Act of 1973 (42 USC 4001), the Subrecipient shall assure that for activities located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, flood insurance under the National Flood Insurance Program is obtained and maintained as a condition of financial assistance for acquisition or construction purposes (including rehabilitation).

C. Lead-Based Paint: The Subrecipient agrees that any construction or rehabilitation of residential structures with assistance provided under this Contract shall be subject to HUD Lead-Based Paint Regulations at 24 CFR 570.608, and 24 CFR Part 35, Subpart B. Such regulations pertain to all CDBG-assisted housing and require that all owners, prospective owners, and tenants of properties constructed prior to 1978 be property notified that such properties may include lead-based paint. Such notification

shall point out the hazards of lead-based paint and explain the symptoms, treatment and precautions that should be taken when dealing with lead-based paint poisoning and the advisability and availability of blood lead level screening for children under seven. The notice should also point out that if lead-based paint is found on the property, abatement measures may be undertaken. The regulations further require that, depending on the amount of Federal funds applied to a property, paint testing, risk assessment, treatment and/or abatement may be conducted.

D. Historic Preservation: The Subrecipient agrees to comply with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, as amended (16 USC 470) and the procedures set forth in 36 CFR Part 800, Advisory Council on Historic Preservation Procedures for Protection of Historic Properties, insofar as they apply to the performance of this agreement. In general, this requires concurrence from the State Historic Preservation Officer for all rehabilitation and demolition of historic properties that are fifty years old or older or that are included on a Federal, state, or local historic property list.

XLIII. CLOSE OUTS

The Subrecipient's obligation to the City shall not end until all closeout requirements are completed. Activities during this close-out period shall include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the City), and determining the custodianship of records.

XLIV. LAND COVENANTS

This Contract is subject to the requirements of Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and 24 CFR 570.601 and 602. In regard to the sale, lease, or other

transfer of land acquired, cleared or improved with assistance provided under this contract, the Subrecipient shall cause or require a covenant running with the land to be inserted in the deed or lease for such transfer, prohibiting discrimination as herein defined, in the sale, lease or rental, or in the use or occupancy of such land, or in any improvements erected or to be erected thereon, providing that the City and the United States are beneficiaries of and entitled to enforce such covenants. The Subrecipient, in undertaking its obligation to carry out the program assisted hereunder, agrees to take such measures as are necessary to enforce such covenant, and will not itself so discriminate.

XLV. SECTION 504

The Subrecipient agrees to comply with any Federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973 (29 USC 794), which prohibits discrimination against the handicapped in any Federally assisted program.

XLVI. PROHIBITED ACTIVITY

The Subrecipient is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities; sectarian or religious activities; lobbying, political patronage, and nepotism activities.

XLVII. LABOR STANDARDS

A. The Subrecipient agrees to comply with the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act as amended, the provisions of Contract Work Hours and Safety Standards Act (40 USC 327 *et seq.*), the Copeland "Anti-Kickback" Act (18 USC 874 *et seq.*), its implementing regulations of the U.S. Department of Labor at 29 CFR Part 5, and all other applicable Federal, state and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance

of this contract. The Subrecipient shall maintain documentation which demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to the City for review upon request.

B. The Subrecipient agrees that, except with respect to the rehabilitation or construction of residential property containing less than eight units, all contractors engaged under contracts in excess of two thousand dollars ($2,000.00) for construction, renovation or repair work financed in whole or in part with assistance provided under this contract, shall comply with Federal requirements adopted by the City pertaining to such contracts and with the applicable requirements of the regulations of the Department of Labor, under 29 CFR Parts 1, 3, 5 and 7 governing the payment of wages and ratio of apprentices and trainees to journey workers; provided, that if wage rates higher than those required under the regulations are imposed by state or local law, nothing hereunder is intended to relieve the Subrecipient of its obligation, if any, to require payment of the higher wage. The Subrecipient shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions meeting the requirements of this paragraph.

XLVIII. COMPLIANCE

A. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR 135, ("Section 3") and all applicable rules and orders issued thereunder prior to the execution of this contract, shall be a condition of the Federal financial assistance provided under this contract and binding upon the City, the Subrecipient and any of the Subrecipient's subcontractors. Failure to fulfill these requirements shall subject the City, the Subrecipient and any of the Subrecipient's subcontractors, their successors and assigns, to those sanctions specified by the contract through which Federal assistance is

provided. The Subrecipient certifies and agrees that no contractual or other disability exists which would prevent compliance with these requirements.

B. The Subrecipient further agrees to comply with "Section 3" requirements and to include the following language in all subcontracts executed under this Contract.

"The work to be performed under this contract is a project assisted under a program providing direct Federal financial assistance from HUD and is subject to the requirements of "Section 3" of the Housing and Urban Development Act of 1968, as amended (12 USC 1701). "Section 3" requires that to the greatest extent feasible opportunities for training and employment be given to low and very low-income residents of the project area and contracts for work in connection with the project be awarded to business concerns that provide economic opportunities for low-and very low-income persons residing in the metropolitan area in which the project is located".

XLIX. NOTIFICATIONS

The Subrecipient agrees to send to each labor organization or representative of workers with which it has a collective bargaining contract or other contract or understanding, if any, a notice advising said labor organization or worker's representative of its commitments under the above-referenced "Section 3" clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

L. SUBCONTRACTS

The Subrecipient will include the above-referenced "Section 3" clause in every subcontract and will take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the City. The Subrecipient will not subcontract with any entity where it has notice or knowledge that the latter has

been found in violation of regulations under 24 CFR 135 and will not let any subcontract unless the entity has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

LI. RESPONSIBILITY FOR PAYMENT OF EMPLOYEES AND SUBCONTRACTORS

A. The Subrecipient shall be solely responsible for payment of wages, salaries and benefits to any and all employees or subcontractors retained by the Subrecipient in the performance of the services under this Contract.

B. The Contractor shall comply with City of Santa Fe Minimum Wage, Article 28-1-SFCC 1987, as well as any subsequent changes to such article throughout the term of this Agreement. .

LII. WAIVER

The Grantee's failure to act with respect to a breach by the Subrecipient does not waive its right to act with respect to subsequent or similar breaches. The failure of the City to exercise or enforce any right or provision shall not constitute a waiver of such right or provision.

LIII. NEW MEXICO TORT CLAIMS ACT

Any liability incurred by the City of Santa Fe in connection with this Contract is subject to the immunities and limitations of the New Mexico Tort Claims Act, Section 41-4-1, *et seq.* NMSA 1978, as amended. The City and its "public employees" as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity, do not waive any defense and do not waive any limitation of liability pursuant to law. No provision in this Contract modifies or waives any provision of the New Mexico Tort Claims Act.

LIV. RELEASE

The Subrecipient, upon final payment of the amount due under this Contract,

releases the City, its officers and employees, from all liabilities, claims and obligations whatsoever arising from or under this Contract. The Subrecipient agrees not to purport to bind the City to any obligation not assumed herein by the City unless the Subrecipient has express written authority to do so, and then only within the strict limits of that authority.

LV. ENTIRE AGREEMENT

This agreement constitutes the entire agreement between the City and the Subrecipient for the use of funds received under this Contract and it supersedes all prior or contemporaneous communications and proposals, whether electronic, oral, or written between the City and the Subrecipient with respect to this Contract.

IN WITNESS WHEREOF, the City and the Subrecipient have executed this Contract on the dates set forth below.

APPROVED AND AUTHORIZED:

ALAN WEBBER, MAYOR
DATE: 5/9/19

ATTEST:

YOLANDA Y. VIGIL
CITY CLERK
cc mtg 4/24/2019

SUBRECIPIENT:
HOMEWISE, INC

MIKE LOFTIN, EXECUTIVE DIRECTOR
DATE:

New Mexico Taxation and Revenue Dept.
CRS No.02-062377-00-1
City of Santa Fe Business Registration No. 19-00063137

APPROVED AS TO FORM:

ERIN MCSHERRY
CITY ATTORNEY

APPROVED:

MARY MCCOY
FINANCE DIRECTOR

22738.510500
BUSINESS UNIT/LINE ITEM

EXHIBIT A: Per Section V.B. of the Professional Services Agreement and per 24 CFR 570.503(b)(1).

Addendum Project Budget for Homewise – (Mortgage Principal Reduction)

Type of funding	Source/ Amount	Source/ Amount	Source/ Amount	Totals
Final CDBG AMOUNT				**$188,000**
Other Federal Funds (for amortizing loans)				
Other Federal Funds (for amortizing loans)	Capital Magnet Fund Committed 20,000			**$20,000**
Amortizing funds				
City Funding (i.e. Youth and Family, Human Services Divisions)				**$**
State funds (i.e. MFA)				**$**
Other (i.e. in-kind, private funds)	FNMA and Homewise Loan Fund (Committed)/2,085,250 Buyer Contributions/47,000			**$2,212,250**
				$
Total of all funding sources				**$2,432,250**

The following chart details how the secured funding amount will support the various aspects of (Homewise) (Principal Reduction Assistance).

Cost	CDBG Allocation
	$188,000
Cost	Private Leveraged Funds
Federal Funds/CDFI	$20,000
Federal Funds/Neighbor Works	
Bank Loan Funds	$2,212,250
Total	$2,420,250

City of Santa Fe, New Mexico

memo

Date: June 11, 2020

To: Quality of Life Committee – June 17, 2020
Public Works Committee – June 22, 2020
City Council – June 24, 2020

From: Alexandra Ladd
Director, Office of Affordable Housing

Re: Request approval of Amendment #4 to extend term of Homewise contract through June 30, 2021

ACTION REQUESTED:
Approve Amendment #4 to Homewise's home repair program contract to extend the term of the contract through June 30, 2021. The scope and the compensation remain unchanged.

- Homewise Home Repair (CDBG) – Contract amount $ 75,000 (Current balance - $ 25,716.44)

BACKGROUND:
In 2018, Homewise's home repair program was funded via RFP # 18/20/P to provide emergency grants or low interest loans to income-qualified homeowners. The loans are limited by amount ($20,000 cap) and income percentile (80% area median income-AMI). The CDBG program requires that program income must be used first before entitlement funds. While performance targets were substantially met, home repair loans were funded largely through program income, leaving a substantial balance of entitlement funds.

ITEM and ISSUE:
Last year, the contract was extended through the current fiscal year to fully expend the funds. However, continued revenues from program income kept the entitlement funds from being fully drawn. The CDBG program also requires that a subrecipient may use program income to fund any eligible activity, so long as a contract is in place to provide the services.

Given its ongoing success in generating program income, Homewise anticipates that funds will also be generated during FY 20 - 21. In order to use any program income generated during this time, Homewise must remain under contract, thus further necessitating the extension of the contract term.

CITY OF SANTA FE
AMENDMENT No. 4 TO
COMMUNITY DEVELOPMENT BLOCK GRANT CONTRACT
Item #18-0586

AMENDMENT No. 4 (the "Amendment") to the CITY OF SANTA FE COMMUNITY DEVELOPMENT BLOCK GRANT CONTRACT, dated July 1, 2018 (the "Contract"), between the City of Santa Fe (the "City") and Homewise (the "Subrecipient"). The date of this Amendment shall be the date when it is executed by the City and the Contractor, whichever occurs last.

RECITALS

A. The Subrecipient has applied for and received funds from the United States Government under Title 1 of the Housing and Community Development Act of 1974, Public Law 93-383.

B. The City desires to engage the Subrecipient to render certain services to the City and its citizens.

C. The Subrecipient further certified that it is willing and able to perform these services and that said services to be performed are within the Subrecipient's legal powers and capabilities.

D. The City desires to engage the Subrecipient to render these certain services in connection therewith as more particularly set forth hereafter.

1. TIME OF PERFORMANCE

Article VI of the Agreement is hereby deleted. A new Article VI of the Agreement is inserted so that Article VI reads in its entirety as follows:

The time of performance for this Contract is from July 1, 2019 to June 30, 2021 and all services are to be performed within this time. This Contract shall terminate on June 30, 2021 unless terminated pursuant to Paragraph XXX infra (Suspension and Termination). The term of this

Contract may be extended by written amendment agreed to by the parties.

2. AGREEMENT 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. 4 to the City of Santa Fe Community Development Block Grant Contract as of the date signed by the City set forth below.

CITY OF SANTA FE:

_____
ALAN WEBBER
MAYOR
Date: _____

ATTEST:

_____
YOLANDA Y. VIGIL, CITY CLERK

HOMEWISE:

CITY ATTORNEY'S OFFICE:

By: _____
MIKE LOFTIN
EXECUTIVE DIRECTOR

Marcos Martinez
Marcos Martinez (Jun 9, 2020 15:43 MDT)

_____
SENIOR ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

_____
MARY MCCOY
FINANCE DIRECTOR

2402750.510400
ORG/OBJ

ITEM # 19-0497

CITY OF SANTA FE
AMENDMENT No. 3 TO
COMMUNITY DEVELOPMENT BLOCK GRANT CONTRACT
Item #18-0586

AMENDMENT No. 3 (the "Amendment") to the CITY OF SANTA FE COMMUNITY DEVELOPMENT BLOCK GRANT CONTRACT, dated July 1, 2018 (the "Contract"), between the City of Santa Fe (the "City") and Homewise (the "Subrecipient"). The date of this Amendment shall be the date when it is executed by the City and the Contractor, whichever occurs last.

RECITALS

A. The Subrecipient has applied for and received funds from the United States Government under Title 1 of the Housing and Community Development Act of 1974, Public Law 93-383.

B. The City desires to engage the Subrecipient to render certain services to the City and its citizens.

C. The Subrecipient further certified that it is willing and able to perform these services and that said services to be performed are within the Subrecipient's legal powers and capabilities.

D. The City desires to engage the Subrecipient to render these certain services in connection therewith as more particularly set forth hereafter.

1. TIME OF PERFORMANCE

Article VI of the Agreement is hereby deleted. A new Article VI of the Agreement is inserted so that Article VI reads in its entirety as follows:

The time of performance for this Contract is from July 1, 2019 to June 30, 2020 and all services are to be performed within this time. This Contract shall terminate on June 30, 2020

unless terminated pursuant to Paragraph XXX infra (Suspension and Termination). The term of this Contract may be extended by written amendment agreed to by the parties.

2. ADDITIONAL CONTRIBUTIONS

Article VIII of the Agreement is hereby deleted. A new Article VIII of the Agreement is inserted so that Article VIII reads in its entirety as follows:

The Subrecipient may use the funds of the City granted herein to obtain Federal, State or other grants to carry out the Scope of Services herein.

A. Program Income: Program Income received may be retained by the Subrecipient, and used for CDBG-eligible activities for which there is a current PSA with specific performance measures as detailed in the Scope of Work section of the Agreement. The two eligible activities for which Program Income may be used and anticipated ratios of use are Mortgage Principle Reduction Assistance (70%) and Home Improvement (30%). Ten percent (10%) of Program income on hand at the time of completion of the Contract period shall be returned to the City for administrative costs associated with the management of CDBG activities. All program income on hand at the time of completion of the Contract period shall continue to be subject to the eligibility requirements and other applicable provisions of 24 CFR 570.504, Program Income of the Administrative Regulations of the CDBG program.

2. AGREEMENT 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 City of Santa Fe Community Development Block Grant Contract as of the date signed by the City set forth

below.

CITY OF SANTA FE:

ALAN WEBBER
MAYOR
Date: 6/19/19

ATTEST:

YOLANDA Y. VIGIL, CITY CLERK
CC mtg. 6/12/2019

HOMEWISE:

By:
MIKE LOFTIN
EXECUTIVE DIRECTOR

APPROVED AS TO FORM:

5/11/19
ERIN MCSHERRY
CITY ATTORNEY

APPROVED:

MARY MCCOY
FINANCE DIRECTOR

22737.510400
BUSINESS UNIT/LINE ITEM

ITEM # 19.0229

CITY OF SANTA FE
AMENDMENT No. 2 TO
COMMUNITY DEVELOPMENT BLOCK GRANT CONTRACT
Item #18-0586

AMENDMENT No. 2 (the "Amendment") to the CITY OF SANTA FE COMMUNITY DEVELOPMENT BLOCK GRANT CONTRACT, dated July 1, 2018 (the "Contract"), between the City of Santa Fe (the "City") and Homewise (the "Subrecipient"). The date of this Amendment shall be the date when it is executed by the City and the Contractor, whichever occurs last.

RECITALS

A. The Subrecipient has applied for and received funds from the United States Government under Title 1 of the Housing and Community Development Act of 1974, Public Law 93-383.

B. The City desires to engage the Subrecipient to render certain services to the City and its citizens.

C. The Subrecipient further certified that it is willing and able to perform these services and that said services to be performed are within the Subrecipient's legal powers and capabilities.

D. The City desires to engage the Subrecipient to render these certain services in connection therewith as more particularly set forth hereafter.

1. ADMINISTRATIVE REQUIREMENTS

Article XXXV (A) 2 of the Agreement is hereby deleted. A new Article XXXV (A) 2 of the Agreement is inserted so that Article XXXV (A) 2 reads in its entirety as follows:

1. Article XXXV (A) 2 of the Agreement is hereby deleted. A new Article XXXV (A) 2 of the Agreement is inserted so that Article XXXV (A) 2 reads in its entirety as

follows:

2. Cost Principles. The Subrecipient shall administer its program in conformance with the Uniform Administrative Requirements of 24 CFR 570.502, 24 CFR 570.503, and 2 CFR Part 200. These principles shall be applied for all costs incurred whether charged on a direct or indirect basis.

2. AGREEMENT 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 City of Santa Fe Community Development Block Grant Contract as of the date signed by the City set forth below.

CITY OF SANTA FE:

ALAN WEBBER
MAYOR
Date: 4/1/19

ATTEST:

YOLANDA Y. VIGIL, CITY CLERK
CC mtg. 3/27/2019

HOMEWISE:

MIKE LOFTIN
EXECUTIVE DIRECTOR

APPROVED AS TO FORM:

2/22

ERIN K. MCSHERRY
CITY ATTORNEY

APPROVED:

MARY MCCOY
FINANCE DIRECTOR

22737.510400
BUSINESS UNIT/LINE ITEM

ITEM # 18-1306

CITY OF SANTA FE
AMENDMENT No. 1 TO
COMMUNITY DEVELOPMENT BLOCK GRANT CONTRACT
Item #18-0586

AMENDMENT No. 1 (the "Amendment") to the CITY OF SANTA FE COMMUNITY DEVELOPMENT BLOCK GRANT CONTRACT, dated July 1, 2018 (the "Contract"), between the City of Santa Fe (the "City") and Homewise, Inc (the "Subrecipient"). The date of this Amendment shall be the date when it is executed by the City and the Contractor, whichever occurs last.

RECITALS

A. The Subrecipient has applied for and received funds from the United States Government under Title 1 of the Housing and Community Development Act of 1974, Public Law 93-383.

B. The City desires to engage the Subrecipient to render certain services to the City and its citizens.

C. The Subrecipient further certified that it is willing and able to perform these services and that said services to be performed are within the Subrecipient's legal powers and capabilities.

D. The City desires to engage the Subrecipient to render these certain services in connection therewith as more particularly set forth hereafter.

1. MAXIMUM COMPENSATION

Article VII of the Contract is hereby deleted. A new Article VII of this Contract is inserted to increase the amount of compensation by a total of ten thousand one hundred eighty-three dollars ($10,183) so that Article VII reads in its entirety as follows:

The Total amount of compensation by the City to the Subrecipient under the terms of this Contract shall not exceed eighty five thousand, one hundred and eighty three dollars ($85,183), inclusive of New Mexico Gross Reciepts Tax, if applicable. Non-Profit, 501c3 organizations are exempt from GRT.

2. ADDITIONAL CONTRIBUTIONS

1. VIII (A) is hereby deleted. A new Article VIII (A) of the Agreement is inserted so that Article VIII (A) reads in its entirety as follows:

A. Program Income: Program income received may be retained by the Subrecipient, and used for CDBG-eligible activities for which there is a current PSA with specific performance measures as detailed in the Scope of Work section of the Agreement. The two eligible activities for which Program Income may be used and anticipated ratios of use are Mortgage Principal Reduction Assistance (70%) and Home Improvement (30%). Program income on hand at the time of completion of the Contract period shall continue to be subject to the eligibility requirements and other applicable provisions of 24 CFR 570.504, Program Income of the Administrative Regulations of the CDBG program.

3. ELIGIBLE AND INELIGIBLE COSTS

Article XII(B) of the Agreement is hereby deleted. A new Article XII(B) of the Agreement is inserted so that Article 5 reads in its entirety as follows:

B. Standards. All costs incurred must be reasonable and of a nature which clearly relates to the specific purposes and end product of the contract under which the services are being performed. Care must be exercised by all concerned in incurring costs to assure that

expenditures conform to these general standards, including 2 CFR Part 200, and the following criteria for eligible costs.

4. CONFLICT OF INTEREST

The first paragraph of Article XIV of the Agreement is hereby deleted. A new paragraph of the Agreement is inserted so that the paragraph reads in its entirety as follows:

The Subrecipient agrees to abide by the provision of 2 CFR Part 200 and 570.611, which include (but are not limited to) the following:

5. SUSPENSION AND TERMINATION

Article XXX (A) of the Agreement is hereby deleted. A new Article XXX (A) of the Agreement is inserted so that Article XXX (A) reads in its entirety as follows:

A. This Contract 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. By such termination, neither party may nullify obligations already incurred for performance or failure to perform prior to the date of termination. In addition, the City may terminate this agreement for convenience in accordance with 2 CFR Part 200.

Article XXX (B) of the Agreement is hereby deleted. A new Article XXX (B) of the Agreement is inserted so that Article XXX (B) reads in its entirety as follows:

B. The City may enforce remedies for noncompliance in accordance with 2 CFR Part 200. The City may also suspend or terminate this Contract, in whole or in part, if the Subrecipient materially fails to comply with any term of this Contract, or with any of the rules, regulations or provisions referred to herein; and the City may declare the Subrecipient ineligible for any further participation in the City's contracts, in addition to other remedies as provided by law. In

the event there is probable cause to believe the Subrecipient is not in compliance with any applicable rules or regulations, the City may withhold up to fifteen percent (15%) of said contract funds until such time as the Subrecipient is found to be in compliance by the City, or is otherwise adjudicated to be in compliance.

6. ADMINISTRATIVE REQUIREMENTS

Article XXXV (A) 1 of the Agreement is hereby deleted. A new Article XXXV (A) 1 of the Agreement is inserted so that Article XXXV (A) 1 reads in its entirety as follows:

1. Accounting Standards. The Subrecipient agrees to comply with 2 CFR Part 200 and agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.

Article XXXV (A) 2 of the Agreement is hereby deleted. A new Article XXXV (A) 2 of the Agreement is inserted so that Article XXXV (A) 2 reads in its entirety as follows:

2. Cost Principles. The Subrecipient shall administer its program in conformance with the Uniform Administrative Requirements of 24 CFR 570.502, 24 CFR 570.503, and 2 CFR Part 200, and OMB Circulars A-122, "Cost Principles for Non-Profit Organizations," and A-133 "Audits of States, Local Governments, and Non-profit Organizations." These principles shall be applied for all costs incurred whether charged on a direct or indirect basis.

7. DOCUMENTATION AND RECORD-KEEPING

Article XXXVI (A) 7 of the Agreement is hereby deleted. A new Article XXXVI (A) 7 of the Agreement is inserted so that Article XXXVI (A) 7 reads in its entirety as follows:

(7) Financial records as required by 24 CFR 570.502, and 2 CFR Part 200.

8. ADDITIONAL CONTRIBUTIONS

1. VIII (A) is hereby deleted. A new Article VIII (A) of the Agreement is inserted so that Article VIII (A) reads in its entirety as follows:

A. Program Income: Program income received may be retained by the Subrecipient, and used for CDBG-eligible activities for which there is a current PSA with specific performance measures as detailed in the Scope of Work section of the Agreement. The two eligible activities for which Program Income may be used and anticipated ratios of use are Mortgage Principal Reduction Assistance (70%) and Home Improvement (30%). Program income on hand at the time of completion of the Contract period shall continue to be subject to the eligibility requirements and other applicable provisions of 24 CFR 570.504, Program Income of the Administrative Regulations of the CDBG program.

9. AGREEMENT 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 City of Santa Fe Community Development Block Grant Contract as of the date signed by the City set forth below.

CITY OF SANTA FE:

ALAN WEBBER, MAYOR
Date: 11/29/18

ATTEST:

YOLANDA Y. VIGIL, CITY CLERK
ok mtg. 11/14/18

HOMEWISE, INC:

By: _____
MIKE LOFTIN
EXECUTIVE DIRECTOR

APPROVED AS TO FORM:

_____ for
ERIN K. MCSHERRY
CITY ATTORNEY

APPROVED:

_____
MARY MCCOY
FINANCE DIRECTOR

22737.510400
BUSINESS UNIT/LINE ITEM

ITEM # 18-0586

RECEIVED
FINANCE DEPT
CITY OF SANTA FE

CITY OF SANTA FE

COMMUNITY DEVELOPMENT BLOCK GRANT CONTRACT

THIS CONTRACT is made and entered into this 1st day of July _____, 2018, by and between the City of Santa Fe, a municipal corporation, (the "City") and Homewise, (the "Subrecipient").

RECITALS

1. The Subrecipient has applied for and received funds from the United States Government under Title 1 of the Housing and Community Development Act of 1974, Public Law 93-383.

2. The City desires to engage the Subrecipient to render certain services to the City and its citizens.

3. The Subrecipient further certifies that it is willing and able to perform these services and that said services to be performed are within the Subrecipient's legal powers and capabilities.

4. The City desires to engage the Subrecipient to render these certain services in connection therewith as more particularly set forth hereafter.

AGREEMENTS

NOW, THEREFORE, the parties hereto mutually agree as follows:

I. SCOPE OF SERVICES

The Subrecipient agrees to provide the following services to achieve identified levels of program accomplishments:

A. Provide home improvement funding for necessary repairs or to improve energy and/or water conservation for an approximate minimum of six (6) homeowners below 80% AMI.

B. Contractor will report to the City on a quarterly basis the use of funds.

II. NATIONAL OBJECTIVES

The Subrecipient certifies that the service carried out with funds provided under this Contract will meet one or more of the Community Development Block Grant (hereinafter "CDBG") Program's National Objectives:

A. Benefit low/moderate income persons.

B. Aid in the prevention or elimination of slums or blight.

C. Meet community development needs having a particular urgency, as defined in 24 CFR 570.208.

III. PERFORMANCE MONITORING

The City shall monitor the performance of the Subrecipient against goals and levels of accomplishment as stated above. Substandard performance as determined by the City will constitute noncompliance with this Contract. If action to correct such substandard performance is not taken by the Subrecipient within a reasonable period of time after being notified by the Grantee, contract suspension or termination procedures will be initiated.

IV. WORK PLAN AND REPORTING

A. Work Plan: The Subrecipient shall provide the City, within sixty (60) days from signing this Agreement, a revised work plan outlining the major tasks or activities, the measurable objectives for each task or activity, and the time frames to be taken by the Subrecipient in the performance of this Agreement. Included in this report should be information regarding how much funding was leveraged during the program year and from which sources.

B. Annual Budget: All project activities will be in accordance with the attached budget and work plan (Exhibit A) per 24 CFR 570.503(b)(1).

C. Invoicing: The Subrecipient shall submit to the City quarterly reports in order to receive reimbursement for these services. Quarterly reports must be filed no later than the 15th calendar day for the preceding month. A fund requisition with documentation in support of each budgetary category will be submitted. This documentation must include the original or a certified copy or copies of invoices, vouchers, statements, etc. All costs chargeable to the City must be in accordance with budgetary and other restrictions of expenses established by this Contract. Funds for reimbursement can be disbursed on any Friday of each month during the contract period. In order for the City to meet this deadline, the Subrecipient is required to submit its request for reimbursement by Monday, 5:00 p.m., in order to receive payment by the following Friday. The Subrecipient shall submit a Final Project Report assessing the comparison of results achieved in relation to stated goals and objectives in the Scope of Services approved by the City. This report is due to the Office of Affordable Housing fifteen (15) days after the completion of the Contract.

D. Final Payment: Since all payments under this Contract shall be quarterly on

a cost reimbursement basis, the City shall be entitled to withhold the final ten percent (10%) due hereunder, pending final approval by the City of the services rendered. Upon receipt and acceptance of a final project report prior to the final payment, the Subrecipient shall furnish the City proof in documentary form that all claims, liens, salaries or other obligations incurred by it in accordance with the services specified herein, have been properly paid and released.

E. Program Monitoring and Financial Audits: At such time and in such form as the City may require there shall be furnished to the City such statements, records, reports, data and information as the City may request pertaining to matters covered by this Contract. Furthermore, at any time during normal business hours and as often as the City may deem necessary, there shall be made available to the City or its designee for examination, all records maintained by the Subrecipient with respect to all matters covered by this Contract; and, the Subrecipient will permit the City to audit, examine and make excerpts or transcripts from such records, and make audits of all contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all matters covered by this Contract subject to the limitations set out above. Any Subrecipient receiving City CDBG funds in excess of fifteen thousand dollars ($15,000) or any combination of public (City, State, or Federal) monies in excess of twenty-five thousand dollars ($25,000) shall perform a final audit on all funds received from all sources for the program no later than ninety (90) days after completion of the sub-recipient's fiscal year, and shall furnish the City with said audit. This audit shall be performed by an independent agency. Any Subrecipient receiving a sum of less than fifteen thousand dollars ($15,000) in City CDBG funds must submit an audited financial statement on all funds received from all sources for the program after completion of the

sub-recipient's fiscal year, and shall furnish the City with said financial statements.

V. STATUS OF CONTRACTOR

The Subrecipient, and its agents and employees, are independent contractors performing professional services for the City and are not employees of the City. The Subrecipient, 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 Contract.

VI. TIME OF PERFORMANCE

The time of performance for this Contract is from July 1, 2018 to June 30, 2019 and all services are to be performed within this time. This Contract shall terminate on June 30, 2019 unless terminated pursuant to Paragraph XXX infra (Suspension and Termination). The term of this Contract may be extended by written amendment agreed to by the parties.

VII. MAXIMUM COMPENSATION

The total amount of compensation by the City to the Subrecipient under the terms of this Contract shall not exceed seventy five thousand dollars ($75,000), inclusive of New Mexico Gross Receipts Tax, if applicable. Non-profit, 501c3 organizations are exempt from paying GRT.

VIII. ADDITIONAL CONTRIBUTIONS

The Subrecipient may use the funds of the City granted herein to obtain Federal, State or other grants to carry out the Scope of Services herein.

A. Program Income: Program income received may be retained by the Subrecipient, but may be used only for support of the programs detailed in the Scope of

Services section of this Contract. Program income on hand at the time of completion of the Contract period shall continue to be subject to the eligibility requirements and other applicable provisions of 24 CFR 570.504, Program Income of the Administrative Regulations of the CDBG program.

IX. APPROPRIATIONS

The terms of this Contract are contingent upon sufficient appropriations and authorization made by the City for the performance of this Contract. If sufficient appropriations and authorizations are not made by the City, this Contract shall terminate upon written notice being given by the City to the Subrecipient. The City's decision as to whether sufficient appropriations are available shall be accepted by the Subrecipient and shall be final.

X. FISCAL AGENT

The Subrecipient will act as its own Fiscal Agent and will defend, indemnify and hold harmless the City from any and all liability, costs and expenses whatsoever for the expenditure of funds pursuant to the Scope of Services of this Contract.

XI. BUDGET REVISIONS

The Subrecipient will inform the City of any "line item" revisions to the attached budget, within the maximum compensation shown in this Agreement and will obtain the City's prior written approval of any change that represents at least 25 percent or more of the line item amount per the latest approved budget. Any budget revisions must be eligible expenditures under this Agreement and Title I of the Community Development Act.

XII. ELIGIBLE AND INELIGIBLE COSTS

A. Criteria. This section provides criteria for the determination of whether costs are eligible or ineligible for funding under this Contract. Costs incurred, which are determined by the City to be ineligible under these criteria, may not be charged to this Contract.

B. Standards. All costs incurred must be reasonable and of a nature which clearly relates to the specific purposes and end product of the contract under which the services are being performed. Care must be exercised by all concerned in incurring costs to assure that expenditures conform to these general standards, including 24 CFR 84.40-48, and the following criteria for eligible costs.

C. Eligible Costs. To be eligible for inclusion, the cost must:

(1) Be necessary and reasonable for proper and efficient execution of the contractual requirements and in accordance with an approved budget.

(2) Be in conformance with any limitations, exclusions and provisions pursuant to this Contract, State and Local Laws, or other governing limitations.

(3) Be accorded consistent treatment through application of accounting policy and procedures approved and/or prescribed.

(4) Be net after allowance of all applicable credits such as purchase discounts, rebates or allowances, sales or publication of materials, or other income or refunds.

(5) Be in accordance with budgetary or other restrictions on expenses established by the City.

(6) Be fully documented.

(7) The Subrecipient shall reimburse the City any costs and expenses declared ineligible by the City which may have been reimbursed erroneously to the Subrecipient by the City under whatever conditions.

D. Ineligible Costs. Ineligible costs shall be as follows:

(1) Accounting. Costs of maintaining central accounting records necessary for overall local government purposes, such as appropriation of fund accounts by the Treasurer, or similar officials, are considered general expenses of the Subrecipient and are ineligible costs. However, the cost of establishing and maintaining accounting or other information systems required for the management of the program are eligible costs including costs incurred by central services agencies for these purposes.

(2) Bad Debts. Any losses arising from uncollectible accounts and other claims, and related costs.

(3) Budget. Costs of a central budget office, except the costs of employees in the central budget office of the Subrecipient directly involved in the program as set forth in the Scope of Services, hereto, and clearly identifiable. However, costs incurred for the development, preparation, presentation, and execution of program and project budgets performed by the Subrecipient are eligible costs.

(4) Contingencies. Contribution to a contingency reserve or any similar provision for unforeseen events.

(5) Contributions and Donations. Political, charitable and fundraising solicitations, payments, gifts and expenses.

(6) Entertainment. Costs of amusements, social activities, and incidental costs, such as meals, beverages, lodgings, and gratuities, relating to entertainment.

(7) Board Expenses. The salary and expenses if any, of the Chairman of the Board of the Subrecipient are considered a cost of the Subrecipient and are not eligible costs in any way to this Contract.

(8) Fines and Penalties. Costs resulting from violations of or failure to comply with federal, state and local laws and regulations.

(9) Interest and other Financial Costs. Interest on borrowing (however represented); bond discounts, cost of financing and refinancing operations and legal and professional fees paid in connection therewith.

(10) Legal Fees. Costs for legal advice or work are ineligible, except those required directly for the administration of the program, which are eligible.

(11) Legislative Expenses. Costs for lobbying or testimony before the legislature or any of its committees, whether incurred for the purposes of legislation or executive direction, are not eligible.

(12) Membership Expenses. Cost of membership in any organization is ineligible.

(13) Travel. Costs in excess of those allowed by the City for its employees are ineligible.

(14) Meeting Attendance. Costs of attending meetings which are not included in the budget are ineligible.

(15) Expenses Related to Fundraising. Cost of postage, printing or external subcontracting for grant writers or development specialists.

XIII. SPECIAL PROVISIONS

A. The Subrecipient realizes that the availability of funds for the activity covered by the "Scope of Services," herein and for performance of this Agreement,

depend solely on the provisions of said funds by HUD, such provisions being contingent on the City's approval of these activities as eligible under the Housing and Community Development Act of 1974, the National Affordable Housing Act of 1990 and other pertinent federal regulations. However, the City shall notify the Subrecipient in writing within five days of receipt by the City of any determination by HUD to terminate CDBG funding.

B. In the event the Subrecipient or its organization is dissolved or discontinues making loans as provided herein, or this Agreement is not renewed after it expires, the Subrecipient shall upon such dissolution, discontinuation or within sixty (60) days after expiration of this Agreement if its renewal has not in the meantime been executed:

(1) Return to the City all unexpended Community Development Block Grant funds received from the City and CDBG program income in the possession of the Subrecipient that have not been already obligated through contracts.

(2) Assign and transfer to the City the equity on all outstanding loans and mortgages which have been provided by the Subrecipient from Community Development grant funds and related program income under this and previous agreements. The Subrecipient shall provide the City with a listing of the borrowers and outstanding amounts, together with up-to-date records of principal and interest payments and balances of the accounts of said borrowers.

XIV. CONFLICT OF INTEREST

The Subrecipient agrees to abide by the provision of 24 CFR 84.42 and 570.611, which include (but are not limited to) the following:

A. Interest of Members of City: No officer, employee, or agent of the City who

exercises any functions or responsibilities in connection with the planning and carrying out any of the provisions of this Contract, or any other person who exercises any functions or responsibilities in connection with any of the provisions of the Contract, shall have any personal financial interest, direct or indirect, in this Contract; and the Subrecipient shall take appropriate steps to assure compliance.

B. Interest of Subrecipient and Employees: The Subrecipient shall not allow any person who presently exercises any functions or responsibilities in connection with the provisions of this Contract, to have personal financial interests, direct or indirect, in this Contract. The Subrecipient further shall not allow in the performance of this Contract any person having any conflicting interest to be employed by the Subrecipient. Any interest on the part of the Subrecipient or its employees must be disclosed to the City. Provided, however, that this paragraph shall be interpreted in such a manner so as not to unreasonably impede the requirement that maximum opportunity for employment of area residents and resident participation shall be of primary concern to the Subrecipient.

Should the subrecipient discover a potential conflict of interest, the subrecipient shall immediately disclose in writing to the City and specifically ask for guidance on how to resolve the conflict and prior to any act in furtherance of the conflict. The disclosure shall include a description of the nature of the conflict; the name, position, phone number and address of the person with the conflict; the date of the notification; and requested action to address the conflict. Disclosures of real, apparent or perceived conflicts of interest shall be made to the City and the City must agree in writing to a proper course of subsequent action prior to the disbursement of CDBG funds.

Should the subrecipient discover a potential conflict of interest, the subrecipient must disclose it to the City in writing, prior to occurence. The disclosure shall include a

description of the nature of the conflict; the name, position, phone number and address of the person with the conflict; the date of the notification; and requested action to address the conflict. Disclosures of real, apparent or perceived conflicts of interest shall be made to the City prior the disbursement of CDBG funds.

C. Certification:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the State, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of a Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the State shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.

XV. DISCRIMINATION PROHIBITED

A. In all hiring or employment made possible by or resulting from this Contract, there (1) will not be any discrimination against any employee or applicant for employment because of race, color, age, religion, sex, sexual orientation, national origin, and physical or mental disability; and (2) affirmative action will be taken to ensure that qualified

applicants are employed, and that employees are treated during employment without regard to their race, color, age, religion, sex, sexual orientation, national origin, and physical or mental disability. This requirement shall apply, without limitation, to the following: employment, upgrading, demotion or transfer, recruitment advertising, layoff or termination, and selection for training, including apprenticeship. There shall be posted in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this clause. All solicitations or advertisements for employees shall state that all qualified applicants will receive consideration for employment without regard to race, color, age, religion, sex, sexual orientation, national origin, and physical or mental disability.

B. No person in the United States shall, on account of race, color, age, religion, sex, sexual orientation, national origin, and physical or mental disability, be excluded from participating in, denied the benefits of, or subjected to discrimination under this Contract or activity made possible by or resulting from the Contract.

C. Subrecipient will abide by all requirements of the Americans with Disabilities Act. Subrecipient shall be kept informed of employee discrimination prevention requirements and program and facility accessibility standards.

XVI. WOMEN- AND MINORITY- OWNED BUSINESSES (W/MBE)

The Subrecipient will use its best efforts to afford small businesses, minority business enterprises, and women's business enterprises the maximum practicable opportunity to participate in the performance of this contract. As used in this contract, the terms "small business" means a business that meets the criteria set forth in section 3(a) of the Small Business Act, as amended (15USC 632), and "minority and women's business enterprise" means a business at least fifty-one (51) percent owned and

controlled by minority group members or women. For the purpose of this definition, "minority group members" are Afro-Americans, Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian-Americans, and American Indians. The Subrecipient may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

XVII. POLITICAL ACTIVITY PROHIBITED

None of the funds, materials, property or services provided for directly or indirectly under this Contract shall be used in the performance of this Contract for any political activity prohibited by Federal, State or local law.

XVIII. CONFIDENTIALITY

Any confidential information provided to or developed by the Subrecipient in the performance of this Contract shall be kept confidential and shall not be made available to any individual or organization by the Subrecipient without the prior written approval of the City.

XIX. REPRESENTATIONS IN SUBMITTALS

The City has relied on all representations in the Subrecipient's submittals in awarding this Agreement and the Subrecipient warrants the accuracy of all representations. Misrepresentations in the submittals will be cause for termination of this Agreement.

XX. AMENDMENT

This Contract shall not be altered, changed or amended except by amendment in writing executed by the parties hereto.

XXI. NOTICES AND ADDRESSES

Any notices required to be given under this agreement shall be in writing and

served by personal delivery or by mail, postage prepaid, to the parties at the following addresses:

For the City, notices may be sent to:

City of Santa Fe
Office of Affordable Housing
P.O. Box 909
Santa Fe, New Mexico 87504-0909

For the Subrecipient, notices may

Homewise, Inc
1301 Siler Road
Santa Fe, New Mexico 87507

XXII. ASSIGNABILITY

The Subrecipient shall not assign any interest in this Contract and shall not transfer any interest in the same (whether by assignment or otherwise) without the prior written consent of the City.

XXIIII. WARRANTY OF AUTHORITY

The Subrecipient warrants that it has full corporate and other authority, under its articles of corporation, bylaws, resolutions, other pertinent corporate documents, instruments, and agreements, and otherwise to enter into this agreement, to bind itself under this agreement, and to perform this Agreement in accordance with the terms and provisions of this Agreement.

XXIV. BINDING EFFECT

This Agreement is binding upon and inures to the benefit of the successors, successors-in interest, assigns and transferees of the City and the Subrecipient.

XXV. SEVERABILITY

In case any one or more of the provisions contained in this Agreement or any application thereof shall be invalid, illegal or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions contained herein and any other

application thereof shall not in any way be affected or impaired thereby.

XXVI. DISPOSITION OF PROPERTY

A. All non-expendable property acquired by the Subrecipient pursuant to this Contract shall be recorded in the property records of the City prior to reimbursement to the Subrecipient for expenses incurred in order to acquire said property. For purposes of this Contract, the term "non-expendable property" means items of tangible, personal property that are non-perishable such as equipment, software, and furniture. The use and disposition of real property and equipment under this Contract shall be in compliance with the requirements of 24 CFR Part 84 and 24 CFR 570.502, 570.503, and 570.504, as applicable.

B. Subrecipient shall be accountable for all recorded non-expendable property which is recorded as City property for a period of five years as established by the City.

C. All non-expendable property acquired pursuant to this Contract shall remain in the possession of and shall be used only by the Subrecipient, provided that said property continues to be used for the same purposes and in the same manner as originally intended.

D. If the Subrecipient cannot continue to effectively use recorded non-expendable property for the same purposes and in the same manner as originally intended and described in this Contract, all such non-expendable property shall remain in the possession of, and shall be used by the Subrecipient for similar purposes and in a similar manner as initially used; provided, however, that conversion of said property to a similar use in another similar program must first receive the express written consent of the City.

E. If the Subrecipient can neither continue to effectively use recorded non-

expendable property for the same purposes and in the same manner originally intended nor continue to effectively use said property for the same or similar purposes and in a similar manner as permitted by this Contract, the City may provide for the disposition of said property wholly and entirely at the City's discretion.

F. The City may, in writing, waive and relinquish all claims the City may have in and to recorded non-expendable property.

G. When the Subrecipient's period of accountability for any non-expendable property expires, said property shall revert to the City unless otherwise provided for in a written agreement between the Subrecipient and the City. Assets on hand at the expiration of the Contract in excess of twenty-five thousand dollars ($25,000) shall be disbursed in accordance with reversion of assets of 24 CFR 570.503 Agreements with Subrecipients of the CDBG regulation; or

(i) The Subrecipient shall pay to the City an amount equal to the current market value of the property less any portion of the value attributable to the expenditures of non-CDBG funds for the acquisition of, or improvement to, the property. The payment is program income to the City. (No payment is required after the period of time specified in 24 CFR 570.503(b)(7)(i).

XXVII. COMPLIANCE WITH LOCAL LAW

The Subrecipient shall comply at its own cost with all applicable laws, ordinances and codes of the State and the City.

XXVIII. THIRD PARTY BENEFICIARIES

By entering into this Contract, the parties do not intend to create any right, title or interest in or for the benefit of any person other than the City and the Subrecipient. No person shall claim any right, title or interest under this Contract or seek to enforce this

Contract as a third party beneficiary of this Contract.

XXIX. JURISDICTION CLAUSE

This Contract shall be performed in Santa Fe, New Mexico. Any legal action or cause of action arising in connection herewith shall be within the jurisdiction and venue of the appropriate court in Santa Fe, New Mexico, for all purposes.

XXX. SUSPENSION AND TERMINATION

A. This Contract 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. By such termination, neither party may nullify obligations already incurred for performance or failure to perform prior to the date of termination. In addition, the City may terminate this agreement for convenience in accordance with 24 CFR 85.44.

B. The City may enforce remedies for noncompliance in accordance with 24 CFR 85.43. The City may also suspend or terminate this Contract, in whole or in part, if the Subrecipient materially fails to comply with any term of this Contract, or with any of the rules, regulations or provisions referred to herein; and the City may declare the Subrecipient ineligible for any further participation in the City's contracts, in addition to other remedies as provided by law. In the event there is probable cause to believe the Subrecipient is not in compliance with any applicable rules or regulations, the City may withhold up to fifteen percent (15%) of said contract funds until such time as the Subrecipient is found to be in compliance by the City, or is otherwise adjudicated to be in compliance.

XXXI INSURANCE

A. The Subrecipient, at its own cost and expense, shall carry and maintain in full force and effect during the term of this Agreement, comprehensive general liability

insurance covering bodily injury and property damage liability, in a form and with an insurance company acceptable to the City, with limits of coverage in the maximum amount which the City could be held liable under the New Mexico Tort Claims Act for each person injured and for each accident resulting in damage to property. Such insurance shall provide that the City is named as an additional insured and that the City is notified no less than thirty (30) days in advance of cancellation for any reason. The Contractor shall furnish the City with a copy of a Certificate of Insurance as a condition prior to performing services under this contract.

B. Contractor shall also obtain and maintain Workers' Compensation insurance, required by law, to provide coverage for Subrecipient's employees throughout the term of this Agreement. Subrecipient shall provide the City with evidence of its compliance with such requirement.

C. Subrecipient 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 Subrecipient's compliance with the provisions of this section as a condition prior to performing services under this Agreement.

D. The Subrecipient shall comply with the bonding and insurance requirements of Attachment B of the OMB Circular A-110, Bonding and Insurance.

XXXII. INDEMNIFICATION

The Subrecipient shall indemnify, hold harmless and defend the City from all losses, damages, claims or judgments, including payments of all attorneys' fees and costs on account of any suit, judgment, execution, claim, action or demand whatsoever arising from Subrecipient's performance under this Agreement as well as the performance of Subrecipient's employees, agents, representatives and subcontractors.

XXXIII. ENTIRE CONTRACT

This Contract constitutes the entire contract between the parties hereto. Prior contracts, whether written or oral, or assertion of statement, of understanding, or other commitment antecedent to this Contract shall have no force or effect whatsoever, unless the same is mutually agreed to by the parties hereto and reduced to writing.

XXXIV. GENERAL CONDITIONS

A. General Compliance: The Subrecipient agrees to comply with the requirements of Title 24 of the Code of Federal Regulations, Part 570 (the Housing and Urban Development regulations concerning Community Development Block Grants (CDBG)). The Subrecipient also agrees to comply with all other applicable Federal, state and local laws, regulations, and policies governing the funds provided under this contract and as set forth at 24 CFR Part 570 subpart K, except that the Subrecipient does not assume the recipient's environmental responsibilities under 24 CFR 570.604 and 24 CFR Part 52. The Subrecipient further agrees to utilize funds available under this Contract to supplement rather than supplant funds otherwise available.

B. Grantor Recognition: The Subrecipient shall einsure recognition of the role of the City in providing services through this contract. All activities, facilities and items utilized pursuant to this contract shall be prominently labeled as to funding source. In addition, the Subrecipient will include a reference to the support provided herein in all publications made possible with funds made available under this contract.

XXXV. ADMINISTRATIVE REQUIREMENTS

A. Financial Management

1. Accounting Standards. The Subrecipient agrees to comply with 24 CFR 84.21-28 and agrees to adhere to the accounting principles and procedures required

therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.

2. Cost Principles. The Subrecipient shall administer its program in conformance with the Uniform Administrative Requirements of 24 CFR 570.502, 24 CFR 570.503, and 24 CFR 84, and OMB Circulars A-122, "Cost Principles for Non-Profit Organizations," and A-133 "Audits of States, Local Governments, and Non-profit Organizations." These principles shall be applied for all costs incurred whether charged on a direct or indirect basis.

XXXVI. DOCUMENTATION AND RECORD KEEPING

A. Records to be Maintained. The Subrecipient shall maintain all records required by the Federal regulations specified in 24 CFR 570.506 that are pertinent to the activities to be funded under this Contract. Such records shall include but not be limited to:

(1) Records providing a full description of each activity undertaken;

(2) Records demonstrating that each activity undertaken meets one of the National Objectives of the CDBG program;

(3) Records required to determine the eligibility of activities;

(4) Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG assistance;

(5) Records documenting compliance with the fair housing and equal opportunity components of the CDBG program;

(6) Records documenting compliance with EPLS/SAM for each sub-contractor;

(7) Financial records as required by 24 CFR 570.502, and 24 CFR

84.21-28;

(8) Other records necessary to document compliance with Subpart K of 24 CFR Part 570.

(9) Other records necessary to document compliance with Sections 1012 and 1013 of Title X amending the Lead-based Paint Poisoning Prevention Act of 1971 and title 24 of the Code of Federal Regulations as part of 35 (24 CFR 35).

XXXVII. CLIENT DATA

The Subrecipient shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, income level or other basis for determining eligibility, and description of service provided. Such information shall be made available to the City or its designees for review upon request.

XXXVIII. DISCLOSURE

The Subrecipient understands that client information collected under this Contract is private and the use or disclosure of such information, when not directly connected with the administration of the City's or Subrecipient's responsibilities with respect to services provided under this contract, is prohibited by the State of New Mexico unless written consent is obtained from such person receiving service and, in the case of a minor, that of a responsible parent or guardian.

XXXIX . PROPERTY RECORDS

The Subrecipient shall maintain real property inventory records, which clearly identify properties purchased, improved or sold. Properties retained shall continue to meet eligibility criteria and shall conform to the "changes in use" restrictions specified in 24 CFR 570.503 (b) (8), as applicable.

XL. RELOCATION, REAL PROPERTY ACQUISITION AND ONE-FOR-ONE HOUSING REPLACEMENT

The Subrecipient agrees to comply with (a) the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), and implementing regulations at 49 CFR Part 24 and 24 CFR 570.606(b); (b) the requirements of 24 CFR 570.606(c) governing the Residential Anti-displacement and Relocation Assistance Plan under section 104(d) of the HCD Act; and (c) the requirements in 24 CFR 570.606(d) governing optional relocation policies.

XLI. ENVIRONMENTAL CONDITIONS

A. Air and Water: The Subrecipient agrees to comply with the following requirements insofar as they apply to the performance of this Contract:

(1) Clean Air Act, 42 USC, 7401, *et seq.*;

(2) Federal Water Pollution Control Act, as amended, 33 USC, 1251, *et seq.*, as amended 1318 relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder;

(3) Environmental Protection Agency (EPA) regulations pursuant to 40 CFR Part 50, as amended.

B. Flood Disaster Protection: In accordance with requirements of the Flood Disaster Protection Act of 1973 (42 USC 4001), the Subrecipient shall assure that for activities located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, flood insurance under the National Flood Insurance Program is obtained and maintained as a condition of financial assistance for acquisition or construction purposes (including rehabilitation).

C. Lead-Based Paint: The Subrecipient agrees that any construction or rehabilitation of residential structures with assistance provided under this Contract shall be subject to HUD Lead-Based Paint Regulations at 24 CFR 570.608, and 24 CFR Part 35, Subpart B. Such regulations pertain to all CDBG-assisted housing and require that all owners, prospective owners, and tenants of properties constructed prior to 1978 be property notified that such properties may include lead-based paint. Such notification shall point out the hazards of lead-based paint and explain the symptoms, treatment and precautions that should be taken when dealing with lead-based paint poisoning and the advisability and availability of blood lead level screening for children under seven. The notice should also point out that if lead-based paint is found on the property, abatement measures may be undertaken. The regulations further require that, depending on the amount of Federal funds applied to a property, paint testing, risk assessment, treatment and/or abatement may be conducted.

D. Historic Preservation: The Subrecipient agrees to comply with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, as amended (16 USC 470) and the procedures set forth in 36 CFR Part 800, Advisory Council on Historic Preservation Procedures for Protection of Historic Properties, insofar as they apply to the performance of this agreement. In general, this requires concurrence from the State Historic Preservation Officer for all rehabilitation and demolition of historic properties that are fifty years old or older or that are included on a Federal, state, or local historic property list.

XLII. CLOSE OUTS

The Subrecipient's obligation to the City shall not end until all closeout requirements are completed. Activities during this close-out period shall include, but are

not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the City), and determining the custodianship of records.

XLIII. LAND COVENANTS

This Contract is subject to the requirements of Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and 24 CFR 570.601 and 602. In regard to the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under this contract, the Subrecipient shall cause or require a covenant running with the land to be inserted in the deed or lease for such transfer, prohibiting discrimination as herein defined, in the sale, lease or rental, or in the use or occupancy of such land, or in any improvements erected or to be erected thereon, providing that the City and the United States are beneficiaries of and entitled to enforce such covenants. The Subrecipient, in undertaking its obligation to carry out the program assisted hereunder, agrees to take such measures as are necessary to enforce such covenant, and will not itself so discriminate.

XLIV. SECTION 504

The Subrecipient agrees to comply with any Federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973 (29 USC 794), which prohibits discrimination against the handicapped in any Federally assisted program.

XLV. PROHIBITED ACTIVITY

The Subrecipient is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities; sectarian or religious activities; lobbying, political patronage, and nepotism activities.

XLVI. LABOR STANDARDS

A. The Subrecipient agrees to comply with the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act as amended, the provisions of Contract Work Hours and Safety Standards Act (40 USC 327 *et seq.*), the Copeland "Anti-Kickback" Act (18 USC 874 *et seq.*), its implementing regulations of the U.S. Department of Labor at 29 CFR Part 5, and all other applicable Federal, state and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this contract. The Subrecipient shall maintain documentation which demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to the City for review upon request.

B. The Subrecipient agrees that, except with respect to the rehabilitation or construction of residential property containing less than eight units, all contractors engaged under contracts in excess of two thousand dollars ($2,000.00) for construction, renovation or repair work financed in whole or in part with assistance provided under this contract, shall comply with Federal requirements adopted by the City pertaining to such contracts and with the applicable requirements of the regulations of the Department of Labor, under 29 CFR Parts 1, 3, 5 and 7 governing the payment of wages and ratio of apprentices and trainees to journey workers; provided, that if wage rates higher than those required under the regulations are imposed by state or local law, nothing hereunder is intended to relieve the Subrecipient of its obligation, if any, to require payment of the higher wage. The Subrecipient shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions meeting the requirements of this paragraph.

XLVII. COMPLIANCE

A. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR 135, ("Section 3") and all applicable rules and orders issued thereunder prior to the execution of this contract, shall be a condition of the Federal financial assistance provided under this contract and binding upon the City, the Subrecipient and any of the Subrecipient's subcontractors. Failure to fulfill these requirements shall subject the City, the Subrecipient and any of the Subrecipient's subcontractors, their successors and assigns, to those sanctions specified by the contract through which Federal assistance is provided. The Subrecipient certifies and agrees that no contractual or other disability exists which would prevent compliance with these requirements.

B. The Subrecipient further agrees to comply with "Section 3" requirements and to include the following language in all subcontracts executed under this Contract.

"The work to be performed under this contract is a project assisted under a program providing direct Federal financial assistance from HUD and is subject to the requirements of "Section 3" of the Housing and Urban Development Act of 1968, as amended (12 USC 1701). "Section 3" requires that to the greatest extent feasible opportunities for training and employment be given to low and very low-income residents of the project area and contracts for work in connection with the project be awarded to business concerns that provide economic opportunities for low-and very low-income persons residing in the metropolitan area in which the project is located".

XLVIII. NOTIFICATIONS

The Subrecipient agrees to send to each labor organization or representative of workers with which it has a collective bargaining contract or other contract or understanding, if any, a notice advising said labor organization or worker's representative

of its commitments under the above-referenced "Section 3" clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

XLIX. SUBCONTRACTS

The Subrecipient will include the above-referenced "Section 3" clause in every subcontract and will take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the City. The Subrecipient will not subcontract with any entity where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR 135 and will not let any subcontract unless the entity has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

L. RESPONSIBILITY FOR PAYMENT OF EMPLOYEES AND SUBCONTRACTORS

A. The Subrecipient shall be solely responsible for payment of wages, salaries and benefits to any and all employees or subcontractors retained by the Subrecipient in the performance of the services under this Contract.

B. The Contractor shall comply with City of Santa Fe Minimum Wage, Article 28-1-SFCC 1987, as well as any subsequent changes to such article throughout the term of this Agreement. .

LI. WAIVER

The Grantee's failure to act with respect to a breach by the Subrecipient does not waive its right to act with respect to subsequent or similar breaches. The failure of the City to exercise or enforce any right or provision shall not constitute a waiver of such right or provision.

LII. NEW MEXICO TORT CLAIMS ACT

Any liability incurred by the City of Santa Fe in connection with this Contract is subject to the immunities and limitations of the New Mexico Tort Claims Act, Section 41-4-1, *et seq.* NMSA 1978, as amended. The City and its "public employees" as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity, do not waive any defense and do not waive any limitation of liability pursuant to law. No provision in this Contract modifies or waives any provision of the New Mexico Tort Claims Act.

LIII. RELEASE

The Subrecipient, upon final payment of the amount due under this Contract, releases the City, its officers and employees, from all liabilities, claims and obligations whatsoever arising from or under this Contract. The Subrecipient agrees not to purport to bind the City to any obligation not assumed herein by the City unless the Subrecipient has express written authority to do so, and then only within the strict limits of that authority.

LIV. ENTIRE AGREEMENT

This agreement constitutes the entire agreement between the City and the Subrecipient for the use of funds received under this Contract and it supersedes all prior or contemporaneous communications and proposals, whether electronic, oral, or written between the City and the Subrecipient with respect to this Contract.

IN WITNESS WHEREOF, the City and the Subrecipient have executed this Contract on the dates set forth below.

APPROVED AND AUTHORIZED:

MAYOR
DATE: June 11, 2018

ATTEST:

YOLANDA Y. VIGIL
CITY CLERK
CC mtg. 5/30/18

SUBRECIPIENT:
HOMEWISE, INC

MIKE LOFTIN, EXECUTIVE DIRECTOR
DATE: 9/16/18

New Mexico Taxation and Revenue Dept.
CRS No. 02-062377-00-1
City of Santa Fe Business Registration No. 18-00063137

APPROVED AS TO FORM:

3/6
KELLEY A. BRENNAN
CITY ATTORNEY

APPROVED:

6/5/18
FINANCE DIRECTOR

22737.510400
BUSINESS UNIT/LINE ITEM

EXHIBIT A: Per Section V.B. of the Professional Services Agreement and per 24 CFR 570.503(b)(1).

Addendum Project Budget for (SUB-RECIPIENT NAME) – (PROJECT TITLE)

Type of funding	Source/ Amount	Source/ Amount	Source/ Amount	Totals
Final CDBG AMOUNT				**$75,000**
Other Federal Funds (for amortizing loans)		US Treasury CDFI/ $75,000	Application due on 4/4	**$75,000**
Other Federal Funds (for amortizing loans)		NeighborWorks America/ $75,000	Pending	**$75,000**
Amortizing funds		NM Bank & Trust, Bank of America, BBVA/Compas Bank loan funds	Secured	**$1,275,000**
City Funding (i.e. Youth and Family, Human Services Divisions)				**$**
State funds (i.e. MFA)				**$**
Other (i.e. in-kind, private funds)				**$**
				$
Total of all funding sources				**$1,500,000**

The following chart details how the secured funding amount will support the various aspects of (SUBRECIPIENT NAME) (Work Scope).

Cost	CDBG Allocation
	75,000
Cost	Private Leveraged Funds
Federal Funds/CDFI	75,000
Federal Funds/Neighbor Works	75,000
Bank Loan Funds	1,250,000
Total	$1,500,000

ACTION SHEET
ITEM FROM QUALITY OF LIFE COMMITTEE MEETING OF 06/17/2020
FOR CITY COUNCIL MEETING OF 06/24/2020

ISSUE:

Consideration of Resolution No. 2020-__: A Resolution Supporting the Closure of West San Francisco Street and Establishing a Framework for the Closure of Other Streets to Vehicular Traffic for a Certain Period During 2020. (Mayor Webber) (John Romero, Acting Public Works Director, jjromero1@santafenm.gov, 955-6638; Randy Randall, TOURISM Santa Fe Director, rrandall@santafenm.gov, 955-6209)

Committee Review:
Public Works and Utilities Committee (scheduled): 6/22/20
City Council (scheduled): 6/24/20

QUALITY OF LIFE COMMITTEE ACTION: Approved with amendments after discussion (removed from consent by Councilors Villarreal, Rivera, and Cassutt-Sanchez)

SPECIAL CONDITIONS OR AMENDMENTS: Legislative Liaison will update Resolution with changes

SEND TO:
City Council, Public Works

VOTE	FOR	AGAINST	ABSTAIN
CHAIRPERSON ROMERO-WIRTH	X		
COUNCILOR VILLARREAL			X
COUNCILOR RIVERA	X		
COUNCILOR GARCIA	X		
COUNCILOR CASSUTT-SANCHEZ	X		

City of Santa Fe, New Mexico

LEGISLATIVE SUMMARY
Resolution No. 2020-__
Temporary Street Closure

SPONSOR(S): Mayor Webber

SUMMARY: The proposed Resolution establishes a framework for the closure of City streets to vehicular traffic. The Resolution establishes certain dates for which streets may be closed, requires at least 75% support from the affected businesses and residents, requires adequate emergency access, shall accommodate accessible parking and deliveries, and, if the streets are in the downtown area, shall be open for designated cruise nights.

PREPARED BY: Jesse Guillen, Legislative Liaison

FISCAL IMPACT: Yes – dependent on number and location of streets

DATE: 6/16/20

ATTACHMENTS: Resolution
FIR

CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2020-__

INTRODUCED BY:

Mayor Alan Webber

A RESOLUTION

ESTABLISHING A FRAMEWORK FOR THE CLOSURE OF STREETS TO VEHICULAR TRAFFIC FOR A CERTAIN PERIODS DURING 2020.

WHEREAS, businesses throughout the City of Santa Fe have felt the economic impact of mandated business closures, followed by limited reopenings, as a result of the COVID-19 pandemic; and

WHEREAS, local businesses and the City government seek creative solutions to allow safe and open options for Santa Fe's residents and visitors during the unprecedented situation; and

WHEREAS, the Public Health Order issued on June 12, 2020 restricts restaurants to fifty percent (50%) of their normal capacity and restricts retail businesses to twenty-five percent (25%) of capacity;

WHEREAS, if restaurants and businesses are able to expand their capacities safely, that opportunity will improve their abilities to survive the health and economic crises;

WHEREAS, one opportunity for restaurants and other businesses to expand their

capacities safely is to occupy portions of City-owned properties, such as publically owned sidewalks, roads, or parking spaces; and

WHEREAS, the City has identified a mechanism for individual business's use of portions of public roads, sidewalk, and parking spaces through an obstruction permit;

WHEREAS, the State has provided the opportunity for restaurants holding an alcohol license to increase their footprints by twenty five percent (25%), under certain circumstances;

WHEREAS, there is legislation under review by the Governing Body to expand the permissible areas for the sale and consumption of alcohol to include City property; and

WHEREAS, the City closes certain streets to vehicular traffic annually to improve the pedestrian experience, community building opportunities, and economic development opportunities; in particular, the Governing Body adopted Resolution No. 2014-49—People to the Plaza—to close three of the four streets bordering the Plaza, from Memorial Day through the Monday following the annual Fiesta de Santa Fe; and

WHEREAS, as a result of the popularity of the People to the Plaza initiative, Resolution No. 2014-49 was amended by Resolution Nos. 2014-75 and 2016-80 to extend the time period of the closure to October 31 or such later date determined by the city manager based upon weather on an annual basis; and

WHEREAS, the City has compiled creative opportunities to "virtually experience Santa Fe" that allow people to attend cooking classes, take a virtual walkthrough of museums, take flamenco lessons, participate in daily medications, or even listen to a live book reading from a local bookstore; and

WHEREAS, many members of the Santa Fe business community as well as the public have expressed a desire to provide increased and safer opportunities for pedestrian access throughout the City, such as through additional road closures; and

WHEREAS, during the pandemic, cities such as Boston, Washington D.C., Minneapolis,

Oakland, and Seattle, among others, have temporarily closed streets to vehicular traffic to provide pedestrians and cyclists with increased access while encouraging social distancing; and

WHEREAS, many of these cities have closed down multiple miles of streets to normal vehicular traffic, with New York City planning on eventually closing down 100 miles of roadway to vehicular traffic; and

WHEREAS, closing certain streets in Santa Fe until the end of October, 2020, would allow more restaurants and businesses to take advantage of the State and City opportunities to expand their footprints and would allow for greater access to those businesses by non-vehicular traffic.

NOW, THEREFORE, BE IT RESOLVED that the City shall apply the following framework when evaluating the temporary closure of streets to vehicular traffic:

1. Temporary street closures will be established through the issuance of an Obstruction of Streets Permit issued by the City of Santa Fe Public Works Department.

2. Temporary street closures may only be implemented between July 1 and October 31, unless extended by adoption of a resolution by the Governing Body.

3. At least seventy five percent (75%) of the businesses and residents whose primary access is on the proposed street must support the proposed street closure.

4. The terms of the closure shall ensure adequate emergency access, verified by the City's Police and Fire Departments.

5. The terms of the closure shall accommodate accessible parking, ADA compliance, and adequate access for deliveries before 10:00 a.m. each day.

6. In accordance with the provisions of Resolution No. 2014-49, all streets surrounding the Plaza shall be open to vehicular traffic during designated cruise nights

PASSED, APPROVED, and ADOPTED this _____ day of _____, 2020.

ATTEST:

ALAN M. WEBBER, MAYOR

YOLANDA Y. VIGIL, CITY CLERK

APPROVED AS TO FORM:

ERIN K. McSHERRY, CITY ATTORNEY

Legislation/2020/Resolutions/Temporary Street Closure

FIR No. 3258

FISCAL IMPACT REPORT

General Information:

(Check) Bill: _____ Resolution: ____X____

Short Title(s): **Temporary Street Closure**

Sponsor(s): Mayor Webber

Revie wing Department(s): Public Works, TOURISM Santa Fe

Staff Completing FIR: John Romero/Randy Randall Date: 6/15/20 Phone: 955-6638/955-6209

Revie wed by City Attorney: _____ Date: Jun 16, 2020

Revie wed by Finance Director: _____ Date: _____

Summary:
The proposed Resolution establishes a framework for the closure of City streets to vehicular traffic. The Resolution establishes certain dates for which streets may be closed, requires at least 75% support from the affected businesses and residents, requires adequate emergency access, shall accommodate accessible parking and deliveries, and, if the streets are in the downtown area, shall be open for designated cruise nights.

Departments Affected:
Public Works

Consequences of Not Enacting Legislation:
Some businesses, and particularly restaurants, will not have enough of a floor plan to allow them to succeed with the reduced occupancy due to the COVID-19 pandemic and the state restrictions. There is a definite probability of increased business failure without the contemplated street closure.

Conflict, Duplication, Companionship, or Relationship to Other Legislation:
This Resolution relates to Resolutions 2014-49, 2014-75, and 2016 -80 that adopted and amended the People to the Plaza program.

Performance and Administrative Implications:
There will be a need to ensure barricades removed for deliveries are properly replaced to ensure pedestrian safety when vehicular traffic is not permitted.

Fiscal Implications:
With increased retail and resta urant use, GRT will increase. In the downtown area, some parking revenue will be lost from meters that cannot be used. There is also a cost for street closure equipment, signage, and monitoring. Each street situation will be different.

Fiscal Impact

_____ Check here if no fiscal impact

Expenditures

Expenditure Type	FYE __	FYE __	FYE __	Require BAR (Y/N)	Recurring (R) or Non-recurring (NR)	Fund	3-Year Total Cost
Personnel and Benefits*	$	$	$				
Capital Outlay	$	$	$				
Contractual/ Professional Services	$	$	$				
Operating	$	$	$				$
Total:	$	$	$				$

* This includes all staff time associated with executing the job functions of the proposed leg islation.

Expenditure Narrative:

Revenue

Revenue Type	FYE __	FYE __	FYE __	Recurring (R) or Non-recurring (NR)	Fund
General Fund	$	$	$		
Special Revenue	$	$	$		
CIP	$	$	$		
Enterprise	$	$	$		
Internal Service	$	$	$		
Trust and Agency	$	$	$		
Federal	$	$	$		
Other	$	$	$		
Total	$	$	$		

Revenue Narrative:

CITY OF SANTA FE, NEW MEXICO
PROPOSED AMENDMENT(S) TO RESOLUTION NO. 2020-__
Temporary Street Closure

Mayor and Members of the City Council:

I propose the following amendment(s) to Resolution No. 2020-__:

1. On page 1, line 20 ***insert*** the following new paragraph:
   "**WHEREAS,** local businesses, in order to adapt to the current pandemic, have developed creative opportunities to "virtually experience Santa Fe" that allow people to attend cooking classes, take a virtual walkthrough of museums, take flamenco lessons, participate in daily meditations, or even listen to a live book reading from a local bookstore; and"
2. On page 2, ***strike*** lines 18-21 in their entirety
3. On page 3, line 9 ***strike*** the period and ***insert*** in lieu thereof "; and"
4. On page 3, line 10 ***insert*** the following new paragraph:
   "WHEREAS, the opening of streets and allowing businesses to increase their outdoor square footage is not only good for businesses but will increase the safety of workers as they work within the confines imposed as a result of the COVID-19 pandemic."
5. On page 3, lines 12-13 ***strike*** "through the issuance of an Obstruction of Streets Permit issued"
6. On page 3, line 13 after "Department" ***insert*** "in conjunction with the Department's issuance of Obstruction of Streets Permits"
7. On page 3, line 14 ***insert*** the following new paragraph:
   "2. Before the City issues an Obstruction of Streets Permit to any business seeking to occupy space on a street closed to vehicular traffic, the business shall provide a diagram of the City property the business seeks to use."

   *** Editor's note: renumber the succeeding paragraphs accordingly**
8. On page 3, line 15 after the comma, ***insert*** "2020,"
9. On page 3, line 16 ***insert*** the following new paragraph:
   "5. Any business that utilizes City property on a closed street pursuant to this Resolution shall not conduct business on the street between the hours of 11:00 pm and 6:00 am."

   *** Editor's note: renumber the succeeding paragraphs accordingly**
10. On page 3, line 17 after "closure" ***insert*** ", as certified by the businesses and residents through a petition submitted to the Public Works Department Director."
11. On page 3, ***strike*** lines 22-23 and ***insert*** in lieu thereof the following new paragraphs:
    "9. At least one street bordering the Plaza shall be accessible to vehicular traffic at all times.
    10. Major arterials and collectors, as defined by the Santa Fe Metropolitan Planning Organization, shall not be closed to vehicular traffic pursuant to this Resolution."

Respectfully submitted,

_____
Renee Villarreal, Councilor

Approved as to Form:

_____
Erin K. McSherry, City Attorney

ADOPTED: _____
NOT ADOPTED: _____
DATE: _____

_____
Yolanda Y. Vigil, City Clerk

CITY OF SANTA FE, NEW MEXICO
PROPOSED AMENDMENT(S) TO RESOLUTION NO. 2020-__
Temporary Street Closure

Mayor and Members of the City Council:

I propose the following amendment(s) to Resolution No. 2020-__:

1. On page 3, line 16 ***insert*** the following new paragraph:
   "3. Any business that utilizes City property on a closed street pursuant to this Resolution shall not offer for sale any merchandise located on public rights-of-way"
   *** Editor's note: renumber the succeeding paragraphs accordingly**
2. On page 3, line 24 ***insert*** the following new Section:
   "**BE IT FURTHER RESOLVED** that:
   1. The Public Works Department shall determine streets that are eligible to be closed dependent on effective rerouting of traffic.
   2. Don Gaspar Street between West San Francisco Street and Alameda Street shall be closed, except for the intersection at Water Street."

Respectfully submitted,

_____
JoAnne Vigil Coppler, Councilor

Approved as to Form:

_____
Erin K. McSherry, City Attorney

ADOPTED: _____
NOT ADOPTED: _____
DATE: _____

_____
Yolanda Y. Vigil, City Clerk

CITY OF SANTA FE, NEW MEXICO
PROPOSED AMENDMENT(S) TO RESOLUTION NO. 2020-__
Temporary Street Closure

Mayor and Members of the City Council:

We propose the following amendment(s) to Resolution No. 2020-__:

1. On page 3, line 20 ***insert*** the following new paragraph:
   "5. The Santa Fe Police Department shall have a presence on the Santa Fe Plaza at all times during street closures to address public safety and vehicle noise control."
   *** Editor's note: renumber the succeeding paragraphs accordingly**
2. On page 3, line 24 ***insert*** the following new Section:
   "**BE IT FURTHER RESOLVED** that no part of San Francisco Street shall be closed."

Respectfully submitted,

_____ _____
JoAnne Vigil Coppler, Councilor Michael Garcia, Councilor

Approved as to Form:

_____
Erin K. McSherry, City Attorney

ADOPTED: _____
NOT ADOPTED: _____
DATE: _____

_____
Yolanda Y. Vigil, City Clerk

REDLINE

CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2020-__

INTRODUCED BY:

Mayor Alan Webber

VILLARREAL AMENDMENTS

VIGIL COPPLER/GARCIA AMENDMENTS

VIGIL COPPLER AMENDMENTS

A RESOLUTION

ESTABLISHING A FRAMEWORK FOR THE CLOSURE OF STREETS TO VEHICULAR TRAFFIC FOR A CERTAIN PERIODS DURING 2020.

WHEREAS, businesses throughout the City of Santa Fe have felt the economic impact of mandated business closures, followed by limited reopenings, as a result of the COVID-19 pandemic; and

WHEREAS, local businesses and the City government seek creative solutions to allow safe and open options for Santa Fe's residents and visitors during the unprecedented situation; and

WHEREAS, local businesses, in order to adapt to the current pandemic, have developed creative opportunities to "virtually experience Santa Fe" that allow people to attend cooking classes, take a virtual walkthrough of museums, take flamenco lessons, participate in daily meditations, or even listen to a live book reading from a local bookstore; and

WHEREAS, the Public Health Order issued on June 12, 2020 restricts restaurants to fifty percent (50%) of their normal capacity and restricts retail businesses to twenty-five percent (25%)

of capacity;

WHEREAS, if restaurants and businesses are able to expand their capacities safely, that opportunity will improve their abilities to survive the health and economic crises;

WHEREAS, one opportunity for restaurants and other businesses to expand their capacities safely is to occupy portions of City-owned properties, such as pu blically owned sidewalks, roads, or parking spaces; and

WHEREAS, the City has identified a mechanism for individual business's use of portions of public roads, sidewalk, and parking spaces through an obstruction permit;

WHEREAS, the State has provided the opportunity for restaurants holding an alcohol license to increase their footprints by twenty-five percent (25%), under certain circumstances;

WHEREAS, there is legislation under review by the Governing Body to expand the permissible areas for the sale and consumption of alcohol to include City property; and

WHEREAS, the City closes certain streets to vehicular traffic annually to improve the pedestrian experience, community building opportunities, and economic development opportunities; in particular, the Governing Body adopted Resolution No. 2014-49—People to the Plaza—to close three of the four streets bordering the Plaza, from Memorial Day through the Monday following the annual Fiesta de Santa Fe; and

WHEREAS, as a result of the popularity of the People to the Plaza initiative, Resolution No. 2014-49 was amended by Resolution Nos. 2014-75 and 2016-80 to extend the time period of the closure to October 31 or such later date determined by the city manager based upon weather on an annual basis; and

~~[**WHEREAS,** the City has compiled creative opportunities to "virtually experience Santa Fe" that allow people to attend cooking classes, take a virtual walkthrough of museums, take flamenco lessons, participate in daily medications, or even listen to a live book reading from a local bookstore; and~~]

WHEREAS, many members of the Santa Fe business community as well as the public have expressed a desire to provide increased and safer opportunities for pedestrian access throughout the City, such as through additional road closures; and

WHEREAS, during the pandemic, cities such as Boston, Washington D.C., Minneapolis, Oakland, and Seattle, among others, have temporarily closed streets to vehicular traffic to provide pedestrians and cyclists with increased access while encouraging social distancing; and

WHEREAS, many of these cities have closed down multiple miles of streets to normal vehicular traffic, with New York City planning on eventually closing down 100 miles of roadway to vehicular traffic; and

WHEREAS, closing certain streets in Santa Fe until the end of October, 2020, would allow more restaurants and businesses to take advantage of the State and City opportunities to expand their footprints and would allow for greater access to those businesses by non-vehicular traffic; and

WHEREAS, the opening of streets and allowing businesses to increase their outdoor square footage is not only good for businesses but will increase the safety of workers as they work within the confines imposed as a result of the COVID -19 pandemic.

NOW, THEREFORE, BE IT RESOLVED that the City shall apply the following framework when evaluating the temporary closure of streets to vehicular traffic:

1. Temporary street closures will be established ~~[through the issuance of an Obstruction of Streets Permit issued]~~ by the City of Santa Fe Public Works Department in conjunction with the Department's issuance of Obstruction of Streets Permits.

2. Before the City issues an Obstruction of Streets Permit to any business seeking to occupy space on a street closed to vehicular traffic, the business shall provide a diagram of the City property the business seeks to use."

3. Temporary street closures may only be implemented between July 1 and October

31, 2020, unless extended by adoption of a resolution by the Governing Body.

4. Any business that utilizes City property on a closed street pursuant to this Resolution shall not conduct business on the street between the hours of 11:00 pm and 6:00 am.

5. At least seventy-five percent (75%) of the businesses and residents whose primary access is on the proposed street must support the proposed street closure , as certified by the businesses and residents through a petition submitted to the Public Works Department Director.

6. The terms of the closure shall ensure adequate emergency access, verified by the City's Police and Fire Departments.

7. The Santa Fe Police Department shall have a presence on the Santa Fe Plaza at all times during street closures to address public safety and vehicle noise control.

8. The terms of the closure shall accommodate accessible parking, ADA compliance, and adequate access for deliveries before 10:00 a.m. each day.

9. [~~In accordance with the provisions of Resolution No. 2014-49, all streets~~ surrounding the Plaza shall be open to vehicular traffic during designated cruise nights.]

10. At least one street bordering the Plaza shall be accessible to vehicular traffic at all times.

11. Major arterials and collectors, as defined by the Santa Fe Metropolitan Planning Organization, shall not be closed to vehicular traffic pursuant to this Resolution.

BE IT FURTHER RESOLVED that:

1. The Public Works Department shall determine streets that are eligible to be closed dependent on effective rerouting of traffic.

2. Don Gaspar Street between West San Francisco Street and Alameda Street shall be closed, except for the intersection at Water Street.

BE IT FURTHER RESOLVED that no part of San Francisco Street shall be closed.

PASSED, APPROVED, and ADOPTED this _____day of _____, 2020.

_____

ATTEST: ALAN M. WEBBER, MAYOR

_____

YOLANDA Y. VIGIL, CITY CLERK

APPROVED AS TO FORM:

_____

ERIN K. McSHERRY, CITY ATTORNEY

1 *Legislation/2020/Resolutions/Temporary Street Closure*

10. CONSENT CALENDAR

e. CONSIDERATION OF RESOLUTION NO. 2020-____. (Mayor Webber)

A Resolution Establishing a Framework for the Closure of Streets to Vehicular Traffic for a Certain Period During 2020. (Jesse Guillen, Legislative Liaison: jbguillen@santafenm.gov, 505-955-6518)

Name: Miguel Gabaldon
Comment - 06/23/2020 10:06 PM: (No Vote)
I am submitting this email to voice my concerns regarding the subject matter. As a Retired NMDOT District Engineer with over 20 of experience in transportation engineering, I believe that I am qualified to submit these comments and concerns for your consideration.
I think traffic distribution for patrons trying to get to La Fonda and the businesses in the complex needs to be evaluated. I imagine some of that traffic now uses San Francisco Street, and if that gets closed all that traffic will need to travel down Water Street or come from the inefficient signalized intersection at Old Santa Fe Trail and East Alameda. If special events are allowed at La Fonda during this closure period, that additional traffic most likely would affect the traffic flow at this signalized intersection. Impacts to delays in emergency response (fire, ambulance, police) for incidents on the plaza, which could increase with the recent vandalism and destruction of private property that have suddenly increased after the protests against the Hispanic/Native American History in Santa Fe, should thoroughly be reviewed. Also, I expect many locals, and visitors, may not be able to walk from a parking lot (Sandoval Garage or Water Street Lot) to get to the Plaza, and as a result would not be able to take in the wonderful sights at the Plaza or the incredible view of the Basilica Cathedral of St. Francis of Assisi at the east end of San Francisco Street.

When this matter was presented during the Public Works/Utilities Committee (PWUC) meeting on June 22, 2020, the Committee Members were unable to properly review the latest amendments to the resolution or thoroughly evaluate the traffic impacts to other City streets around the Plaza. In regards to traffic volumes along San Francisco Street and how they would be redistributed as a result of this closure, a discussion was held during the PWUC that presented the daily traffic volume for San Francisco Street to be estimated at 1,700 Vehicles Per Day (VPD). It was stated that the redistribution of this traffic would not have a big impact on the surrounding street network. After reviewing the Santa Fe Metropolitan Planning Organization (SFMPO) Traffic Count Data Map, I cannot agree with this statement. I believe the traffic volume for San Francisco Street could be in the 9,000 AADT range and this would have a major impact on surrounding roads.

Name: Susan Steffy
Comment - 06/24/2020 12:54 PM: (For)
Closing the Plaza and San Francisco Street to vehicular traffic for a period of time this year would help local businesses serve clients and protect staff more safely. The argument regarding locals' culture being disrupted depends on who is considered local – usually that would refer to all who live here, including the business owners. The success of the downtown businesses contributes to City income that provides services for all of us. Walking around the Plaza is a wonderful, peaceful way to see others and be seen. A trial run of closure would be informative.

ACTION SHEET
PUBLIC WORKS AND PUBLIC UTILITES COMMITTEE MEETING OF 06/08/2020

ISSUE NO. 7N

Request for Approval of Contract to Establish a New Agreement for Time and Attendance Software Subscriptions with Reseller IMMIX Technology. IMMIX Technology GSA Contract GS-35F-0265X Expires on March 2, 2021 and are Requesting a New 3-Year Contract to go to June 30, 2023. In the Amount of Year 1: $122,433.42, Year 2: $127,903.49 and Year 3: $133,179.71 for total Compensation of $383,516.62 (Joshua Elicio, ITT Department Director juelicio@santafenm.gov, 955-5576)

COMMITTEE REVIEW

Finance Committee (Scheduled)	06/15/2020
Governing Body (Scheduled)	06/24/2020

PUBLIC UTILITES COMMITTEE ACTION: Approved on Consent Agenda to forward to 06/15/2020 Finance Committee

SPECIAL CONDITIONS OR AMENDMENTS:

STAFF FOLLOW UP:

VOTE:	FOR	AGAINST	ABSTAIN
COUNCILOR RIVERA, CHAIR	X		
COUNCILOR GARCIA	X		
COUNCILOR ABEYTA	X		
COUNCILOR LINDELL	X		
COUNCILOR VIGIL COPPLER	X		

City of Santa Fe, New Mexico

memo

DATE: May 13, 2020

TO: Public Works Committee
Finance Committee
City Council

VIA: Mary McCoy, Finance Director
Frances Dunaway, Chief Procurement Officer

FROM: Joshua Elicio, ITT Director Joshua Elicio, ITT Director Digitally signed by Joshua Elicio, ITT Director Date: 2020.05.13 13:50:42 -06'00'

ITEM & ISSUE:
Request for Approval of Contract to establish a new agreement for Time and Attendance Software Subscriptions with reseller Immix technology. Immix Technology GSA Contract GS-35F-0265X expires on March 02, 2021 and are requesting a new 3 year contract to go to June 30, 2023. Procurement method is New Mexico Statewide Price Agreement 40-000-14-00064
Product is Workforce Central ($383,516.62) from Kronos Inc, through Immix Technology Inc.

BACKGROUND
The City implemented a Kronos Workforce Central solution back in 2016. It was a three year agreement that ended on 7/1/19. Amendment 4 extended the contract termination date to 6/30/2020.This new contract will make the termination date 6/30/2023 adding three years of SaaS services and Software subscription.

Immix uses New Mexico Statewide Price Agreement 40-000-14-00064, additionally, Immix Technology Inc., has a General Services Agreement (GSA) with the Federal Government, number GS-35F-0265X. This contract contains several "riders" with different services. Kronos responded to the City's RFP with the Kronos Rider. This Rider and the attached Kronos product specific license terms establish the terms and conditions enabling immix Technology (the "Contractor") to provide Kronos's information technology products and services to the City under Immix Technology's GSA MAS IT70 contract number GS-35F-0265X (the "Schedule Contract"). Installation and use of the information technology shall be in accordance with this Rider and Manufacturer Specific Terms unless the City determines that it requires different terms of use and Manufacturer agrees in writing to such terms in a valid delivery order placed pursuant to the Schedule Contract. The City did negotiate specific provisions with Immix and Kronos that amended the product specific license terms.

Operating Budget for Annual Subscription Fees:
Munis Fund Number: 620, Munis Org Number: 6203600, Munis Object Code: 530710, Amount $383,516.62 (3 years)

ACTION REQUESTED:
Approval of a New Contract for Software Subscriptions and SaaS Services for Kronos Workforce Central through Immix Technology Inc. ($383,516.62)

Contract #: 3201928

Item#_____
Munis Contract# _____

City of Santa Fe Contract
Between IMMIX Technology and the City of Santa Fe

THIS AGREEMENT is made and entered into by and between the City of Santa Fe, herein after referred to as the "City", and **IMMIXTECHNOLOGY, INC.** herein after referred to as the "Contractor."

IT IS MUTUALLY AGREED BETWEEN THE PARTIES:

1. **Definitions**

A. "Under the terms of the Agreement, Contractor has agreed to provide Kronos Time and Attendance software and services.

B. "Business Hours" means 8:00 a.m. to 5:00 p.m. Mountain Time.

C. "You" and "your" refers to **(Immix Technology).** "We," "us" or "our" refers to the City and whose accounts are created under this Agreement.

2. **Scope of Services**

A. Kronos Software as a Service (SaaS) and Software Subscription Services 7/1/2020 – 6/30/2023 as described in Exhibit "I" attached hereto and incorporated herein. The relevant portions of GSA Contract #GS-35F-0265X, Terms and Conditions, and State Price Agreement are also attached hereto.

3. **Compensation**

The City shall pay to the Contractor based upon fixed prices for each Deliverable item as listed here.

Deliverable item:	U/I (unit of issue)	Price
01 Subscription Services 7/1/2020 – 6/30/2023		$383,516.62

The total compensation under this Agreement shall not exceed three hundred eighty three thousand five hundred sixteen dollars and fifty two cents ($383,516.52) including applicable gross receipts taxes as described in quote number (QUO-1109691-G4M3P3) attached hereto and incorporated herein.

4. **Payment Provisions**

All payments under this Agreement are subject to the following provisions.

A. Acceptance - In accordance with Section 13-1-158 NMSA 1978, the City shall determine if the product or services provided meet specifications. Until the products or services have been accepted in writing by the City, the City shall not pay for any products or services. Unless otherwise agreed upon between the City and the Contractor, within thirty (30) days from the date the City receives written notice from the Contractor that payment is requested for services or within thirty (30) days from the receipt of products, the City shall issue a written certification (by letter or email) of complete or partial acceptance or rejection of the products or services. Unless the City gives notice of rejection within the specified time period, the products or services will be deemed to have been accepted.

B. Payment of Invoice - Upon acceptance that the products or services have been received and accepted, payment shall be tendered to the Contractor within thirty (30) days after the date of invoice. After the thirtieth day from the date that written certification of acceptance is issued, late payment charges shall be paid on the unpaid balance due on the contract to the Contractor at the rate of 1.5 % per month. Contractor may submit invoices for payment no more frequently than monthly. Payment will be made to the Contractor's designated mailing address. Payment on each invoice shall be due within 30 days from the date of the acceptance of the invoice. The City agrees to pay in full the balance shown on each account's statement, by the due date shown on said statement.

5. **Term**

THIS AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED IN WRITING BY THE CITY. This Agreement shall begin on date approved by the City, and end on 06/30/2023 The City reserves the right to renew the contract on an annual basis by mutual Agreement not exceed a total of four years in accordance with NMSA 1978, §§ 13-1-150 through 152.

6. **Default and Force Majeure**

The City reserves the right to cancel all or any part of any orders placed under this contract without cost to the City, if the Contractor fails to meet the provisions of this contract and, except as otherwise provided herein, to hold the Contractor liable for any excess cost occasioned by the City due to the Contractor's default. The Contractor shall not be liable for any excess costs if failure to perform the order arises out of causes beyond the control and without the fault or negligence of the Contractor; such causes include, but are not restricted to, acts of

God or the public enemy, acts of the State or Federal Government, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather and defaults of sub-contractors due to any of the above, unless the City shall determine that the supplies or services to be furnished by the sub-contractor were obtainable from other sources in sufficient time to permit the Contractor to meet the required delivery scheduled. The rights and remedies of the City provided in this paragraph shall not be exclusive and are in addition to any other rights now being provided by law or under this contract.

7. **Termination**

A. Grounds. The City may terminate this Agreement for convenience or cause. The Contractor may only terminate this Agreement based upon the City's uncured, material breach of this Agreement.

B. Notice; City Opportunity to Cure.

1) Except as otherwise provided in Paragraphs 7.A and 17, the City shall give Contractor written notice of termination at least thirty (30) days prior to the intended date of termination.

2) Contractor shall give City written notice of termination at least thirty (30) days prior to the intended date of termination, which notice shall (i) identify all the City's material breaches of this Agreement upon which the termination is based and (ii) state what the City must do to cure such material breaches. Contractor's notice of termination shall only be effective (i) if the City does not cure all material breaches within the thirty (30) day notice period or (ii) in the case of material breaches that cannot be cured within thirty (30) days, the City does not, within the thirty (30) day notice period, notify the Contractor of its intent to cure and begin with due diligence to cure the material breach.

3) Notwithstanding the foregoing, this Agreement may be terminated immediately upon written notice to the Contractor (i) if the Contractor becomes unable to perform the services contracted for, as determined by the City; (ii) if, during the term of this Agreement, the Contractor is suspended or debarred by the City; or (iii) the Agreement is terminated pursuant to Paragraph 17, "Appropriations", of this Agreement.

C. Liability. Except as otherwise expressly allowed or provided under this Agreement, the City's sole liability upon termination shall be to pay for acceptable work performed prior to the Contractor's receipt or issuance of a notice of termination; 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. *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.*

8. **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 Paragraph 7 herein, or to agree to the reduced funding.

9. **Status of Contractor**

The Contractor, and Contractor's agents and employees, are independent Contractors for the City and are not employees of the City. The Contractor, and Contractor's 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 personally reportable by the Contractor for income tax purposes, including without limitation, self-employment tax and business income tax. The Contractor agrees not to purport to bind the City unless the Contractor has written authority to do so, and then only within the strict limits of that authority.

10. **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.

11. **Subcontracting**

Aside from Kronos software and subscription services, the Contractor shall not subcontract any other 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.

12. **Non-Collusion**

In signing this Agreement, the Contractor/Contractor certifies the Contractor/Contractor has not, either directly or indirectly, entered into action in restraint of free competitive bidding in connection with this offer submitted to the City.

13. **Inspection of Plant**

The City may inspect, at any reasonable time during Contractor's regular business hours and upon prior written notice, the Contractor's plant or place of business, or any subcontractor's plant or place of business, which is related to the performance of this contract.

14. **Commercial Warranty**

The Contractor agrees that the tangible personal property or services furnished under this Agreement shall be covered by the most favorable commercial warranties the Contractor gives to any customer for such tangible personal property or services, and that the rights and remedies

provided herein shall extend to the City and are in addition to and do not limit any rights afforded to the City by any other clause of this order. Contractor agrees not to disclaim warranties of fitness for a particular purpose or merchantability.

15. **Condition of Proposed Items**

Where tangible personal property is a part of this Agreement, all proposed items are to be NEW and of most current production, unless otherwise specified.

16. **Records and Audit**

During the term of this Agreement and for three years thereafter, the Contractor shall maintain detailed records pertaining to the services rendered and products delivered. These records shall be subject to inspection by the City, the State Auditor and other appropriate state and federal authorities. 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.

17. **Appropriations**

The terms of this Agreement, and any orders placed under it, 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 legislature, this Agreement, and any orders placed under it, shall terminate 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.

18. **Release**

The Contractor, upon final payment of the amount due under this Agreement, releases the City, its officers and employees, from all liabilities, claims and obligations whatsoever arising from or under this Agreement. 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.

19. **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 prior written approval by the City.

20. **Conflict of Interest**

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. The Contractor shall comply with any applicable provisions of the New Mexico Governmental Conduct Act and the New Mexico Financial Disclosures Act.

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 Paragraph 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 Paragraph 20 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 Paragraph 20 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.

21. **Approval of Contractor Representative(s)**

The City reserves the right to require a change in Contractor representative(s) if the assigned representative(s) are not, in the opinion of the City, adequately serving the needs of the City.

22. **Scope of Agreement; 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 agreements or understandings, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

23. **Notice**

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

24. **Equal Opportunity Compliance**

The Contractor agrees to abide by all federal and state laws, and local Ordinances, pertaining to equal employment opportunity. In accordance with all such laws, rules, and regulations, the Contractor agrees to assure 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.

25. **Indemnification**

The Contractor shall hold the City and its employees harmless and shall indemnify the City and its employees against any and all claims, suits, actions, liabilities and costs of any kind, including attorney's fees for personal injury or damage to property arising from the acts or omissions of the Contractor, its agents, officers, employees or subcontractors. The Contractor shall not be liable for any injury or damage as a result of any negligent act or omission committed by the City, its officers or employees.

26. **New Mexico Tort Claims Act**

Any liability incurred by the City of Santa Fe in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, Section 41-4-1, et. seq. NMSA 1978, as amended. The City and its "public employees" as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity, do not waive any defense and do not waive any limitation of liability pursuant to law. No provision in this Agreement modifies or waives any provision of the New Mexico Tort Claims Act.

27. **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, § 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.

28. **Limitation of Liability**

The Contractor's liability to the City, for any cause whatsoever shall be limited to the purchase price paid to the Contractor for the products and services that are the subject of the City's, claim. The foregoing limitation does not apply to paragraph 25 of this Agreement or to damages resulting from personal injury caused by the Contractor's negligence.

29. **Incorporation by Reference and Precedence**

In the event of a dispute under this Agreement, applicable documents will be referred to for the purpose of clarification or for additional detail in the following order of precedence: (1) the terms and conditions of GSA Contract number GS-35F-0265X; (2) the NM state price agreement; (3) this Agreement; (4) the Quote attached to this agreement.

30. **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.

31. **Inspection**

If this contract is for the purchase of tangible personal property (goods), final inspection and acceptance shall be made at Destination. Tangible personal property rejected at Destination for non-conformance to specifications shall be removed at Contractor's risk and expense promptly after notice of rejection and shall not be allowable as billable items for payment.

32. **Inspection of Services**

If this contract is for the purchase of services, the following terms shall apply.

A. Services, as used in this Article, include services performed, workmanship, and material furnished or utilized in the performance of services.

B. The Contractor shall provide and maintain an inspection system acceptable to the City covering the services under this Agreement. Complete records of all inspection work performed by the Contractor shall be maintained and made available to the City and for as long thereafter as the Agreement requires. The City has the right to inspect and test all services contemplated under this Agreement to the extent practicable at all times and places during the term of the Agreement. The City shall perform inspections and tests in a manner that will not unduly delay or interfere with Contractor's performance.

C. If the City performs inspections or tests on the premises of the Contractor or a subcontractor, the Contractor shall furnish, and shall require subcontractors to furnish, at no increase in contract price, all reasonable facilities and assistance for the safe and convenient performance of such inspections or tests.

D. If any part of the services do not conform with the requirements of this Agreement, the City may require the Contractor to re-perform the services in conformity with the requirements of this Agreement at no increase in contract amount. When the defects in services cannot be corrected by re-performance, the City may:

(1) require the Contractor to take necessary action(s) to ensure that future performance conforms to the requirements of this Agreement; and

(2) reduce the contract price to reflect the reduced value of the services performed.

E. If the Contractor fails to promptly re-perform the services or to take the necessary action(s) to ensure future performance in conformity with the requirements of this Agreement, the City may:

(1) by contract or otherwise, perform the services and charge to the Contractor any cost incurred by the City that is directly related to the performance of such service; or

(2) terminate the contract for default.

33. **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.

A. Commercial General Liability insurance shall be written on an occurrence basis and be a broad as ISO Form CG 00 01 with limits not less than $2,000,000 per occurrence and $2,000,000 in the aggregate for claims against bodily injury, personal and advertising injury, and property damage. Said policy shall include broad form Contractual Liability coverage and be endorsed to name the City of Santa Fe their officials, officers, employees, and agents as additional insureds.

B. Business Automobile Liability insurance for all owned, non-owned automobiles, with a combined single limit not less than $1,000,000 per accident.

C. Broader Coverage and Limits. The insurance requirements under this Agreement shall be the greater of (1) the minimum coverage and limits specified in this Agreement, or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the Named Insured. It is agreed that these insurance requirements shall not in any way act to reduce coverage that is broader or that includes higher limits than the minimums required herein. No representation is made that the minimum insurance requirements of this Agreement are sufficient to cover the obligations of Contractor hereunder.

D. 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.

34. **Impracticality of Performance**

A party shall be excused from performance under this Agreement for any period that the party is prevented from performing as a result of an act of God, strike, war, civil disturbance, epidemic, or court order, provided that the party has prudently and promptly acted to take any and all steps that are within the party's control to ensure performance. Subject to this provision, such non-performance shall not be deemed a default or a ground for termination.

35. **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.

36. **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.

37. **Patent, Copyright and Trade Secret Indemnification**

A. The Contractor shall defend, at its own expense, the City against any claim that any product or service provided under this Agreement infringes any patent, copyright to trademark in the United States or Puerto Rico, and shall pay all costs, damages and attorneys' fees that a court finally awards as a result of any such claim. In addition, if any third party obtains a judgment against the City based upon Contractor's trade secret infringement relating to any product or services provided under this Agreement, the Contractor agrees to reimburse the City for all costs, attorneys' fees and amount of the judgment. To qualify for such defense and or payment, the City shall:

1) give the Contractor prompt written notice within 48 hours of any claim;
2) allow the Contractor to control the defense of settlement of the claim; and
3) cooperate with the Contractor in a reasonable way to facilitate the defense or settlement of the claim.

B. If any product or service becomes, or in the Contractor's opinion is likely to become the subject of a claim of infringement, the Contractor shall at its option and expense:

1) provide the City the right to continue using the product or service and fully indemnify the City against all claims that may arise out of the City's use of the product or service;

2) replace or modify the product or service so that it becomes non-infringing; or,

3) accept the return of the product or service and refund an amount equal to the value of the returned product or service, less the unpaid portion of the purchase price and any other amounts, which are due to the Contractor. The Contractor's obligation will be void as to any product or service modified by the City to the extent such modification is the cause of the claim.

38. **Survival**

The Agreement paragraphs titled "Patent, Copyright, Trademark, and Trade Secret Indemnification; Indemnification; and Limit of Liability" shall survive the expiration of this Agreement. Software licenses, leases, maintenance and any other unexpired Agreements that were entered into under the terms and conditions of this Agreement shall survive this Agreement.

39. **Disclosure Regarding Responsibility**

A. Any prospective Contractor and any of its Principals who enter into a contract greater than sixty thousand dollars ($60,000.00) with any City for professional services, tangible personal property, services or construction agrees to disclose whether the Contractor, or any principal of the Contractor's company is presently debarred, suspended, proposed for debarment, or declared ineligible for award of contract by any federal entity, state agency or local public body.

B. Principal, for the purpose of this disclosure, means an officer, director, owner, partner, or a person having primary management or supervisory responsibilities within a business entity or related entities.

C. The Contractor shall provide immediate written notice to the City if, at any time during the term of this Agreement, the Contractor learns that the Contractor's disclosure was at any time erroneous or became erroneous by reason of changed circumstances.

D. A disclosure that any of the items in this requirement exist will not necessarily result in termination of this Agreement. However, the disclosure will be considered in the determination of the Contractor's responsibility and ability to perform under this Agreement. Failure of the Contractor to furnish a disclosure or provide additional information as requested will be grounds for immediate termination of this Agreement pursuant to the conditions set forth in Paragraph 7 of this Agreement.

E. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the disclosure required by this document. The knowledge and information of a Contractor is not required to exceed that which is the normally possessed by a prudent person in the ordinary course of business dealings.

F. The disclosure requirement provided is a material representation of fact upon which reliance was placed when making an award and is a continuing material representation of the facts during the term of this Agreement. If during the performance of the contract, the Contractor is indicted for or otherwise criminally or civilly charged by any government entity (federal, state or local) with commission of any offenses named in this document the Contractor must provide immediate written notice to the City. If it is later determined that the Contractor knowingly rendered an erroneous disclosure, in addition to other remedies available to the Government, the City may terminate the involved contract for cause. Still further the City may suspend or debar the Contractor from eligibility for future solicitations until such time as the matter is resolved to the satisfaction of the City.

40. **Suspension, Delay or Interruption of Work**

The City may, without cause, order the Contractor, in writing, to suspend, delay or interrupt the work in whole or in part for such period of time as the City may determine. The contract sum and contract time shall be adjusted for increases in cost and/or time associated with

Contractor's compliance therewith. Upon receipt of such notice, Contractor shall leave the jobsite and any equipment in a safe condition prior to departing. Contractor must assert rights to additional compensation within thirty (30) days after suspension of work is lifted and return to work is authorized. Any compensation requested for which entitlement is granted and the contract sum adjusted, shall have profit included (for work completed) and for cost only (not profit) for Contractor costs incurred directly tied to the suspension itself and not otherwise covered by Contract remedy. Any change in Total Compensation must be reflected in an Amendment executed pursuant to Section 8 of this Agreement.

41. **Notification**

Either party may give written notice to the other party in accordance with the terms of this Paragraph. Any written notice required or permitted to be given hereunder shall be deemed to have been given on the date of delivery if delivered by personal service or hand delivery or three (3) business days after being mailed.

To the City:

City of Santa Fe/IT Department
P.O. Box 909
Santa Fe, NM 87504-0909

To the Contractor:

IMMIX Technology, Inc.
8444 Westpark Drive, Ste. 200
McLean, VA 22102

Either party may change its representative or address above by written notice to the other in accordance with the terms of this Paragraph. The carrier for mail delivery and notices shall be the agent of the sender.

To the Contractor:

IMMIX Technology, Inc.
8444 Westpark Drive, Ste. 200
McLean, VA 22102

Either party may change its representative or address above by written notice to the other in accordance with the terms of this Paragraph. The carrier for mail delivery and notices shall be the agent of the sender.

42. **Succession**

This Agreement shall extend to and be binding upon the successors and assigns of the parties.

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:

_____
ALAN WEBBER, MAYOR

DATE:_____

CONTRACTOR:
IMMIXTECHNOLOGY, INC.

Vaughn Harman
NAME

Sr. Director
TITLE

DATE: June 4, 2020
CRS#_____

Registration # _____

ATTEST:

_____
YOLANDA Y. VIGIL, CITY CLERK

CITY ATTORNEY'S OFFICE:

Marcos Martinez
Marcos Martinez (Jun 5, 2020 08:31 MDT)

_____
SENIOR ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

_____
MARY MCCOY, FINANCE DIRECTOR

_____
Org.Name/Org.#

City of Santa Fe
Summary of Contracts, Agreements, & Amendments

Section to be completed by department for each contract or contract amendment

1 **FOR:** ORIGINAL CONTRACT ☑ or CONTRACT AMENDMENT ☐

2 Name of Contractor Immix technology Inc. Reseller for KRONOS

3 Complete information requested ☐ Plus GRT ☑ Inclusive of GRT

Original Contract Amount: $383,516.62

Termination Date: June 30, 2023

☐ Approved by Council Date: _____

☐ or by City Manager Date: _____

Contract is for: SaaS Software Subscriptions Costs and Hosting Services for Kronos WorkForce Central, Time Keeping and Attendance Software

Amendment # _____ to the Original Contract# _____

Increase/(Decrease) Amount $ _____

Extend Termination Date to: _____

☐ Approved by Council _____

☐ or by City Manager Date: _____

Amendment is for:

4 **History of Contract & Amendments:** (option: attach spreadsheet if multiple amendments) ☐ Plus GRT ☑ Inclusive of GRT

Amount $ 383,516.62 of original Contract# 3201928 Termination Date: 6/30/2023

Reason: _____

Amount $ _____ amendment # _____ Termination Date: _____

Reason: _____

Amount $ _____ amendment # _____ Termination Date: _____

Reason: _____

Amount $ _____ amendment # _____ Termination Date: _____

Reason: _____

Total of Original Contract plus all amendments: $ $383,516.62

City of Santa Fe
Summary of Contracts, Agreements, & Amendments

5 **Procurement Method of Original Contract:** (complete one of the lines)

RFP# 16/22 Date: January 29, 2016

RFQ ☐ _____ Date: _____

Sole Source ☐ _____ Date: _____

Other New Mexico Statewide Price Agreement 40-000-14-00064

6 **Procurement History:** First year of a new 3 year contract (5th year of initial contract 16-0902/16-0903)
example: (First year of 4 year contract)

Fran Gunawa Jun 11, 2020 09:49 MDT

Purchasing Officer Review

Comments or Exceptions: _____

7 **Funding Source:** ITT Enterprise Fund, Software Subscriptio **BU/Line Item:** 620, 6203600, 530710
Fund, Org, Object

Alexis Lotero
Alexis Lotero (Jun 9, 2020 15:51 MDT)

Budget Officer Approval

Comments or Exceptions: _____

8 **Any out-of-the ordinary or unusual issues or concerns:**

_____

(Memo may be attached to explain detail.)

9 **Staff Contact who completed this form:** David Tapia

Phone # 955-5523

10 **Certificate of Insurance attached.** (if original Contract) ☑

Submit to City Attorney for review/signature
Forward to Finance Director for review/signature
Return to originating Department for Committee(s) review or forward to City Manager for review and approval (depending on dollar level).

To be recorded by City Clerk:

Contract # _____

Date of contract Executed (i.e., signed by all parties): _____

Note: If further information needs to be included, attach a separate memo.

Comments:

CITY OF SANTA FE OTHER METHOD PROCUREMENT CHECKLIST

Contractor Name: Immix Supplier of Kronos Timeclock Software

Procurement Title: SPA 40-000-14-00064 Immix Technology

Other Methods: State Price Agreement ☒ *Cooperative* ☐ *Sole Source* ☐ *Exempt* ☐ *Other* ☐

Department Requesting/Staff Member David C. Tapia

Procurement Requirements:
A procurement file shall be maintained for all contracts, regardless of the method of procurement. The procurement file shall contain the basis on which the award is made, all submitted bids, all evaluation materials, score sheets, quotations and all other documentation related to or prepared in conjunction with evaluation, negotiation, and the award process. The procurement shall contain a written determination from the Requesting Department, signed by the purchasing officer, setting forth the reasoning for the contract award decision before submitting to the Committees. .

REQUIRED DOCUMENTS FOR APPROVAL BY PURCHASING*

YES	N/A	
☐	☐	Approved Procurement Checklist (by Purchasing)
☐	☒	Departments Recommendation of Award Memo addressed to Finance
☒	☐	State Price Agreement
☐	☒	Cooperative Agreement
☐	☒	Sole Source Request and Determination Form
☐	☒	Contractors Exempt Letter
☐	☒	Purchasing Officers approval for exempt procurement
☐	☒	BAR
☐	☒	FIR
☒	☐	Contract, Agreement or Amendment
☒	☐	Current Business Registration and CRS numbers on contract or agreement
☒	☐	Summary of Contracts and Agreements form
☒	☐	Certificate of Insurance
☒	☐	Other: Kronos Price List

David C. Tapia
Department Rep Printed Name and Title

David C. Tapia
Department Rep Signature attesting that all information included

Fran Carnaval, CPO 6/11/20
Fran Carnaval (Jun 11, 2020 08:49 MDT)
Purchasing Officer attesting that all information is reviewed

REQUIRED DOCUMENTS FOR OTHER METHOD FILE*

YES	N/A	
☐	☐	State Price Agreement
☐	☐	Cooperative Agreement
☐	☐	Sole source Request and Determination Form

*

☐	☐	Contractors Exempt Letter
☐	☐	Purchasing Officers approval of exempt procurement
☐	☐	Copies of all Sole Source submittals
☐	☐	Other: _____

AWARD*

YES	N/A	
☐	☐	Fully executed Memo to Committees from the Department with recommendation of award
☐	☐	Other: _____

CONTRACT*

YES	N/A	
☐	☐	Copy of Executed Contract
☐	☐	Copy of all documentation presented to the Committees
☐	☐	Finalized Council Committee Minutes
☐	☐	Other: _____

Include all other substantive documents and records of communication that pertain to the procurement and any resulting contract.

Create a separate file folder which may contain any documents with trade secrets or other competitively sensitive, confidential or proprietary information.

_____

Department Rep Printed Name and Title

_____

Department Rep Signature attesting that all information included

*

City of Santa Fe
FY20 Fiscal Impact Analysis (Non-Personnel Expenditures)

General Information

Department Name:	ITT	Department Name:	ITT
Division Name:	EAS	Division Name:	EAS

Financial Information

Amount Requested:	$383,516.62	Munis Fund Number:	620
Vendor Name:	Kronos via Immix	Munis Org Number:	6203600
Approved by Director?	Yes	Munis Object Code:	530710

Expenditure Information

1. Describe the purchase of goods/services. Is this one-time or recurring? Please explain why this is the lowest cost option for this expenditure.
This a recurring cost due every year for hosting the equipment at the vendors data center and software subscription costs for SaaS (Software As A Service). Kronos was selected via RFP 16/22. Kronos was selected after an exhaustive requirements development process and because it was the product that met the most requirements. The price is the lowest available and the only option available given the time constraints. Kronos has been a vital tool to keep the workforce accountable and the usage of this tool is in the best interest of the City.

2. Please describe which legally required City service does this procurement support? Does this procurement provide support for compliance with City, State and Federal requirements? If yes, please explain.
Kronos Time and Attendance software assists the City in meeting FLSA's recordkeeping regulations, 29 CFR Part 516. The software is vital towards meeting the accuracy requirement. Although, the time keeping can be manual, the electronic aspect of the Kronos tool allows for a efficient and accurate business process.

3. Can these services be performed by City employees in your department or in other departments? If the answer is no, please explain.
No, This expenditure is for Time and Attendance software and for the equipment hosting services. No City employees can do what this software as a service does for the City.

4. Would there be any adverse health, safety or economic implications if this expenditure was not approved? What impact will there be on the department and the City operations if this expenditure is not approved.
Many managers reported that this software was key in holding the workforce accountable and making them much more productive. If this is not approved, the City will be taking 3 steps back in the modernization effort. If not approved, the City will go back to paper time sheets which can take much more time and effort on behalf of the managers and the Finance department.

5. If this purchase is not approved with City funds, what are alternative funding sources for the proposed expenditure? Does this duplicate efforts being provided by other governmental, for profit or non-profit entities?
There are no alternative funding sources.

Fran Dunaway (Jun 12, 2020 11:45 MDT)	Alexis Lotero (Jun 11, 2020 12:31 MDT)	Mary McCoy
Procurement Office Signature	Budget Office Signature	Finance Director Signature

City of Santa Fe
Treasury Department
200 Lincoln Ave.
Santa Fe, New Mexico 87504-0909
505-955-6551

BUSINESS REGISTRATION

Business Name: IMMIXTECHNOLOGY INC
DBA: IMMIXTECHNOLOGY INC

Business Location: SF COUNTY

Owner:

License Number: 227362

Issued Date: April 23, 2020

Expiration Date: December 31, 2020

License Type: Business License - Renewable

Classification: Out of Jurisdiction Business License

Fees Paid: $10.00

IMMIXTECHNOLOGY INC
8444 WESTPARK DR STE 200
MCLEAN, VA 22102

THIS IS NOT A CONSTRUCTION PERMIT OR SIGN PERMIT. APPROPRIATE PERMITS MUST BE OBTAINED FROM THE CITY OF SANTA FE BUILDING PERMIT DIVISION PRIOR TO COMMENCEMENT OF ANY CONSTRUCTION OR THE INSTALLATION OF ANY EXTERIOR SIGN.

THIS REGISTRATION/LICENSE IS NOT TRANSFERRABLE TO OTHER BUSINESSES OR PREMISES.

TO BE POSTED IN A CONSPICUOUS PLACE

```
OL100U04                          City of Santa Fe *LIVE*
                                    Change Business Name

Business:    68878  IMMIXTECHNOLOGY INC

Type information, press Enter.

  Officer title . . . . . . . . . . . CRS
  Name . . . . . . . . . . . . . . . 03140957001
  Address 1 . . . . . . . . . . . . .
  Address 2 . . . . . . . . . . . . .
  Zip code (F4), delivery point . .  87505    SANTA FE
  Phone number . . . . . . . . . . .
  Social security number . . . . . . 000000000
  Date of birth . . . . . . . . . . .
  Drivers license number . . . . . .

  Email address . . . . . .

F3=Exit    F4=Prompt    F9=Zip code maintenance    F12=Cancel
```

ACORD®

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 12/27/2019

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER MCGRIFF, SEIBELS & WILLIAMS OF TEXAS, INC. 5080 Spectrum Dr., Suite 900E Addison, TX 75001	**CONTACT NAME:** Sherrie King **PHONE (A/C, No, Ext):** 469-232-2100 **FAX (A/C, No):** **E-MAIL ADDRESS:** sking@mcgriff.com
INSURED Arrow Electronics, Inc. and Subsidiaries; immixGroup, Inc.; immixTechnology Inc.; EC America 9201 E. Dry Creek Road Centennial, CO 80112	**INSURER(S) AFFORDING COVERAGE** — **NAIC #** **INSURER A :** ACE American Insurance Company — 22667 **INSURER B :** Indemnity Insurance Company of North America — 43575 **INSURER C :** ACE Fire Underwriters Insurance Company — 20702 **INSURER D :** Federal Insurance Company — 20281 **INSURER E :** **INSURER F :**

COVERAGES **CERTIFICATE NUMBER:** 5PZCHM7X **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE X OCCUR X Contractual Liability X Host Liquor GEN'L AGGREGATE LIMIT APPLIES PER: POLICY X PRO-JECT LOC OTHER:			XSLG71569767	06/15/2019	06/15/2020	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	$ 2,000,000 $ 2,000,000 $ 10,000 $ 1,000,000 $ 4,000,000 $ 4,000,000
A	AUTOMOBILE LIABILITY X ANY AUTO OWNED AUTOS ONLY HIRED AUTOS ONLY SCHEDULED AUTOS NON-OWNED AUTOS ONLY			CALH25300154	06/15/2019	06/15/2020	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ 2,000,000 $ $ $
D	X UMBRELLA LIAB X OCCUR EXCESS LIAB CLAIMS-MADE DED RETENTION $			7965-68-42	06/15/2019	06/15/2020	EACH OCCURRENCE AGGREGATE	$ 10,000,000 $ 10,000,000
A B C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y/N: N If yes, describe under DESCRIPTION OF OPERATIONS below	N / A		WLRC66921943 (CA, MA) WLRC66921980 (AOS) SCFC66922029 (WI) WLRC66926709 (AK)	01/01/2020	01/01/2021	X PER STATUTE OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	$ 1,000,000 $ 1,000,000 $ 1,000,000
								$ $ $ $ $

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER

To Whom It May Concern

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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immixTechnology, Inc.
a subsidiary of immixGroup

Sales Quotation

David Tapia
CITY OF SANTA FE
2651 SIRINGO RD, BUILDING F
SANTA FE, NM 87504
PH: 505 955-5523
dctapia2@santafenm.gov

Contract No.: GS-35F-0265X

CAGE Code: 3CA29
DUNS No.: 09-869-2374
TAX ID#: 54-1912608
Terms: NET 30
FOB: Destination

Quote Number: QUO-1109691-G4M3P3
Quote Date: 5/12/2020
Expiration Date: 6/11/2020

Order Address:
immixTechnology, Inc.
8444 Westpark Drive, Suite 200
McLean, VA 22102
PH: 703-752-0610 FX: 703-752-0611

immixTechnology, Inc. Contact: Mohan, Vinu
Vinu_Mohan@immixgroup.com

Manufacturer Quote #:
Manufacturer Ref #: 6140062

Manufacturer Contact: Kelly, Jennifer
978-947-2843 jennifer.kelly@kronos.com

BILLING: MONTHLY IN ARREARS

Future years pricing for budgeting purpose only
Year 2 - $127,903.49
Year 3 - $133,179.71

Item	Part Number	Contract	Trans Type	Product Description	Qty	Price	Extended Price
1	HOSTING-108	GS-35F-0265X	XAAS	Cloud Hosting Workforce Central Add Non Production Server - up to 20,000 employees - Add App Monthly Fee** TRUSTED PRODUCT **	12	$737.1200	$8,845.44
		Period of Performance: 7/1/2020 to 6/30/2021.					
2	8800175-000-SAAS-SMB	GS-35F-0265X	XAAS	Workforce Timekeeper v8- per employee per month (1550 LIC X 12 MONTHS)** TRUSTED PRODUCT **	18600	$4.1600	$77,376.00
		Period of Performance: 7/1/2020 to 6/30/2021.					
3	8800175-000-SAAS-SMB	GS-35F-0265X	XAAS	Workforce Timekeeper v8- per employee per month (150 LIC X 12 MONTHS)** TRUSTED PRODUCT **	1800	$3.6800	$6,624.00
		Period of Performance: 7/1/2020 to 6/30/2021.					
4	8604395-001-SAAS-SMB	GS-35F-0265X	XAAS	KSS Tool Attestation Tool Kit v8 - per employee per month (1550 LIC X 12 MONTHS)** TRUSTED PRODUCT **	18600	$0.1500	$2,790.00
		Period of Performance: 7/1/2020 to 6/30/2021.					
5	8604395-001-SAAS-SMB	GS-35F-0265X	XAAS	KSS Tool Attestation Tool Kit v8 - per employee per month (150 LIC X 12 MONTHS)** TRUSTED PRODUCT **	1800	$0.1500	$270.00

Sales Quotation

		Period of Performance: 7/1/2020 to 6/30/2021.					
6	8800178-000-SAAS-SMB	GS-35F-0265X	XAAS	Workforce Manager v8 - per Mgr per month (120 LIC X 12 MONTHS)** TRUSTED PRODUCT **	1440	$6.7600	$9,734.40
		Period of Performance: 7/1/2020 to 6/30/2021.					
7	8800182-000-SAAS-SMB	GS-35F-0265X	XAAS	Workforce Leave v8 - per employee per month (1550 LIC X 12 MONTHS)** TRUSTED PRODUCT **	18600	$0.5500	$10,230.00
		Period of Performance: 7/1/2020 to 6/30/2021.					
8	8800182-000-SAAS-SMB	GS-35F-0265X	XAAS	Workforce Leave v8 - per employee per month (150 LIC X 12 MONTHS)** TRUSTED PRODUCT **	1800	$0.5700	$1,026.00
		Period of Performance: 7/1/2020 to 6/30/2021.					

ANYTHING AS A SERVICE	$116,895.84
NM GRT*	$5,537.58
Grand Total	$122,433.42

SID: 6140062
POP: 7/1/20 - 6/30/21

Subject to the Terms and Conditions of GSA MAS Contract Number GS-35F-0265X; See GSA eLibrary: http://www.gsaelibrary.gsa.gov/ElibMain/home.do

Taxes: Sales tax shall be added at the time of an invoice, unless a copy of a valid tax exemption or resale certificate is provided.

All Purchase Orders must include: End User Name, Phone Number, Email Address, Purchase Order Number, Government Contract Number or Our Quote Number, Bill-To and Ship-To Address (Cannot ship to a PO Box), Period of Performance (if applicable), and a Signature of a duly Authorized Representative.

The identified line items are Trusted Products under the immixGroup Trusted Supplier Program.
immixGroup Trusted Supplier Program Policies, Commitments and Guarantees/Warranties can be obtained at:
http://www.immixgroup.com/uploadedFiles/Trusted-Supplier-Program_Guarantee-and-Warranty.pdf

ATTACHMENT A
CONTRACTOR SUPPLEMENTAL PRICELIST INFORMATION AND TERMS

KRONOS

KRONOS LICENSE, WARRANTY AND SUPPORT TERMS

A. KRONOS GENERAL TERMS' SALES SOFTWARE, SOFTWARE AND EQUIPMENT SUPPORT SERVICES (EXCLUDING webTA) AND PROFESSIONAL SERVICES

B. KRONOS webTA SUPPORT POLICIES AND SERVICES

C. APPLICATION HOSTING SUPPLEMENTAL TERMS AND CONDITIONS

D. KRONOS WORKFORCE CENTRAL SAAS TERMS

E. KRONOS WORKFORCE READY SAAS TERMS

F. KRONOS PROFESSIONAL AND EDUCATION SERVICES POLICIES

G. KRONOS SUPPORT SERVICES POLICIES (not applicable to WebTA Support)

H. KRONOS WORKFORCE TELESTAFF IVR SERVICE

I. WORKFORCE DIMENSIONS™ TERMS AND CONDITIONS

KRONOS GENERAL COMMERCIAL SALES TERMS

These supplemental terms and conditions apply to accepted order made to Contractor to all Kronos Equipment, Software, Professional and Educational Services, Support and such other Kronos offerings, as specified on an order form (an "Order"). In addition to these terms the following sections apply for the different specific offerings: the terms of section A shall apply to the Software licensed and Equipment purchase, support and professional services, Section B shall apply to the Support services of the webTA Software; Section C shall apply to the Hosting Services purchased in relation with certain Software licensed under Section A; Section D shall apply to the Workforce central Saas Orders; Section E shall apply to the Workforce Ready Saas Order; Section G shall applicable to the Software and Equipment support services (except WebTA) and Section H shall apply to the Workforce Telestaff IVR order

SECTION A
KRONOS GENERAL TERMS' SALES SOFTWARE, SOFTWARE, PROFESSIONAL SERVICES AND SOFTWARE AND EQUIPMENT SUPPORT SERVICES (EXCLUDING webTA)

1. GENERAL LICENSE TERMS
Kronos owns or has the right to license the Software. The Software and Software documentation are confidential and may not be disclosed to a third party without Kronos' written consent. The Software contains proprietary trade secret technology. Unauthorized use and copying of such Software is prohibited by law, including United States and foreign copyright law. The price Ordering Activity pays for a copy of the Software constitutes a license fee that entitles Ordering Activity to use the Software as set forth below. Contractor grants to Ordering Activity a non-exclusive, nontransferable, perpetual (except as provided herein) license to use the Software. Ordering Activity shall not use the Software if it is in breach of the terms of this Section A. Upon termination of this license Ordering Activity will have no further right to use the Software and will return the Software media to Kronos and destroy all copies of the Software (and related documentation) in Ordering Activity's possession or control. This license is subject to all of the terms of this Section A of this Attachment A.

2. FEE BASED LIMITATIONS
Ordering Activity recognizes and agrees that the license to use the Software is limited, based upon the amount of the license fee paid by Ordering Activity. Limitations, which are set forth on the Order Form, may include the number of employees, simultaneous or active users, Software product modules, Software features, computer model and serial number and partition, and/or the number of telephone lines or terminals to which the Software is permitted to be connected. Ordering Activity agrees to: i) use the Software only for the number of employees, simultaneous or active users, computer model, partition and serial number, and/or terminals permitted by the applicable license fee; ii) use only the product modules and/or features permitted by the applicable license fees; and iii) use the Software only in support of Ordering Activity's own business. Ordering Activity agrees not to increase the number of employees, simultaneous or active users, partitions, terminals, products modules, features, or to upgrade the model, as applicable, unless and until Ordering Activity pays the applicable fee for such increase/upgrade. Ordering Activity may not relicense or sublicense the Software to, or otherwise permit use of the Software (including timesharing or networking use) by any third party. Ordering Activity may not provide service bureau or other data processing services that make use of the Software without the express prior written consent of Kronos.

3. OBJECT CODE ONLY

Ordering Activity may use the computer programs included in the Software (the "Programs") in object code form only, and shall not reverse compile, disassemble or otherwise convert the Programs into uncompiled or unassembled code. The Programs include components owned by third parties. Such third party components are deemed to be Software subject to this Section A of this Attachment A. Ordering Activity shall not use any of the Programs (or the data models therein) except solely as part of and in connection with the Software and as described in the published documentation for such Software.

4. PERMITTED COPIES
Ordering Activity may copy the Programs as reasonably necessary to load and execute the Programs and for backup and disaster recovery and testing purposes only, except for additional copies of the Teletime Software and the Kronos iSeries (which must be licensed separately). All copies of the Programs or any part thereof, whether in printed or machine readable form and whether on storage media or otherwise, are subject to all the terms of this license, and all copies of the Programs or any part of the Programs shall include the copyright and proprietary rights notices contained in the Programs as delivered to the Ordering Activity.

5. UPDATES
In the event that Kronos supplies Service Packs, Point Releases and Major Releases (including legislative updates if available) of the Software (collectively referred to as "Updates"), such Updates shall be part of the Software and the provisions of this license shall apply to such Updates and to the Software as modified thereby.

6. LIMITED WARRANTY
Contractor warrants that all Kronos Equipment and Software media shall be free from defects in materials and workmanship, for a period of ninety (90) days from Delivery. In the event of a breach of this warranty, Ordering Activity's remedy shall be Kronos' repair or replacement of the deficient Equipment and/or Software media, at Kronos' option, provided that Ordering Activity's use, installation and maintenance thereof have conformed to the Specifications. This warranty is extended to Ordering Activity only and shall not apply to any Equipment (or parts thereof) or Software media in the event of:

(a) damage, defects or malfunctions resulting from misuse, accident, neglect, tampering, (including modification or replacement of any Kronos components on any boards supplied with the Equipment), unusual physical or electrical stress or causes other than normal and intended use;

(b) failure of Ordering Activity to provide and maintain a suitable installation environment, as specified in the Specifications; or

(c) malfunctions resulting from the use of badges or supplies not approved by Kronos.

When using and applying the information generated by Kronos products, Ordering Activity is responsible for ensuring that Ordering Activity complies with requirements of federal and state law where applicable. If Ordering Activity is licensing Workforce Payroll Software or Workforce Absence Management Software: (i) Ordering Activity is solely responsible for the content and accuracy of all reports and documents prepared in whole or in part by using such Software, (ii) using such Software does not release Ordering Activity of any professional obligation concerning the preparation and review of such reports and documents, (iii) Ordering Activity does not rely upon Kronos, Best Software, Inc. or such Software for any advice or guidance regarding compliance with federal (and state laws where applicable) or the appropriate tax treatment of items reflected on such reports or documents, and (iv) Ordering Activity will review any calculations made by using such Software and satisfy itself that those calculations are correct.

7. PROFFESSIONAL AND EDUCATIONAL SERVICES

(a) ENGAGEMENTS
Unless otherwise indicated on the Order, Professional and Educational Services ("Professional Services") shall be provided on a time and material basis at established fixed hourly prices labor rates and described in a statement of work.

(b) WARRANTY
Contractor warrants that all professional and educational services performed under this Section A of this Attachment A shall be performed in a professional and competent manner. In the event that Contractor breaches this warranty, and Ordering Activity so notifies Kronos through Contractor within 30 days of receipt of invoice for the applicable services, the Ordering Activity's remedy and Contractor's liability shall be to re-perform the services which were deficient in a manner so as to conform to the foregoing warranty, at no additional cost to Ordering Activity.

(c) KRONOS PROFESSIONAL/EDUCATIONAL SERVICES POLICIES
Kronos' Professional/Educational Services Policies shall apply to all Professional and/or Educational Services purchased under the applicable SOW and are in Section F of this Attachment A. In the event of a conflict between the Professional Services Policies and this Section A of this Attachment A, the terms of this Section A of this Attachment shall prevail.

8. SOFTWARE SUPPORT SERVICES

(a) SUPPORT OPTIONS
Ordering Activity may select from the following Software support purchase options: Gold (or Gold Plus) and Platinum (or Platinum Plus) support ("Service Type"), each providing different service coverage periods and/or service offerings, as specified herein ("Service Offerings") and in the Kronos Support Service Policies (defined below). Ordering Activity must purchase the same Service

Type for all of the Software specified on the Order Form, (however, if Ordering Activity is purchasing support services for Visionware Software, Ordering Activity may only purchase Gold Service Type for the Visionware Software). All Updates shall be provided via remote access.

(b) TERM OF SOFTWARE SUPPORT
Unless otherwise indicated on the Order Form, support service shall commence on the Software Delivery date and shall continue for an initial term of one (1) year. Renewal of support will be agreed by the issuance of a new order and Contractor accepting such order.

(c) GOLD SERVICE OFFERINGS
Ordering Activity shall be entitled to receive:

(i) Updates for the Software (not including any Software for which Contractor charges a separate license fee), provided that Ordering Activity's operating system and equipment meet minimum system configuration requirements, as reasonably determined by Contractor through Kronos. If Ordering Activity requests Contractor through Kronos to install such Updates or to provide retraining, Ordering Activity shall issue a new purchase order to Contractor for such installation or retraining at Contractor's thencurrent GSA prices.

(ii)Telephone and/or electronic access to the Kronos Global Support Center for the logging of requests for service during the Service Coverage Period. The Service Coverage Period for the Gold Service Offering is 8:00 a.m. to 8:00 p.m., local time, Monday through Friday, excluding Kronos holidays.

(iii) Web-based support including access to Software documentation, FAQ's, access to Kronos knowledge base, Ordering Activity forums, and e-case management. Such offerings are subject to modification by Kronos. Current offerings can be found at http://www.kronos.com/services/support-services.aspx .

(iv) Web-based remote diagnostic technical assistance which may be utilized by Kronos to resolve Software functional problems and user problems during the Service Coverage Period.

(v)Access to specialized content as and when made available by Contractor through Kronos such as technical advisories, learning quick tips, brown bag seminars, technical insider tips, SHRM e-Learning, HR Payroll Answerforce and service case studies.

(d) PLATINUM AND PLUS SERVICE OFFERINGS:
Platinum: In addition to the Service Offerings specified for the Gold Service Offering above, the Service Coverage Period for the Platinum Service Offering is 24 hours a day, seven days a week, 365 days a year.

Plus option: In addition to the Service Offerings specified for the Gold Service Offering above, Ordering Activities purchasing the Plus option shall receive the services of a dedicated, but not exclusive, Kronos Technical Account Manager ("TAM") for one production instance of the Software. Customers purchasing the Gold-Plus option shall designate up to one primary and one secondary backup technical contacts ("Technical Contacts") to be the sole contacts with the TAM, while Ordering Activities purchasing the Platinum-Plus option shall designate up to two primary and three secondary backup Technical Contacts. Upon request, Ordering Activity may designate additional and/or backup Technical Contacts. Ordering Activity is required to place all primary Technical Contacts through Kronos product training for the Software covered under this Section A of this Attachment A at Ordering Activity's expense under a separate order.

Ordering Activities purchasing the Platinum-Plus option shall also receive a one day per year visit to be performed at the Ordering Activity location where the Software is installed. During this onsite visit, Contractor through Kronos shall work with Ordering Activity to identify ways to help Ordering Activity increase functionality or maximize utilization of the Software in Ordering Activity's specific environment. Ordering Activity must be utilizing the then-current version of the Software.

(e) ADDITION OF SOFTWARE
Additional Software purchased by Ordering Activity as per the ordering procedure set out in the agreement during the initial or any renewal term shall be added to this Section A of this Attachment A at the same support option as the then current Software support coverage in place under these terms. Ordering Activity agrees to pay the charges for such addition as per the Order.

(f) RESPONSIBILITIES OF ORDERING ACTIVITY
Ordering Activity agrees (i) to provide Kronos personnel with full, free and safe access to Software for purposes of support, including use of Kronos' standard remote access technology, if required; (ii) to maintain and operate the Software in an environment and according to procedures which conform to the Specifications; and (iii) not to allow support of the Software by anyone other than Kronos without prior written authorization from Kronos. Failure to utilize Kronos' remote access technology may delay Kronos' response and/or resolution to Ordering Activity's reported Software problem. If Ordering Activity requires the use of a specific remote access technology not specified by Kronos, then Ordering Activity must purchase the Plus option to receive support and provide Kronos personnel with full, free and safe access to the remote access hardware and/or software.

(g) WARRANTY
Contractor warrants that all support services shall be performed in a professional and competent manner.

9. EQUIPMENT SUPPORT SERVICES

The following terms and conditions shall supplement the terms and conditions of this Attachment A and shall govern the equipment support services provided by Contractor through Kronos to Ordering Activity. In the event of a conflict of inconsistency between the Section A of this Attachment A and this Section 9, the Section A of this Attachment A shall govern.

Contractor and Ordering Activity hereby agree that Contractor through Kronos shall provide depot equipment repair support services ("Depot Support Services") for Ordering Activity's Kronos Equipment ("Product(s)") specified on an Order Form to and from locations within the United States and Puerto Rico pursuant to the following terms and conditions:

9.1 TERM
Equipment Support Services for the Product(s) have a term of one (1) year commencing upon the expiration of the applicable warranty period, as specified in the Section A of this Attachment A entered into between Contractor and Ordering Activity. Equipment Support Services can be extended for additional one year terms on the anniversary of its commencement date ("Renewal Date") if agreed upon by the issuance of a new order and Contractor accepting such order.

9.2 PAYMENT
Ordering Activity agrees that all Products of the same type that are owned by the Ordering Activity, including without limitation Ordering Activity's "Spare Products" (as defined below), will be covered by the Depot Support Services or Service Packs. Ordering Activity agrees that if Ordering Activity purchases, during the term of the Depot Support Services, any Products of the same type as those specified on an Order Form, such additional Products shall be covered by the Depot Support Services.

9.3 DEPOT SUPPORT SERVICE DESCRIPTION
Upon the failure of an installed Product, Ordering Activity shall notify Contractor through Kronos of such failure and Kronos will provide remote fault isolation at the FRU (Field Replacement Unit) or subassembly level and attempt to resolve the problem. Those failures determined by Kronos to be Product related shall be dispatched to a Kronos Depot Repair Center, and Ordering Activity will be provided with a Return Material Authorization Number (RMA) for the failed Product if Ordering Activity is to return the failed Product to Kronos, as reasonably determined by Kronos. Ordering Activity must return the failed product with the supplied RMA number. Hours of operation, locations and other information related to Kronos' Depot Repair Centers can be found at http://customer.kronos.com/ContactUs.htm and are subject to change. Return and repair procedures for failed Product shall be provided based on the Depot option - Depot Exchange or Depot Repair - selected by Ordering Activity on the applicable Order Form and as specified herein and in Kronos' then-current Support Services Policies which may be found herein under Section G of this Attachment A.

(a) Depot Exchange: Contractor through Kronos will provide a replacement for the failed Product at the FRU or subassembly level on an "advanced exchange" basis, utilizing a carrier of Kronos' choice. Replacement Product will be shipped the same day, for next business day delivery to Ordering Activity's location as further described in the Support Policies. REPLACEMENT PRODUCT(S) MAY BE NEW OR RECONDITIONED. Ordering Activity shall specify the address to which the Product is to be shipped. All shipments will include the Kronos provided RMA designating the applicable Kronos Depot Repair Center, as the recipient. Ordering Activity, upon receipt of the replacement Product from Kronos, shall package the defective Product in the materials provided by Kronos, with the RMA supplied and promptly return failed Products directly to Kronos using the carrier specified by Kronos.

(b) Depot Repair: It is Ordering Activity's obligation to purchase and retain, at Ordering Activity's location and at Ordering Activity's sole risk and expense, a sufficient number of spare products ("Spare Products") to allow Ordering Activity to replace failed Products at all Ordering Activity locations. Upon failure of an installed Product, Ordering Activity shall install a Spare Product to replace the failed Product. Ordering Activity shall also specify the address to which the repaired Product should be return shipped. Ordering Activity shall then return the failed Product, with the required RMA, to the applicable Kronos Depot Repair Center. Ordering Activity shall make every reasonable effort to return the failed Product using the same packing materials in which the original Product was sent. Upon receipt of the failed Product, Contractor through Kronos shall repair the failed Product and ship it, within ten (10) business days after receipt, to Ordering Activity. Kronos shall ship the repaired Product by regular surface transportation to Ordering Activity.

9.4 EQUIPMENT SERVICE PACK SUPPORT SERVICE DESCRIPTION
If Ordering Activity purchase the Equipment service packs support, Kronos manufactured terminals specified on an Order, Ordering Activity shall be entitled to receive:

(a) Service packs for the Terminals (which may contain Terminal system software updates, firmware updates, security updates, and Terminal feature enhancements) available for download at Kronos' customer web site.
(b) Access to the Kronos Support Services Center for the logging of requests for assistance downloading equipment service packs for the Terminals; and

9.5 RESPONSIBILITIES OF ORDERING ACTIVITY
Ordering Activity agrees that it shall return failed Products promptly as the failures occur and that it shall not hold failed Products and send failed Product to Kronos in "batches" which shall result in a longer turnaround time and surcharge to Ordering Activity. In addition, Ordering Activity agrees to:

(a) Maintain the Products in an environment conforming to Kronos' published specifications for such Products;

(b) De-install all failed Products and install all replacement Products in accordance with Kronos' published installation guidelines;

(c) Ensure that the Product(s) are returned to Kronos properly packaged; and

(d) Obtain an RMA before returning any Product to Kronos and place the RMA clearly and conspicuously on the outside of the shipping package. Ordering Activity may only return the specific Product authorized by Kronos when issuing the RMA.

9.6 SUPPORT EXCLUSIONS
Depot Support Service does not include the replacement of "consumables". In addition, Depot Support Service does not include the repair of damages, and Ordering Activity will not attempt to return damaged Product, resulting from:

(a) Any cause external to the Products including, but not limited to, electrical work, fire, flood, water, wind, lightning, transportation, or any act of God;
(b) Ordering Activity's failure to continually provide a suitable installation environment (as indicated in Kronos' published installation guidelines) including, but not limited to, adequate electrical power;
(c) Ordering Activity's improper use, relocation, packaging, refinishing, management or supervision of the Product(s) or other failure to use Products in accordance with Kronos' published specifications;
(d) Ordering Activity's use of the Products for purposes other than those for which they are designed or the use of accessories or supplies not approved by Kronos;
(e) Government imposed sanctions, rules, regulations or laws preventing the shipment of the Products; or (f) Ordering Activity's repair, attempted repair or modification of the Products.

Professional services provided by Contractor through Kronos in connection with the installation of any Software or firmware upgrades, if available, and if requested by Ordering Activity, are not covered by Depot Support Services. Firmware (including equipment service packs) which may be available to resolve a Product issue is not installed by the Kronos Depot Repair Center but is available for download at Kronos' customer web site provided Ordering Activity is maintaining the Product under an annual Depot Support Services plan with Kronos.

9.7 WARRANTY
(a) Depot Repair and Exchange warranty: Contractor warrants that all repairs performed under the Section A of this Attachment A shall be performed in a professional and competent manner.

ALL OTHER WARRANTIES FOR THE DEPOT SUPPORT SERVICES PROVIDED HEREUNDER, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF FITNESS FOR ANY PARTICULAR PURPOSE AND MERCHANTABILITY, ARE EXCLUDED BY AGREEMENT OF THE PARTIES.

(b) Services Pack support Warranty: Contractor warrants that all service packs and firmware updates provided under this Section A of this Attachment A shall materially perform in accordance with the Kronos published specifications for a period of ninety (90) days after download by Ordering Activity. In the event of a breach of this warranty, Ordering Activity's remedy shall be Contractor's repair or replacement of the deficient service pack(s) or firmware update(s), at Contractor's option, provided that Ordering Activity's use, installation and maintenance thereof have conformed to the specifications.

9.8 LIMITATION OF REMEDIES
To the extent permitted by law, the remedy of Ordering Activity and liability of Contractor shall be replacement of the repaired Product.

10. KRONOS SUPPORT SERVICE POLICIES
Kronos' Support Services Policies shall apply to all Support Services purchased and may be accessed in Sections B for the WebTa Software support services and Section G for the other products of this Attachment A. In the event of a conflict between the Support Policies and this Section A of this Attachment A, the terms of this Section A of this Attachment A shall prevail.

11. EXPORT
Ordering Activity acknowledges that the Equipment and Software may be restricted by the United States Government or by the country in which the Equipment or Software is installed from export to certain countries and certain organizations and individuals, and agrees to comply with such laws. Ordering Activity agrees to comply with all applicable laws of all of the countries in which the Equipment and Software may be used by Ordering Activity. Ordering Activity's obligations hereunder shall survive the termination or expiration of the Order Form. Ordering Activity must obtain Kronos through Contractor prior written consent before exporting the Software.

12. FIRMWARE
Ordering Activity may not download firmware updates for the Kronos Equipment unless Ordering Activity is maintaining such Equipment under a support plan with Contractor. If Ordering Activity is not maintaining the Equipment under a support plan with Contractor, Contractor through Kronos shall have the right to verify Ordering Activity's Kronos Equipment to determine if Ordering Activity has downloaded any firmware to which Ordering Activity is not entitled.

13. TRAINING POINTS
Training Points which are purchased by Ordering Activity may be redeemed for an equivalent value of instructor-led training sessions offered by Kronos. Available instructor-led sessions are listed at http://customer.Kronos.com and each session has the Training Points value indicated. Training Points are invoiced when used by the Ordering Activity. Training Points may not be exchanged for other Kronos products and/or services.

14. KNOWLEDGEPASS EDUCATION SUBSCRIPTION:
The parties hereby agree that the following terms shall apply to Ordering Activity's purchase of the Kronos KnowledgePass Education Subscription only, if specified on the Order Form:

Scope: The KnowledgePass Education Subscription is available to customers who are licensing Kronos' Workforce Central and iSeries Timekeeper Software products and who are maintaining such products under a support plan with Kronos. The KnowledgePass Education Subscription provides access via the internet to certain educational offerings provided by Kronos (the "KnowledgePass Content"), including:

Product and upgrade information for project teams and end users
Hands-on interactive instruction on common tasks
Self-paced tutorials covering a range of topics
Job aids
Knowledge assessment and reporting tools to measure progress
Webinars

Term of Subscription: The annual KnowledgePass Education Subscription shall run co-terminously with Ordering Activity's Software Support, and shall renew for additional one (1) year terms provided Ordering Activity renews its KnowledgePass Education Subscription as provided below.

The KnowledgePass Subscription is available when the Ordering Activity subscribe on annual basis.

Limitations: Ordering Activity recognizes and agrees that the KnowledgePass Content is copyrighted by Kronos. Ordering Activity is permitted to make copies of the KnowledgePass Content provided in *pdf form solely for Ordering Activity's internal use and may not disclose such KnowledgePass Content to any third party other than Ordering Activity's employees. Ordering Activity may not edit, modify, revise, amend, change, alter, customize or vary the KnowledgePass Content without the written consent of Kronos, provided that Ordering Activity may download and modify contents of Training Kits solely for Ordering Activity's internal use.

Train-the-Trainer Program (TTT): Certification under the Train-the-Trainer Program is valid only for the point release of the Software for which the TTT Program is taken, and covers only the Ordering Activity employee who completes the TTT Program.

15. CONFIDENTIAL INFORMATION
Among other information that may be Confidential Information, the Ordering Activity hereby agree that the Software (and Software documentation), and the Specifications shall be deemed to be Kronos' Confidential Information and trade secrets.

16. GENERAL
(a) Ordering Activity shall not assign, transfer or sublicense the license to the Software without the prior written consent of Kronos and any purported assignment, without such consent, shall be void.

(b) Ordering Activity understands and acknowledges that while Kronos may disclose to customers certain confidential information regarding general product development direction, potential future products and/or product enhancements under consideration, Ordering Activity is not entitled to any products or product enhancements other than those contained on the Order Form. Ordering Activity has not relied on the availability of any future version of the Software or Equipment identified on an Order Form, nor any other future product in executing this Section A of this Attachment.

(c) Use, duplication, or disclosure by the United States Government is of the Software, Documentation and any other type of technical data provided hereunder are commercial in nature and developed at private expense. The Software is licensed as Commercial Computer Software and subject to restrictions as set forth in subparagraph (c) (1) (ii) of the Rights in Technical Data and Computer
Software clause at DFARS 252.227-7013, or the provision of the GSA Schedule contract, as applicable. Manufacturer/distributor is Kronos Incorporated, 297 Billerica Road, Chelmsford, MA. The Software, Documentation and any other technical data provided hereunder is commercial in nature and developed solely at private expense. The Software is delivered as "Commercial Computer Software" as defined in DFARS 252.227-7014 (June 1995) or as a "Commercial Item" as defined in FAR 2.101(a) and as such is provided with only such rights as are provided in Manufacturer's standard commercial license for the Software. Technical data is provided with limited rights only as provided in DFAR 252.227-7015 (Nov. 1995) or FAR 52.227-14 (June 1987), whichever is applicable. Contractor grants Ordering Activity only those utilization rights (and reserves the same utilization limitations) as specified in this Attachment A.

SECTION B
KRONOS webTA SUPPORT POLICIES AND SERVICES

1. General Information

- The current Gold Support standard policies and maintenance services for the Kronos webTA and Kronos Federal Apps families of products are listed below unless the Ordering Activity has different agreements in their existing contracts governing their maintenance support services. In the absence of a specific maintenance support services contract between Kronos and the client the maintenance support services listed in this document prevail.
- With respect to Kronos' separate product line of Workforce Central Software products and equipment, the standard policies and maintenance services can be found in Section G of this Attachment A
- Kronos webTA and Kronos Federal Apps customers are only eligible to receive Gold Support. Kronos Gold Plus, Platinum and Plus Programs are not available under webTA support and maintenance agreements.
- Kronos Gold Support does NOT include or provide non-business hours support in any form (see "Gold Support Coverage Period" section below for specifics). Should a client request non-business hours support then a client specific support contract and funding mechanism (p.o.) must be in place in advance of the support requested by the Client. Kronos cannot guarantee or commit that it will have personnel available to provide non-business hours support, even if a Client specific contract and funding mechanism is in place, without 3 business day prior notice of the support requested and confirmation from the Client contracting officer that a p.o. is in place to pay for non-business hours billed by Kronos. If Kronos agrees with Client specific contract to provide non-business hours support then the client specific non-business hours support contract will include at a minimum that Kronos will consider all non-business hours requests as on-call requests and will bill the Client for all on-call hours for all Kronos personnel involved.

2. *Product Coverage*

Ordering Activities must purchase the same software support service type for all Kronos webTA software products and/or Kronos Federal Apps for each installation. The Kronos webTA and Kronos Federal Apps families of products are solely and exclusively sold to entities within the U.S. Federal Government. The Supported Product List for the Kronos webTA and Kronos Federal Apps families of products is as follows:

Kronos webTA Products v3 and v4 (legacy):
- Kronos webTA – time, attendance & leave management
- Kronos webLM –project tracking & costing
- Kronos webTA Services – interoperability, interfacing, SOA, API
- Kronos webTA Report Server V3 only– web based reporting server
- Kronos webTA Reports V3 only– web based webTA reporting
- Kronos webTA Reports V4 only– web based webTA reporting
- Kronos webTA Smart-time – required for time in/time out time, suggestion based attendance & leave
- Kronos webTA Guide – service enabled on line training module (available for capacity add only, existing installations)
- Kronos webLD – labor activity & task distribution tracking & costing
- Kronos webCT – case activity & task tracking & costing

Kronos Federal Apps v4.2 Only (legacy):
- Kronos FedTC – employee role only time card data collection & submission
- Kronos FedLPP – employee role only leave & premium pay request data collection & submission
- Kronos FedTITO – employee role only time in/time out time card data collection & submission
- Kronos FedSP – supervisor role only time card, leave & premium pay certification

Kronos webTA Products v5:
- Kronos webTA V5 – time, attendance, and leave management
- Kronos webTA Smart-time V5 – required for time in/time out, suggestion base attendance & leave
- Kronos webLM V5– project tracking & costing
- Kronos webLD V5 – labor activity & task distribution tracking & costing
- Kronos webCT V5– case activity & task tracking & costing
- Kronos webTA Web Services V5 – interoperability, interfacing, SOA, API
- Kronos webTA Reports V5 – web based webTA reporting

Kronos webTA and Kronos Federal Apps Families of Products

Contractor through Kronos only provides maintenance service support for the current version and release of the Kronos webTA and Kronos Federal Apps (for example, v5) and the immediate prior supported versions and releases (for example, v3.8, v4.1, v4.2) of the Software. Resolution of an issue may require that an Ordering Activity upgrade to the current release or version of the Software.

Kronos defines Version, Service Pack, and Patch as follows –
- Version: A software product upgrade that includes major new features or functionality.
- Service Pack: A software product upgrade that includes minor new features or functionality as well as defect repairs, bundled into a single update. Service Packs are cumulative - Service Pack "N" will, at minimum, include all of the changes delivered in Service Pack N-1.
- Patch: a defect repair for a Blocker Priority issue, delivered in advance of the next Service Pack.
  Note: the software product hierarchy is: Version, Service Pack, Patch

Note: Kronos reserves the right to make any changes it deems necessary for bug fixes or core features at their sole discretion. If a customer is receiving a service pack, Kronos will determine the scope of the service pack, considering the customers' inputs, but the final scope will be determined by Kronos alone.

3. Support Exclusions

Kronos Gold Support service does not include service to the Software resulting from, or associated with any of the following. Kronos will consider any request for any work associated with any aspect of the following out of scope for this agreement and therefore treated as a professional services engagement to diagnose and address subject to the Contractor's current Kronos Professional Service GSA rates. Kronos requires written acknowledgement from Ordering Activity's authorized representative before commencing troubleshooting efforts.

Support service does not include service to the Software resulting from, or associated with:

1. Any cause external to the Software including, but not limited to, electrical work, fire, flood, water, wind, lightning and transportation, or any act of God; or
2. Ordering Activity's failure to continually provide a suitable installation environment as specified in Kronos' specifications; or
3. Ordering Activity's improper use, management or supervision of the Software or other failure to use the Software in accordance with Kronos' specifications; or
4. Ordering Activity's repair, attempted repair or modification of the Software without prior authorization from Kronos; or
5. Ordering Activity's use of the Software for purposes other than those for which they are designed or the use of accessories or supplies not approved by Kronos or intended use; or
6. Ordering Activity's computer or operating system malfunctions; or
7. Services required for application programs and/or conversions from products or software not supplied by Kronos, including all middleware, authentication tools, security tools, and database changes and configurations; or
8. If a client alters the database in any manner on their own without partnering with Kronos then the maintenance support and warranties are no longer valid; or
9. Re-programming, including reconfiguration of the Software or any work on Ordering Activity's database.
10. Kronos will support or implement Software under the currently supported releases of 3rd party vendor infrastructure products (database, operating, and application software) only; or
11. Code developed by the customer, or by any consultant or contractor, which is not authorized by Kronos.

In addition to the Support exclusions above the following Services are NOT covered by your Kronos Support Service Agreement and are subject to the Contractor's current Kronos Professional Service GSA rates.

1. Configuration Changes, Reprogramming, New Programming such as, but not limited to, Work Rules, Pay Rules, Accrual Rules, Profiles, pay plans, work schedules, accounting structures, workflows, role definitions, scripts, and interfaces. Creating New Business Rules
    a. Terminal Programming and Cold Start
    b. Pay Period Changes
2. IT related maintenance or external system configurations, analysis, and troubleshooting
    a. Unsupported Operating System, Database, or Software
    b. Database Software upgrades or troubleshooting
    c. Middleware upgrades or troubleshooting
    d. Performance related issues caused by non application events
    e. SSO Requirements or support
    f. Load Balancing configuration or support
    g. Monitor/management tools
    h. Internet security consulting/firewall integration or POAM support and remediation
    i. API/XML consulting
    j. Web Services consulting
    k. IT process review (backup, refresh, etc.)
    l. VMWare (Virtual Machine)
    m. All hardware (other than Kronos hardware)
3. Programming, modifying, implementing, training or troubleshooting the following:
    a. Data integration interfaces
    b. Custom Reports
    c. Custom Application extensions
    d. Creating SQL queries
    e. Modifying SQL queries created by Kronos or Ordering Activity
    f. Migrating SQL queries prior versions
4. Editing templates and creating new templates
5. Installing or reinstalling Applications such as, but not limited to:
    a. Adding a workstation
    b. Moving the Kronos application
    c. Reinstalling following a hard drive crash
    d. System Restoration after hardware failure
    e. Virus Protection and Spyware
6. Database Administration Maintenance or Services such as, but not limited to:
    a. Database maintenance scripts

b. Writing or customizing database scripts for data reporting and/or retrieval
c. Performance Tuning
d. Sizing
e. Load balancing
f. Data warehouse, data mart, cloud computing, data mashing consulting
g. Disaster Recovery (other catastrophic failure)
h. Database backup strategy and/or setup
i. Troubleshooting or error remediation

7. Establishing or maintaining a Non-Production Environment such as, but not limited to:
   a. Test environments, i.e., application servers, database servers
   b. Demonstration environment
   c. Training environment
   d. Stage environments
   e. Disaster recovery environments
8. Troubleshooting Environmental Issues such as, but not limited to:
   a. Operating System
   b. Network Issues
   c. Load Balancing
   d. Firewalls
   e. Servers
   f. Workstations
   g. Alternate sign on processes, such as single sign on or e-Authentication
9. Custom Reports or Custom Application Extensions
10. Implementation or configuration services related to upgrading product such as, but not limited to:
    a. Software implementation
    b. Porting custom software (i.e., reports)
    c. Change management
    d. Training
    e. New functionality deployment
    f. Application interfaces
11. Service to Kronos modified software is not provided, unless otherwise specified on the applicable Statement of Work and Purchase Order for such modified software.
12. Importing new data or developing additional interfaces
13. Load balancing configuration
14. Virtual server configuration

4. Support Discontinuance - End of Service Life

Kronos may discontinue support for the Software upon 30 days written notice to Ordering Activity, or at the anniversary date of the relevant support Agreement, whichever is longer. If such support is discontinued during the initial or any renewal term of the relevant support Agreement, the remaining value of the Agreement will be left as a credit on the account to be applied against any future invoices.

Contractor through Kronos would no longer provide any type of support for the discontinued Software - no calls accepted, and no patches, bug fixes or changes in any form will occur no matter the Ordering Activity issue. The Ordering Activity is eligible to receive the next version or release of the Software as long as they are current on their maintenance support services payment and their current Software is not yet discontinued.

If the customers current Software has been discontinued and the client is current on their maintenance, but the Ordering Activity has not upgraded to the new version or release by the date of discontinuance of support, then the client will have to purchase new licenses of the Software. Kronos would provide a credit toward the purchase new licenses by the unused portion of their maintenance payment.

If the Ordering Activity does not remain current on their maintenance support services before the discontinuance of support, then they will not receive the next version or release of the Software until they reinstate their licenses of the Software. The client must become current on their maintenance and upgrade to the new version or release before the discontinuance of support date to avoid having to purchase new licenses of the Software.

If the Ordering Activity did not remain current on their maintenance support services and did not become current on their maintenance supports services before the discontinuance of support, then they will not receive the next version or release of the Software until they purchase new licenses of the Software.

All Professional Services required to perform Software upgrades will be billable engagements at the then current GSA rates.

5. Reinstatement of Support Services

In the event that Ordering Activity allows Software or Equipment support services to lapse or if Ordering Activity did not originally purchase Software or Equipment support services and wishes to reinstate or procure such services, Ordering Activity must pay the GSA price for the Support service for such lapsed or un-procured time period, plus the current support fee for the support option being purchased by Ordering Activity.

6. Gold Support Service Coverage Period

Contractor through Kronos provides maintenance support services to their customers during regular business hours. Regular business hours are defined as weekdays, Monday through Friday, between 9 a.m. and 5 p.m. Eastern Time, except on Kronos holidays and Federal holidays.

Contractor through Kronos will provide on-call Tier 2 and Tier 3 help desk support to diagnose and correct Kronos webTA and/or Kronos Federal App system problems and bug fixes to the initial configured as tested, accepted, and deployed baseline release. The primary means of support is a 24-hour web interface to an electronic case management system. Support requests can be submitted at https://community.kronos.com or by calling our toll-free number, 800-394-4357. Support requests are forwarded to the appropriate support staff. Any requests submitted by phone will also be entered into the Kronos tracking system and managed via that system until the issue is resolved. As Kronos works to resolve issues submitted either by phone or entered directly into tracking system, all subsequent updates and statuses, reported by both the client and Kronos, will be posted and managed through the Kronos tracking system only.

A client must identify 1 or more individuals as designated webTA Administrators to fulfill that role as identified in the webTA software. A client must document these individuals by name & contact information. The trained webTA Administrators are the only authorized individuals to enter tickets into the Kronos tracking system, unless otherwise agreed upon and documented by the client and Kronos. Kronos support personnel will work with the client's webTA Administrators to assure that the client has thoroughly researched an issue on the clients end so that the client webTA Administrators can verify & document that it is truly a Kronos webTA issue that requires resolution.

7. Priority Based Support

Contractor through Kronos provides support on a "priority" basis. As such, customers with the most critical request(s) will be serviced first. Kronos Federal Support has set up the following guidelines to assess the priority of each service request:

1. High Priority: These items are further defined as a critical outage. A critical Ordering Activity issue with no available workaround where the system or a module may be down, experiencing major system degradation, data corruption or other related factors resulting in the Ordering Activity not being able to process their payroll such as:
    a. Production is down and unable to sign-off Time Cards
    b. Crashes of the system
    c. Loss of data
    d. Severe memory leak
    e. No workaround is available

2. Medium Priority: This is a serious Ordering Activity issue which impacts ability to utilize the product effectively such as:
    a. Intermittent or inconsistent functionality results or data accuracy
    b. System performance is inconsistent or fluctuates
    c. A workaround is available.

3. Low Priority: Non-critical problems are generally Use and Usability issues and or "how to" questions such as:
    a. Data display inaccuracies or inconsistencies
    b. How do I set up a holiday pay rule?
    c. How do I run a report?
    d. Misspells
    e. Misaligned text
    f. Other cosmetic problems

8. Response Time

Response time shall mean from the time the case priority is set by Kronos' Federal Support Center until a Kronos support representative contacts the Ordering Activity, either by phone or via the Kronos tracking system during regular business hours, to begin service. Kronos utilizes a priority based support focus. Customers will be serviced during regular business hours in accordance with the following guidelines:

High Priority – 2 hours
Medium Priority – 4 hours
Low Priority – 8 hours
All response times are business hours.

9. Critical Outages

Kronos Federal Support will provide continuous effort on all high priority critical outage events through either bug identification, the development of a workaround or problem resolution. *On-going continuous effort may also be dependent on the Ordering Activity's ability to provide a resource to work with the Kronos Federal Support engineer during this period. Support outside the scope of the services agreement is billable at the applicable GSA rates and will require a separate order. If the critical outage is the result of or related to any factor listed in the Support Exclusions section of this agreement, then they are considered outside the scope of the services agreement and will require a separate order.*

SECTION C
APPLICATION HOSTING ADDENDUM SUPPLEMENTAL TERMS AND CONDITIONS

All references to Kronos in these Terms and Conditions should be read as "Contractor (immixTechnology, Inc.), acting by and through its supplier, Kronos Incorporated."

This Application Hosting Addendum of Supplemental Terms and Conditions (the "Addendum") applicable for hosting services ordered by the Ordering Activity for Kronos Software licensed under Section A of this Attachment A.

1. DEFINITIONS

"Application Hosting Program" or "Program" means (i) accessibility to the commercially available object code version of the Kronos hosted applications, as set forth in the Managed Services SOW, by means of access to the password protected Ordering Activity area of the Kronos hosting environment, and (ii) all Hosting Related Services.

"Content" means all content Ordering Activity, or others acting on behalf of or through Ordering Activity, posts or otherwise inputs into the Program, including but not limited to information, data (such as payroll data, vacation time, and hours worked), designs, know-how, logos, text, multimedia images (e.g. graphics, audio and video files), compilations, software programs, third party software, applications, or other materials, or any other Ordering Activity content shared or processed on equipment under the control of Kronos or a Supplier.

"Hosting Related Services" means certain services set forth in a statement of work containing hosted related services (the

"Managed Services SOW"), such as hosting infrastructure, equipment, bandwidth, server monitoring, backup services, reporting services, storage area network (SAN) services, load balancing services, security services, system administration, connectivity services, performance tuning, service pack installation and all professional and/or managed services and maintenance services related to hosting.

"Initial Term" means the initial term for which Kronos shall provide the Program to Ordering Activity and as set forth in the applicable Managed Services SOW executed by Ordering Activity.

"Internal Use" means the use of the Program: (i) by Ordering Activity's personnel solely for Ordering Activity's internal business purposes and (ii) by any authorized employee, agent or contractor of Ordering Activity to process information relating to Ordering Activity's employees assigned to, or potential employees of, Ordering Activity's authorized business unit(s), solely for the internal business purposes of such business unit(s).

"Monthly Service Fee(s)" means the monthly fees described in the Managed Services SOW and set forth on the applicable Order Form, which shall include all Hosting Related Services fees.

"Order Form" means the order request form supplied by Ordering Activity that lists the Upfront Fees and Monthly Service Fees for the elements of Ordering Activity's particular Program.

"Personally Identifiable Data" means information concerning individually identifiable employees of Ordering Activity that is protected against disclosure under applicable law or regulation.

"Production Environment" means a permanent environment established for the daily use and maintenance of the Application in a live environment throughout the term of a Program.

"Services Commencement Date" means that the earlier of (a) the date the Software will be ready to be transferred to the hosted environment, as mutually agreed by the parties in writing or (b) 90 days after the Effective Date. Notwithstanding the foregoing, the Services Commencement Date for software hosted in a Temporary Environment shall commence seven (7) days after the Effective Date. For Ordering Activity ordering additional Programs, the Service Commencement Date for the products list on that which is incremental to Ordering Activity's existing products shall be the date this Order Form is executed

"Service Description" means the detailed service description (including any supplementary service terms) specified in the Managed Services SOW which sets forth the specific Program to be provided to the Ordering Activity.

"Supplier" means any contractor, subcontractor or licensor of Kronos providing software, equipment and/or services to Kronos which are incorporated into or otherwise related to the Program.

"Temporary Environment" means a transient database environment created to serve limited purposes for a limited time period, and identified in the applicable Managed Services SOW as a Temporary Environment.

"Upfront Fees" means the one time, Ordering Activity-specific infrastructure set-up fees as indicated on the Order Form that will be charged to Ordering Activity to enable access to the Program.

2. MANAGED SERVICES STATEMENT OF WORK
The description of the particular Program ordered by the Ordering Activity, the Program term, the Monthly Service Fee rates, the Upfront Fees and other fees, if any, applicable to the Program are described in the applicable Managed Services SOW and Order Form. Kronos will not change the Monthly Service Fee rates it charges for Ordering Activity's existing Program, or the SLA, during the Initial Term. Thereafter the changes applicable charges may change to the extent consistent with the GSA pricing.

3. AUTHORIZED USE
Ordering Activity shall take all reasonable steps to ensure that no unauthorized persons have access to the Program, and to ensure that no persons authorized to have such access shall take any action that would be in violation of this Addendum.

4. MAINTENANCE ACCESS
If Contractor through Kronos, its Suppliers, or the local access provider, as applicable, requires access to Ordering Activity sites in order to maintain or repair the Program, Ordering Activity shall cooperate in a timely manner and reasonably provide such access and assistance as necessary.

5. ORDERING ACTIVITY REPRESENTATIONS AND WARRANTIES; ORDERING ACTIVITY OBLIGATIONS

5.1 Ordering Activity represents and warrants to Contractor that it has the right to publish and disclose Ordering Activity's Content in the Program.

5.2 Ordering Activity represents and warrants to Contractor that Ordering Activity's Content will not: (a) infringe or violate any thirdparty right, including (but not limited to) intellectual property, privacy, or publicity rights; (b) be abusive, profane, or offensive to a reasonable person; or (c) be hateful or threatening.

5.3 Ordering Activity will, at its own cost and expense, provide all equipment, operating systems, and software (including a web browser) not provided by Contractor through Kronos and needed to access and use the Program in accordance with the technical requirements set forth in the Managed Services SOW. Ordering Activity will also provide, at its own cost and expense, all connections from its computer systems to the Program, which shall include all related costs associated with Ordering Activity accessing the Program, unless such connectivity services are purchased from Contractor as indicated on the Managed Services SOW and Order Form.

5.4 Ordering Activity shall not, and shall not permit any person or entity under Ordering Activity's direct or indirect control to: (a) recirculate, republish, distribute or otherwise provide access to the Program to any third party; (b) use the Program on a service bureau, time sharing or any similar basis, or for the benefit of any other person or entity; (c) alter, enhance or make derivative works of the Program; (d) reverse engineer, reverse assemble or decompile, or otherwise attempt to derive source code from, the Program or any software components of the Program; (e) use, or allow the use of, the Program in contravention of any federal, state, local, foreign or other applicable law, or rules or regulations of regulatory or administrative organizations; (f) introduce into the Program any virus or other code or routine intended to disrupt or damage the Program, alter, damage, delete, retrieve or record information about the Program or its users; or, (g) otherwise act in a fraudulent, malicious or negligent manner when using the Program.

6. INTERNET ACCESS

6.1 If Ordering Activity purchases from Contractor dedicated internet connectivity to utilize the Program, such dedicated access into the hosting center will be delivered to Ordering Activity.

6.2 If Ordering Activity uses open internet connectivity or Ordering Activity-supplied VPN internet connections to access the Program, Ordering Activity acknowledges that the performance and throughput of the internet connection cannot be guaranteed by Contractor through Kronos, and variable connection performance may result in application response variations.

6.3 Ordering Activity hereby acknowledges that the internet is not owned, operated, managed by, or in any way affiliated with Contractor, Kronos, its Suppliers or any of its affiliates, and that it is a separate network of computers independent of Contractor and Kronos. Access to the internet is dependent on numerous factors, technologies and systems, many of which are beyond Kronos' authority and control. Ordering Activity acknowledges that Contractor or Kronos cannot guarantee that the internet access services chosen by Ordering Activity will meet the level of up-time or the level of response time that Ordering Activity may need. Ordering Activity agrees that its use of the internet access services and the internet is solely at its own risk, except as specifically provided in this Addendum, and is subject to all applicable local, state, national and international laws and regulations.

7. COMMENCEMENT OF PAYMENT.
In consideration of the delivery of the Program, Ordering Activity shall pay Contractor the Monthly Services Fee as defined in the applicable Order Form. The Monthly Services Fee shall begin to accrue on the Services Commencement Date, and shall be invoiced monthly. In addition, Ordering Activity shall be billed the one time set-up fee and any additional Upfront Fees set forth in the applicable Order Form. Ordering Activity acknowledges that the billing commencement date does not coincide with implementation completion, final configuration, or go-live.

8. LIMITATION OF LIABILITY
KRONOS AND ITS SUPPLIERS WILL NOT BE LIABLE FOR ANY INJURIES CAUSED BY THE USE OF THE SERVICES OR BY ANY ERRORS, DELAYS, INTERRUPTIONS IN TRANSMISSION, OR FAILURES OF THE SERVICES.

IN ADDITION TO THE LIMITATIONS SET FORTH, EXCEPT WITH RESPECT TO LIABILITY ARISING FROM KRONOS' GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, KRONOS DISCLAIMS ANY AND ALL LIABILITY, INCLUDING SUCH LIABILITY RELATED TO A BREACH OF SECURITY OR DISCLOSURE, RESULTING FROM ANY EXTERNALLY INTRODUCED HARMFUL PROGRAM (INCLUDING VIRUSES, TROJAN HORSES, AND WORMS), ORDERING ACTIVITY'S CONTENT OR APPLICATIONS, THIRD PARTY UNAUTHORIZED ACCESS OF EQUIPMENT OR SOFTWARE OR SYSTEMS, OR MACHINE ERROR.

The foregoing limitation of liability shall not apply to (1) personal injury or death resulting from Kronos' negligence; (2) for fraud; or (3) for any other matter for which liability cannot be excluded by law.

9. DATA SECURITY

9.1 As part of the Program, Contractor through Kronos shall provide those Kronos security-related services described in the Managed Services SOW. Ordering Activity acknowledges that the security-related services endeavor to mitigate security incidents, but such incidents may not be mitigated entirely or rendered harmless. Ordering Activity should consider any particular securityrelated service as just one tool to be used as part of an overall security strategy and not a guarantee of security. Both parties agree to comply with all applicable privacy or data protection statutes, rules, or regulations governing the respective activities of the parties.

9.2 All Personally Identifiable Data contained in any Software, Equipment or systems supplied by Contractor through Kronos, or to which Contractor through Kronos has access to under this Addendum, as between Contractor and Ordering Activity, is Ordering Activity's Confidential Information and will remain the property of Ordering Activity. Ordering Activity hereby consents to the use, processing and/or disclosure of Personally Identifiable Data only for the purposes described herein and to the extent such use or processing is necessary for Contractor through Kronos to carry out its duties and responsibilities under this Addendum or as required by law.

9.3 Prior to initiation of the Program and on an ongoing basis thereafter, Ordering Activity agrees to provide notice to Contractor through Kronos of any extraordinary privacy or data protection statutes, rules, or regulations which are or become applicable to Ordering Activity and which could be imposed on Kronos as a result of provision of the Program. Ordering Activity will ensure that:
(a) the transfer and storage of any Personally Identifiable Data to Kronos and managed by Kronos' or Supplier's data center is legitimate under applicable data protection laws and regulations; and (b) Ordering Activity will obtain consent from individuals for such transfer and storage to the extent required under applicable laws and regulations.

9.4 At no cost to Ordering Activity, Contractor through Kronos shall upon (i) request by Ordering Activity at any time and (ii) the cessation of the Program, promptly return to Ordering Activity, in the format and on the media in use as of the date of the request, all Personally Identifiable Data.

10. TERMINATION

10.1 Upon termination, Contractor shall have not obligation to continue to provide the Program. Failure to make payment of the Program fees or of any other default of the Ordering Activity shall not constitute a waiver by contract of any such fees or other fees which remain unpaid.
10.2 Contractor through Kronos reserves the right to temporarily suspend the Services if in Kronos's reasonable judgment, the Services or any component thereof are about to suffer a significant threat to security or functionality.

SECTION C-1
CLOUD HOSTING SUPPLEMENTAL TERMS AND CONDITIONS

This Section C-1 shall apply to Cloud Hosting Services purchased in relation with certain Software licensed under Section A provided that the initial Cloud Services were ordered after October 2016.

Ordering Activity has ordered with Contractor to acquire licenses to certain Kronos software applications, as well as equipment and related services under Section A and Ordering Activity desires to use those Kronos software applications in Kronos' managed cloud environment (the "Kronos Private Cloud") in accordance with the License Agreement and upon the supplemental terms and conditions herein, and Contractor desires to assist Ordering Activity in doing so. The parties agree as follows:

1. DEFINITIONS

"Application(s)" means those Kronos software applications set forth on the applicable Order Form (or a schedule to the Order Form if Ordering Activity is only hosting a portion of the Applications for which Ordering Activity has a perpetual license) and which are made accessible to Ordering Activity for use in the Kronos Private Cloud under the terms of this Section C-1.

"Billing Start Date" means the date on which billing for the Cloud Services will commence, as indicated on the Order Form.

"Cloud Services" means access to the password protected Ordering Activity area of the Kronos Private Cloud and those services related thereto such as infrastructure, equipment, bandwidth, server monitoring, backup services, storage area network (SAN) services, security services, system administration, connectivity services, performance tuning, update installation and maintenance services related thereto, all as further described Exhibit D-1 of Section D.

"Ordering Activity Content" means all content Ordering Activity, or others acting on behalf of or through Ordering Activity, posts or otherwise inputs into the Kronos Private Cloud.

"Initial Term" means the initial term of the Cloud Services as indicated on the Order Form.

"Monthly Services Fee(s)" means the monthly fees described in the applicable Order Form.

"Order Form" means an order form mutually agreed upon by Contractor and Ordering Activity setting forth the items ordered by Ordering Activity and to be provided by Contractor, including without limitation the prices and fees to be paid by Ordering Activity.

"Personally Identifiable Data" means information concerning individually identifiable employees of Ordering Activity that is protected against disclosure under applicable law or regulation.

"Production Environment" means a permanent environment established for the daily use and maintenance of the Applications in a live environment throughout the Term.

"Renewal Term" means the renewal term of the Services as indicated on the Order Form.

"SLA(s)" means a service level agreement offered by Contractor for the Production Environment and attached to this Section C-1 as Exhibit C-1.1 which contains key service level standards and commitments that apply to the Kronos Private Cloud.

"SLA Credit" means the credit calculated in accordance with the SLA and offered by Contractor in the event of outages or interruptions in the delivery of the Cloud Services that result in a failure to meet the terms of the applicable SLA.

"Supplier" means any contractor, subcontractor or licensor of Contractor providing software, equipment and/or services to Kronos which are incorporated into or otherwise related to the Cloud Services.

"Temporary Environment" means a transient database environment created to serve limited purposes for a limited time period, and identified on the applicable Order Form as a Temporary Environment.

"Term" means the Initial Term and any Renewal Terms.

2. CLOUD SERVICES AND TERM

2.1 During the Term, Contractor will provide the Cloud Services for the Applications. Unless the Order Form indicates that the Applications are to be implemented in a Temporary Environment, the Applications will be deemed to be implemented in a Production Environment.

2.2 Reserved.

2.3 Contractor through Kronos reserves the right to temporarily suspend the Services if in Kronos's reasonable judgment, the Services or any component thereof are about to suffer a significant threat to security or functionality.

2.4 Ordering Activity may terminate the Cloud Services in accordance with the procedures set-forth in FAR 52.212-4.

2.5 At no cost to Ordering Activity, Contractor shall upon (i) request by Ordering Activity at any time and (ii) the cessation of the Cloud Services, promptly return to Ordering Activity, in the format and on the media in use as of the date of the request, Ordering Activity's Content.

3. CLOUD SERVICES, FEES AND PAYMENT

3.1 In consideration of the delivery of the Cloud Services, Ordering Activity shall pay Contractor the Monthly Services Fee for such Cloud Services as defined in the applicable Order Form. This Monthly Services Fee shall begin to accrue on the Billing Start Date and will be invoiced on the "Billing Frequency" indicated on the Order Form.

3.2 Reserved.

3.3 Ordering Activity may be required to purchase additional Cloud Services to address increased infrastructure requirements for a new version of a particular Application as released by Contractor. Any additional Cloud Services will be set forth on an Order Form to be mutually agreed upon by Ordering Activity and Contractor.

4. AUTHORIZED USE

Ordering Activity shall take all reasonable steps to ensure that no unauthorized persons have access to the Kronos Private Cloud, and to ensure that no persons authorized to have such access shall take any action that would be in violation of this Section C-1 or use the Cloud Services for any purpose other than Ordering Activity's internal business purposes on behalf of Ordering Activity's authorized business unit(s).

5. MAINTENANCE

Monthly Service Fees are in addition to the fees Ordering Activity pays for annual maintenance and support under the Section A of the Attachment A. Ordering Activity must maintain the Software under an active maintenance plan with Contractor throughout the Term. If Contractor, its Suppliers, or the local access provider, as applicable, requires access to Ordering Activity sites in order to maintain or repair access to the Kronos Private Cloud, Ordering Activity shall cooperate in a timely manner and reasonably provide such access and assistance as permitted by Ordering Activity's applicable security policies.

6. ORDERING ACTIVITY REPRESENTATIONS AND WARRANTIES; AND ORDERING ACTIVITY OBLIGATIONS

6.1 Ordering Activity represents and warrants to Contractor that it has the right to publish and disclose Ordering Activity's Content in the Kronos Private Cloud.

6.2 Ordering Activity represents and warrants to Contractor that Ordering Activity's Content will not: (a) infringe or violate any thirdparty right, including (but not limited to) intellectual property, privacy, or publicity rights; (b) be abusive, profane, or offensive to a reasonable person; or (c) be hateful or threatening.

6.3 Ordering Activity shall not, and shall not permit any person or entity under Ordering Activity's direct or indirect control to: (a) recirculate, republish, distribute or otherwise provide unauthorized access to the Kronos Private Cloud to any third party; (b) use the Kronos Private Cloud on a service bureau, time sharing or any similar basis, or for the benefit of any other person or entity; (c) alter, enhance or make derivative works of the Kronos Private Cloud or Cloud Services; (d) reverse engineer, reverse assemble or decompile, or otherwise attempt to derive source code from, the Cloud Services or any software components of the Cloud Services; (e) use, or allow the use of, the Kronos Private Cloud in contravention of any applicable law, or rules or regulations of regulatory or administrative organizations; (f) introduce into the Kronos Private Cloud any virus or other code or routine intended to disrupt or damage the Kronos Private Cloud, alter, damage, delete, retrieve or record information about the Kronos Private Cloud, Cloud Services or its users; (g) excessively overload the Kronos Private Cloud; (h) perform any security integrity review, penetration test, load test, denial of service simulation or vulnerability scan; (e) use any tool designed to automatically emulate the actions of a human user (e.g., robots); or, (g) otherwise act in a fraudulent, malicious or negligent manner when using the Kronos Private Cloud.

7. CONNECTIVITY AND ACCESS

Ordering Activity acknowledges that Ordering Activity shall (a) be responsible for securing, paying for, and maintaining connectivity to the Kronos Private Cloud (including any and all related hardware, software, third party services and related equipment and components required for access); and (b) provide Contractor and Contractor' representatives with physical or remote access to Ordering Activity's computer and network environment as mutually agreed upon may be reasonably necessary in order for Contractor to perform its obligations under the Agreement. Ordering Activity will make all necessary arrangements as may be required to provide access to Ordering Activity's computer and network environment if necessary for Contractor to perform its obligations under the Agreement.

8. SERVICE LEVEL AGREEMENT

Contractor shall provide the service levels and associated credits, when applicable, in accordance with the Service Level Agreement attached hereto as Exhibit A and which is hereby incorporated herein by reference. ORDERING ACTIVITY'S SOLE AND EXCLUSIVE REMEDY IN THE EVENT OF ANY SERVICE OUTAGE OR INTERRUPTION OF THE SERVICES OR FAILURE BY CONTRACTOR TO MEET THE TERMS OF THE APPLICABLE SERVICE LEVEL AGREEMENT, SHALL BE THE REMEDIES PROVIDED IN EXHIBIT C-1.1.

9. LIMITATIONS

IN ADDITION TO THE LIMITATIONS SET FORTH IN THE SECTION A OF ATTACHMENT A, EXCEPT WITH RESPECT TO LIABILITY ARISING FROM CONTRACTOR'S NEGLIGENCE OR WILLFUL MISCONDUCT, CONTRACTOR DISCLAIMS ANY AND ALL LIABILITY AND SERVICE CREDITS, INCLUDING SUCH LIABILITY RELATED TO A BREACH OF SECURITY OR DISCLOSURE, RESULTING FROM ANY EXTERNALLY INTRODUCED HARMFUL CLOUD SERVICES (INCLUDING VIRUSES, TROJAN HORSES, AND WORMS), ORDERING ACTIVITY'S CONTENT OR APPLICATIONS, THIRD PARTY UNAUTHORIZED ACCESS OF EQUIPMENT OR SOFTWARE OR SYSTEMS, OR MACHINE ERROR.

10. DATA SECURITY

10.1 As part of the Cloud Services, Contractor shall provide those administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Ordering Activity data as described Exhibit D-1 of Section D. Ordering Activity acknowledges that such safeguards endeavor to mitigate security incidents, but such incidents may not be mitigated entirely or rendered harmless. Ordering Activity should consider any particular Contractor supplied security-related safeguard as just one tool to be used as part of Ordering Activity's overall security strategy and not a guarantee of security. Both parties agree

to comply with all applicable privacy or data protection statutes, rules, or regulations governing the respective activities of the parties under the Section A and C-1 of this Attachment A.

10.2 As between Ordering Activity and Contractor, all Personally Identifiable Data is Ordering Activity's Confidential Information and will remain the property of Ordering Activity. Ordering Activity represents that to the best of Ordering Activity's knowledge such Personally Identifiable Data supplied to Contractor is accurate. Ordering Activity hereby consents to the use, processing or disclosure of Personally Identifiable Data by Contractor and Contractor' Suppliers wherever located only for the purposes described herein and only to the extent such use or processing is necessary for Contractor to carry out Contractor' duties and responsibilities under the Agreement or as required by law.

10.3 Prior to initiation of the Cloud Services and on an ongoing basis thereafter, Ordering Activity agrees to provide notice to Contractor of any extraordinary privacy or data protection statutes, rules, or regulations which are or become applicable to Ordering Activity's industry and which could be imposed on Contractor as a result of provision of the Cloud Services. Ordering Activity will ensure that: (a) the transfer to Contractor and storage of any Personally Identifiable Data by Contractor or Contractor' Supplier's data center is permitted under applicable data protection laws and regulations; and, (b) Ordering Activity will obtain consents from individuals for such transfer and storage to the extent required under applicable laws and regulations.

EXHIBIT C-1.1
SERVICE LEVEL AGREEMENT (SLA)

Service Level Agreement: The Cloud Services are provided with the service levels described in this Exhibit C-1.1. SLAs are only applicable to Production Environments. SLAs will be available upon Ordering Activity's signature of Kronos' Go Live Acceptance Form for Ordering Activity's Production Environment.

99.75% Application Availability

Actual Application Availability % = (Monthly Minutes (MM) minus Total Minutes Not Available (TM)) multiplied by 100) and divided by Monthly Minutes (MM), but not including Excluded Events

Service Credit Calculation: An Outage will be deemed to commence when the Applications are unavailable to Ordering Activity in Ordering Activity's Production Environment and end when Contractor through Kronos has restored availability of the Applications. Failure to meet the 99.75% Application Availability SLA, other than for reasons due to an Excluded Event, will entitle Ordering Activity to a credit as follows:

Actual Application Availability % (as measured in a calendar month)	Service Credit to be applied for the affected month
<99.75% to 98.75%	10%
<98.75% to 98.25%	15%
<98.25% to 97.75%	25%
<97.75 to 96.75%	35%
<96.75	50%

"Outage" means the accumulated time, measured in minutes, during which Ordering Activity is unable to access the Applications for reasons other than an Excluded Event.

"Excluded Event" means any event that results in an Outage and is caused by (a) the acts or omissions of Ordering Activity, its employees, Customers, contractors or agents; (b) the failure or malfunction of equipment, applications or systems not owned or controlled by Kronos, including without limitation Ordering Activity Content, failures or malfunctions resulting from circuits provided by Ordering Activity, any inconsistencies or changes in Ordering Activity's source environment, including either intentional or accidental connections or disconnections to the environment; (c) excusable delay events as set forth at FAR 52.212-4(f); d) scheduled or emergency maintenance, alteration or implementation provided during the Maintenance Period defined below; (e) any suspension of the Services in accordance with the terms of the Agreement to which this Exhibit C-1.1 is attached; (f) the unavailability of required Ordering Activity personnel, including as a result of failure to provide Kronos with accurate, current contact information; or (g) using an Application in a manner inconsistent with the product documentation for such Application.

"Maintenance Period" means scheduled maintenance periods established by Kronos to maintain and update the Applications, when necessary. During these Maintenance Periods, the Applications are available to Kronos to perform periodic maintenance services, which include vital software updates. Kronos will use its commercially reasonable efforts during the Maintenance Period to

make the Applications available to Ordering Activity; however, some changes will require downtime. Kronos will provide notice for planned downtime via an email notice to the primary Ordering Activity contact at least one day in advance of any known downtime so planning can be facilitated by Ordering Activity.

Currently scheduled Maintenance Periods for the Cloud Services are:

Monday through Friday	04:00 am – 06:00 am (U.S. eastern time)
Saturday and Sunday	12:00 am – 06:00 am (U.S. eastern time)

Maintenance Periods include those maintenance periods mutually agreed upon by Ordering Activity and Kronos.

"Monthly Minutes (MM)" means the total time, measured in minutes, of a calendar month commencing at 12:00 am of the first day of such calendar month and ending at 11:59 pm of the last day of such calendar month.

"Total Minutes Not Available (TM)" means the total number of minutes during the calendar month that the Applications are unavailable as the result of an Outage.

Limitations: Service Credits will not be provided if (a) Ordering Activity is in breach or default under the Agreement at the time the Outage occurred; or (b) the Outage results from an Excluded Event. If Kronos does not provide the appropriate Service Credit as due hereunder, Ordering Activity must request the Service Credit within sixty (60) calendar days of the conclusion of the month in which Service Credit accrues. Ordering Activity waives any right to Service Credits not requested within this time period. All performance calculations and applicable Service Credits are based on Kronos records and data unless Ordering Activity can provide Kronos with clear and convincing evidence to the contrary.

The Service Level Agreements in this Exhibit, and the related Service Credits, apply on a per production environment basis. For the avoidance of doubt, Outages in one production environment may not be added to Outages in any other production environment for purposes of calculating Service Credits.

Ordering Activity acknowledges that Kronos manages its network traffic in part on the basis of Ordering Activity's utilization of the Applications and that changes in such utilization may impact Kronos' ability to manage network traffic. Therefore, notwithstanding anything else to the contrary, if Ordering Activity significantly changes its utilization of the Applications than what is contracted with Kronos and such change creates a material and adverse impact on the traffic balance of the Kronos network, as reasonably determined by Kronos, the parties agree to co-operate, in good faith, to resolve the issue.

SECTION D
WORKFORCE CENTRAL - SOFTWARE AS A SERVICE TERMS AND CONDITIONS

Ordering Activity and Contractor agree that the terms and conditions set forth below shall apply to the Contractor through Kronos supply of the commercially available version of the Workforce Central SaaS Applications in Kronos' hosting environment, the services related thereto, and the sale or rental of Equipment (if any) specified on an Order Form signed by Ordering Activity (the "Order Form"). The Applications described on the Order Form shall be delivered by means of Ordering Activity's permitted access to the Contractor infrastructure hosting such Applications.

Contractor and Ordering Activity hereby agree that these terms and conditions of this Section D of the Attachment A apply for all order forms for the services Workforce Central SaaS. These terms are effective as of the date of the Order Form is accepted by the Contractor ("Effective Date").

1. DEFINITIONS

"Section D" means these terms and conditions and the Order Form(s) specific to the Ordering Activity.

"Application(s)" or "SaaS Application(s)" means those Kronos software application programs set forth on an Order Form which are made accessible for Ordering Activity to use under the terms of this Section D.

"Billing Start Date" means the date the billing of the Monthly Service Fees commences as indicated on the applicable Order Form. Notwithstanding, Implementation Services provided on a time and material basis are billed monthly as delivered. The Billing Start Date of the Monthly Service Fees for any Services ordered by Ordering Activity after the date of this Section D which are incremental to Ordering Activity's then-existing Services shall be the date the applicable Order Form is executed by Contractor and Ordering Activity.

"Cloud Services" means those services related to Ordering Activity's cloud environment such as infrastructure, equipment, bandwidth, server monitoring, backup services, storage area network (SAN) services, security services, system administration, connectivity services, performance tuning, update installation and maintenance services related thereto. Cloud Services are described in Exhibit D-1

"Ordering Activity Content" means all content of Ordering Activity, or others acting on behalf of or through Ordering Activity, posts or otherwise inputs into the Services.

"Documentation" means technical publications published solely to its Customers by Contractor relating to the use of the Services or Applications.

"Equipment" means Kronos equipment specified on an Order Form.

"Implementation Services" means those professional and educational services provided by Kronos to set up the cloud environment and configure the Applications. The professional and education services are described in the Statement of Work and will be provided as set forth on the Order Form and Statement of Work.

"Initial Term" means the initial term of the Services as indicated on the Order Form.

"KnowledgePass Content"/"KnowledgePass Education Subscription" have the meanings ascribed in Section 7.5.

"Monthly Service Fee(s)" means the monthly fees described in an Order Form. Monthly Service Fees include fees for usage of the Applications and the Services, Cloud Services as applicable, and Equipment rental, if any. Billing of the Monthly Service Fee(s) commences on the Billing Start Date.

"Order Form" means an order form mutually agreed upon by Contractor and Ordering Activity setting forth the items ordered by Ordering Activity and to be provided by Contractor and the fees to be paid by Ordering Activity.

"Personally Identifiable Data" means information concerning individually identifiable employees of Ordering Activity that is protected against disclosure under applicable law or regulation.

"Renewal Term" means one year or such other renewal term of the Services as indicated on the Order Form.

"Services" means (i) the Cloud Services, (ii) accessibility to the commercially available version of the Applications by means of access to the password protected Ordering Activity area of a Contractor website, and all such services, items and offerings accessed by Ordering Activity therein, and (ii) the Equipment rented hereunder, if any.

"Statement of Work", "SOW", "Services Scope Statement" and "SSS" are interchangeable terms referring to a written description of the Implementation Services mutually agreed upon by Contractor and Ordering Activity.

"Supplier" means any contractor, subcontractor or licensor of Contractor providing software, equipment and/or services to Contractor which are incorporated into or otherwise related to the Services.

"Term" means the Initial Term and any Renewal Terms thereafter.

"Training Points" has the meaning ascribed to it in Section 7.6 below.

2. TERM

2.1 The Services shall commence on the Billing Start Date, and shall continue for the Initial Term or until terminated by Ordering Activity in accordance with the provisions hereof or applicable laws and regulations. At the expiration of the Initial Term and each Renewal Term as applicable, the Services may renew for additional Renewal Terms by Ordering Activity issuing an Order Form.

2.2 Contractor through Kronos reserves the right to temporarily suspend the Services if in Kronos's reasonable judgment, the Services or any component thereof are about to suffer a significant threat to security or functionality.

2.3 If the Order Form is terminated for any reason:

(a) Ordering Activity shall pay Contractor within thirty (30) days of such termination, all fees accrued for the Services prior to the effective date of such termination, provided however, if Ordering Activity terminates for material breach of the Section D by Contractor, Contractor shall refund Ordering Activity any pre-paid fees for Services and Implementation Services not delivered by Contractor;

(b) Ordering Activity's right to access and use the Applications shall be revoked and be of no further force or effect, and Ordering Activity shall return rented Equipment as provided in Section 9.1 below;

(c) No more than fifteen (15) days after termination (or upon Ordering Activity's written request at any time during the Term), Contractor will provide to Ordering Activity, at no charge to Ordering Activity, the Ordering Activity Content. After such time period, Contractor shall have no further obligation to store or make available the Ordering Activity Content and will securely delete any or all Ordering Activity Content without liability;

(d) Ordering Activity agrees to timely return all Contractor-provided materials related to the Services to Contractor at Ordering Activity's expense or, alternatively, destroy such materials and provide Contractor with an officer's certification of the destruction thereof; and

(e) All provisions in the Section D of this Attachment A, which by their nature are intended to survive termination, shall so survive for the purposes of that Order Form being terminated.

3. FEES AND PAYMENT

3.1 Ordering Activity shall pay Contractor the Monthly Service Fees, the fees for the Implementation Services and any additional one time or recurring fees for Equipment, Training Points, KnowledgePass Education Subscription and such other Contractor offerings, all as set forth on the Order Form. The Monthly Service Fees will be invoiced on the frequency set forth on the Order Form ("Billing Frequency"). Implementation Services will be invoiced monthly as delivered unless otherwise indicated on the Order Form. . All other Contractor offerings will be invoiced upon execution of the applicable Order Form by Contractor and Ordering Activity. All payments shall be sent to the attention of Contractor as specified on the invoice. Except as expressly set forth in this Section D, all amounts paid to Contractor are non-refundable.

4. RIGHTS TO USE

4.1 Subject to the terms and conditions of the Section D of the Attachment A and the Order Form, Contractor hereby grants Ordering Activity a limited, revocable, non-exclusive, non-transferable, non-assignable right to use during the Term and for internal business purposes only: a) the Applications and related services, including the Documentation; b) training materials and KnowledgePass Content; and, c) any embedded third party software, libraries, or other components, which form a part of the Services. The Services contain proprietary trade secret technology of Contractor and its Suppliers. Unauthorized use and/or copying of such technology are prohibited by law, including United States and foreign copyright law. Ordering Activity may use the Application in object code only and shall not reverse compile, disassemble or otherwise convert the Applications or other software comprising the Services into uncompiled or unassembled code. Ordering Activity shall not use any of the third party software programs (or the data models therein) included in the Services except solely as part of and in connection with the Services. The JBoss® Enterprise Middleware components of the Service are subject to the end user license Section D found at http://www.redhat.com/licenses/jboss_eula.html. Ordering Activity acknowledges that execution of separate third party agreements may be required in order for Ordering Activity to order and use certain add-on features or functionality, including without limitation tax filing services.

4.2 Ordering Activity acknowledges and agrees that the right to use the Applications is limited based upon the amount of the Monthly Service Fees paid by Ordering Activity. Ordering Activity agrees to use only the modules and/or features for the number of employees and users as described on the Order Form. Ordering Activity agrees not to use any other modules or features nor increase the number of employees and users unless Ordering Activity pays for such additional modules, features, employees or users, as the case may be. Ordering Activity may not license, relicense or sublicense the Services, or otherwise permit use of the Services (including timesharing or networking use) by any third party. Ordering Activity may not provide service bureau or other data processing services that make use of the Services without the express prior written consent of Kronos. No license, right, or interest in any Kronos trademark, trade name, or service mark, or those of Contractor' licensors or Suppliers, is granted hereunder.

4.3 Ordering Activity may authorize its third party contractors and consultants to access the Services through Ordering Activity's administrative access privileges on an as needed basis, provided Ordering Activity: a) abides by its obligations to protect confidential information; b) remains responsible for all such third party usage and compliance with the Section D of this Attachment A; and c) does not provide such access to a competitor of Kronos who provides workforce management services.

4.4 Ordering Activity acknowledges and agrees that, Kronos retains ownership of all right, title and interest to the Services, all of which are protected by copyright and other intellectual property rights, and that, other than the express rights granted herein, Ordering Activity shall not obtain or claim any rights in or ownership interest to the Services or Applications or any associated intellectual property rights in any of the foregoing. Ordering Activity agrees to comply with all copyright and other intellectual property rights notices contained on or in any information obtained or accessed by Ordering Activity through the Services.

4.5 When using and applying the information generated by the Services, Ordering Activity is responsible for ensuring that Ordering Activity complies with applicable laws and regulations. If the Services include the Workforce Payroll Applications or Workforce Absence Management Applications: (i) Ordering Activity is solely responsible for the content and accuracy of all reports and documents prepared in whole or in part by using these Applications, (ii) using these Applications does not release Ordering Activity of any professional obligation concerning the preparation and review of any reports and documents, (iii) Ordering Activity does not rely upon Kronos, Best Software, Inc. or these Applications for any advice or guidance regarding compliance with federal and state laws or the appropriate tax treatment of items reflected on such reports or documents, and (iv) Ordering Activity will review any calculations made by using these Applications and satisfy itself that those calculations are correct.

5. ACCEPTABLE USE

5.1 Ordering Activity shall take all reasonable steps to ensure that no unauthorized persons have access to the Services, and to ensure that no persons authorized to have such access shall take any action that would be in violation of the Section D of this Attachment A.

5.2 Ordering Activity represents and warrants to Contractor that Ordering Activity has the right to publish and disclose the Ordering Activity Content in connection with the Services. Ordering Activity represents and warrants to Contractor that the Ordering Activity Content: (a) does not infringe or violate any third-party right, including but not limited to intellectual property, privacy, or publicity rights, (b) is not abusive, profane, or offensive to a reasonable person, or, (c) is not hateful or threatening.

5.3 Ordering Activity will not (a) use, or allow the use of, the Services in contravention of any federal, state, local, foreign or other applicable law, or rules or regulations of regulatory or administrative organizations; (b) introduce into the Services any virus or

other code or routine intended to disrupt or damage the Services, or alter, damage, delete, retrieve or record information about the Services or its users; (c) excessively overload the Kronos systems used to provide the Services; (d) perform any security integrity review, penetration test, load test, denial of service simulation or vulnerability scan; (e) use any tool designed to automatically emulate the actions of a human user (e.g., robots); or, (f) otherwise act in a fraudulent, malicious or negligent manner when using the Services.

6. CONNECTIVITY AND ACCESS

Ordering Activity acknowledges that Ordering Activity shall (a) be responsible for securing, paying for, and maintaining connectivity to the Services (including any and all related hardware, software, third party services and related equipment and components); and (b) provide Contractor through Kronos and its representatives with such physical or remote access to Ordering Activity's computer and network environment as Kronos deems reasonably necessary in order for Kronos to perform its obligations under the Section D of this attachment A and Order Form. Ordering Activity will make all necessary arrangements as may be required to provide access to Ordering Activity's computer and network environment if necessary for Contractor to perform its obligations under the Section D of the Attachment A and Order Form.

7. IMPLEMENTATION AND SUPPORT

7.1 Implementation Services. Contractor through Kronos will provide the Implementation Services to Ordering Activity. In the event that Contractor is required to travel to Ordering Activity's location during the implementation, Ordering Activity agrees to pay any travel expenses, such as airfare, lodging, meals and local transportation, incurred by Contractor in accordance with the GSA terms. Section F of this Attachment A (Professional/Educational Services Policies) shall apply to all Implementation Services ("Professional Services Policies"). In the event of a conflict between the Professional Services Policies and this Section D of the Attachment A, the terms of this Section D of the attachment A shall prevail.

7.2 Additional Services. Ordering Activity may engage Kronos through Contractor to provide other services which may be fixed by activity or provided on a time and material basis, both based on the prices established in this Contract and the applicable Order.

7.3 Support. Kronos through Contractor will provide 24x7 support for the cloud infrastructure, the availability to the cloud environment, and telephone support for the logging of functional problems and user problems. Ordering Activity may log questions online via the Kronos customer Portal. As part of such support, Kronos will make updates to the Services available to Ordering

Activity at no charge as such updates are released generally to Contractor' customers. Ordering Activity agrees that Contractor may install critical security patches and infrastructure updates automatically as part of the Services. Section G of this Attachment A (Support Policies and Services) shall apply to all Support Services provided by Contractor ("Support Policies"). In the event of a conflict between the Support Policies and this Section D of this Attachment A, the terms of this Section D shall prevail.

7.4 Support Services for Equipment. Provided Ordering Activity has purchased support services for the Equipment, the following terms shall apply (Depot Exchange support services for rented Equipment are included in the rental fees for such Equipment):

(a) Ordering Activity may select, if and as indicated on an Order Form, an Equipment Support Services option offered by Kronos for supporting the Equipment if and as such offerings are available within the Contractor territory corresponding to the Equipment's location. Contractor shall provide each Equipment Support Services offering as specified herein.

(i) Depot Exchange and Depot Repair. If Ordering Activity has selected Depot Exchange or Depot Repair Equipment Support Services, the following provisions shall apply: Upon the failure of installed Equipment, Ordering Activity shall notify Kronos of such failure and Kronos will provide remote fault isolation at the FRU (Field Replacement Unit) or subassembly level and attempt to resolve the problem. Those failures determined by Kronos to be Equipment related shall be dispatched to a Kronos Depot Repair Center, and Ordering Activity will be provided with a Return Material Authorization Number (RMA) for the failed Equipment if Ordering Activity is to return the failed Equipment to Kronos, as reasonably determined by Kronos. Ordering Activity must return the failed Equipment with the supplied RMA number. Hours of operation, locations and other information related to Kronos' Depot Repair Centers are available upon request and are subject to change. Return and repair procedures for failed Equipment shall be provided based on the Depot option - Depot Exchange or Depot Repair - selected by Ordering Activity on the applicable Order Form and as specified herein and in Kronos' Support Services Policies. Service packs for the Equipment (as described in subsection (ii) below) are included in both Depot Exchange and Depot Repair Support Services.

Depot Exchange: Kronos will provide a replacement for the failed Equipment at the FRU or subassembly level on an "advanced exchange" basis, utilizing a carrier of Kronos' choice. Replacement Equipment will be shipped the same day, for delivery to Ordering Activity's location as further described in the Support Policies. REPLACEMENT EQUIPMENT MAY BE NEW OR RECONDITIONED. Ordering Activity shall specify the address to which the Equipment is to be shipped. All shipments will include the Kronos provided RMA designating the applicable Kronos Depot Repair Center, as the recipient. Ordering Activity, upon receipt of the replacement Equipment from Kronos, shall package the defective Equipment in the materials provided by Kronos, with the RMA supplied and promptly return failed Equipment directly to Kronos.

Depot Repair: Upon failure of installed Equipment, Ordering Activity shall install a Spare Product (as defined below) to replace the failed Equipment. Ordering Activity shall then return the failed Equipment, with the required RMA, to the applicable Kronos Depot Repair Center. Ordering Activity shall make reasonable efforts to return the failed Equipment using the same or substantially similar packing materials in which the original Equipment was sent. Ordering Activity shall also specify the address to which the repaired

Equipment should be return shipped. Upon receipt of the failed Equipment, Contractor shall repair the failed Equipment and ship it, within ten (10) business days after receipt, to Ordering Activity. Kronos shall ship the repaired Equipment by regular surface transportation to Ordering Activity.

(ii) Device Software Updates Only. If Ordering Activity has selected Device Software Equipment Support Services, Ordering Activity shall be entitled to receive:
(A) Service packs for the Equipment (which may contain system software updates, firmware updates, security updates, and feature enhancements) available for download at Kronos' customer portal. Service packs for the Equipment are not installed by the Contractor Depot Repair Center but are available for download at Kronos' customer portal, provided Ordering Activity is maintaining the Equipment under an annual Equipment Support Services plan with Kronos; and
(B) Access to the Kronos Support Services Center for the logging of requests for assistance downloading service packs for the Equipment.

(b) Warranty. Contractor warrants that all service packs and firmware updates provided under Section D of this Attachment A shall materially perform in accordance with the Kronos published specifications for a period of ninety (90) days after download by Ordering Activity. In the event of a breach of this warranty, Ordering Activity's exclusive remedy shall be Kronos' repair or replacement of the deficient service pack(s) or firmware update(s), at Kronos' option, provided that Ordering Activity's use, installation and maintenance thereof have conformed to the specifications.

(c) Responsibilities of Ordering Activity. It is Ordering Activity's responsibility to purchase and retain, at Ordering Activity's location and at Ordering Activity's sole risk and expense, a sufficient number of spare products ("Spare Products") to allow Ordering Activity to replace failed Equipment at Ordering Activity's locations in order for Ordering Activity to continue its operations while repairs are being performed and replacement Equipment is being shipped to Ordering Activity. For each of the Depot Exchange and Depot Repair Equipment Support Services options, Ordering Activity agrees that it shall return failed Equipment promptly as the failures occur and that it shall not hold failed Equipment and send failed Equipment to Kronos in "batches" which shall result in a longer turnaround time to Ordering Activity. In addition, Ordering Activity agrees to:
(i) Maintain the Equipment in an environment conforming to the Kronos published specifications for such Equipment;
(ii) Not perform self-repairs on the Equipment (i.e., replacing components) without prior written authorization from Kronos; (iii) De-install all failed Equipment and install all replacement Equipment in accordance with Kronos' written installation guidelines; (iv) Ensure that the Equipment is returned to Kronos properly packaged; and
(v) Obtain an RMA before returning any Equipment to Kronos and place the RMA clearly and conspicuously on the outside of the shipping package. Ordering Activity may only return the specific Equipment authorized by Kronos when issuing the RMA.

(d) Delivery. All domestic shipments within the United States are FOB Destination to/from Ordering Activity and Kronos with the shipping party bearing all costs and risks of loss, and with title passing upon delivery to the identified destination.

7.5 KnowledgePass Education Subscription. When KnowledgePass Education Subscription is purchased on an Order Form, Contractor through Kronos will provide Ordering Activity with the KnowledgePass Education Subscription. The KnowledgePass Education Subscription provides access to certain educational offerings provided by Contractor (the "KnowledgePass Content"). Ordering Activity recognizes and agrees that the KnowledgePass Content is copyrighted by Kronos. Ordering Activity is permitted to make copies of the KnowledgePass Content provided in *pdf form solely for Ordering Activity's internal use. Ordering Activity may not disclose such KnowledgePass Content to any third party other than Ordering Activity's employees. Ordering Activity may not edit, modify, revise, amend, change, alter, customize or vary the KnowledgePass Content without the written consent of Kronos, provided that Ordering Activity may download and modify contents of training kits solely for Ordering Activity's internal use.

7.6 Training Points. "Training Points" which are purchased by Ordering Activity may be redeemed for an equivalent value of instructor-led training sessions offered by Contractor through Kronos. Training Points are invoiced when used by the Ordering Activity. Training Points may not be exchanged for other Kronos products or services.

7.7 Training Courses. When Training Points or training sessions are set forth in an SSS, the SSS applies. When Training Points or training sessions are not set forth in an SSS, as part of the Services, for each SaaS application module included in the Services purchased by Ordering Activity, Ordering Activity's employees shall be entitled to attend, in the quantity indicated, the corresponding training courses set forth at: www.kronos.com/products/workforce-central-saas/training-guidlines.aspx
Participation in such training courses is limited to the number of seats indicated for the courses corresponding to the modules forming a part of the Services purchased by Ordering Activity.

7.8 Technical Account Manager. Ordering Activities purchasing a Kronos Technical Account Manager ("TAM") as indicated on the Order Form shall receive the services of a dedicated, but not exclusive, TAM for one production instance of the Software. Ordering Activity will designate up to two primary and three secondary backup technical contacts ("Technical Contacts") to be the sole contacts with the TAM. Upon request, Ordering Activity may designate additional and/or backup Technical Contacts. Ordering Activity is required to place all primary Technical Contacts through Kronos training for the Applications covered under Section D of this Attachment A at Ordering Activity's expense.

8. ORDERING ACTIVITY CONTENT
Ordering Activity shall own all Ordering Activity Content. Contractor through Kronos acknowledges that all of the Ordering Activity Content is deemed to be the confidential information of Ordering Activity. Kronos may, but shall have no obligation to, monitor Ordering Activity Content from time to time to ensure compliance with the Section D of this Attachment A and applicable law.

9. EQUIPMENT

If Ordering Activity purchases or rents Equipment from Contractor, a description of such Equipment (model and quantity), the applicable pricing, and delivery terms shall be listed on the Order Form.

9.1 Rented Equipment. The following terms apply only to Equipment Ordering Activity rents from Contractor:

a) Rental Term and Warranty Period. The term of the Equipment rental and the "Warranty Period" for such Equipment shall run coterminously with the Term of the other Services provided under Section D of this Attachment A and Order Form.

b) Insurance. Ordering Activity shall insure the Equipment for an amount equal to the replacement value of the Equipment for loss or damage by fire, theft, and all normal extended coverage at all times. No loss, theft or damage after shipment of the

Equipment to Ordering Activity shall relieve Ordering Activity from Ordering Activity's obligations under the Section D of this Attachment A and Order Form.

c) Location/Replacement. Ordering Activity shall not make any alterations or remove the Equipment from the place of original installation without Kronos' prior written consent. Kronos shall, subject to the Ordering Activity's security requirements pertaining to security clearances and access to premises, computer systems, and data, have the right to enter Ordering Activity's premises to inspect the Equipment during normal business hours. Kronos reserves the right, at its sole discretion and at no additional cost to Ordering Activity, to replace any Equipment with newer or alternative technology Equipment as long as the replacement Equipment at least provides the same level of functionality as that being replaced.

d) Ownership. All Equipment shall remain the property of Contractor through Kronos. All Equipment is, and at all times shall remain, separate items of personal property, notwithstanding such Equipment's attachment to other equipment or real property. Ordering Activity shall not sell or otherwise encumber the Equipment. Ordering Activity shall furnish any assurances, written or otherwise, reasonably requested by Contractor to give full effect to the intent of terms of this paragraph (d).

e) Equipment Support. Contractor shall provide to Ordering Activity the Equipment support services described in Section 7.

f) Return of Equipment. Upon termination of the applicable Order Form, Ordering Activity shall return, within thirty (30) days of the effective date of termination and at Ordering Activity's expense, the Equipment subject to this Section 9.1. Equipment will be returned to Contractor in the same condition as and when received, reasonable wear and tear excepted. If Ordering Activity fails to return Equipment within this time period, Contractor shall invoice Ordering Activity for the then list price of the Equipment.

9.2 Purchased Equipment. The following terms apply only to Equipment Ordering Activity purchases from Contractor:

a) Ownership and Warranty Period. Title to the Equipment shall pass to Ordering Activity upon delivery to the carrier. The "Warranty Period" for the Equipment shall be for a period of ninety (90) days from such delivery (unless otherwise required by law). Equipment Support. Contractor through Kronos shall provide to Ordering Activity the Equipment support services described in the Section D of this Attachment A if purchased separately by Ordering Activity as indicated on the applicable Order Form. If purchased, Equipment support services have a term of one (1) year commencing upon expiration of the Warranty Period. Equipment support services can be extended for additional one year terms on the anniversary of its commencement date ("Renewal Date") if agreed upon by the issuance of a new order and Contractor accepting such order.

10. SERVICE LEVEL AGREEMENT

Contractor through Kronos shall provide the service levels and associated credits, when applicable, in accordance with the Service Level Agreement attached hereto as Exhibit D-2 and which is hereby incorporated herein by reference. ORDERING ACTIVITY'S SOLE REMEDY IN THE EVENT OF ANY SERVICE OUTAGE or INTERRUPTION OF the SERVICES OR FAILURE BY CONTRACTOR TO MEET THE TERMS OF THE APPLICABLE SERVICE LEVEL AGREEMENT, SHALL BE THE REMEDIES PROVIDED IN EXHIBIT D-2.

11. LIMITED WARRANTY; DISCLAIMERS OF WARRANTY

11.1 Contractor represents and warrants to Ordering Activity that the Applications, under normal operation as specified in the Documentation and when used as authorized herein, will perform substantially in accordance with such Documentation during the Term.

11.2 Contractor's obligation and Ordering Activity's remedy for any breach of the foregoing warranty is limited to Contractor's reasonable commercial efforts to correct the non-conforming Services at no additional charge to Ordering Activity. In the event that Contractor is unable to correct material deficiencies in the Services, after using Contractor's commercially reasonable efforts to do so, Ordering Activity shall be entitled to terminate the then remaining Term of the Order Form under Section D of this Attachment A as Ordering Activity's remedy. Contractor' obligations hereunder for breach of warranty are conditioned upon Ordering Activity notifying Contractor of the material breach in writing, and providing Contractor with sufficient evidence of such non-conformity to enable Contractor to reproduce or verify the same.

11.3 Contractor warrants to Ordering Activity that each item of Equipment shall be free from defects in materials and workmanship during the Warranty Period. In the event of a breach of this warranty, Ordering Activity's remedy shall be Kronos' repair or replacement of the deficient Equipment, at Kronos' option, provided that Ordering Activity's use, installation and maintenance thereof have conformed to the Documentation for such Equipment. This warranty is extended to Ordering Activity only and shall not apply to any Equipment (or parts thereof) in the event of:

a) damage, defects or malfunctions resulting from misuse, accident, neglect, tampering, (including modification or replacement of any Contractor components on any boards supplied with the Equipment), unusual physical or electrical stress or causes other than normal and intended use;

b) failure of Ordering Activity to provide and maintain a suitable installation environment, as specified in the published specifications for such Equipment; or

c) malfunctions resulting from the use of badges or supplies not approved by Kronos.

EXCEPT AS PROVIDED FOR IN THIS SECTION 11, CONTRACTOR HEREBY DISCLAIMS ALL WARRANTIES, CONDITIONS, GUARANTIES AND REPRESENTATIONS RELATING TO THE SERVICES, EXPRESS OR IMPLIED, ORAL OR IN WRITING, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT, AND WHETHER OR NOT ARISING THROUGH A COURSE OF DEALING. THE SERVICES ARE NOT GUARANTEED TO BE ERROR-FREE OR UNINTERRUPTED. EXCEPT AS SPECIFICALLY PROVIDED IN THIS SECTION D, CONTRACTOR MAKES NO WARRANTIES OR REPRESENTATIONS CONCERNING THE COMPATIBILITY OF THE SERVICES, THE SAAS APPLICATIONS OR THE EQUIPMENT NOR ANY RESULTS TO BE ACHIEVED THEREFROM.

12.0 DATA SECURITY

12.1 As part of the Services, Contractor shall provide those administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Ordering Activity data as described at: http://www.kronos.com/products/workforce-centralcloud/cloud-guidelines.aspx. Ordering Activity acknowledges that such safeguards endeavor to mitigate security incidents, but such incidents may not be mitigated entirely or rendered harmless. Ordering Activity should consider any particular Contractor supplied security-related safeguard as just one tool to be used as part of Ordering Activity's overall security strategy and not a guarantee of security. Both parties agree to comply with all applicable privacy or data protection statutes, rules, or regulations governing the respective activities of the parties under the Section D of this Attachment A.

12.2 As between Ordering Activity and Contractor through Kronos, all Personally Identifiable Data is Ordering Activity's Confidential Information and will remain the property of Ordering Activity. Ordering Activity represents that to the best of Ordering Activity's knowledge such Personally Identifiable Data supplied to Contractor is accurate. Ordering Activity hereby consents to the use, processing or disclosure of Personally Identifiable Data by Kronos and Kronos' Suppliers wherever located only for the purposes described herein and only to the extent such use or processing is necessary for Contractor to carry out Kronos' duties and responsibilities under the Section D of this Attachment A or as required by law.

12.3 Prior to initiation of the Services under the Section D of this Attachment A and Order Form and on an ongoing basis thereafter, Ordering Activity agrees to provide notice to Contractor of any extraordinary privacy or data protection statutes, rules, or regulations which are or become applicable to Ordering Activity's industry and which could be imposed on Contractor as a result of provision of the Services. Ordering Activity will ensure that: (a) the transfer to Kronos and storage of any Personally Identifiable Data by Kronos or its' Supplier's data center is permitted under applicable data protection laws and regulations; and, (b) Ordering Activity will obtain consents from individuals for such transfer and storage to the extent required under applicable laws and regulations.

13. LIMITATION OF LIABILITY

13.1 EXCEPT AS SPECIFICALLY PROVIDED IN THIS SECTION D OF ATTACHMENT A, KRONOS AND ITS SUPPLIERS WILL NOT BE LIABLE FOR ANY DAMAGES OR INJURIES CAUSED BY THE USE OF THE SERVICES OR BY ANY ERRORS, DELAYS, INTERRUPTIONS IN TRANSMISSION, OR FAILURES OF THE SERVICES.

13.2 THE TOTAL AGGREGATE LIABILITY OF CONTRACTOR OR CONTRACTOR' SUPPLIERS TO ORDERING ACTIVITY AND/OR ANY THIRD PARTY IN CONNECTION WITH THE SECTION D SHALL BE LIMITED TO DIRECT DAMAGES PROVEN BY ORDERING ACTIVITY, SUCH DIRECT DAMAGES NOT TO EXCEED AN AMOUNT EQUAL TO THE TOTAL NET PAYMENTS RECEIVED BY CONTRACTOR FOR THE SERVICES IN THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE DATE IN WHICH SUCH CLAIM ARISES.

13.3 IN NO EVENT SHALL CONTRACTOR OR CONTRACTOR' SUPPLIERS, THEIR RESPECTIVE AFFILIATES, SERVICE PROVIDERS, OR AGENTS BE LIABLE TO ORDERING ACTIVITY OR ANY THIRD PARTY FOR ANY INCIDENTAL, SPECIAL, PUNITIVE, CONSEQUENTIAL OR OTHER INDIRECT DAMAGES OR FOR ANY LOST OR IMPUTED PROFITS OR REVENUES, LOST DATA OR COST OF PROCUREMENT OF SUBSTITUTE SERVICES RESULTING FROM DELAYS, NONDELIVERIES, MISDELIVERIES OR SERVICES INTERRUPTION, HOWEVER CAUSED, ARISING FROM OR RELATED TO THE SERVICES OR THE SECTION D, REGARDLESS OF THE LEGAL THEORY UNDER WHICH SUCH LIABILITY IS ASSERTED, WHETHER BREACH OF WARRANTY, INDEMNIFICATION, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE, AND WHETHER LIABILITY IS ASSERTED IN CONTRACT OR OTHERWISE, AND REGARDLESS OF WHETHER CONTRACTOR OR SUPPLIER HAS BEEN ADVISED OF THE POSSIBILITY OF ANY SUCH LIABILITY, LOSS OR DAMAGE.

13.4 EXCEPT WITH RESPECT TO LIABILITY ARISING FROM KRONOS NEGLIGENCE OR WILLFUL MISCONDUCT, CONTRACTOR DISCLAIMS ANY AND ALL LIABILITY, INCLUDING WITHOUT LIMITATION LIABILITY RELATED TO A BREACH OF DATA SECURITY AND CONFIDENTIALITY OBLIGATIONS, RESULTING FROM ANY EXTERNALLY INTRODUCED

HARMFUL PROGRAM (INCLUDING WITHOUT LIMITATION VIRUSES, TROJAN HORSES, AND WORMS), ORDERING ACTIVITY'S CONTENT OR APPLICATIONS, THIRD PARTY UNAUTHORIZED ACCESS OF EQUIPMENT, SAAS APPLICATIONS OR SYSTEMS, OR MACHINE ERROR.

The foregoing limitation of liability shall not apply to (1) personal injury or death resulting from Kronos' negligence; (2) for fraud; or (3) for any other matter for which liability cannot be excluded by law.

14. CONFIDENTIAL INFORMATION

14.1 Each Party shall protect the Confidential Information of the other Party with at least the same degree of care and confidentiality, but not less than a reasonable standard of care, which such Party utilizes for its own information of similar character that it does not wish disclosed to the public. Kronos recognizes that courts of competent jurisdiction may require release of confidential information and that Federal Agencies are subject to the Freedom of Information Act, 5 U.S.C. 552, which requires information that does not fall under certain exceptions to be released despite being marked as "confidential" by Kronos. If a request for is made under the Freedom of Information Act is made, the parties agree to cooperate so that confidential information which is covered by the exceptions will be maintained confidential.

15. EXPORT

Ordering Activity understands that any export of the Equipment may require an export license and Ordering Activity assumes full responsibility for obtaining such license. Ordering Activity must obtain Kronos' prior written consent before exporting the Equipment.

16. GENERAL

16.1 Ordering Activity shall not assign the rights to use the Services without the prior written consent of Contractor through Kronos and any purported assignment, without such consent, shall be void.

16.2 Ordering Activity understands and acknowledges that while Kronos may disclose to customers certain confidential information regarding general Service or product development direction, potential future Services, products or product enhancements under consideration, Ordering Activity is not entitled to any Services, products or product enhancements other than those contained on the Order Form. Ordering Activity has not relied on the availability of any future version of the Services (including SaaS Applications or equipment) identified on an Order Form, nor any other future product in executing an order which is governed by Section D of this Attachment A.

EXHIBIT D-1

Kronos® Workforce Central & Workforce TeleStaff

Cloud Offering – Single Tenant

The following applies to single-tenant Applications within the Kronos Cloud:

Cloud Offering	
Environments: One standard Production and one Non-Production (Development) environment.	Included. More nonproduction environments are available for additional fees.
Environment restoration: Restore of Production environment to one Non-Production environment once per week. Ordering Activity is responsible for requesting data to be moved from the Production environment to the Non-Production environment and for the contents of the data moved from the Production environment to the NonProduction environment.	Included. More frequent restores or additional environments will be subject to additional time and material fees.

Connectivity to Service: Customer's users connect to application via secure SSL/TLS connection over the internet. Cooperative efforts with customer IT staff may be required to enable access. Kronos will assist with validating site connectivity but assumes no responsibility for customer internet connection or ISP relationships. Kronos related Internet traffic cannot be filtered by proxy or caching devices on the client network. Exclusions must be added for the fully qualified domain names and public IP addresses assigned to the environments in the Kronos Cloud.	Included
Device Initiated Terminal Connectivity: In Device Initiated mode of communication, the Kronos Terminal initiates all communications with the Device Manager Server at Kronos Cloud over the internet. For this method, it is required that the customer open port 443 and port 444 outbound. In cases where Network Address Translation is required for terminals, the customer is responsible for applying the translations on their network. Kronos Cloud does not support terminals prior to 4500 series and does support certain models released thereafter.	Included
Remote Access to Non-Web Applications: Remote access to non-web Applications (e.g. Kronos Workforce Integration Manager) using a remote access tool such a Citrix® Receiver. Limited Kronos Applications require the use of these remote access accounts.	2 named users included
SFTP Accounts: SFTP accounts are provided to customers to push files to the Kronos Cloud and to pull files from the Kronos Cloud for designated integration points (e.g. Kronos Workforce Integration Manager input/output folders). This location is not designed for long-term storage and files may be deleted after 30 days after creation.	2 logins included
Operating System and Database Software Management: Includes application of	Included

Cloud Offering	
critical security patches, service packs and hot-fixes; maintenance of servers.	
Server Maintenance: Repair and replacement of defective or failed hardware and the installation of hardware upgrades.	Included

Application Updates: Services to perform technical tasks required to apply application service packs, legislative updates (if applicable), point releases and version upgrades.	Included
Backup: Customer data is backed up daily. Database backups are replicated via encrypted connections to a second Kronos Cloud datacenter. Backups are retained for the prior 28 days on a rotating basis. All historical employee and configuration data is stored in the rotating backups.	Included
Security: Kronos maintains a hosting environment that undergoes examinations from an independent auditor in accordance with the American Institute of Certified Public Accounts SSAE 16 (i.e. SOC 1) and the AICPA Trust Services Principles Section 100a, Trust Services for Security, Availability, Processing Integrity, Confidentiality and Privacy (i.e. SOC 2). The Kronos Private Cloud (KPC) is evaluated for the principles of Security, Availability and Confidentiality by the independent auditor. The Kronos Private Cloud is located in data centers that undergo SSAE 16 examinations. Management access to the KPC is limited to authorized Kronos support staff and customer authorized integrations. The security architecture has been designed to control appropriate logical access to the KPC to meet the Trust Services Principles of Security, Availability and Confidentiality. The Applications provide the customer with the ability to configure application security and logical access per the customer's business processes. In the event the customer identifies a security issue, the customer will notify Kronos. For security purposes, customers are restricted from accessing the desktop, file systems, databases and operating system of the environments. Customer agrees not to upload payment card information as the service is not certified for PCI DSS. Customer agrees not to upload health information that falls under HIPAA.	Included
Read-Only ODBC Access: Kronos will provide customer read-only ODBC access into customer's Production and Non-Production databases for Timekeeper/HRMS over secure connection (e.g. VPN). Customer is responsible for establishing this secure connection to the Kronos Cloud and additional fees for that connection may apply. Kronos may, but is not obligated to, limit or block customer's database read-only ODBC queries in order to prevent failure of the database due to overload. Kronos will not pay SLA credits for any Outage that is the result of overloading the database during read-only ODBC access. Overall performance may be limited during peak	If selected on Order Form

Cloud Offering	

processing periods, and customer may need to limit resource intensive read-only ODBC queries to off-peak periods. Customer acknowledges that read-only ODBC over a long distance secure connection is not a reliable protocol for it does not have retry logic built-in to handle connectivity issues. Kronos will not be responsible for any changes required to customer's internal systems to account for limitations of read-only OBDC protocol.	
Basic Disaster Recovery Services: Customer environment and all customer data in the Kronos Cloud are replicated to a secondary Kronos Cloud data center. Basic Disaster Recovery Services provides a Recovery Point Objective (RPO) of 24 hours and Kronos strives to restore Application Availability in a commercially reasonable timeframe. The customer will be down until production processing is restored in the primary or secondary data center if needed. No application environment is readily available at the alternate site to process data. Customers are expected to use fully qualified domain names (FQDNs) to access the service given that IP address of the service may change. Any issues arising out of the disaster recovery event due to customer configuration/customization and/or customer third party software outside of the Kronos Cloud is the responsibility of the customer to resolve.	Included
Enhanced Disaster Recovery Services: Customer environment and all customer data in the Kronos Cloud are replicated to a secondary Kronos Cloud datacenter. Enhanced Disaster Recovery Services provide an RTO (Recovery Time Objective) of 72 hours and a RPO (Recovery Point Objective) of 24 hours. In the unlikely event that Kronos declares a disaster in the primary datacenter, Kronos will notify the customer and activate the Disaster Recovery steps necessary to restore application availability within the RTO defined. As part of the enhanced service, Kronos will conduct an annual Disaster Recovery Process test which has the objectives to 1) test backups 2) train Kronos employees 3) verify and improve internal Kronos procedures. The annual Disaster Recovery Process test may be live or simulated test. Customers are expected to use fully qualified domain names (FQDNs) to access the service given that IP address of the service may change. Any issues arising out of the disaster recovery event due to customer configuration/customization and/or customer third party software outside of the Kronos Cloud is the responsibility of the customer to resolve. Workforce Analytics, Workforce Record Manager, Workforce TeleStaff Workforce TeleTime IP and all Non-Production environments are excluded from the RTO	If selected on Order Form

Cloud Offering	
The following services are not included in the Enhanced Disaster Recovery Services but may be purchased from Kronos on a time and material basis and subject to additional fees: a customer specific DR plan with annual review and Kronos project management for a live DR test.	
Temporary Environments: Temporary Environments are designed for classroom training up to about 40 people and/or functional application testing of roughly five to ten simultaneous people. To order a temporary environment you must be paying for a production environment in Kronos Cloud.	If selected on Order Form
Third Parties: If Customer uses a third party to configure and implement Customer's Applications, the following applies: Such third party must be authorized by Kronos as part of the Kronos Connect Partner Program prior to accessing Customer's development and testing environments. Third parties will not be granted access to Customer's production environment for purposes of configuring the Applications. Customer understands that although Kronos Connect Partners are subject to Kronos policies and procedures, such Partners are not subject to SOC audits by Kronos or its representatives. As such, Kronos' SSAE16 SOC 1 and AT101 SOC 2 Reports are applicable to the production environment only and not such third parties' activities.	If Customer uses 3rd party as part of implementation

Guidelines and Assumptions:

Category	Assumption
	Estimated availability of production server hardware is approximately 30 days after the Order Form is processed.
	Customer agrees to receive automatic updates to the Applications.
	Transparent Data Encryption (i.e. data at rest encryption) is not supported.
	Connecting modem clocks to the Kronos Cloud is not supported.
	Applications will support English only unless stated on the Order Form.

	Customer agrees not to conduct security testing, which includes but is not limited to penetration testing and vulnerability scanning.
	Customer agrees not conduct any sort of automated or manual performance testing of the Service.

Category	Assumption
	Offering includes system resources to process the equivalent of five WIM interfaces using up to 10 links with a maximum of five megabytes of data per link. In addition, systems resources for the integration between Workforce Central and Workforce TeleStaff for People, Punch, and Accrual interfaces are included assuming product documentation is followed for setup and run-time scheduling. Additional processing requirements may incur additional fees associated with corresponding system resources. Custom developed functionally outside of WIM that runs in the Kronos Cloud may incur additional fees.
	Retention policies must be configured in the Application(s). Setting retention policies will ensure that unnecessary system data (e.g. temp files, deleted records, empty rows, etc.) is routinely purged from the system and will help in managing database growth. Historical employee data can be maintained for the duration of the agreement and renewal periods per customer business requirements. Retention policies do not apply to configuration data.
	Sizing considerations based on a three year growth projection of the Production database environment. After 3 years, an archiving strategy may be reviewed with the customer for Service performance.
	Custom reports for Workforce Central are created using Microsoft Visual Studio. If made available from Microsoft the free version of Visual Studio Express will be made available to the customer in their development environment. Customer will have read-only ODBC access to their development database for creating reports. Customer is limited to two named users for report creation who match the two included users for remote access to non-web applications (e.g. Citrix Receiver). Customer created reports for Workforce HR and Payroll may have reduced functionally from Kronos product documentation due to security restrictions in Kronos Cloud.
	Customer will be required to sign a go live milestone document confirming customer has completed its testing and is ready to go live with the Workforce Central Application(s).
	Use of the Workforce Central translation toolkit requires a Kronos professional services engagement to import/export the translation file(s) into a test environment and into the Production environment.

Product Specific Considerations	
	Workforce Record Manager (if included on order form) – When Workforce Record Manager is included it may only be used for archiving purposes. Setup Data Manager only supports import and export of configuration via XML files between Production environment and Non-Production environment, a direct connection between Production and Non-Production environments is not supported. Customer should open a ticket with Kronos Global Support to request migrations when necessary. Customer is allowed one ticket per month at no charge to request migration of changes. Additional requests for configuration and/or interface migrations between customer environments shall be subject to additional time and material fees.
	Workforce TeleTime IP - Teletime IP requires customer to procure from a third party provider a private line (e.g. MPLS) into the Kronos Cloud that meets Kronos Cloud technical standards. Kronos will provide information on how connectivity is established by customer.

Workforce Central Upgrade Services

The Service includes services for Kronos to execute tasks to apply point releases and version upgrades to customer's Kronos Applications in the Kronos Cloud. Services are limited to those tasks which apply these updates to the Applications.

The table below reflects the included upgrade tasks.

Project Coordination: Project Manager to coordinate the upgrade project. • Up to eight 30-minute weekly status calls (one per week) • Coordinate Kronos resources • Send meeting invites • Provide Project Timeline and expected customer commitment at the start of the project • Provide initial Project Schedule and communicates progress during weekly status calls Provide Communication Plan and Contact List	Included
Planning Phase	
Customer/ Kronos Introduction Call – up to one hour	Included
Technical readiness & architecture review – Kronos Cloud Environment	Included

Assessment Phase	
Assessment of Interface Upgrade	Included
Assessment of new features or changes to configuration	Not included
Assessment of customs and custom reports and development activities related thereto	Not included
Solution Upgrade / Build Phase	
One (1) restore of Production database to Pre-Production environment for the purpose of upgrade testing. Additional restores, if requested, shall be subject to additional time and material fees.	Included
Upgrade Non-Production and Production environments to new point release or version.	Included
Upgrade of Workforce Integration Manager (WIM) interfaces due to product changes	Included
Introduced as part of the technical upgrade as defined in product documentation. For Workforce Central Version 8 this includes XML export/imports and database views as defined in the "Workforce Central Import User Guide" and "Workforce Central Data View Reference Guide".	
Upgrade of non-WIM interfaces in Non-Production environment and Production environment.	Not Included
Upgrade of customs and custom reports. This includes upgrade of Workforce Integration Manager (WIM) interfaces that use table import batch functionality, read/write directly to database tables or require changes due to new/changed customer requirements.	Not Included
Upgrade of interfaces and reports created or provided by customer	Not Included
Update of terminal firmware managed by Kronos	Not Included
Configuration of new features or functionality or changes to existing configuration	Available for Purchase

Test & Certify Phase	
System test upgraded environments by verifying a user can log in	Included
User acceptance testing (UAT) of upgraded environments, interfaces, custom reports, new features, etc.	Not Included
Develop customer-specific test cases	Not Included
Sign-off on upgraded Non-Production and Production Environments	Customer
Deploy & Support Phase	
Deployment Readiness Call – up to one hour	Included

Note that new feature configuration, project management services, other Professional, Managed and Educational Services and training are not included as part of Upgrade Services, but may be purchased independently, if desired.

Project coordination lasts for no more than 8 weeks. At the end of this time, Kronos will complete the production upgrade. If for any reason Kronos cannot complete the technical upgrade steps within 8 weeks due to a Kronos caused delay, project coordination will continue proportionally to cover the Kronos caused delay. For example if Kronos causes a two week delay due to Kronos resource unavailability, project coordination will last no more than 10 weeks.

If not specifically noted, the Ordering Activity should assume responsibility of the task and/or deliverable.

EXHIBIT D-2
SERVICE LEVEL AGREEMENT (SLA)

Service Level Agreement: The Services, in a production environment and as described in the Statement of Work (aka Services Scope Statement), are provided with the service levels described in this Exhibit D-2. SLAs are only applicable to production environments. SLAs will be available upon Ordering Activity's signature of Kronos' Go Live Acceptance Form for Ordering Activity's production environment.

99.75% Application Availability

Actual Application Availability % = (Monthly Minutes (MM) minus Total Minutes Not Available (TM)) multiplied by 100) and divided by Monthly Minutes (MM), but not including Excluded Events

Service Credit Calculation: An Outage will be deemed to commence when the Applications are unavailable to Ordering Activity in Ordering Activity's production environment hosted by Kronos and end when Kronos has restored availability of the Services. Failure to meet the 99.75% Application Availability SLA, other than for reasons due to an Excluded Event, will entitle Ordering Activity to a credit as follows:

Actual Application Availability % **(as measured in a calendar month)**	**Service Credit to be applied to Ordering Activity's monthly invoice for the affected month**

<99.75% to 98.75%	10%
<98.75% to 98.25%	15%
<98.25% to 97.75%	25%
<97.75 to 96.75%	35%
<96.75	50%

"**Outage**" means the accumulated time, measured in minutes, during which Ordering Activity is unable to access the Applications for reasons other than an Excluded Event.

"**Excluded Event**" means any event that results in an Outage and is caused by (a) the acts or omissions of Ordering Activity, its employees, customers, contractors or agents; (b) the failure or malfunction of equipment, applications or systems not owned or controlled by Kronos, including without limitation Ordering Activity Content, failures or malfunctions resulting from circuits provided by Ordering Activity, any inconsistencies or changes in Ordering Activity's source environment, including either intentional or accidental connections or disconnections to the environment; (c) excusable delay events as defined in FAR 52.212-4(f); (c) scheduled or emergency maintenance, alteration or implementation provided during the Maintenance Period defined below; (d) any suspension of the Services in accordance with the terms of the Section D to which this Exhibit D-2 is attached; (e) the unavailability of required Ordering Activity personnel, including as a result of failure to provide Kronos with accurate, current contact information; or (f) using an Application in a manner inconsistent with the product documentation for such Application.

"**Maintenance Period**" means scheduled maintenance periods established by Kronos to maintain and update the Services, when necessary. During these Maintenance Periods, the Services are available to Kronos to perform periodic maintenance services, which include vital software updates. Kronos will use its commercially reasonable efforts during the Maintenance Period to make the Services available to Ordering Activity; however, some changes will require downtime. Kronos will provide notice for planned downtime via an email notice to the primary Ordering Activity contact at least one day in advance of any known downtime so planning can be facilitated by Ordering Activity.

Currently scheduled Maintenance Periods for the Services are:

Monday through Friday	04:00 am – 06:00 am (U.S. eastern time)
Saturday and Sunday	12:00 am – 06:00 am (U.S. eastern time)

Maintenance Periods include those maintenance periods mutually agreed upon by Ordering Activity and Contractor.
"**Monthly Minutes (MM)**" means the total time, measured in minutes, of a calendar month commencing at 12:00 am of the first day of such calendar month and ending at 11:59 pm of the last day of such calendar month.

"**Total Minutes Not Available (TM)**" means the total number of minutes during the calendar month that the Services are unavailable as the result of an Outage.

Limitations: Service Credits will not be provided if: (a) Ordering Activity is in breach or default under the Section D at the time the Outage occurred; or (b) the Outage results from an Excluded Event. If Contractor through Kronos does not provide the appropriate Service Credit as due hereunder, Ordering Activity must request the Service Credit within sixty (60) calendar days of the conclusion of the month in which the Service Credit accrues. Ordering Activity waives any right to Service Credits not requested within this time period. All performance calculations and applicable Service Credits are based on Kronos records and data unless Ordering Activity can provide Kronos with clear and convincing evidence to the contrary.

The Service Level Agreements in this Exhibit, and the related Service Credits, apply on a per production environment basis. For the avoidance of doubt, Outages in one production environment may not be added to Outages in any other production environment for purposes of calculating Service Credits.

Ordering Activity acknowledges that Kronos manages its network traffic in part on the basis of Ordering Activity's utilization of the Services and that changes in such utilization may impact Kronos' ability to manage network traffic. Therefore, notwithstanding anything else to the contrary, if Ordering Activity significantly changes its utilization of the Services than what is contracted with Kronos and such change creates a material and adverse impact on the traffic balance of the Kronos network, as reasonably determined by Kronos, the parties agree to co-operate, in good faith, to resolve the issue.

SECTION E

KRONOS WORKFORCE READY® - SOFTWARE AS A SERVICE TERMS AND CONDITIONS

Ordering Activity and Contractor agree that the terms and conditions set forth below shall apply to the Contractor through Kronos supply of the commercially available version of the Workforce Ready® SaaS Applications in Kronos' hosting environment, the services related thereto, and the sale or rental of Equipment (if any) specified on an Order Form signed by Ordering Activity (the "Order Form"). The Applications described on the Order Form shall be delivered by means of Ordering Activity's permitted access to the Contractor infrastructure hosting such Applications.

Contractor and Ordering Activity hereby agree that these terms and conditions of this Section E of the Attachment A apply for all order forms for the services in relation with Workforce Ready® SaaS. These terms are effective as of the date of the Order Form is accepted by the Contractor ("Effective Date").

1. DEFINITIONS

"Section E" means these terms and conditions and the Order Form(s) specific to the Ordering Activity.

"Application(s)" or "SaaS Application(s)" means those Kronos software application programs set forth on an Order Form which are made accessible for Ordering Activity to use under the terms of this Section E.

"Billing Start Date" means the date the billing of the Monthly Service Fees commences as indicated on the applicable Order Form. The Billing Start Date of the Monthly Service Fees for any Services ordered by Ordering Activity after the date of this Section E which are incremental to Ordering Activity's then-existing Services shall be the date the applicable Order Form is executed by Contractor and Ordering Activity.

"Ordering Activity Content" means all content of Ordering Activity, or others acting on behalf of or through Ordering Activity, posts or otherwise inputs into the Services.

"Documentation" means technical publications published solely to its Customers by Contractor relating to the use of the Services.

"Educational Content" has the meanings ascribed in Section 7.3.

"Equipment" means Kronos equipment purchased or rented by Ordering Activity under this Section E.

"Initial Term" means the initial term of the Services as indicated on the Order Form.
"Monthly Service Fee(s)" means the monthly fees described in an Order Form. Monthly Service Fees include fees for usage of the Applications, the Services, and Equipment rental, if any. Billing of the Monthly Service Fee(s) commences on the Billing Start Date.

"Order Form" means an order form mutually agreed upon by Contractor and Ordering Activity setting forth the items ordered by Ordering Activity and to be provided by Contractor and the fees to be paid by Ordering Activity.

"Personally Identifiable Data" means information concerning individually identifiable employees of Ordering Activity that is protected against disclosure under applicable law or regulation.

"Renewal Term" means one year or such other renewal term of the Services as indicated on the Order Form.

"Services" means (i) accessibility to the commercially available version of the Applications by means of access to the password protected Ordering Activity area of a Contractor website, and all such services, items and offerings accessed by Ordering Activity therein, and (ii) the Equipment rented hereunder, if any.

"Supplier" means any contractor, subcontractor or licensor of Contractor providing software, equipment and/or services to Contractor which are incorporated into or otherwise related to the Services.

"Term" means the Initial Term and any Renewal Terms thereafter.

2. TERM

2.1 The Services shall commence on the Billing Start Date, and shall continue for the Initial Term or until terminated by Ordering

Activity in accordance with the provisions hereof or applicable laws and regulations. At the expiration of the Initial Term and each Renewal Term as applicable, the Services may renew for additional Renewal Terms by Ordering Activity issuing a new purchase order.

2.2 Contractor through Kronos reserves the right to temporarily suspend the Services if in Kronos's reasonable judgment, the Services or any component thereof are about to suffer a significant threat to security or functionality.

2.3 If the Order Form is terminated for any reason:

(a) Ordering Activity shall pay Contractor within thirty (30) days of such termination, all fees accrued for the Services prior to the effective date of such termination, provided however, if Ordering Activity terminates for material breach of the Section E by Contractor, Contractor shall refund Ordering Activity any pre-paid fees for services not delivered by Contractor;

(b) Ordering Activity's right to access and use the Applications shall be revoked and be of no further force or effect and Ordering Activity shall return rented Equipment as provided in Section 9.1 below;

(c) No more than fifteen (15) days after termination (or upon Ordering Activity's written request at any time during the Term), Contractor will provide to Ordering Activity, at no charge to Ordering Activity, the Ordering Activity Content. After such time period, Contractor shall have no further obligation to store or make available the Ordering Activity Content and will securely delete any or all Ordering Activity Content without liability;

(d) Ordering Activity agrees to timely return all Contractor-provided materials related to the Services to Contractor at Ordering Activity's expense or, alternatively, destroy such materials and provide Contractor with an officer's certification of the destruction thereof; and

(e) All provisions in the Section E of this Attachment A, which by their nature are intended to survive termination, shall so survive for the purposes of that Order Form being terminated.

3. FEES AND PAYMENT

3.1 Ordering Activity shall pay Contractor the Setup Fees, the Monthly Service Fees and any additional one time, set-up or recurring fees, all as defined on the Order Form. Billing will commence on the Billing Start Date with the Monthly Service Fees to be invoiced on the frequency set forth on the Order Form ("Billing Frequency"). Except as expressly set forth in the Section E of this Attachment A, all amounts paid to Contractor are non-refundable.
3.2 The Setup Fees shall be invoiced upon execution of the Order Form and shall be due net 30 days following date of invoice. Ordering Activity acknowledges that setup fees may be charged to Ordering Activity by third parties for Add-on Features, provided that the third party setup and monthly fees shall be set forth on an Order Form. Monthly Service fees shall be based on monthly periods that begin on the Billing Start Date. Monthly Service Fees shall include fees for Equipment rental, if any, as specified on the Order Form. Monthly Service Fees for Services added on or before the 15th day of a given month will be charged for that full monthly period and each monthly period of the Term thereafter; Monthly Service Fees for Services added after the 15th day of a given month will begin to accrue as of the 1st day of the following month and will be charged for each monthly period of the Term thereafter. Monthly Service Fees shall be invoiced promptly following the end of the calendar month in which the Monthly Service Fees were accrued. Contractor through Kronos will monitor Ordering Activity's "Usage" of the Services (as defined below) in order to calculate the Usage portion of the Monthly Service Fees to be charged. Usage of the Services, depending on applicable features, components, or services, shall be priced as identified on the Order Form either on a: (a) per month basis; (b) per active employee (herein "Active Employee") per month usage basis; (c) per transaction basis (e.g.: pay statement); or, (d) per access point. For purposes of the Section E, an employee shall be deemed an Active Employee during any applicable billing period if through the Services: (i) time has been entered for such employee; (ii) records have been included for such employee for the purpose of processing payroll; (iii) records have been included for such employee within an import/export process; (iv) such employee has accessed the Services, regardless of the purpose; (v) benefit time has been accrued for such employee; or (vi) such employee has been marked by Ordering Activity as having an "Active" status during the period.

3.3 Ordering Activity agrees that except in those circumstances in which Ordering Activity is entitled to invoke the termination for cause provision set forth in Section 2.3 above, in consideration of Kronos' delivery of the Services on a variable fee basis, Ordering Activity agrees to pay Contractor each month during the Term in which charges accrue no less than the minimum monthly fees ("Minimum Monthly Fees") which shall be calculated by Contractor though Kronos based the amounts identified on all Order Forms for Ordering Activity's Usage of the Services, plus Equipment rental fees, if any. In the event that Ordering Activity does not reach the anticipated Usage upon which the Minimum Monthly Fees was based for any given month during the Term, Ordering Activity shall remain responsible for paying the Minimum Monthly Fees for that month.

4. RIGHTS TO USE

4.1 Subject to the terms and conditions of the Section E of this Attachment A and the Order Form, Contractor hereby grants Ordering Activity a limited, revocable, non-exclusive, non-transferable, non-assignable right to use during the Term and for internal business purposes only: a) the Applications and related services, including the Documentation and training materials; and, b) any embedded third party software, libraries, or other components, which form a part of the Services. The Services contain proprietary trade secret technology of Contractor and its Suppliers. Unauthorized use and/or copying of such technology are prohibited by law, including United States and foreign copyright law. Ordering Activity shall not reverse compile, disassemble or otherwise convert the Applications or other software comprising the Services into uncompiled or unassembled code. Ordering Activity acknowledges and agrees that the right to use the Services is limited based upon authorized Usage and the amount of the Monthly Service Fees to be paid by Ordering Activity. Ordering Activity agrees to use only the modules and/or features described on the Order Form. Ordering Activity agrees not to use any other modules or features unless Ordering Activity has licensed such additional modules or features. Ordering Activity may not relicense or sublicense the Services, or otherwise permit use of the Services (including timesharing or networking use) by any third party. Ordering Activity may not provide service bureau or other data processing services that make use of the Services without the express prior written consent of Kronos. No license, right, or interest in any Kronos trademark, trade name, or service mark, or those of Kronos' licensors or Suppliers, is granted hereunder. When using and applying the information generated by the Services, Ordering Activity is responsible for ensuring that Ordering Activity complies with applicable laws and regulations.

4.2 Ordering Activity may authorize its third party contractors and consultants to access the Services through Ordering Activity's administrative access privileges on an as needed basis, provided Ordering Activity: a) abides by its obligations to protect confidential information; b) remains responsible for all such third party usage and compliance with the Section E of this Attachment A; and c) does not provide such access to a competitor of Contractor who provides workforce management services.

4.3 Ordering Activity acknowledges and agrees that, Kronos retains ownership of all right, title and interest to the Services, all of which are protected by copyright and other intellectual property rights, and that, other than the express rights granted herein, Ordering Activity shall not obtain or claim any rights in or ownership interest to the Services or any associated intellectual property rights in any of the foregoing. Ordering Activity agrees to comply with all copyright and other intellectual property rights notices contained on or in any information obtained or accessed by Ordering Activity through the Services.

4.4 Kronos will make updates and upgrades to the Services (tools, utilities, improvements, third party applications, general enhancements) available to Ordering Activity at no charge as they are released generally to its customers as part of the Services. Ordering Activity agrees to receive those updates automatically as part of the Services. Contractor through Kronos also may offer new products and/or services to Ordering Activity at an additional charge. Ordering Activity shall have the option of purchasing such new products and/or services under a separate Order Form.

4.5 Contractor through Kronos reserves the right to change the Services, in whole or in part, including but not limited to, the Internet based services, technical support options, and other Services-related policies. Ordering Activity's continued use of the Services after Kronos posts or otherwise notifies Ordering Activity of any changes indicates the Section E of Attachment A and the Order Form to those changes.

5. ACCEPTABLE USE

5.1 Ordering Activity shall take all reasonable steps to ensure that no unauthorized persons have access to the Services, and to ensure that no persons authorized to have such access shall take any action that would be in violation of the Section E of this Attachment A.

5.2 Ordering Activity represents and warrants to Contractor that Ordering Activity has the right to publish and disclose the Ordering Activity Content in connection with the Services. Ordering Activity represents and warrants to Contractor that the Ordering Activity Content: (a) does not infringe or violate any third-party right, including but not limited to intellectual property, privacy, or publicity rights, (b) is not abusive, profane, or offensive to a reasonable person, or, (c) is not hateful or threatening.

5.3 Ordering Activity will not (a) use, or allow the use of, the Services in contravention of any federal, state, local, foreign or other applicable law, or rules or regulations of regulatory or administrative organizations; (b) introduce into the Services any virus or other code or routine intended to disrupt or damage the Services, or alter, damage, delete, retrieve or record information about the Services or its users; (c) excessively overload the Kronos systems used to provide the Services; (d) perform any security integrity review, penetration test, load test, denial of service simulation or vulnerability scan; (e) use any tool designed to automatically emulate the actions of a human user (e.g., robots); or, (f) otherwise act in a fraudulent, malicious or negligent manner when using the Services.

6. CONNECTIVITY AND ACCESS

Ordering Activity acknowledges that Ordering Activity shall (a) be responsible for securing, paying for, and maintaining connectivity to the Services (including any and all related hardware, software, third party services and related equipment and components); and (b) provide Contractor and its representatives with such physical or remote access to Ordering Activity's computer and network environment as Kronos deems reasonably necessary in order for Kronos to perform its obligations under the Section E of this Attachment A and the Order Form. Ordering Activity will make all necessary arrangements as may be required to provide access to Ordering Activity's computer and network environment if necessary for Contractor to perform its obligations under the Section E of

this Attachment A. Contractor is hereby (i) granted access to such Ordering Activity data to perform its obligations under the Section E of this Attachment A and the Order Form and (ii) authorized to audit the number of Active Employee counts or other transactions that have occurred to measure Usage.

7. IMPLEMENTATION AND SUPPORT

7.1 Implementation. Contractor through Kronos will configure the Services utilizing scheduled remote resources. Software module configuration will be based on information and work flows obtained from Ordering Activity during the discovery portion of the implementation. Ordering Activity shall provide Kronos with necessary configuration-related information in a timely manner to ensure that mutually agreed implementation schedules are met. Contractor and Ordering Activity's implementation responsibilities are described more specifically in the Services Implementation Guideline attached as Exhibit E-1.

7.2 Standard Support. Contractor through Kronos will provide telephone support 8:00 a.m. to 5:00 p.m., local time, Monday – Friday. Customers also shall be provided the capability to log questions online via the Kronos customer Portal.

7.3 Equipment Support. If Equipment is rented in accordance with Section 9.1 below or if Equipment Support Services are purchased for Equipment purchased in accordance with Section 9.2 below, Contractor through Kronos will provide the following Depot Exchange Support Services to Ordering Activity:

(a) Upon the failure of installed Equipment, Ordering Activity shall notify Kronos of such failure and Kronos will provide remote fault isolation at the FRU (Field Replacement Unit) or subassembly level and attempt to resolve the problem. Those failures determined by Kronos to be Equipment related shall be dispatched to a Kronos Depot Repair Center, and Ordering Activity will be provided with a Return Material Authorization Number (RMA) for the failed Equipment if Ordering Activity is to return the failed Equipment to Kronos, as reasonably determined by Kronos. Ordering Activity must return the failed Equipment with the supplied RMA number. Hours of operation, locations and other information related to Kronos Depot Repair Centers are available upon request and are subject to change. Return and repair procedures for failed Equipment shall be provided based on the Depot option - Depot Exchange or Depot Repair - selected by Ordering Activity on the applicable Order Form and as specified herein and in Section G of this Attachment A (Support Services Policies).

(b) Contractor will provide a replacement for the failed Equipment at the FRU or subassembly level on an "advanced exchange" basis, utilizing a carrier of Kronos's choice. Replacement Equipment will be shipped the same day, for delivery to Ordering Activity's location as further described in the Support Policies. REPLACEMENT EQUIPMENT MAY BE NEW OR RECONDITIONED.

Ordering Activity shall specify the address to which the Equipment is to be shipped. All shipments will include the Kronos provided RMA designating the applicable Kronos Depot Repair Center, as the recipient. Ordering Activity, upon receipt of the replacement Equipment from Kronos, shall package the defective Equipment in the materials provided by Kronos, with the RMA supplied and promptly return failed Equipment directly to Kronos.

(c) Equipment support also includes Ordering Activity access to Equipment service packs via the Kronos customer Portal.

7.4 Educational Materials and Content. Ordering Activity will have access to certain educational materials and content (the "Educational Content") within the Services. Ordering Activity recognizes and agrees that the Educational Content is copyrighted by Kronos. Ordering Activity is permitted to make copies of the Educational Content provided in *pdf form solely for Ordering Activity's internal training purposes and may not disclose such Educational Content to any third party other than Ordering Activity's employees. Ordering Activity may not edit, modify, revise, amend, change, alter, customize or vary the Educational Content without the written consent of Kronos, provided that Ordering Activity may download and modify contents of Training Kits solely for Ordering Activity's internal use.

8. Ordering Activity content

Ordering Activity shall own all Ordering Activity Content. Contractor acknowledges that all of the Ordering Activity Content is deemed to be the confidential information of Ordering Activity. Notwithstanding the foregoing, Ordering Activity grants Contractor permission to combine Ordering Activity's business data with that of other Ordering customers in a manner that does not identify the Ordering Activity or any individual in order to evaluate and improve the services Contractor offers to Ordering customers. In addition, Kronos may, but shall have no obligation to, monitor Ordering Activity Content from time to time to ensure compliance with the Section E of this Attachment A and applicable law.

9. EQUIPMENT

If Ordering Activity purchases or rents Equipment from Contractor, a description of such Equipment (model and quantity), the applicable pricing, and delivery terms shall be listed on the Order Form.

9.1 Rented Equipment. The following terms apply only to Equipment Ordering Activity rents from Contractor:

g) Rental Term and Warranty Period. The term of the Equipment rental and the "Warranty Period" for such Equipment shall run coterminously with the Term of the other Services provided under the Section E of this Attachment A and the Order Form.

h) Insurance. Ordering Activity shall insure the Equipment for an amount equal to the replacement value of the Equipment for loss or damage by fire, theft, and all normal extended coverage at all times. No loss, theft or damage after shipment of the
Equipment to Ordering Activity shall relieve Ordering Activity from Ordering Activity's obligations under the Section E of this Attachment A and the Order Form.

i) Location/Replacement. Ordering Activity shall not make any alterations or remove the Equipment from the place of original installation without Kronos' prior written consent. Kronos shall, subject to the Ordering Activity's security requirements pertaining to security clearances and access to premises, computer systems, and data, have the right to enter Ordering Activity's premises to inspect the Equipment during normal business hours, subject to applicable Government security requirements. Kronos reserves the right, at its sole discretion and at no additional cost to Ordering Activity, to replace any Equipment with newer or alternative technology Equipment as long as the replacement Equipment at least provides the same level of functionality as that being replaced.

j) Ownership. All Equipment shall remain the property of Contractor through Kronos. All Equipment is, and at all times shall remain, separate items of personal property, notwithstanding such Equipment's attachment to other equipment or real property. Ordering Activity shall not sell or otherwise encumber the Equipment. Ordering Activity shall furnish any assurances, written or otherwise, reasonably requested by Contractor to give full effect to the intent of terms of this paragraph (d).

k) Equipment Support. Contractor shall provide to Ordering Activity the Equipment support services described in Section 7.

l) Return of Equipment. Upon termination of the applicable Order Form, Ordering Activity shall return, within thirty (30) days of the effective date of termination and at Ordering Activity's expense, the Equipment subject to this Section 9.1. Equipment will be returned to Contractor in the same condition as and when received, reasonable wear and tear excepted

9.2 Purchased Equipment. The following terms apply only to Equipment Ordering Activity purchases from Contractor:

b) Ownership and Warranty Period. Title to the Equipment shall pass to Ordering Activity upon delivery to the carrier. The "Warranty Period" for the Equipment shall be for a period of ninety (90) days from such delivery (unless otherwise required by law).

c) Equipment Support. Contractor through Kronos shall provide to Ordering Activity the Equipment support services described in this Section E of this Attachment A if purchased separately by Ordering Activity as indicated on the applicable Order Form. If purchased, Equipment support services have a term of one (1) year commencing upon expiration of the Warranty Period. Equipment support services can be extended for additional one year terms on the anniversary of its commencement date ("Renewal Date") if agreed upon by the issuance of a new order and Contractor accepting such order.

10. SERVICE LEVEL AGREEMENT

Contractor through shall: (a) provide basic support for the Services at no additional charge, (b) use commercially reasonable efforts to make the Services available 24 hours a day, 7 days a week, except for: (i) planned downtime (when it shall give at least 8 hours notice via the Services and shall schedule to the extent practicable during the weekend hours from 6:00 p.m. Friday to 3:00 a.m. Monday, Eastern Time), or (ii) any unavailability caused by circumstances beyond Kronos' reasonable control, as governed by FAR 52.212-4(f).

11. LIMITED WARRANTY; DISCLAIMERS OF WARRANTY

11.1 Contractor represents and warrants to Ordering Activity that the Applications, under normal operation as specified in the Documentation and when used as authorized herein, will perform substantially in accordance with such Documentation during the Term.

11.2 Contractor's sole obligation and Ordering Activity's remedy for any breach of the foregoing warranty is limited to Contractor's reasonable commercial efforts to correct the non-conforming Services at no additional charge to Ordering Activity. In the event that Contractor is unable to correct material deficiencies in the Services arising during the Warranty Period, after using Contractor's commercially reasonable efforts to do so, Ordering Activity shall be entitled to terminate the then remaining Term of the Order Form under Section E of this Attachment A as Ordering Activity's remedy. Contractor's obligations hereunder for breach of warranty are conditioned upon Ordering Activity notifying Contractor of the material breach in writing, and providing Contractor with sufficient evidence of such non-conformity to enable Contractor to reproduce or verify the same.

11.3 Contractor warrants to Ordering Activity that each item of Equipment shall be free from defects in materials and workmanship during the Warranty Period. In the event of a breach of this warranty, Ordering Activity's remedy shall be Kronos' repair or replacement of the deficient Equipment, at Kronos' option, provided that Ordering Activity's use, installation and maintenance thereof have conformed to the Documentation for such Equipment. This warranty is extended to Ordering Activity only and shall not apply to any Equipment (or parts thereof) in the event of:

a) damage, defects or malfunctions resulting from misuse, accident, neglect, tampering, (including modification or replacement of any Contractor components on any boards supplied with the Equipment), unusual physical or electrical stress or causes other than normal and intended use;

b) failure of Ordering Activity to provide and maintain a suitable installation environment, as specified in the published specifications for such Equipment; or

c) malfunctions resulting from the use of badges or supplies not approved by Kronos.

EXCEPT AS PROVIDED FOR IN THIS SECTION 11, CONTRACTOR HEREBY DISCLAIMS ALL WARRANTIES, CONDITIONS, GUARANTIES AND REPRESENTATIONS RELATING TO THE SERVICES, EXPRESS OR IMPLIED, ORAL OR IN WRITING, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT, AND WHETHER OR NOT ARISING THROUGH A COURSE OF DEALING. THE SERVICES ARE NOT GUARANTEED TO BE ERROR-FREE OR UNINTERRUPTED. EXCEPT AS SPECIFICALLY PROVIDED IN THIS SECTION E, CONTRACTOR MAKES NO WARRANTIES OR REPRESENTATIONS CONCERNING THE COMPATIBILITY OF THE SERVICES, THE SAAS APPLICATIONS OR THE EQUIPMENT NOR ANY RESULTS TO BE ACHIEVED THEREFROM.

12.0 DATA SECURITY

12.1 As part of the Services, Kronos shall provide those administrative, physical, and technical safeguards for the protection of the security, confidentiality and integrity of Ordering Activity data. Ordering Activity acknowledges that such safeguards endeavor to mitigate security incidents, but such incidents may not be mitigated entirely or rendered harmless. Ordering Activity should consider any particular Kronos supplied security-related safeguard as just one tool to be used as part of Ordering Activity's overall security strategy and not a guarantee of security. Both parties agree to comply with all applicable privacy or data protection statutes, rules, or regulations governing the respective activities of the parties under the Section E of this Attachment A.

12.2 As between Ordering Activity and Contractor through Kronos, all Personally Identifiable Data is Ordering Activity's Confidential Information and will remain the property of Ordering Activity. Ordering Activity represents that to the best of Ordering Activity's knowledge such Personally Identifiable Data supplied to Contractor is accurate. Ordering Activity hereby consents to the use, processing or disclosure of Personally Identifiable Data by Kronos and Kronos' Suppliers wherever located only for the purposes described herein and only to the extent such use or processing is necessary for Contractor to carry out Kronos' duties and responsibilities under the Section E of this Attachment A or as required by law.

12.3 Prior to initiation of the Services under the Section E of this Attachment A and the Order Form and on an ongoing basis thereafter, Ordering Activity agrees to provide notice to Contractor of any extraordinary privacy or data protection statutes, rules, or regulations which are or become applicable to Ordering Activity's industry and which could be imposed on Contractor as a result of provision of the Services. Ordering Activity will ensure that: (a) the transfer to Kronos and storage of any Personally Identifiable Data by Kronos or its Supplier's data center is permitted under applicable data protection laws and regulations; and, (b) Ordering Activity will obtain consents from individuals for such transfer and storage to the extent required under applicable laws and regulations.

13. LIMITATION OF LIABILITY

13.1 Except as specifically provided in this section E of this Attachment A, Kronos and its suppliers will not be liable for any damages or injuries caused by the use of the services or by any errors, delays, interruptions in transmission, or failures of the Services.

13.2 The total aggregate liability of Contractor or Contractor's suppliers to ordering activity and/or any third party in connection with the section E shall be limited to direct damages proven by ordering activity, such direct damages not to exceed an amount equal to the total net payments received by contractor for the Services in the Twelve (12) month period immediately preceding the date in which such claim arises.

13.3 In no event shall Contractor or Contractor's suppliers, their respective affiliates, service providers, or agents be liable to Ordering Activity or any third party for any incidental, special, punitive, consequential or other indirect damages or for any lost or

imputed profits or revenues, lost data or cost of procurement of substitute services resulting from delays, nondeliveries, misdeliveries or services interruption, however caused, arising from or related to the services or the Section E, regardless of the legal theory under which such liability is asserted, whether breach of warranty, indemnification, negligence, strict liability or otherwise, and whether liability is asserted in contract or otherwise, and regardless of whether contractor or supplier has been advised of the possibility of any such liability, loss or damage.

13.4 Except with respect to liability arising from Kronos' gross negligence or willful misconduct, contractor disclaims any and all liability, including without limitation liability related to a breach of data security and confidentiality obligations, resulting from any externally introduced harmful program (including without limitation viruses, Trojan horses, and worms), Ordering Activity's content or applications, third party unauthorized access of equipment, SaaS applications or systems, or machine error.

13.5 The foregoing limitation of liability shall not apply to (1) personal injury or death resulting from Kronos' negligence; (2) for fraud; or (3) for any other matter for which liability cannot be excluded by law.

14. Confidential information

14.1 Each Party shall protect the Confidential Information of the other Party with at least the same degree of care and confidentiality, but not less than a reasonable standard of care, which such Party utilizes for its own information of similar character that it does not wish disclosed to the public.

15. EXPORT

Ordering Activity understands that any export of the Equipment may require an export license and Ordering Activity assumes full responsibility for obtaining such license. Ordering Activity must obtain Kronos' prior written consent before exporting the Equipment.

16. GENERAL

16.1 Ordering Activity shall not assign the rights to use the Services without the prior written consent of Contractor and any purported assignment, without such consent, shall be void.

16.2 Ordering Activity understands and acknowledges that while Contractor may disclose to customers certain confidential information regarding general Service or product development direction, potential future Services, products or product enhancements under consideration, Ordering Activity is not entitled to any Services, products or product enhancements other than those contained on the Order Form. Ordering Activity has not relied on the availability of any future version of the Services (including SaaS Applications or equipment) identified on an Order Form, nor any other future product in executing the Section E of this Attachment A.

Kronos® Workforce Ready™ Implementation Guidelines

Travel Expenses

In the event that Ordering Activity requests Kronos to travel to Customer's location during the implementation, Ordering Activity agrees to pay any travel expenses in accordance with FTR/JTR, as applicable. Ordering Activity shall only be liable for such travel expenses as approved by Ordering Activity and funded under the applicable ordering document.

Item	Kronos Responsibility	Ordering Activity Responsibility
Time and Labor	Kronos will configure and implement Workforce Ready Time and Labor module.	It is the responsibility of the customer to Complete the Time and Attendance templates.
Accruals	Kronos will configure and implement the Workforce Ready Accruals module.	It is the responsibility of the customer to Complete the Time and Accruals templates.
Human Resources	Kronos will configure and implement Workforce Ready Human Resources module.	It is the responsibility of the customer to Complete the Human Resource templates.

Payroll	Kronos will configure and implement Workforce Ready Payroll module.	It is the responsibility of the customer to Complete the Payroll templates.
Clocks	Kronos will configure up to 3 clocks and It is the responsibility of the customer to train the customer's IT staff to replicate physically install/mount all clocks. It is the additional configurations. responsibility of the customer to configure/install additional clocks.	
Network	Kronos will provide specifications on recommended network settings to allow communications between the hosted environment and the clocks.	It is the responsibility of the customer to configure their network to allow inbound and outbound communications to and from the clocks. Specific ports/firewall settings may need to be modified to allow communications.
Tax Filing	Kronos will coordinate the communication between MasterTax and the customer. Kronos will confirm proper configuration of the payrollinformation to setup the MasterTax exports.	It is the responsibility of the customer to provide Kronos with the necessary tax export to MasterTax .
Employee import	An employee import will be configured to pull employee based information into Workforce Ready	It is the responsibility of the customer to provide a file in a Kronos approved format for the import.
Accrual import	An accrual import will be configured to pull accrual balances into Workforce Ready.	It is the responsibility of the customer to provide a file in a Kronos approved format for the import.
Payroll export	Kronos will provide a standard export file for Workforce Ready.	It is the responsibility of the customer to provide Kronos with the necessary import file specifications for their payroll software.
Training	Kronos will provide 1 administrative training session and up to 2 manager training sessions conduct all employee and any remaining for each software product purchased. manager training sessions.	It is the responsibility of the customer to

SECTION F

Professional and Educational Services Engagement Policies
The following are intended to provide the policies under which Kronos Professional and Educational Services will operate during the course of a customer engagement:

Professional Services:

1. Contractor will provide Ordering Activities with a Professional Services Estimate or Statement of Work that outlines the project deliverables and provides an estimate for the project scope and cost required to complete the engagement, based upon preliminary information provided by Ordering Activity.

2. Contractor and Ordering Activity agree that given the use of estimated times; the Assess Phase of the engagement will be used to determine whether modifications to project scope and cost are required.

3. Any such modification to project scope and cost will be supported through the generation of a Change Order that is signed by the Ordering Activity (see Change Order Process below).

4. The original project scope and cost of an engagement will apply until, and if, the Ordering Activity signs a Change Order.

5. The Professional Services Estimate or Statement of Work is valid for one year from the date of signature.

6. Contractor will invoice the Ordering Activity on a monthly basis for all Professional Services provided during the previous month.

7. Professional Services work will be conducted during normal business hours, 8:00 AM - 5:00 PM, Monday through Friday.

8. All Professional Services work scheduled to start outside of normal business hours will be billed in full at a premium rate described below. For work to be performed After Hours, on Holidays, or on Weekends, an approved Change Order will be required prior to scheduling (see Change Order Process below). Ordering Activities will be charged as follows:
    1. All Professional Services will be scheduled and billed in 4 hour increments with a minimum charge of 4 hours.
    2. After Hours
        i. All scheduled work will be billed at 1.5 times the current contract rate by role.
        ii. After Hours are 5:00 PM - 8:00 AM, Monday through Thursday.
    d. Weekend
        i. All scheduled work will be billed at 2.0 times the current contract rate by role.
        ii. Weekend is 5:00 PM Friday- 8:00 AM Monday.
    e. Holiday
        i. All scheduled work will be billed at 2.0 times the current contract rate by role.
        ii. Holiday is recognized Kronos Holiday (see below).
    f. Onsite Support requiring Travel:
        i. All travel time (portal to portal) will be billed at the current contract rate by role.
        ii. Expense reimbursement is pursuant to the agreement covering such Professional Services between the customer and Kronos, subject to the terms and conditions of the GSA Schedule contract, customer order, and applicable Federal travel regulations.

9. Contractor requires notification for the cancellation or rescheduling of Kronos personnel, Ordering Activity will be charged for failure to meet the following notification requirements:

2 business days prior to scheduled work - 50% of planned charges are invoiced for scheduled work.
1 business day prior to scheduled work - 100% of planned charges are invoiced for scheduled work. Business days are Monday, Tuesday, Wednesday, Thursday, and Friday, excluding holidays.

Here is *an example:*
o Work is scheduled for Wednesday, 1p - 5p (4 hours) o Customer *cancels on:*
-Friday - no *penalty*
-Monday - 50% of planned charges are invoiced (2 hours) - Tuesday - 100% of planned charges are invoiced (4 hours) Here is a holiday example:
o Work is scheduled for Wednesday, ip - 5p (4 hours)
o Customer cancels on:
-Thursday - no penalty
-Friday - 50% of planned charges are invoiced (2 hours)
-Monday- holiday; doesn't count as "business day"
-Tuesday --- 100% of planned charges are invoiced (4 hours)
Kronos Professional Services recognizes the following holidays:

New Year's Day President's Day Memorial Day
Independence Day Labor Day
Thanksgiving Day and the day after
Christmas Day

Change Order Process:

1. All changes to the original, signed Professional Services Estimate or Statement of Work will be initiated by the Kronos Project Manager and reflected through the use of a Change Order, approved and signed by the Ordering Activity.
2. A change of project scope and cost, resulting in a Change Order, could result from: an increase or change to project deliverables, Ordering Activity allocated time, Ordering Activity scheduling changes, technology limitations.
3. The last authorized Professional Services Estimate or Statement of Work, including any previously approved Change Orders, will prevail until amended by a subsequent approved Change Order.
4. Unless otherwise addressed within these policies, the hourly rate(s) quoted within a Change Order for work to be performed within normal business hours will be consistent with that contained within the original Professional Service Estimate or Statement of Work, if such Change Order is executed during the course of the original engagement, or within one (1) year of the signing of the original Professional Services Estimate or Statement of Work, whichever is earlier.
5. In instances where specialized resources are requested, but not contained within the original Professional Services Estimate or Statement of Work, the quoted rate will be established at Contractor's then current GSA rate for such requested services.

Educational Services

1. All Instructor-led Educational Services classes will be held at a Kronos facility, or via the Kronos Virtual Classroom (if offered in that modality), unless Ordering Activity has purchased onsite location training.
2. Contractor requires notification of cancellation from an Instructor-led class. Ordering Activity will be charged for training upon failure to meet the following notification requirements:
   a. For any PUBLIC course held in the traditional classroom or in the virtual classroom: Attendees must cancel at least five business days before the class start *date* to avoid cancellation fees (equal to the cost of the course). Student substitutions can be made at any time as long as prerequisites have been met.
   b. For any PRIVATE course held at a Ordering Activity site, in the traditional classroom, or in the virtual classroom: Attendees must cancel at least ten business days before the class start date. Student substitutions can be made at any time as long as prerequisites have been met.

3. Contractor through Kronos reserves the right to cancel classes up to five business days before the scheduled start date for public courses held in a Kronos Traditional Classroom (KTC) and up to two business days before the scheduled start date for public courses held in a Kronos Virtual Classroom (KVC) due to lack of enrollment or any other unforeseen circumstances.

4. Educational Services ordered are valid for one (1) year from the date of signature. Educational Service purchased but not used within this one-year period will expire. New Order will need to be reissued by the Contracting Agency

5. All training course delivery scheduled to start outside of normal business hours will be billed in full at a premium rate described below. Ordering Activities will be charged as follows:
   a. After Hours
   There will be a 1.5 times premium in either per student public or per class private day rates.
   After Hours are 5:00 PM - 8:00 AM, Monday through Thursday. b. Weekend
   There will be a 2.0 times premium in either per student public or per class private day rates.
   Weekend is 5:00 PM Friday - 8;00 AM Monday. c. Holiday
   There will be a 2,0 times premium in either per student public or per class private day rates.
   Holiday is recognized Kronos Holiday (see below). d.
   Onsite Support requiring Travel:
   All travel time (portal to portal) will be billed at the current contract rate by role.
   Expense reimbursement is pursuant to the agreement covering such Educational Services between the Ordering Activity and Kronos, subject to the terms and conditions of the GSA Schedule contract, customer order, and applicable Federal travel regulations

Other Policies

1. Kronos personnel working at the Ordering Activity site shall have access to necessary infrastructure (servers, network, etc.) subject to applicable Government security requirements.

2. In instances where Kronos personnel are working remotely access will be granted through the use of industry standard tools (DTS, GoToMyPC, PCAnywhere, etc.).

3. Ordering Activity agrees to not hire any Kronos employee who has performed services under the Agreement for a period of one-year after the completion of such services.

4. All required system administration, maintenance, backups, tuning, etc., is the responsibility of the Ordering Activity.

5. Ordering Activity Data: To perform the implementation and to provide support after completion, Kronos may need to access and retain information regarding your employees and business organization. Kronos will take all reasonable steps to limit and safeguard the security of this information. We may make recommendations to enhance your organization's procedures for securing your data - these recommendations are intended to enhance the security of any sensitive information that is provided to us. However, there are no guarantees that they will ensure the security of your information, nor should Kronos' actions be viewed as the only safeguards necessary. The security of your data is ultimately your responsibility.

SECTION G
SUPPORT POLICIES AND SERVICES (not applicable to WebTA Software Support Services)

Product Coverage
For each installation, Ordering Activities must purchase the same software support service type for all software and must purchase the same equipment support service type for all equipment of the same type. The latest Supported Product List is available at http://customer.kronos.com/support/status/index.htm.

Workforce Central suite
Contractor through Kronos only provides service packs for the current release and the two immediately prior releases of the Software. We currently come out with new releases every eighteen months. Resolution of an issue may require that you upgrade to the current release of the Software.

For Workforce Payroll, when service packs are no longer provided Kronos will provide two quarterly legislative updates to provide you with additional time to upgrade.

Workforce Analytics (WFAN) – supported components include:

All procedures and Database Objects associated with the Workforce Analytics databases.

All WFAN for Healthcare Reports accessible through the "WFAN Advanced Reporting" link from the SharePoint Home Page that were delivered through the Core Product.

All Analysis Services Cubes found in the Workforce Analytics databases.

Kronos iSeries Central suite
Contractor through Kronos only provides service packs for the current release and the two immediately prior releases of the Software. Resolution of an issue may require that you upgrade to the current release of the Software.

Timekeeper Central
Contractor through Kronos only provides "defect repairs" for the current release of the Software.

Kronos defines Version, Release, and Service Pack as follows:

Version: A software product upgrade that includes major new features or functionality.

Release: A software product upgrade that includes minor new features or functionality.

Service Pack: One or more defect repairs bundled into a single update. Service packs are cumulative — Service Pack N will, at minimum, include all of the changes delivered in Service Pack N-1.

The software product hierarchy is: Version . Release . Service Pack

Updates
Ordering Activities electing to undergo a major platform upgrade migration (i.e. from Timekeeper Central to Workforce Central suite or from OptiLink version 6 to OptiLink Plus version 7) are required to purchase the licenses to the new version at the applicable license GSA fees.

Support Exclusions
Support service does not include service to the Software resulting from, or associated with:

1. Any cause external to the Software including, but not limited to, electrical work, fire, flood, water, wind, lightning and transportation, or any act of God; or
2. Ordering Activity's failure to continually provide a suitable installation environment as specified in Kronos' specifications; or
3. Ordering Activity's improper use, management or supervision of the Software or other failure to use the Software in accordance with Kronos' specifications; or
4. Ordering Activity's repair, attempted repair or modification of the Software without prior authorization from Kronos; or
5. Ordering Activity's use of the Software for purposes other than those for which they are designed or the use of accessories or supplies not approved by Kronos; or

6. Ordering Activity's computer or operating system malfunctions; or
7. Services required for application programs and/or conversions from products or software not supplied by Kronos; or
8. Reprogramming, including reconfiguration of the Software or the rebuilding of Ordering Activity's database.

In addition to the Support exclusions above the following Services are NOT covered by your Kronos Support Service Agreement and are subject to the applicable Contractor Service GSA rates.

1. Configuration Changes, Reprogramming, New Programming such as, but not limited to, Work Rules, Pay Rules, Accrual Rules, Profiles, Dashboards and Fields
2. Creating New Schedules
3. Terminal Programming and Cold Start
4. Pay Period Changes
5. Programming, modifying, implementing, training or troubleshooting the following:
    a. Data integration interfaces (i.e. Connect, Integration Manager, Analytics)
    b. Custom Reports
    c. Custom Application extensions
6. Editing Process Manager templates and creating new templates
7. Installing or reinstalling Applications such as, but not limited to,
    a. Adding a Workstation
    b. Moving the Application
    c. Reinstalling following a Hard Drive Crash
    d. Service Packs
8. Database Administration Maintenance or Services such as, but not limited to,
    a. Database maintenance scripts
    b. Writing or customizing database scripts for data reporting and/or retrieval
    c. Performance Tuning
    d. Sizing
    e. Disaster Recovery
    f. Database backup strategy and/or setup
9. Establishing a Non-Production Environment such as, but not limited to,
    a. Test environments, i.e., application servers, database servers
    b. K-Demo
10. Troubleshooting Environmental Issues such as, but not limited to,
    a. Operating System
    b. Network Issues
    c. Firewalls
    d. Servers
    e. Workstations
    f. Single Sign On
11. Custom Reports or Custom Application Extensions
12. Implementation or configuration services related to upgrading product such as, but not limited to,
    a. Software implementation
    b. Porting custom software (i.e., reports)
    c. Change management
    d. Training
    e. New functionality deployment
    f. Application interfaces
13. Service to Kronos custom software is not provided, unless otherwise specified on the applicable Order Form for such custom software.
14. Importing new data i.e. from acquisitions or purchasing of another company.
15. Load balancing configuration
16. Virtual server configuration

Support Discontinuance — End of Service Life

Contractor through Kronos may discontinue support for the Software upon 30 days written notice to Ordering Activity, or at the anniversary date of the relevant support Agreement, whichever is longer. If such support is discontinued during the initial or any renewal term of the relevant support Agreement, the remaining value of the Agreement will be left as a credit on the account to be applied against any future invoices.

Reinstatement of Support Services

In the event that Ordering Activity allows Software or Equipment support services to lapse or if Ordering Activity did not originally purchase Software or Equipment support services and wishes to reinstate or procure such services, Ordering Activity must pay (i) the support services fees at current GSA Schedule contract price for such lapsed or unprocured time period for when the products were not on support; and (ii) the annual support services at the then current GSA Schedule contract price for the applicable product(s) by issuing a new purchase order.

Service Coverage Period

Local* business hours, Monday through Friday, excluding Kronos holidays, with access to Kronos' technical support staff — Gold or Gold Plus Support. *Please check Contact Us on the Ordering Activity Portal for the specific business hours of coverage at your location from your Support Services group.

Support Services groups:
US - 8:00 a.m. - 8:00 p.m. local time
24 hours a day, seven days a week, 365 days a year, with access to Kronos' technical support staff — Platinum or Platinum Plus Support

Priority Based Support
Contractor through Kronos provides support on a "priority" basis. As such, Ordering Activities with the most critical request(s) will be serviced first. Kronos Global Support has set up the following guidelines to assess the priority of each service request:

High Priority: A critical Ordering Activity issue with no available workaround where the system or a module may be down, experiencing major system degradation, data corruption or other related factors resulting in the Ordering Activity not being able to process their payroll such as:

- Unable to sign-off Time Cards
- Totals are not accurate
- Unable to collect punches from terminals
- Unable to access a critical application function such as scheduling

No workaround is available.

Medium Priority: A serious Ordering Activity issue which impacts ability to utilize the product effectively such as:

- Intermittent or inconsistent functionality results or data accuracy — accrual balances not matching pay codes but balances are accurate
- Data display inaccuracies or inconsistencies across multiple tasks
- System performance is inconsistent or fluctuates

A workaround is available.

Low Priority: Non-critical problem generally Use and Usability issues and or "how to" questions such as:

- How do I set up a holiday pay rule?
- How do I run a report?
- How often should database maintenance be executed?

A workaround is available on the Ordering Activity portal.

Response Time
Response time shall mean from the time the case priority is set by Kronos' Support Center until a Kronos support representative contacts the Ordering Activity to begin service. Kronos utilizes a priority based support focus. Customers with the most critical request will be serviced in accordance with the following guidelines:

Priority	Gold	Platinum
High	2 hours	1 hour
Medium	4 hours	4 hours
Low	8 hours	8 hours

All response times are business hours.

The above are only guidelines and may be modified, for a particular incident, based on joint agreement between the Ordering Activity and Kronos.

e.g., If a Gold support Ordering Activity's case is logged at 4:55 p.m., local time, with a "Medium Priority" designation, Kronos would respond before 8:55 a.m., local time, the next business day (Monday–Friday for Gold Support customers).

Critical Outages
Contractor through Kronos Global Support will provide continuous effort on all high priority events through either bug identification, the development of a workaround or problem resolution. If this effort goes beyond normal hours, the case may be passed to the after hours team or to the mission critical support engineer on duty. *On-going continuous effort may also be dependent on the Ordering Activity's ability to provide a resource to work with the Kronos Global Support engineer during this period.*

Technical Escalation
Our case resolution process is a Team based approach structured around specific products of the Application suite and staffed by Support Engineers covering the full spectrum of skill sets and technical expertise. The Teams are empowered to dynamically apply the appropriate resources to a case based on severity and complexity to ensure the fastest resolution time possible.

The Teams are also integrated with the Development Engineering staff and engage their assistance and technical guidance when necessary and/or directly escalate depending on case severity and time to resolve considerations.
For situations that contain multiple cases an Account Manager may be assigned to act as a single point of contact and communication regarding case resolution status, action plan development, resource integration and implementation co-ordination. The Account Manager remains engaged until the situation has been successfully remediated.

Management Escalation
Ordering Activities may, at any time, ask to speak to a Kronos manager if they experience dissatisfaction with the level of service received with respect to a specific case or service in general. To contact a Kronos Global Support manager, please telephone your Kronos Support Services center and ask to speak to a manager. Phone numbers are listed on the Customer Portal at http://customer.kronos.com/ContactUs.htm.

Software Support Services and Features
Contractor through Kronos provides different levels of support offerings through our Platinum *Plus*, Platinum, Gold *Plus*, and Gold support services.

Platinum Plus Support Service
Platinum Plus Support customers have access to the same features as the Platinum Support customers and access to the Technical Account Manager (TAM). The TAM is a seasoned service professional that will draw upon a vast knowledge of Kronos products and services to provide you with proactive, consultative expertise. For Platinum Plus customers, a TAM is available *24 hours per day*, 7 days per week. Platinum Plus customers can designate *5 named contacts*, and also enjoy one on-site visit per year.

Platinum Support Service
Platinum Support customers have access to the same service features as Gold Support customers and the following additional entitlements:
24 x 7 x 365 telephone access to Kronos Global Support
Access to Senior Support Engineers
Response time of 1 hour or less for High, 4 hours or less for Medium, and 1 business day or less for Low Priority calls.

Platinum Support customers also have the option of upgrading to Platinum Plus.

Gold Plus Support Service
Gold Plus Support customers have access to the same features as the Gold Support customers and access to the Technical Account Manager (TAM). The TAM is a seasoned service professional that will draw upon a vast knowledge of Kronos products and services to provide you with proactive, consultative expertise. For Gold Plus customers, a TAM is available from *8:00 a.m.–8:00 p.m.*, local time, Monday–Friday. Gold Plus customers can designate *2 named contacts*.

Gold Support Service
Gold Support offers a very well-rounded support program. Included is free access to Kronos Global Support from 8:00 a.m. to 8:00 p.m. local time, as well as the following entitlements noted below. Gold Support customers also have the option of upgrading to Gold Plus.

SuperSearch (Available to all Support Agreement customers)
The Search engine searches the following data sources* and includes Basic and Advanced filters to search by product.
Knowledge base
Documentation (Manuals and User Guides)
Service packs
Customer forums
Technical Advisories and Technical Insiders
Frequently asked questions (FAQs)
*Access to data sources is limited by type of support service.

Technical Advisories (Available to all Support Agreement customers)
Kronos Global Support Center personnel are a valuable source of knowledge and experience. That's why we give you access to the same vast repositories of information that they use. You have access to these technical alerts located on the Kronos customer portal. *Please sign up for email alerts to get notified of the release of new technical advisories on the Kronos customer portal.*

Service Case Studies (Available to Gold and Platinum level customers)
When you want an in-depth understanding of technology and how Kronos applications incorporate that technology, you'll enjoy reading and learning from these case studies.

Learning Quick Tips (Available to Gold and Platinum level customers)
Enjoy the convenience of web-based, self-paced recorded training modules for your Kronos application. These training recordings are short in duration and you can take them anytime and anywhere that you have access to the Web.

Technical Insider (Available to Gold and Platinum level customers)
Learn from the experts here at Kronos and become an expert yourself. The Technical Insider offers best practices, procedures, and tools and is available through our customer portal.

Brown Bag Sessions (Available to Gold and Platinum level customers)
Experience training over the Internet on a variety of topics pertaining to your Kronos system. Kronos Global Support offers these Brown Bag workshops in a structured online format without costly travel or interruption to your busy schedule. These sessions are one hour in length and are FREE for all Kronos customers with Gold or Platinum support agreements.

HR and Payroll Answerforce (Available to Gold and Platinum level customers)
HR and Payroll Answerforce enables you to facilitate communication between employees, managers and HR professionals. It provides managers and employees with current HR information they need to make effective decisions. Experience an awardwinning user interface which delivers up-to-date human resources, employee benefits, compensation, employment and regulatory information directly to your desktop.

SHRM e-Learning (Available to Gold and Platinum level customers)
SHRM e-Learning is an online educational environment that delivers just-in-time training to HR professionals through a series of HR-related mini-courses. Browse the courses in the SHRM e-learning catalog http://www.shrm.org/elearning/ to create a learning journey that is unique to you. SHRM e-Learning courses are facilitated by leading industry experts and presentations range from sixty to ninety minutes in length.

Interactive Forms (Available to Platinum level customers)
Instant access to a comprehensive and easy-to-use library of HR and Employment & Payroll Tax forms and instructions. You can access, fill out, save, print, and maintain over 730 HR forms and 2500 Payroll forms.

Service Packs (Available to all Support Agreement customers)
Kronos Support Services entitles all Ordering Activities who purchase a support agreement to the latest available product version upgrades, updates and enhancements, and documentation released during the agreement period, available on CD or downloadable from the Kronos customer portal. Protecting your investment is where our coverage for you begins as you embark on your journey to increased knowledge and improved business performance.

This service feature entitles you to the latest available product releases, updates/patches and legislative updates for the Workforce Payroll™ module. For many products, the latest support releases (service packs) or legislative updates are posted on the customer portal for you to download and install. *Please sign up for email alerts to get notified of the release of new service packs on the Kronos customer portal.*

Knowledge Base (Available to all Support Agreement customers)
Accessed by our Ordering Activities thousands of times per month, this online database currently contains thousands of answers to questions about Kronos products. Type in a question and the knowledge base suggests a solution. It is tightly integrated with our Global Support case management system and captures the real-world experience of our support engineers. The knowledge base is constantly updated. When our support engineers encounter and resolve new situations, they can automatically submit new solutions to the knowledge base.

Frequently Asked Questions (Available to all Support Services customers)
Conveniently organized and continuously populated from the knowledge base, FAQs truly represent those issues that Ordering Activities ask about most. Before querying the knowledge base, try the FAQs to find your answers or get ahead of issues you may not be aware of.

eCase management (Available to all Support Agreement customers)
For your convenience, we give you direct access to our electronic case management system. Make your own notes to help explain what you are encountering. Your case is formally assigned a number and subject to all the normal tracking and routing mechanisms. Cases are reviewed Monday–Friday, during the business hours of your Kronos support center, excluding Kronos holidays. Should you require assistance outside the described hours, please telephone your Kronos support center.

Documentation (Available to all Support Agreement customers)
Online access to documentation for most of Kronos' products, for example:
Installation guides
Configuration guides
Database administrators guides
User guides
System administrators guides Database
views reference guides.

Customer Forums (Available to all Support Agreement customers)
Our Customer forums provide a unique opportunity to connect with other Kronos customers and to benefit from their real-world experiences. Organized by product platform and using threaded messaging, the Forums allow you to post questions to other forum visitors — or provide advice to someone else's query. A chance to go beyond simple product "how to," many customers have commented on how the forums have helped them gain a broader understanding of how to leverage their Kronos applications.

Remote Support (Available to all Support Agreement customers)
A web-based screen-sharing application that enables Kronos to support you by empowering our support representatives to remotely view your computer. By connecting through the Internet or via intranets and extranets, support representatives will work in real time with your users and quickly escalate to desktop sharing, which features mutual mouse and keyboard control and whiteboard capability.

Per-event Software Service
Ordering Activities seeking support outside their service coverage period or Services that are not covered by your Support service or Ordering Activities without a Support Agreement on Active Product will be charged at the current GSA hourly rate.

	Software Support
	Phone Support
Day and Time (local time)	Minimum hours
Monday–Friday 8:00 a.m.–5:00 p.m.	2
Monday–Thursday 5:01 p.m.–7:59 a.m.	4
Friday–Monday 5:01 p.m.–7:59 a.m.	8

Conditions:
1. Time billed is minimum billable in accordance with the terms and conditions of the underlying GSA IT Schedule 70 Contract and the Purchase Order.
2. The 8:00 a.m.–5:00 p.m. minimum billable hours apply to software support calls received prior to 5:00 p.m. local time Monday–Friday.
3. The response time for customers without a support agreement is within two business days.
4. Ordering Activities with a Support Agreement receive a 50 percent reduction from the minimum amount of hours.
5. Per-event rates are not discountable.

Equipment / Hardware Support Services

Depot Exchange Service
The premium hardware service option: Contractor through Kronos sends a replacement unit on an advance exchange basis by nextbusiness day delivery if request is received prior to 2:00 p.m. Kronos recommends that Depot Exchange Ordering Activities procure the appropriate number of spare units to maintain adequate coverage while a unit is out of service.

How it works:
You contact Contractor through Kronos to troubleshoot the problem. If unable to resolve the issue, you are issued a Return Material Authorization (RMA) Case number to return the unit to Kronos for repair.

You install your spare unit from your inventory.

Contractor through Kronos sends a replacement unit on an advance exchange basis by next-business day delivery if request is received prior to 2:00 p.m.

Upon receipt of replacement, you send the terminal needing service back to the Kronos Equipment Services Center.

Availability:
Currently ONLY available in Australia, Canada, China, Mexico, New Zealand, and United States.

Conditions:
Batching (defined as 2 or more terminals) voids the turn-around time.

You will be charged Contractor's current GSA IT Schedule 70 rate for the installation (professional services) of any software or firmware upgrades, if available, and if requested.

Equipment Support Services do NOT include the replacement of "consumables." In addition, Depot Support Services do NOT include the repair of damages, and Ordering Activity will not attempt to return damaged Product, resulting from:

a. Any cause external to the Products including, but not limited to, electrical work, fire, flood, water, wind, lightning, transportation, or any act of God;
b. Ordering Activity's failure to continually provide a suitable installation environment (as indicated in Kronos' published installation guidelines) including, but not limited to, adequate electrical power;
c. Ordering Activity's improper use, relocation, packaging, refinishing, management or supervision of the Product(s) or other failure to use Products in accordance with Kronos' published specifications;
d. Ordering Activity's use of the Products for purposes other than those for which they are designed or the use of accessories or supplies not approved by Kronos;
e. Government imposed sanctions, rules, regulations or laws preventing the shipment of the Products; or
f. Ordering Activity's repair, attempted repair or modification of the Products.

Terminals are warranted for 90 days from date of shipment.

This service includes access to equipment service packs / firmware updates available on the Kronos customer portal. Please sign up for email alerts to get notified of the release of new service packs on the Kronos customer portal.

Depot Repair Service
This service was designed for those who keep their own inventory of spare terminals and options.

How it works:
You contact Contractor through Kronos to troubleshoot the problem. If unable to resolve the issue, you are issued a Return Material Authorization (RMA) Case number to return the unit to Kronos for repair.

You install your spare unit from your inventory.

You send the terminal needing service back to the Kronos Equipment Services Center.

Upon receipt of product, Kronos shall repair the product within ten (10) business days and return to you by regular surface transportation.

Availability:
NOT available from the Australia and China Support Services groups.

Conditions:
Batching (defined as 2 or more terminals) voids the turn-around time.

You will be charged Contractor's current GSA time and materials rate for the installation (professional services) of any software or firmware upgrades, if available, and if requested.

Equipment Support Services do NOT include the replacement of "consumables." In addition, Depot Support Services do NOT include the repair of damages, and Ordering Activity will not attempt to return damaged Product, resulting from:

a. Any cause external to the Products including, but not limited to, electrical work, fire, flood, water, wind, lightning, transportation, or any act of God;
b. Ordering Activity's failure to continually provide a suitable installation environment (as indicated in Kronos' published installation guidelines) including, but not limited to, adequate electrical power;
c. Ordering Activity's improper use, relocation, packaging, refinishing, management or supervision of the Product(s) or other failure to use Products in accordance with Kronos' published specifications;
d. Ordering Activity's use of the Products for purposes other than those for which they are designed or the use of accessories or supplies not approved by Kronos;
e. Government imposed sanctions, rules, regulations or laws preventing the shipment of the Products; or
f. Ordering Activity's repair, attempted repair or modification of the Products.

Repairs are warranted for 90 days from date of shipment.

This service includes access to equipment service packs / firmware updates available on the Kronos customer portal. Please sign up for email alerts to get notified of the release of new service packs on the Kronos customer portal.

Device Software Maintenance
Device Software Maintenance is designed for those Kronos customers who choose to manage time clock repair themselves and just want access to device software updates. This service option lets you download equipment service packs from the Customer Portal to ensure that your time clock is always up to date with:

- The latest security enhancements

- Communication protocols
- Fixes and terminal software feature updates
- Compatibility updates with Kronos software or other terminals

Device Software Maintenance is included with Depot Exchange and Depot Repair.

Device Software Maintenance does NOT include any repair or exchange services.

How it works:
Go to the Customer portal at http://customer.kronos.com.

Register or log in to the Customer Portal. An email address and Kronos Solution ID are required to register for access to the customer portal.

Go to the Support page to access the equipment service packs.

Availability:
The Device Software Maintenance offering is available worldwide.

NOT available for the 100, 400, 500, Century and Cyber series terminals

This service includes access to equipment service packs / firmware updates available on the Kronos customer portal. Please sign up for email alerts to get notified of the release of new service packs on the Kronos customer portal.

Per-event Repair Service
Per-event rates apply to Ordering Activities without an equipment support agreement. The Kronos Equipment Services center will attempt to repair any repairable defective item within 15 business days after receipt at the current Per-event pricing. The product will be returned by regular surface transportation.

How it works:
You contact Contractor through Kronos to get a Return Material Authorization (RMA) Case number to return the unit to Kronos for repair.

You install your spare unit from your inventory

You send the terminal needing service back to the Kronos Equipment Services Center.

Upon receipt of product, Kronos shall repair the product within fifteen (15) business days and return to the Ordering Activity by regular surface transportation.

Conditions:
Batching (defined as 2 or more terminals) voids the turn-around time.

You will be charged Contractor's current GSA time and materials rate for the installation (professional services) of any software or firmware upgrades, if available, and if requested.

Equipment Support Services do NOT include the replacement of "consumables." In addition, Depot Support Services do NOT include the repair of damages, and Ordering Activity will not attempt to return damaged Product, resulting from:

a. Any cause external to the Products including, but not limited to, electrical work, fire, flood, water, wind, lightning, transportation, or any act of God;
b. Ordering Activity's failure to continually provide a suitable installation environment (as indicated in Kronos' published installation guidelines) including, but not limited to, adequate electrical power;
c. Ordering Activity's improper use, relocation, packaging, refinishing, management or supervision of the Product(s) or other failure to use Products in accordance with Kronos' published specifications;
d. Ordering Activity's use of the Products for purposes other than those for which they are designed or the use of accessories or supplies not approved by Kronos;
e. Government imposed sanctions, rules, regulations or laws preventing the shipment of the Products; or
f. Ordering Activity's repair, attempted repair or modification of the Products.

Repairs are warranted for 90 days from date of shipment.

This service does NOT *include access to equipment service packs / firmware updates.*

SECTION H

WORKFORCE TELESTAFF IVR SERVICE (Licensed or User Based)

This Section H is amending the Section A or D of Attachment A applicable between Contractor and Ordering Activity governing those certain Kronos Workforce Telestaff software applications whether on a perpetual license basis or in a software as a service model.

The parties hereby agree that the following terms and conditions are supplemental terms and conditions to the Section A or D , as applicable and are applicable to the Workforce Telestaff IVR offering ("Telestaff IVR"), a subscription service Contractor through Kronos is authorized to resell. Telestaff IVR can be ordered either on a licensed basis with Port (in which case Telestaff IVR is only available with a perpetual license to Workforce Telestaff and is not hosted by Kronos) ("Workforce Telestaff IVR License Per Port") or on a per minute basis ("Workforce Telestaff IVR Service"). The applicable designation for Telestaff IVR will be indicated on the applicable Order Form.

1. Description. Telestaff IVR is an Interactive Voice Response (IVR) solution, provided solely for Customer's internal use, by which Ordering Activity may initiate phone calls to staff members to fill vacancies or receive notifications of work opportunities for employees who are licensed to use the Kronos Workforce TeleStaff® product. Each exchanged message (notice, response, confirmation, denial) shall be considered an "Interaction."

2. Maintenance.
Telestaff IVR maintenance will entitle Ordering Activity to Telestaff IVR phone support and software updates and shall commence on the date set forth in the applicable Order Form. For Workforce Telestaff IVR Service, maintenance will be provided at the same level of support as Ordering Activity's Workforce TeleStaff product at no additional charge. For Workforce Telestaff IVR License Per Port, if Ordering Activity wants maintenance for the Workforce Telestaff IVR License Per Port, Ordering Activity must purchase maintenance for both Workforce TeleStaff and Workforce Telestaff IVR License Per Port, and maintenance for Workforce Telestaff IVR License Per Port will be charged at the same level of support as Workforce TeleStaff (i.e., Gold or Platinum).

3. Implementation. To initiate and setup administration of the required communications, Contractor through Kronos will perform the standard implementation of Telestaff IVR, including configuration, as described in the Statement of Work ("SOW"). Any additional professional services for non-standard implementation services will be provided at mutually agreed upon rates subject to a separate Order Form or a separate statement of work mutually agreed upon by both parties.

4. Methodology of payment: The Contractor will invoice Ordering Activity as set forth on the GSA Schedule Contract and as follows: (i) for the license fees and annual maintenance associated with the Workforce Telestaff IVR License Per Port, upon execution of the Order Form; or (ii) each month in arrears for the Workforce Telestaff IVR Service usage fees for the total actual number of metered minutes used each month (the "Minute Usage Fee") at a rate identified on the Order Form. Ordering Activity's right to begin using the service shall begin upon activation of the service after implementation/configuration.

5. Restrictions on Telestaff IVR Services; Additional Responsibilities. Ordering Activity agrees that Telestaff IVR has not been designed for, and may not be used as, a means to connect with 911 or E911 emergency services. Contractor shall have no liability for any delays, failures or unavailability of Telestaff IVR due to transmission or other delays, errors or problems beyond Contractor's control, or any other interruptions caused by the mobile communications network and/or mobile devices. Use of Telestaff IVR is subject to the software license terms set forth in the Agreement as well as the provider's Acceptable Use Policy found at: http://voxeo.com/aup and Ordering Activity agrees that it shall be liable for all loss, damage or injury that may result from Ordering Activity's failure to abide by such Policy. Ordering Activity acknowledges that communications occurring through Telestaff IVR may be subject to standard mobile carrier policies or government regulatory requirements for mobile communications.

6. Telestaff IVR Security. The Telestaff IVR service relies upon a third party hosted communication platform. Accordingly, notwithstanding any other provision of Section A or D as applicable or this Section H to the contrary, Ordering Activity understands and acknowledges that the exclusive statement of the security protections provided for i) Interactions by Ordering Activity and its employees through Telestaff IVR, and ii) all associated data, is part of the provider's privacy policy which is subject to change with prior written notice. The current security statement is as follows:

Security of Your Personal Information
Contractor's provider takes appropriate technical, physical and administrative steps to protect the security of your information. Access to your personal information is limited only to those employees, contractors or authorized agents of Contractor and its provider who have authorization to access your personal information and such access is limited to the extent such information is needed to fulfill the task for which personal information was collected. While we strive to protect your personal information, we cannot ensure the security of the information you transmit. We recommend you to take every precaution to protect your personal information when you are on the Internet. For example, change your passwords often, use a combination of letters and numbers when creating passwords, and make sure you use a secure browser.

7. Renewal and Termination. The initial term is twelve months commencing upon the execution of the Order Form and will be renewed by the signature of a new order form. Any change will be identified on the Order and shall be in accordance with the pricing and this Attachment.

SECTION I
WORKFORCE DIMENSIONS™ TERMS AND CONDITIONS

Ordering Activity and Contractor agree that the terms and conditions set forth below shall apply to the Contractor through Kronos supply of the commercially available version of the Kronos' Workforce Dimensions software as a service and other related offerings specified on an Order Form signed by Ordering Activity (the "Order Form").

Contractor and Ordering Activity hereby agree that these terms and conditions of this Section I of the Attachment A apply for all order forms for the Services. These terms are effective as of the date the Order Form is accepted by the Contractor ("Effective Date")

This Section I includes the following exhibits, which are incorporated by reference, and which form an integral part of this contract:

Exhibit A: Attachment A-1: Equipment Purchase, Rental, and Support
Attachment A-2: Service Level Agreement
Exhibit B: Workforce Dimensions Cloud Guidelines
Exhibit C: Customer Success
Attachment C-1: Customer Success Plans
Attachment C-2: Customer Success Programs
Attachment C-3: Advisory Support Offerings

Exhibit D: Acceptable Use Policy (AUP):
Exhibit E: AtomSphere Service and Boomi Software

Definitions

"Section I" means these terms and conditions and the Order Form(s) specific to the Ordering Activity.

"Acceptable Use Policy" and "AUP" are interchangeable terms referring to the Kronos policy describing prohibited uses of the Service as further described in Exhibit D.

"Aggregated Data" is any statistical data that is derived from the operation of the Service, including without limitation, for analysis of the Service, Configurations or Customer Data, and is created by Kronos in response to specified queries for a set point in time; including without limitation aggregation, metrics, trend data, correlations, benchmarking, determining best practices, the number and types of transactions, configurations, records, reports processed in the Service, and the performance results for the Service Agreement.

"Applicable Law(s)" means any applicable provisions of all laws, codes, legislative acts, regulations, ordinances, rules, rules of court, and orders which govern the Party's respective business.

"Authorized User" means any individual or entity that directly (or through another Authorized User) accesses or uses the Service with any login credentials or passwords Ordering Activity uses to access the Service.

"Application(s)" means those Kronos Workforce Dimensions software application programs set forth on an Order Form which are made accessible for Ordering Activity to use under the terms of this Agreement.

"Boomi AtomSphere Service" means the third-party service for the creation of integrations by Ordering Activity as further described in Exhibit E, which the Ordering Activity and Ordering Activity's Authorized Users have the right to access through the Service.

"Boomi Software" means the third-party proprietary software associated with the Boomi AtomSphere Service as further described in Exhibit
E.

"Configuration(s)" means the Ordering Activity specific settings of the parameters within the Applications(s), including pay and work rules, security settings such as log-in credentials, passwords, and private keys used to access the Service.

"Controls" means the administrative, physical, and technical safeguards for the protection of the security, confidentiality and integrity of Customer Data, designed and implemented by Contractor through Kronos to secure Customer Data against accidental or unlawful loss, access or disclosure consistent with the AICPA Trust Principles Criteria for security, availability, confidentiality and processing integrity (SOC 2).

"Customer Data" means all content Ordering Activity, or its Authorized Users, posts or otherwise inputs into the Service, including but not limited to information, data (such as payroll data, vacation time, hours worked or other data elements associated with an Authorized User), text, multimedia images (e.g. graphics, audio and video files), or compilations.

"Customer Success Plan(s)" means the services provided by Contractor through Kronos to support and maintain the Service as described in Exhibit C, including but not limited to the Support Plans and the Customer Success Programs.

"Ordering Activity Indemnified Party(ies)" means Ordering Activity and Ordering Activity's respective directors, officers, and employees.

"Data Protection Law(s)" means all international, federal, state, and local laws, rules, regulations, directives and published governmental or regulatory decisions that specify data privacy, data protection or data security obligations, and which, in each case, have the force of law applicable to a Party's collection, use, processing, storage, or disclosure of Personally Identifiable Information.

"Documentation" means the published specifications for the applicable Applications and Equipment, such as user manuals and administrator guides.

"Educational Services" means (i) KnowledgeMap Learning Portal; (ii) KnowledgeMap Live; and (iii) ala carte educational consulting services.

"Equipment" means Kronos equipment such as time clocks, devices, or other equipment set forth on an Order Form.

"Equipment Support Services" means the maintenance and support services related to Kronos' support of Equipment as further described in Attachment A-1.

"Feedback" means suggestions, ideas, comments, know how, techniques or other information provided to Kronos for enhancements or improvements, new features or functionality or other feedback with respect to the Service.

"Fees" means the charges to be paid by Ordering Activity for a particular item.

"Implementation Services" means those professional and educational services provided by Contractor through Kronos to set up the cloud environment and to setup the Configurations within the Applications, as set forth in an SOW.

"KnowledgeMap™ Learning Portal" means the online educational portal providing access to self-paced learning modules.

"KnowledgeMap™ Live" means the subscription service providing instructor led training by user role on a rotating course schedule.

"Order Form" means an order form mutually agreed upon by Contractor and Ordering Activity setting forth, among other things, the items ordered by Ordering Activity and to be provided by Contractor through Kronos and the Fees to be paid by Ordering Activity.

"Party(ies)" means Contractor or Ordering Activity, or both of them, as the context dictates.

"PEPM" means the per employee per month fee for a Ordering Activity's Authorized Users access to the Service.

"Personally Identifiable Information" means information concerning individually identifiable employees of Ordering Activity that is protected against disclosure under Applicable Data Protection Law.

"Professional Services" means the professional, educational, consulting, or training services provided by Contractor through Kronos pursuant to an Order Form and which are not described in a Statement of Work.

"Seasonal Licenses" are limited use licenses that have the following attributes: (i) valid only for the four (4) consecutive months during the annual period identified on the Order Form; (ii) valid from the first day of the month in which they commence until the end on the last day of the month in which they expire; and (iii) will be effective automatically each year during the Term, subject to termination and non-renewal as provided in the Agreement.

"Service" means the Contractor through Kronos supply of the commercially available version of the Workforce Dimensions SaaS Applications in Kronos' hosted environment and the services described in the section related thereto.

"Statement of Work" and "SOW" are interchangeable terms referring to a written description of the Implementation Services.

"Technology" means the intellectual property of Kronos within the Service, including but not limited to the Applications.

"Term" means the Initial Term and any Renewal Terms.

1. Order Forms

1.1 The following commercial terms may appear on an Order Form:

a. The Application(s) included in the Service, and the other offerings being ordered by Ordering Activity
b. Billing Start Date (i.e., the date the billing of the PEPM Fees commences)
c. Initial Term (i.e., the initial billing term of the Service commencing on the Billing Start Date)
d. Renewal Term (i.e., the renewal billing term of the Service)
e. Billing Frequency (i.e., the frequency for the invoicing of the PEPM Fees such as Annual in Advance or Monthly in Arrears)
i. "Annual in Advance" means payment is due on an annual basis with the invoice being issued upon execution of the Order Form.
ii. "Monthly in Arrears" means payment is due on a monthly basis with the invoice being issued at the end of the month in which the Service was delivered.
f. Reserved

g. Reserved

1.2 The following Fees as set forth on the GSA Pricelist may appear on an Order Form:
a. PEPM Fees for use of the Service, including PEPM Fees for Seasonal Licenses
b. Customer Success Fees for Premium and Premium Plus Plans
c. Implementation Services Fees (The Order Form will note if Implementation Services Fees are included in PEPM Fees.)
d. Equipment Purchase Fees
e. Equipment Rental Fees
f. KnowledgeMap™ Live Fees

1.3 Contractor through Kronos may also sell (or rent) Equipment to Ordering Activity, and provide related Equipment Support Services, if included on an Order Form. These offerings are subject to this Agreement and the terms and conditions set forth in Attachment A-1.

2. Billing

2.1 Contractor will invoice the Fees on the Billing Frequency indicated on the Order Form in accordance with the GSA Pricelist. For each Order Form, the billing period of the PEPM Fees will start on the Billing Start Date and will continue for the time period indicated as the Initial Term. Ordering Activity will pay the Fees on the Payment Terms and in the currency, indicated on the Order Form. Ordering Activity will send payment to the attention of Contractor at the address indicated on the applicable invoice unless the Parties have made an alternative payment arrangement (such as credit card, wire transfer, ACH payment or otherwise). Unless expressly provide in this Section I, all amounts paid to Contractor are non-refundable. Each Party is responsible to pay all costs and fees attributable to such Party pursuant to the Shipping Terms indicated on the Order Form.

2.2 The Services shall commence on the Billing Start Date, and shall continue for the Initial Term or until terminated by Ordering Activity in accordance with the provisions hereof or applicable laws and regulations. At the expiration of the Initial Term and each Renewal Term, as applicable, the Services may renew for additional Renewal Terms by Ordering Activity issuing a new purchase order.

3. Implementation Services, Professional Services, and Educational Services

3.1 Implementation Services are described in a SOW that the Parties will sign or reference on a signed Order Form. These SOWs are subject to this Section I. Implementation Services are invoiced monthly as delivered, except if otherwise indicated on an Order Form. Each Party will perform their respective obligations as outlined in a signed SOW.

3.2 While Ordering Activity may configure the Applications itself, as part of the Implementation Services as described in an SOW, Contractor through Kronos may also configure the Applications. Contractor through Kronos will configure the Applications based on Ordering Activity's instructions and direction. Ordering Activity is solely responsible for ensuring that the Configurations comply with Applicable Law.

3.3 Contractor through Kronos may also provide Professional Services to Ordering Activity that do not require an SOW but which will be as set forth on an Order Form.

3.4 The KnowledgeMap™ Learning Portal is included in the PEPM Fees. If included on an Order Form, Contractor through Kronos will also provide a subscription to KnowledgeMap™ Live. The KnowledgeMap Live 1st Year Training will expire one (1) year from purchase. KnowledgeMap Live Subscription and KnowledgeMap Live 5 Pack are coterminous with the Service and will renew with the Service, unless terminated by Ordering Activity upon at least sixty (60) days prior written notice before the start of a Renewal Term. Ordering Activity is permitted to assign one (1) employee to each user account (or seat) included in Ordering Activity's KnowledgeMap Live subscription. The number of permitted seats will appear on the Order Form. Passwords and accounts cannot be shared by multiple users. Ordering Activity will designate one (1) named user account to act as a training administrator. The KnowledgeMap Live 5 Pack entitles Customer to add up to five (5) additional named users.

3.5 Contractor through Kronos may also provide ala carte educational consulting services as Implementation Services or Professional Services as described in an SOW or Order Form.

3.6 The Professional Service policies set forth in Section F of this Attachment A (Professional/Educational Services Policies) shall apply to all Implementation Services and Professional Services provided by Contractor through Kronos. In the event of a conflict between the Professional Services Policies and this Section I, the terms of this Section I shall prevail.

4. Service Level Agreement

Contractor through Kronos offers the Service Level Agreement and associated SLA Credits as described in Attachment A-3. The SLA Credits are Ordering Activity's sole and exclusive remedy in the event of any Outage. Kronos remains obligated to provide the Service as otherwise described in this Section I.

5. Data, Confidentiality, Security and Privacy

5.1 Data

5.1.1 Ordering Activity owns Customer Data. Ordering Activity is solely responsible for Customer Data, including ensuring that Customer Data complies with the Acceptable Use Policy and Applicable Law. Ordering Activity is solely responsible for any Claims that may arise out of or relating to Customer Data.

5.1.2 Kronos owns the Aggregated Data. Nothing in this Agreement will prohibit Kronos from utilizing the Aggregated Data for any purposes, provided that Kronos' use of Aggregated Data will anonymize Customer Data, will not reveal any Customer Confidential Information, and will not reveal any Personally Identifiable Information.

5.2 Confidentiality

Each Party will treat the Confidential Information of the other Party with the same degree of care and confidentiality, but not less than a reasonable standard of care, which such Party utilizes for its own information of similar character that it does not wish disclosed to the public. Contractor recognizes that courts of competent jurisdiction may require release of confidential information and that Federal agencies are subject to the Freedom of Information Act, 5 U.S.C. 552, which requires that certain information be released, despite being characterized as "confidential" by Kronos. If a request for is made under the Freedom of Information Act is made, the parties agree to cooperate so that confidential information which is covered by the exceptions will be maintained confidential.

5.3 Security and Privacy

5.3.1 Kronos will maintain the Controls throughout the Term.

5.3.2 Each Party will comply with all Applicable Laws, including, without limitation, Data Protection Laws.

5.3.3 Kronos employees will access Customer Data from the locations from which such employees work. Ordering Activity consents to Kronos' handling, collection, use, transfer, and processing of Customer Data to provide the Service. As may be required by Applicable Law, Ordering Activity will ensure that Customer Data may be provided to Kronos for the purposes of providing the Service. Ordering Activity has obtained all necessary consents from individuals to enable Kronos to use the Customer Data to provide the Service. As may be contemplated by the applicable Data Protection Laws, Ordering Activity will remain the "controller" of Customer Data and Kronos will be considered a "processor" of Customer Data.

5.3.4 Contractor through Kronos will notify Ordering Activity in accordance with Applicable Law upon becoming aware of an unauthorized access of Customer Data. To the extent reasonably possible, such a notification will include, at a minimum (i) a description of the breach, (ii) the information that may have been obtained as a result of the breach, and (iii) the corrective action Kronos is taking in response to the breach.

6. Warranty

Contractor warrants that the Service will be provided in a professional and workmanlike manner. TO THE EXTENT PERMITTED UNDER APPLICABLE LAW, CONTRACTOR DISCLAIMS ALL OTHER WARRANTIES RELATED TO THE SERVICE, EITHER EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. If Ordering Activity informs Contractor in writing that there is a material deficiency in the Service which is making this warranty untrue, Contractor will use its reasonable commercial efforts to correct the non-conforming Service at no additional charge, and if Contractor is unable to do so within a reasonable period of time, Ordering Activity may terminate the then remaining Term of the Order Form under Section I of this Attachment A, which will be Ordering Activity's sole and exclusive remedy. Ordering Activity agrees to provide Contractor with reasonable information and assistance to enable Contractor to reproduce or verify the non-conforming aspect of the Service.

7. License

7.1 Technology License

7.1.1 As part of the Service, Contractor will provide Ordering Activity access to and use of the Technology, including the Applications. Contractor hereby grants Ordering Activity a limited, revocable, non-exclusive, non-transferable, non-assignable right to use the Service, including the Technology, during the Term and for internal business purposes only. Ordering Activity acknowledges and agrees that the right to use the Service, including Seasonal Licenses when included on the Order Form, is limited based upon the number of Authorized Users, and Ordering Activity's payment of the corresponding PEPM Fees. Ordering Activity agrees to use the Applications only for the number of employees stated on the total of all Order Forms for the applicable Applications. Ordering Activity agrees not to use any other Application nor increase the number of employees using an Application unless Ordering Activity enters into an additional Order Form that will permit the Ordering Activity to have additional Authorized Users.

7.1.2 Kronos owns all title or possesses all intellectual property rights in and to the Technology used in delivering the Service. Ordering Activity has a right to use this Technology and to receive the Service subject to this Section I. No other use of the Technology is permitted. Ordering Activity is specifically prohibited from reverse engineering, disassembling or decompiling the Technology, or otherwise attempting to derive the source code of the Technology. Ordering Activity cannot contact third party licensors or suppliers for direct support of the Technology. No license, right, or interest in any Kronos trademark, trade name, or service mark, or those of any third party supplying Technology as part of the Service, is granted hereunder.

8. Scope and Authority

8.1 Authorized Users may access the Service on Ordering Activity's behalf, and Ordering Activity will be responsible for all actions taken by its Authorized Users. Ordering Activity will make sure that Authorized Users comply with Ordering Activity's obligations under this Section I. Unless Contractor breaches its obligations under this Section I, Kronos is not responsible for unauthorized access to Ordering Activity's account, nor activities undertaken with Ordering Activity's login credentials, nor by Ordering Activity's Authorized Users. Ordering Activity should contact Contractor immediately if Ordering Activity believes an unauthorized person is using Ordering Activity's account or that Ordering Activity's account information has been compromised.

8.2 Access to the Service includes access to the Marketplace feature (the "Marketplace"). The Marketplace allows Ordering Activity to electronically enter into agreements and make transactions such as orders, contracts, statements of work, and notices of cancellation. Ordering Activity shall configure the Marketplace to disable use by its Authorized Users if it does not agree to enter into electronic transactions or agreements. Ordering Activity acknowledges that if it does not disable use of the Marketplace it agrees to be bound by agreements and transactions electronically entered into through the Service.

9. Suspension

9.1 Contractor through Kronos reserves the right to temporarily suspend the Service if in Kronos's reasonable judgment, the Service or any component thereof are about to suffer a significant threat to security or functionality.

9.2 Ordering Activity shall take all reasonable steps to ensure that no unauthorized persons have access to the Services, and to ensure that no persons authorized to have such access shall take any action that would be in violation of the AUP. Contractor through Kronos and its third party cloud service provider reserve the right to review Ordering Activity's use of the Service and Customer Data for AUP compliance and enforcement. Ordering Activity acknowledges that failure to comply with the AUP may result in a significant threat to the security or functionality of the Services. If Contractor through Kronos discovers an AUP violation, Contractor through Kronos may temporarily suspend Ordering Activity's use of the Service immediately without notice.

Article 10. Termination

10.1 Effects of Termination

If the Section I is terminated for any reason:

a. All Fees will be paid by Ordering Activity for amounts owed through the effective date of termination.
b. Any Fees paid by Ordering Activity for the Service not rendered prior to the effective date of termination will be refunded to Ordering Activity.
c. Ordering Activity's right to use the Service will end as of the effective date of termination. Notwithstanding such termination, Ordering Activity will have thirty (30) days after the effective date of termination to access the Service for purposes of retrieving Customer Data through tools provided by Contractor through Kronos that will enable Ordering Activity to so extract Customer Data. If Ordering Activity requires a longer period of access to the Service after termination to retrieve Customer Data, such access will be subject to additional Fees. Extended access and use of the Services will be subject to the terms of this Section I.
d. Contractor through Kronos will delete Customer Data after Ordering Activity's rights to access the Service and retrieve Customer Data have ended. Contractor through Kronos will delete Customer Data in a series of steps and in accordance with Kronos' standard business practices for destruction of Customer Data and system backups. Final deletion of Customer Data will be completed when the last backup that contained Customer Data is overwritten.
e. Contractor and Ordering Activity will each return or destroy any Confidential Information of the other Party, with any retained Confidential Information remaining subject to this Section I.
f. Provisions in this Section I which by their nature are intended to survive in the event of a dispute or because their obligations continue past termination will so survive.

11. Extent and Limitations of Liability

11.1 EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION I OF THIS ATTACHMENT A, THE TOTAL AGGREGATE LIABILITY OF CONTRACTOR OR ONTRACTOR'S SUPPLIERS TO ORDERING ACTIVITY OR TO ANY THIRD PARTY IN CONNECTION WITH THIS SECTION I WILL BE LIMITED TO ACTUAL AND DIRECT DAMAGES PROVEN BY ORDERING ACTIVITY, SUCH DAMAGES NOT TO EXCEED AN AMOUNT EQUAL TO THE TOTAL NET PAYMENTS RECEIVED BY CONTRACTOR FOR THE SERVICES IN THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE DATE IN WHICH SUCH CLAIM ARISES.

11.2 NEITHER PARTY WILL BE LIABLE FOR ANY INDIRECT, CONSEQUENTIAL, INCIDENTAL, SPECIAL, OR PUNITIVE DAMAGES. NEITHER PARTY WILL BE LIABLE FOR THE COST OF ACQUIRING SUBSTITUTE OR REPLACEMENT SERVICES. NEITHER PARTY WILL BE LIABLE FOR ANY LOST OR IMPUTED PROFITS OR REVENUES OR LOST DATA RESULTING FROM DELAYS, NONDELIVERIES, MISDELIVERIES OR SERVICES INTERRUPTION, HOWEVER CAUSED, ARISING FROM OR RELATED TO THE SERVICE OR THIS SECTION I. THESE LIMITATIONS APPLY FOR ANY REASON, REGARDLESS OF ANY LEGAL THEORY AND FOR WHATEVER REASON LIABILITY IS ASSERTED.

11.3 THE FOREGOING LIMITATION OF LIABILITY SHALL NOT APPLY TO (1) PERSONAL INJURY OR DEATH RESULTING FROM KRONOS; NEGLIGENCE; (2) FOR FRAUD; OR (3) FOR ANY OTHER MATTER FOR WHICH LIABILITY CANNOT BE EXCLUDED BY LAW.

12. Changes

The information found in any Exhibit (or at any URL referenced in this Section I) may change over the Term. Any such change will be effective as of the start of the next Renewal Term after such change is announced or published by Kronos.

13. Feedback

From time to time, Ordering Activity may provide Feedback. Kronos has sole discretion to determine whether or not to undertake the development of any enhancements, new features or functionality contained in or with Feedback. Ordering Activity hereby grants Kronos a royalty-free, fully paid up, worldwide, transferable, sublicensable, irrevocable, perpetual license to use, copy, distribute, transmit, display, perform, create derivative works of and otherwise fully exercise and commercially exploit the Feedback for any purpose in connection with Kronos' business without any compensation to Ordering Activity or any other restriction or obligation, whether based on intellectual property right claim or otherwise. Any Feedback provided as a result of this Agreement in advertising is limited by GSAR 552.203-71. For the avoidance of doubt, no Feedback will be deemed to be Customer Confidential Information, and nothing in this Section I limits Kronos' right to independently use, develop, evaluate, or market products or services, whether incorporating Feedback or otherwise.

14. General

14.1 Ordering Activity and Contractor shall not assign the rights to use the Services without the prior written consent of the other Party and any purported assignment, without such consent shall be void.

Attachment A-1:Equipment Purchase, Rental, and Support

The following terms and conditions supplement the terms and conditions of Exhibit A and govern the purchase and sale, or rental of, Equipment and the related support services, as applicable.

1. Purchase and Sale of Equipment

When indicated on the applicable Order Form as Purchased Equipment, Contractor through Kronos sells to Ordering Activity the Equipment listed on that Order Form for the price stated on that Order Form. Payment and delivery terms are as stated on the Order Form. Contractor will invoice Ordering Activity for purchased Equipment upon shipment of the Equipment.

2. Equipment Rentals

The following terms apply only to Equipment Ordering Activity rents from Contractor when indicated on the applicable Order Form as Rental Equipment:

2.1 Rental Term and Warranty. The term of the Equipment rental and the warranty for such Equipment shall run coterminously with the Term of the Service.

2.2 Insurance. Ordering Activity shall insure the Equipment for an amount equal to the replacement value of the Equipment for loss or damage by fire, theft, and all normal extended coverage at all times during the Term. No loss, theft or damage after shipment of the Equipment to Ordering Activity shall relieve Ordering Activity from Ordering Activity's obligations hereunder.

2.3 Location/Replacement. Ordering Activity shall not make any alterations or remove the Equipment from the place of original installation without Kronos' prior written consent. Kronos shall, subject to the Ordering Activity's security requirements pertaining to security clearances and access to premises, computer systems, and data, have the right to enter Ordering Activity's premises to inspect the Equipment during normal business hours. Kronos reserves the right, at its sole discretion and at no additional cost to Ordering Activity, to replace any Equipment with newer or alternative technology as long as the replacement Equipment at least provides the same level of functionality as that being replaced.

2.4 Ownership. All Equipment shall remain the property of Contractor through Kronos. All Equipment is, and at all times shall remain, separate items of personal property, notwithstanding such Equipment's attachment to other equipment or real property. Ordering Activity shall not sell or otherwise encumber the Equipment. Ordering Activity shall furnish any assurances, written or otherwise, reasonably requested by Contractor to give full effect to the intent of terms of this paragraph.

2.5 Equipment Support. Contractor shall provide to Ordering Activity the Depot Exchange Equipment Support Services described below, the Fees for which are included in the Rental Fees for the Equipment.

2.6 Return of Equipment. Upon termination or expiration of the Rental Period for the Equipment or upon termination or expiration of the Order Form, for any reason, Ordering Activity shall return, within thirty (30) days of the effective date of termination and at Ordering Activity's expense, the Equipment. Equipment will be returned to Contractor in the same condition as and when received, reasonable wear and tear excepted.

3. Warranty

Contractor warrants that all Kronos Equipment shall be free from defects in materials and workmanship, for a period of ninety (90) days from delivery. In the event of a breach of this warranty, Ordering Activity's exclusive remedy shall be Kronos' repair or replacement of the deficient Equipment, at Kronos' option, provided that Ordering Activity's use, installation and maintenance thereof have conformed to the Documentation. This warranty is extended to Ordering Activity only and shall not apply to any Equipment (or parts thereof) in the event of:

a. damage, defects or malfunctions resulting from misuse, accident, neglect, tampering, (including modification or replacement of any Contractor components on any boards supplied with the Equipment), unusual physical or electrical stress or causes other than normal and intended use;

b. failure of Ordering Activity to provide and maintain a suitable installation environment, as specified in the Documentation; or
c. malfunctions resulting from the use of badges or supplies not approved by Kronos.

4. Firmware

Ordering Activity may not download firmware updates for the Kronos Equipment unless Ordering Activity is maintaining such Equipment under a support plan with Contractor. If Ordering Activity is not maintaining the Equipment under a support plan with Contractor, Contractor through Kronos shall have the right to verify Ordering Activity's Kronos Equipment to determine if Ordering Activity has downloaded any firmware to which Ordering Activity is not entitled.

5. Export

Ordering Activity acknowledges that the Equipment may be restricted by the United States Government or by the country in which the Equipment is installed from export to certain countries and certain organizations and individuals, and agrees to comply with such laws. Ordering Activity agrees to comply with all applicable laws of all of the countries in which the Equipment may be used by Ordering Activity. Ordering Activity's obligations hereunder shall survive the termination or expiration of the Order Form. Ordering Activity must obtain Kronos through Contractor prior written consent before exporting the Equipment.

6. Equipment Support

Contractor and Ordering Activity hereby agree that Contractor through Kronos shall provide Equipment Support Services for Ordering Activity's Kronos Equipment (referred to below as "Product(s)") if such Equipment Support Services are specified on an Order Form to and from locations within the United States and Puerto Rico.

6.1 Term

Equipment Support Services have a term of one (1) year commencing upon the expiration of the applicable warranty set forth in Section 3 of this Section I. Equipment Support Services can be extended for additional one year terms on the anniversary of its commencement date ("Renewal Date"), if agreed upon by the issuance of a new order and Contractor accepting such order.

6.2 Payment

Ordering Activity agrees that all Products of the same type that are owned by the Ordering Activity, including without limitation Ordering Activity's "Spare Products" (as defined below), must be covered by the Equipment Support Services. Ordering Activity agrees that if Ordering Activity purchases, during the term of the Equipment Support Services, any Products of the same type as those covered by Ordering Activity under Equipment Support Services, such additional Products must be covered by the Equipment Support Services.

6.3. Depot Support Service

6.3.1 Upon the failure of an installed Product, Ordering Activity shall notify Contractor through Kronos of such failure and Kronos will provide remote support in an attempt to resolve the problem. Those failures determined by Kronos to be Product related shall be dispatched to a Kronos Depot Repair Center, and Ordering Activity will be provided with a Return Material Authorization Number (RMA) for the failed Product if Ordering Activity is to return the failed Product to Kronos, as reasonably determined by Kronos. Ordering Activity must return the failed Product with the supplied RMA number. Return and repair procedures for failed Product shall be provided based on the Depot option - Depot Exchange or Depot Repair - selected by Ordering Activity on the applicable Order Form and as specified herein and in Kronos' then-current Support Services Policies which may be found herein under Section G of Attachment A.

6.3.2 Depot Exchange: Contractor through Kronos will provide a replacement for the failed Product at the FRU or subassembly level on an "advanced exchange" basis, utilizing a carrier of Kronos' choice. Replacement Product will be shipped the same day, for next business day delivery to Ordering Activity's location as further described in the Support Policies. REPLACEMENT PRODUCT(S) MAY BE NEW OR RECONDITIONED. Ordering Activity shall specify the address to which the Product is to be shipped. All shipments will include the Kronos provided RMA designating the applicable Kronos Depot Repair Center, as the recipient. Ordering Activity, upon receipt of the replacement Product from Kronos, shall package the defective Product in the materials provided by Kronos, with the RMA supplied and promptly return failed Products directly to Kronos using the carrier specified by Kronos.

6.3.3Depot Repair: It is Ordering Activity's obligation to purchase and retain, at Ordering Activity's location and at Ordering Activity's sole risk and expense, a sufficient number of spare products ("Spare Products") to allow Ordering Activity to replace failed Products at all Ordering Activity locations. Upon failure of an installed Product, Ordering Activity shall install a Spare Product to replace the failed Product. Ordering Activity shall also specify the address to which the repaired Product should be return shipped. Ordering Activity shall then return the failed Product, with the required RMA, to the applicable Kronos Depot Repair Center. Upon receipt of the failed Product, Kronos shall repair the failed Product and ship it, within ten (10) business days after receipt, to Ordering Activity. Kronos shall ship the repaired Product by regular surface transportation to Ordering Activity.

6.3.4 Device Software Updates Only: Ordering Activity shall be entitled to receive:

a. Service packs for the Product (which may contain system software updates, firmware updates, security updates, and feature enhancements) available for download at Kronos' customer portal; and
b. Access to the Kronos Support Services Center for the logging of requests for assistance downloading service packs for the Products.

6.4 Service packs for the Products are not installed by the Kronos Depot Repair Center but are available for download at Kronos' customer portal, provided Ordering Activity is maintaining the Products under an annual Equipment Support Services plan with Kronos.

6.5 Contractor warrants that all service packs and firmware updates provided under this Section I shall materially perform in accordance with the Kronos published specifications for a period of ninety (90) days after download by Ordering Activity. In the event of a breach of this warranty, Ordering Activity's exclusive remedy shall be Contractor's repair or replacement of the deficient service pack(s) or firmware update(s), at Contractor's option, provided that Ordering Activity's use, installation and maintenance thereof have conformed to the specifications.

6.6 Responsibilities of Ordering Activity

Ordering Activity agrees that it shall return failed Products promptly as the failures occur and that it shall not hold failed Products and send failed Product to Kronos in "batches" which shall result in a longer turnaround time and surcharge to Ordering Activity. In addition, Ordering Activity agrees to:

a. Maintain the Products in an environment conforming to Kronos' published specifications for such Products;
b. De-install all failed Products and install all replacement Products in accordance with Kronos' published installation guidelines;
c. Ensure that the Product(s) are returned to Kronos properly packaged; and
d. Obtain an RMA before returning any Product to Kronos and place the RMA clearly and conspicuously on the outside of the shipping package. Ordering Activity may only return the specific Product authorized by Kronos when issuing the RMA.

6.7 Support Exclusions

6.7.1 Depot Support Service does not include the replacement of "consumables". In addition, Depot Support Service does not include the repair of damages, and Ordering Activity will not attempt to return damaged Product, resulting from:

a. Any cause external to the Products including, but not limited to, electrical work, fire, flood, water, wind, lightning, transportation, or any act of God;
b. Ordering Activity's failure to continually provide a suitable installation environment (as indicated in Kronos' published installation guidelines) including, but not limited to, adequate electrical power;
c. Ordering Activity's improper use, relocation, packaging, refinishing, management or supervision of the Product(s) or other failure to use Products in accordance with Kronos' published specifications;
d. Ordering Activity's use of the Products for purposes other than those for which they are designed or the use of accessories or supplies not approved by Kronos;
e. Government imposed sanctions, rules, regulations or laws preventing the shipment of the Products; or
f. Ordering Activity's repair, attempted repair or modification of the Products.

6.7.2 Professional Services provided by Contractor through Kronos in connection with the installation of any software or firmware upgrades, if available, and if requested by Ordering Activity, are not covered by Equipment Support Services. Firmware (including equipment service packs), which may be available to resolve a Product issue is not installed by the Kronos Depot Repair Center but is available for download at Kronos' customer web site provided Ordering Activity is maintaining the Product under an annual Equipment Support Services plan with Kronos.

7. Warranty

Contractor warrants that all repairs performed under this Section I shall be performed in a professional and competent manner. ALL OTHER WARRANTIES FOR THE EQUIPMENT SUPPORT SERVICES PROVIDED HEREUNDER, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF FITNESS FOR ANY PARTICULAR PURPOSE AND MERCHANTABILITY, ARE EXCLUDED BY AGREEMENT OF THE PARTIES.

8. Limitation of Remedies

To the extent permitted by law, the remedy of Ordering Activity and liability of Contractor shall be replacement of the repaired Product.

Attachment A-2: Service Level Agreement

Service Level Agreement: Kronos offers the Service Level Agreement and associated SLA Credits as described in this Attachment A-2. This Attachment A-2 does not apply to the Boomi development environment described in Exhibit E.

Availability: The production environment of the Service will maintain 99.75% Availability. SLA Credits become available starting the month after Ordering Activity's written "go live" confirmation is provided to Kronos.

SLA Credits: If, due to an Outage, the Service does not maintain 99.75% Availability, Ordering Activity is entitled to a credit to Ordering Activity's monthly invoice for the affected month, such credit to be equivalent to 3% of Ordering Activity's monthly PEPM Fees for every 1% of Availability below 99.75%, but in no event to exceed 100% of Ordering Activity's monthly PEPM Fees.

"Outage" means the accumulated time, measured in minutes, during which Ordering Activity is unable to access the production environment for the Service for reasons other than an Excluded Event.

"Excluded Event" means any event that causes unavailability to the Service due to (a) the acts or omissions of Ordering Activity, its employees, customers, contractors or agents; (b) the failure or malfunction of equipment, applications or systems not owned or controlled by Kronos or its third party suppliers providing the Service; (c) failures or malfunctions resulting from circuits provided by Ordering Activity; (d) any inconsistencies or changes in Ordering Activity's source environment, including either intentional or accidental connections or disconnections to the environment; (e) Customer Data; (f) Force Majeure events as governed by FAR 52.212-4(f); (g) expected downtime during the Maintenance Periods described below; (h) any temporary suspension of the Service in accordance with the terms of this Section I; (i) the unavailability of required Ordering Activity personnel, including as a result of

failure to provide Kronos with accurate, current contact information; or (j) using an Application in a manner inconsistent with the Documentation for such Application.

"Maintenance Period" means scheduled maintenance periods established by Kronos to maintain and update the Services, when downtime may be necessary. The Maintenance Period is used for purposes of the Service Credit Calculation; Kronos continuously maintains the production environment on a 24x7 basis to reduce disruptions. The current Maintenance Period is each Saturday, 12:00 AM - 4:00 AM (US) EST.

Service Credit Calculation: An Outage will be deemed to commence when the Service is unavailable to Ordering Activity and ends when Kronos has restored availability to the Service.

Availability Percentage: (Monthly Minutes (MM) minus Total Minutes Not Available (TM)) multiplied by 100 and then divided by Monthly Minutes (MM), but not including Excluded Events.

"Monthly Minutes (MM)" means the total time, measured in minutes, of a calendar month commencing at 12:00 am of the first day of such calendar month and ending at 11:59 pm of the last day of such calendar month.

"Total Minutes Not Available (TM)" means the total number of minutes during the calendar month that the Service is unavailable as the result of an Outage.

Reporting and Claims Process

Kronos will provide Ordering Activity with Availability metrics on a monthly basis for each prior calendar month. Ordering Activity must request the applicable SLA Credits by written notice to Kronos within sixty (60) days of receipt of the metrics. Ordering Activity waives any right to SLA Credits not requested within this time period. All performance calculations and applicable SLA Credits are based on Kronos' records and data unless Ordering Activity can provide Kronos with clear and convincing evidence to the contrary.

Outages in one production environment may not be added to Outages in any other production environment for purposes of calculating SLA Credits.

Ordering Activity acknowledges that Kronos manages its network traffic in part on the basis of Ordering Activity's utilization of the Service and that changes in such utilization may impact Kronos' ability to manage network traffic. Therefore, notwithstanding anything else to the contrary, if Ordering Activity significantly changes its utilization of the Service than what is contracted with Kronos and such change creates a material and adverse impact on the traffic balance of the Kronos network, as reasonably determined by Kronos, the Parties agree to co-operate, in good faith, to resolve the issue.

Exhibit B: Workforce Dimensions Cloud Guidelines

Solution Definition	
Tenants included	One standard production tenant One partial copy non-production tenant limited to 18 months of data
Additional tenants	Additional partial copy tenants available for purchase on an annual basis
Connectivity	
Connectivity to service	The customer's end users connect to Workforce Dimensions applications via a secure SSL/TLS connection over the internet. Cooperation between Kronos and the customer's IT staff may be required to enable access. Kronos will assist with validating site connectivity but assumes no responsibility for the customer's internet connection or ISP relationships. Kronos-related internet traffic cannot be filtered by proxy or caching devices on the client network. Workforce Dimensions supports vanity URL, utilizing a single domain.
Connectivity	
SFTP accounts	The Kronos cloud SFTP service provides a generic endpoint for customers to push and pull files — including people import, payroll, accruals, schedules, punches, drivers, and more — to and from the Kronos cloud in support of Kronos' integrations. The service includes two SFTP managed service accounts that customers may use to automate their integrations with the Kronos cloud. All managed service account logins use public key authentication to secure files in transit. Transfers of files up to 100MB are supported. Customers may also purchase additional managed service accounts. User accounts for individual (named) customer login are not supported by the SFTP service.
MPLS/Site-to-cloud (optional)	Customers choosing to utilize MPLS are required to use connections offered by Google Cloud Interconnect service providers and will pay the service provider directly. Kronos will assist in provisioning of the link.
Server-initiated device (optional)	Supported per Documentation (includes two VPN connections)
Usage	
Storage	Storage will be aligned with the number of employees using Workforce Dimensions and the number of software modules being deployed. Storage is covered by the per-employee-per-month fees.
Secure file transfer limits	Integration with Kronos Workforce Dimensions using the Kronos Cloud SFTP service is subject to the following limits: - 20 active concurrent sessions per SFTP account - File size transferred per SFTP session not to exceed 100MB - Storage quota of 10GB per SFTP account
Key performance indicators (KPIs)	KPIs can be used to monitor and control business targets and thresholds. Many KPIs are delivered to the customer to track common workforce metrics such as overtime and labor costs. The customer has the option to build additional organization-specific KPIs using the KPI Builder. The number of active KPIs used with Workforce Dimensions applications will be limited to 200 per customer. Additional KPIs may be purchased.
API usage	Data can be accessed through APIs. Kronos reserves the right to limit usage of APIs to preserve the integrity of the system and to charge additional fees for usage of the APIs beyond "normal levels" as required for integrations with other systems. The expected volume of API calls may be exceeded by building additional applications using APIs or routinely extracting large volumes of data to support an external data warehouse.
Policies	
Data refresh	Customer can request that a copy of production tenant be moved to its non-production tenant once per week — up to the limit of data allowable in the non-production tenant.

Kronos application updates	Maintenance updates will be automatically applied as needed. New software releases will be automatically applied according to the release schedule published during the first month of each quarter.
Data retention	As part of the standard offering transactional data will be retained for 3 years in production environment and an additional 4 years in archive. After the 7 years' customers will need to extract data that they require to keep for longer periods of time. Kronos has the right to purge the data after 7 years.
Customer termination support	Upon customer termination, Kronos will provide access to the service for an additional 30 days so the customer may extract data.
Security compliance	A SOC 2 Type 1 report will be published during the first quarter after general availability release. A SOC 2 Type 2 report will be published 12 months after general availability release.
Disaster recovery	Recovery time objective: 24 hours Recovery point objective: 4 hours
Encryption	Data encryption in transit and at rest is included.
Servicelevel agreement uptime	99.75% system availability
Maintenance window	Four hours once a week, according to defined standard schedule: Saturday, midnight – 4:00 a.m. EST
Data usage	Kronos has the right to use scrubbed system data to define benchmarks, understand usage, and establish patterns.
Third parties	The customer may contract with a third party to configure and/or implement Workforce Dimensions applications. The customer will be responsible for creating users in the system for the third party to access the application and for maintaining the permissions those users have within the application. Dedicated service and support accounts can be accessed only by Kronos personnel or contractors employed by Kronos.
Legal Hold	Kronos will comply with applicable laws and regulations when responding to subpoenas and inquiries from government agencies after consultation with customers when applicable and possible. In the event that a customer is subject to a subpoena, litigation discovery request, or government inquiry directed at customer data or documents that are solely within Kronos' control, Kronos will, at the customer's request, make commercially reasonable efforts to provide assistance to the extent that it is technically feasible. The customer will reimburse Kronos for the costs that Kronos incurs to provide such assistance, such as professional services fees, copying, delivery, and other handling expenses. Subject to the above, Kronos will produce the relevant data or documents. Except at its sole discretion or if legally required to do so, Kronos will not entertain requests to store or host legacy or archived customer data or documents for these purposes. Kronos periodically reviews all matters subject to legal hold, including data that is being retained.

Exhibit C: Customer Success

1. Customer Success Plans

1.1 Contractor through Kronos offers the following Customer Success Plans:

a. Standard (included in Ordering Activity's PEPM Fee)
b. Premium (available for an additional Fee,[1] minimum annual spend may be required for certain services)
c. Premium Plus (available for an additional Fee, minimum annual spend may be required for certain services)

1.2 As part of the Standard Plan, Kronos will provide:

a. 24/7 support for infrastructure outages, with always-on maintenance for Application Availability and Outages;
b. Kronos Community access: Self-solve issues, access Knowledgebase articles, and open support cases;
c. Local Time Zone Support: 8-5 callback support and two-hour email response time to cases Monday to Friday;
d. In-Context Support: Screen-specific, built-in assistance within the Applications;
e. KnowledgeMap™ Learning Portal: Access to self-paced eLearning and webinars;
f. Access to Customer Success;
g. Customer Health Monitoring to proactively identify and address potential issues based on Kronos' evaluation of customer experience metrics; and,
h. Success Reporting: Automated success dashboard to provide usage data and success tips.

[1] All additional fees will be in accordance with the GSA Pricelist.

1.3 Each Plan provides different services and different service coverage periods. The current services of each Plan are described in Attachment C-1. The current services of the corresponding Customer Success Programs – Community, Guided and Signature - are described in Attachment C-2.

1.4 Technical Account Manager. A Technical Account Manager (TAM) is included in Premium Plus. A TAM may be added to the Premium Plan for an additional Fee and requires a minimum annual spend. TAMs are senior Technical Support Engineers or former Kronos Application Consultants with industry specific Kronos product knowledge.

1.5 The Kronos policies which apply to all Customer Success Plans are set forth attachment C-4.

Attachment C-1

Customer Success Plans

	Standard	Premium	Premium Plus
24x7 Support for Mission Critical Issues	✓	✓	✓
Self-service	✓	✓	✓
Local Time Zone Support	Electronic/Callback Support 8:00 AM – 5:00 PM M-F	Phone/Electronic Support 8:00 AM – 8:00 PM M-F	24 Hour Live Phone/Electronic Support
Email Response Time	2 hours	2 hours	1 hour
Community Support	✓	✓	✓
Training / Education			
Get Started Training	✓	✓	✓
In-Context Support	✓	✓	✓
eLearning Portal	✓	✓	✓
[illegible]			
Support Plus	-	✓	✓
Best Practice Audit	-	-	✓
System Health Check	-	-	✓
Developer Support	-	-	✓

Service Included:	Standard	Premium	Premium Plus*
TAM Resources			
Technical Account Manager Includes Escalation Manager	-	Fees apply 8:00 AM – 8:00 PM	Included 24 Hour Live Phone/Electronic Support
Help Desk Support			
Direct User/Locations Support	-	Fee in addition to Premium 8:00 AM – 8:00 PM	Fee in addition to Premium 24X7
Customer Success Programs (Details in Attachment C-2):			
Community Success	Included	Included	-
Guided Success	-	Requires minimum spend	-
Signature Success	-	-	Included

Attachment C-2: Customer Success Programs

	 Community	 Guided	 Signature
Named Customer Success Manager	Team	Yes – 1 : 25	Yes – 1 : 8
Customer Onboarding Experience	Community	Remote	In-Person
Success Reporting	Dashboard Report - Annually	360 Report – Semi Annually	Insights Report - Quarterly
Product Adoption Guidance	Campaigns	Direct	Direct
Customer Happiness Monitoring	Trends/Campaigns	Direct	Direct
Customized Success Paths with Updates	-	Annually	Quarterly
Live Check In Meetings	-	Quarterly	Monthly
Executive Business Reviews	-	Annually – Remote	Quarterly – In Person

Attachment C-3

Advisory Support Offerings

Support Plus

Description	Delivery Considerations
Evaluate Application beyond a specific fix. Focus on not only issue identified but overall health of the application when engaging support	Delivered as part of each Support case by Support Eng.
Identify known issues and solutions: • Quarterly review of PARs fixed/assessment of impact	• Delivered as part of each Support case for area in question • Delivered quarterly in a proactive fashion independent of Support calls
Implementation of new functionality (minor feature releases) • Review minor features released in product (assumes CSM will cover major product features with product) • No licensed feature additions	Delivered based on release cycles

Best Practices Audit

Description	Delivery Considerations
App Review and Audit (Quarterly): • Audit of Application and use of Kronos recommended best practices • Evaluation of Application Error conditions and impact on System use - Review error logs with an eye toward trends. Proactive identification of configuration changes/pars that may address identified trends or issues • Evaluate overall system performance and tune as needed (Need tools from engineering to provide this)	Delivered Quarterly with focus on the Application best practices only.
Timeclock review and audit (Quarterly) • Flash versions on Kronos Hardware • Review communication error messages - Review error logs with an eye toward trends. Proactive identification of configuration changes/pars that may address identified trends or issues	Delivered Quarterly

Attachment C-4
Workforce Dimensions Support Policies

Kronos provides support services for all customer environments (Production and User Acceptance Testing (UAT)) running the Workforce Dimensions Applications. Upgrades to these environments are included in all Success plans. Configuration of new features may be subject to additional cost depending on complexity.

Support Exclusions

Support services do not include service to the Applications resulting from, or associated with:

1. Failure to use the Applications in accordance with Kronos' published specifications; or
2. Customer's end user computer or operating system malfunctions, including browser and internet connection; or
3. Services required for application programs or conversions from products or software not supplied by Kronos.

Service Coverage Period

Kronos provides support for the Workforce Dimensions Infrastructure 24 hours a day, seven days a week, 365 days a year. Support coverage hours for the Application for use, usability and "how to" questions depend on the Success Plan purchased with the Service.

Success Plans	Standard	Premium	Premium Plus
Local Time Zone Support	**Electronic submission w/callback Support 8:00 AM – 5:00 PM Monday to Friday***	**Phone/Electronic Support 8:00 AM – 8:00 PM Monday to Friday***	**24 Hour Live Phone/Electronic Support 7 days per week**

* Excluding Kronos holidays

Priority Based Support

Kronos provides support on a "priority" basis. As such, customers with the most critical request(s) will be serviced first. Kronos Global Support has set up the following guidelines to assess the priority of each service request:

High Priority: A critical customer issue with no available workaround where the Applications cannot be accessed, or where the Applications are experiencing major system degradation, and any other related factors resulting in the customer not being able to process their payroll, such as:

- Cloud outage
- Unable to sign-off Time Cards
- Totals are not accurate
- Unable to collect punches from terminals
- Unable to access a critical function within the Applications such as scheduling

Medium Priority: A serious customer issue which impacts ability to utilize the application effectively such as:

- Intermittent or inconsistent functionality results or data accuracy - accrual balances not matching pay codes but balances are accurate
- Data display inaccuracies or inconsistencies across multiple tasks
- Application performance is inconsistent or fluctuates

Low Priority: Non-critical problem generally entailing use and usability issues or "how to" questions such as:

- How do I set up a holiday pay rule?
- How do I run a report?

Response Time

Response time shall mean the number of hours from the time the case priority is set by the Kronos Support Center until a Kronos technical representative contacts the customer to begin service. Kronos utilizes a priority based support focus. Customers with the most critical request will be serviced in accordance with the following guidelines:

Success Plans	Standard	Premium	Premium Plus
Priority			
High	2 hours	2 hours	1 hour
Medium	4 hours	4 hours	4 hours
Low	8 hours	8 hours	8 hours

Critical Outages
Kronos will provide continuous effort on all high priority events through either bug identification, the development of a workaround, or problem resolution. If this effort goes beyond normal business hours, the case may be passed to the after-hours team. On-going continuous effort may also be dependent on the customer's ability to provide a resource to work with Kronos during this period.

Technical Escalation
Kronos' case resolution process is a team based approach structured around specific features within the Application suite and staffed by Kronos Support Engineers covering the full spectrum of skill sets and technical expertise. The teams are empowered to dynamically apply the appropriate resources to a case based on severity and complexity to ensure the fastest resolution time possible.

The teams are also integrated with the Development Engineering and Cloud Operations staff and engage their assistance and technical guidance when necessary and/or directly escalate depending on case severity and time to resolve considerations.

For situations that contain multiple cases, an Account Manager may be assigned to act as a single point of contact and communication regarding case resolution status, action plan development, resource integration and implementation co-ordination. The Account Manager remains engaged until the situation has been successfully remediated.

Management Escalation
Customers may, at any time, ask to speak to a Kronos manager if they experience dissatisfaction with the level of service received with respect to a specific case or service in general. To contact a Kronos Global Support manager, please telephone your Kronos Support Services center and ask to speak to a manager. Phone numbers are listed on the Kronos Community at https://community.kronos.com/s/article/ka361000000ACDuAAO/KB13193 .

Remote Support
A web-based screen-sharing application that enables Kronos to support you by empowering our support representatives to remotely view your computer. By connecting through the Internet or via intranets and extranets, support representatives will work in real time with your users and quickly escalate to desktop sharing, which features mutual mouse and keyboard control and whiteboard capability.

Kronos Community
The Community helps you make the most of your Kronos solution by putting tools and resources at your fingertips in a collaborative, intuitive online space — a space that makes opening a case, accessing support, and viewing all your account information easier than ever. Streamlined and searchable, the information you need is just a click away.

Exhibit D: Acceptable Use Policy

This Acceptable Use Policy (this "Policy") describes prohibited uses of the Service. The examples described in this Policy are not exhaustive. If Ordering Activity violates the Policy or authorizes or helps others to do so, Contractor may temporarily suspend use of the Service until the violation is corrected, or submit a claim to the contracting office under the Contract Disputes Act to terminate the Order Form for cause in accordance with the terms of this Section I.

No Illegal, Harmful, or Offensive Use or Content

Ordering Activity may not use, or encourage, promote, facilitate or instruct others to use, the Service for any illegal, harmful or offensive use, or to transmit, store, display, distribute or otherwise make available content that is illegal, harmful, or offensive. Prohibited activities or content include:

- Illegal Activities. Any illegal activities, including advertising, transmitting, or otherwise making available gambling sites or services or disseminating, promoting or facilitating child pornography.
- Harmful or Fraudulent Activities. Activities that may be harmful to others, Kronos' operations or reputation, including offering or disseminating fraudulent goods, services, schemes, or promotions (e.g., make-money-fast schemes, ponzi and pyramid schemes, phishing, or pharming), or engaging in other deceptive practices.
- Infringing Content. Content that infringes or misappropriates the intellectual property or proprietary rights of others.
- Offensive Content. Content that is defamatory, obscene, abusive, invasive of privacy, or otherwise objectionable, including content that constitutes child pornography, relates to bestiality, or depicts non-consensual sex acts.
- Harmful Content. Content or other computer technology that may damage, interfere with, surreptitiously intercept, or expropriate any system, program, or data, including viruses, Trojan horses, worms, time bombs, or cancelbots.

No Security Violations

Ordering Activity may not use the Service to violate the security or integrity of any network, computer or communications system, software application, or network or computing device (each, a "System"). Prohibited activities include:

- Unauthorized Access. Accessing or using any System without permission, including attempting to probe, scan, or test the vulnerability of a System or to breach any security or authentication measures used by a System. Ordering Activity will not perform any security integrity review, penetration test, load test, denial of service simulation or vulnerability scan on any System.
- Interception. Monitoring of data or traffic on a System without permission.
- Falsification of Origin. Forging TCP-IP packet headers, e-mail headers, or any part of a message describing its origin or route. This prohibition does not include the use of aliases or anonymous remailers.
- No Use of Robots. Ordering Activity will not use any tool designed to automatically emulate the actions of a human user (e.g., robots)

No Network Abuse

Ordering Activity may not make network connections to any users, hosts, or networks unless Ordering Activity has permission to communicate with them. Prohibited activities include:

- Monitoring or Crawling. Monitoring or crawling of a System that impairs or disrupts the System being monitored or crawled.
- Denial of Service (DoS). Inundating a target with communications requests so the target either cannot respond to legitimate traffic or responds so slowly that it becomes ineffective.
- Intentional Interference. Interfering with the proper functioning of any System, including any deliberate attempt to overload a system by mail bombing, news bombing, broadcast attacks, or flooding techniques.
- Operation of Certain Network Services. Operating network services like open proxies, open mail relays, or open recursive domain name servers.
- Avoiding System Restrictions. Using manual or electronic means to avoid any use limitations placed on a System, such as access and storage restrictions.

No E-Mail or Other Message Abuse

Ordering Activity will not use the Service to distribute, publish, send, or facilitate the sending of unsolicited mass e-mail or other messages, promotions, advertising, or solicitations (like "spam"), including commercial advertising and informational announcements. Ordering Activity will not alter or obscure mail headers or assume a sender's identity without the sender's explicit permission. Ordering Activity will not collect replies to messages sent from another internet service provider if those messages violate this Policy or the acceptable use policy of that provider.

Monitoring and Enforcement

Contractor through Kronos reserves the right, but does not assume the obligation, to investigate any violation of this Policy or misuse of the Service. Contractor through Kronos may:

- investigate violations of this Policy or misuse of the Service; or
- temporarily remove, disable access to, or modify any content or resource that violates this Policy and submit a claim to the contracting officer under the Contract Disputes Act to permanently remove, disable, or modify the content.

Contractor through Kronos may report any activity that it suspects violates any law or regulation to appropriate law enforcement officials, regulators, or other appropriate third parties. Such reporting may include disclosing appropriate customer information. Contractor through Kronos also may cooperate with appropriate law enforcement agencies, regulators, or other appropriate third parties to help

with the investigation and prosecution of illegal conduct by providing network and systems information related to alleged violations of this Policy.

Reporting of Violations of this Policy

If Ordering Activity becomes aware of any violation of this Policy, Ordering Activity will immediately notify Contractor and provide Contractor with assistance, as requested, to stop or remedy the violation.

Exhibit E: AtomSphere Service and Boomi Software

As part of the Service, Ordering Activity has the right to access and use the Boomi AtomSphere Service and a non-exclusive, non-transferable and non sublicensable license to use the associated Boomi Software as part of the Boomi AtomSphere Service. Ordering Activity may use the Boomi AtomSphere Service and the Boomi Software only to create integrations to and from the Service.

There are two (2) cloud environments associated with Ordering Activity use of the Boomi AtomSphere Service and the Boomi Software:

a. Run-Time environment: A run time environment in the Kronos Cloud where the integration created by with the Boomi AtomSphere Service runs. This environment is described in Exhibit B.
b. Development environment: A development environment in the Boomi Cloud where the design and development tools exist to build the integrations. This environment is referred to as a Hosted Environment in the hyperlink below.

The Boomi AtomSphere Service is subject to the additional terms and conditions set forth at: www.kronos.com/workforce-dimensions/agreement/attachment-e1. These additional terms and conditions apply to all integrations to and from the Service using the Boomi AtomSphere Service, whether done by Ordering Activity or by Kronos. Except as provided in these additional terms and conditions, all terms and conditions of this Section I related to the Service apply to the Boomi AtomSphere Service. Upon termination, Ordering Activity's rights to access the Boomi AtomSphere Service and the Boomi Software also terminates.

Attachment E-1
Boomi AtomSphere Service And Boomi Software Flow Downs

The following provisions are required "flow-down" provisions from our authorized reseller agreement with Boomi, Inc. for the AtomSphere Service and Boomi Software. These terms and conditions apply to all integrations to and from the Kronos Services using the AtomSphere Service and are in addition to the terms of the Agreement for all such integrations. For purposes of these provisions, "Customer" is referred to as "End-Customer" throughout these provisions.

(1) Restrictions. Except and only to the extent that the exclusions and limits of this Restrictions Section are prohibited by applicable law, End-Customer may not reverse engineer, decompile, disassemble, or attempt to discover or modify in any way the underlying source code of the Boomi Software, or any part thereof. In addition, End-Customer may not (i) modify, translate, localize, adapt, rent, lease, loan, create or prepare derivative works of, or create a patent based on the Boomi Software or any part thereof, (ii) resell, sublicense or distribute the Boomi Software, (iii) provide, make available to, or permit use of the AtomSphere Service or the Boomi Software, in whole or in part, by any third party (except as expressly set forth herein) without Dell's prior written consent, (iv) use the AtomSphere Service or the Boomi Software to create or enhance a competitive offering or for any other purpose which is competitive to Dell, or (v) perform or fail to perform any act which would result in a misappropriation or infringement of Dell's intellectual property rights in the AtomSphere Service or the Boomi Software. End-Customer understands and agrees that the AtomSphere Service or the Boomi Software may work in conjunction with third party products and End-Customer agrees to be responsible for ensuring that it is properly licensed to use such third party products.

(2) Proprietary Rights. End-Customer understands and agrees that (i) the AtomSphere Service or the Boomi Software are protected by copyright and other intellectual property laws and treaties, (ii) Dell, its Affiliates and/or its suppliers own the copyright, and other intellectual property rights in the Products, (iii) the Boomi Software is licensed, and not sold, (iv) this Agreement does not grant End-Customer any rights to Dell's trademarks or service marks, and (v) Dell reserves any and all rights, implied or otherwise, which are not expressly granted to End-Customer in this Agreement.

(3) Support. All technical support related to the AtomSphere Services and Boomi Software shall be provided by Kronos. End-Customer shall have no right to contact Dell for technical support for the AtomSphere Services and Boomi Software.

(4) Protected Data. For purposes of this Section, "Protected Data" means any information or data that is provided by End-Customer to Dell during this Agreement that alone or together with any other information relates to an identified or identifiable natural person or data considered to be personal data as defined under Privacy Laws, and "Privacy Laws" means any applicable law, statute, directive or regulation regarding privacy, data protection, information security obligations and/or the processing of Protected Data.

Except as permitted herein or to the extent required by Privacy Laws or legal process, Dell shall not disclose Protected Data to any third party for any reason. Dell shall implement appropriate technical and organizational measures to prevent unauthorized disclosure of or access to Protected Data by third parties, and shall only store and process Protected Data as required to fulfill its obligations under this Agreement and any applicable Orders. Dell shall make reasonable efforts to comply with End-Customer's written instructions with respect to the Protected Data; however, Dell shall have no liability to End-Customer for any breach of this Section resulting from Dell's acts or omissions in accordance with any such instructions. Dell shall promptly notify End-Customer of any disclosure of or access to the Protected Data by a third party in breach of this Section and shall cooperate with End-Customer to reasonably remediate the effects of such disclosure or access. Dell further affirms to End-Customer that Boomi, Inc. currently abides by the safe harbor framework as set forth by the U.S. Department of Commerce regarding the collection, use and retention of data from the European Union.
End-Customer hereby (i) represents that it has the right to send the Protected Data to Dell, (ii) consents for Dell to store and use the Protected Data worldwide for the sole purpose of performing its obligations under this Agreement and any applicable Orders, (iii) agrees that the Protected Data may be accessed and used by Dell and its Representatives worldwide as may be needed to support

Dell's standard business operations, and (iv) agrees that Protected Data consisting of End-Customer contact information (e.g., email addresses, names) provided as part of Maintenance AtomSphere Services may be sent to Dell's third party service providers as part of Dell's services improvement processes.

(5) Infringement. Dell will at its own expense defend or settle any claim, suit, action, or proceeding brought against End-Customer by a third party to the extent it is based on an allegation that the Boomi Software directly infringes any patent, copyright, trademark, or other proprietary right enforceable in the country in which the Boomi Software is delivered to End-Customer, or misappropriates a trade secret in such country (a "Claim"). Additionally, Dell shall pay any judgments finally awarded against End-Customer under a Claim or any amounts assessed against End-Customer in any settlements of a Claim, and reasonable administrative costs or expenses, including without limitation reasonable attorneys' fees, necessarily incurred by End-Customer in responding to the Claim. Dell's obligations under this Section are conditioned upon End-Customer (i) giving prompt written notice of the Claim to Dell; (ii) permitting Dell to retain control of the investigation, defense or settlement of the Claim, and (iii) providing Dell with such cooperation and assistance as Dell may reasonably request from time to time in connection with the investigation, defense or settlement of the Claim. Dell shall have no obligation hereunder to defend End-Customer against any Claim (a) resulting from use of the Boomi Software other than as authorized in this Agreement, (b) resulting from a modification of the Boomi Software other than by Dell, or (c) based on End-Customer's use of the Boomi Software after Dell recommends discontinuation because of possible or actual infringement, (d) based on End-Customer's use of a superseded or altered release of Boomi Software if the infringement would have been avoided by use of a current or unaltered release of the Boomi Software made available to End-Customer, or (e) to the extent the Claim arises from or is based on the use of the Boomi Software with other products, services, or data not supplied by Dell if the infringement would not have occurred but for such use. If End-Customer's use of the Boomi Software is enjoined as a result of a Claim, Dell shall, at its expense and option either (1) obtain for End-Customer the right to continue using the Boomi Software, (2) replace the Boomi Software with a functionally equivalent non-infringing product, (3) modify the Boomi Software so that it is non-infringing, or (4) terminate the License for the infringing Boomi Software and discontinue End-Customer's right to access and use the infringing Boomi Software and refund the unused pro-rated portion of any fees pre-paid by End-Customer for the AtomSphere Service affected by the removal of the infringing Boomi Software. This Section states the entire liability of Dell, and End-Customer's sole and exclusive remedy, with respect to a Claim. Nothing contained herein shall be construed in derogation of the U.S. Department of Justice's right to defend any claim or suit brought against the U.S. pursuant to its jurisdictional statute 28 U.S.C. § 516.

(6) Warranty. Dell warrants that the Boomi Software and AtomSphere Service will, for a period of sixty (60) days from the date of your receipt, perform substantially in accordance with Boomi Software and AtomSphere Service written materials accompanying it. EXCEPT AS EXPRESSLY SET FORTH IN THE FOREGOING SENTENCE, THERE ARE NO WARRANTIES OR REMEDIES PROVIDED TO CUSTOMER BY DELL HEREUNDER. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, ALL OTHER WARRANTIES OR REMEDIES ARE EXCLUDED, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR ANY PARTICULAR PURPOSE, NON-INFRINGEMENT, SATISFACTORY QUALITY, AND ANY WARRANTIES ARISING FROM USAGE OF TRADE OR COURSE OF DEALING OR PERFORMANCE. DELL DOES NOT WARRANT UNINTERRUPTED OR ERROR-FREE OPERATION OF THE PRODUCTS.
(9) High Risk Disclaimer. END-CUSTOMER UNDERSTANDS AND AGREES THAT THE PRODUCTS ARE NOT FAULT-TOLERANT AND ARE NOT DESIGNED OR INTENDED FOR USE IN ANY HIGH-RISK OR HAZARDOUS ENVIRONMENT, INCLUDING WITHOUT LIMITATION, THE OPERATION OF NUCLEAR FACILITIES, AIRCRAFT NAVIGATION, AIR TRAFFIC CONTROL, LIFE SUPPORT MACHINES, WEAPONS SYSTEMS, OR ANY OTHER APPLICATION WHERE THE FAILURE OR MALFUNCTION OF ANY PRODUCT CAN REASONABLY BE EXPECTED TO RESULT IN DEATH, PERSONAL INJURY, SEVERE PROPERTY DAMAGE OR SEVERE ENVIRONMENTAL HARM (A "HIGH RISK ENVIRONMENT"). ACCORDINGLY, (I) END-CUSTOMER SHOULD NOT USE THE PRODUCTS IN A HIGH RISK ENVIRONMENT, (II) ANY USE OF THE PRODUCTS BY CUSTOMER IN A HIGH RISK ENVIRONMENT IS AT CUSTOMERS OWN RISK, (III) DELL, ITS AFFILIATES AND SUPPLIERS SHALL NOT BE LIABLE TO END-CUSTOMER IN ANY WAY FOR USE OF THE PRODUCTS IN A HIGH RISK ENVIRONMENT, AND (IV) DELL MAKES NO WARRANTIES OR ASSURANCES, EXPRESS OR IMPLIED, REGARDING USE OF THE PRODUCTS IN A HIGH RISK ENVIRONMENT.

(7) Export. End-Customer acknowledges that the Boomi Software and AtomSphere Service are subject to the export control laws, rules, regulations, restrictions and national security controls of the United States and other applicable foreign agencies (the "Export Controls") and agrees to abide by the Export Controls. End-Customer hereby agrees to use the Boomi Software and AtomSphere Service in accordance with the Export Controls, and shall not export, re-export, sell, lease or otherwise transfer the Boomi Software and AtomSphere Service or any copy, portion or direct product of the foregoing in violation of the Export Controls. End-Customer is solely responsible for obtaining all necessary licenses or authorizations relating to the export, re-export, sale, lease or transfer of the Boomi Software and AtomSphere Service and for ensuring compliance with the requirements of such licenses or authorizations. End-Customer hereby (i) represents that End-Customer is not an entity or person to which shipment of Boomi Software and AtomSphere Service is prohibited by the Export Controls; and (ii) agrees that it shall not export, re-export or otherwise transfer the Boomi Software and AtomSphere Service to (a) any country subject to a United States trade embargo, (b) a national or resident of any country subject to a United States trade embargo, (c) any person or entity to which shipment of Boomi Software and AtomSphere Service is prohibited by the Export Controls, or (d) anyone who is engaged in activities related to the design, development, production, or use of nuclear materials, nuclear facilities, nuclear weapons, missiles or chemical or biological weapons. Except as may be prohibited by applicable law, End-Customer shall, at its expense, defend Dell and its Affiliates from any third party claim or action arising out of any inaccurate representation made by End-Customer regarding the existence of an export license, End-Customer's failure to provide information to Dell to obtain an export license or any allegation made against Dell due to End-Customer's violation or alleged violation of the Export Controls (an "Export Claim") and shall pay any judgments or settlements reached in connection with the Export Claim as well as Dell's costs of responding to the Export Claim.

(8) Hosted Environment.

(a) Data. End-Customer may store data on the systems to which it is provided access in connection with its use of the AtomSphere Service (the "Hosted Environment"). Dell may periodically make back-up copies of End-Customer data, however such back-ups are not intended to replace End-Customer's obligation to maintain regular data backups or redundant data archives. End-Customer is solely responsible for collecting, inputting and updating all End-Customer data stored in the Hosted Environment, and for ensuring that it does not (i) knowingly create and store data that actually or potentially infringes or misappropriates the copyright, trade secret, trademark or other intellectual property right of any third party, or (ii) use the Hosted environment for purposes that would reasonably be seen as obscene, defamatory, harassing, offensive or malicious. If the Order states where End-Customer data is to be stored, Dell will not move the data from the specified region without notifying End-Customer, except if Dell is required to do so by law or legal process. Dell shall have the right to delete all End-Customer data stored in connection with the use of the AtomSphere Service thirty (30) days following any termination of this Agreement or any license to Boomi Software granted hereunder.

End-Customer represents and warrants that it has obtained all rights, permissions and consents necessary to use and transfer all End-Customer and/or third party data within and outside of the country in which End-Customer or the applicable End-Customer Affiliate is located (including providing adequate disclosures and obtaining legally sufficient consents from End-Customer's employees, End-Customers, agents, and contractors). If End-Customer transmits data to a third-party website or other provider that is linked to or made accessible by the AtomSphere Service or Boomi Software, End-Customer will be deemed to have given its consent to Dell enabling such transmission and Dell shall have no liability to End-Customer in connection with any claims by a third party in connection with such transmission.

(b) Conduct. In connection with the use of the Hosted Environment and the AtomSphere Service, End-Customer may not (i) attempt to use or gain unauthorized access to Dell's or to any third-party's networks or equipment; (ii) permit other individuals or entities to copy the Boomi Software; (iii) provide unauthorized access to or use of any Boomi Software or the associated access credentials; (iv) attempt to probe, scan or test the vulnerability of the Boomi Software, the Hosted Environment, or a system, account or network of Dell or any of Dell's End-Customers or suppliers; (v) interfere or attempt to interfere with service to any user, host or network; (vi) engage in fraudulent, offensive or illegal activity of any nature or intentionally engage in any activity that infringes the intellectual property rights or privacy rights of any individual or third-party; (vii) transmit unsolicited bulk or commercial messages; (viii) intentionally distribute worms, Trojan horses, viruses, corrupted files or any similar items; (ix) restrict, inhibit, or otherwise interfere with the ability of any other person, regardless of intent, purpose or knowledge, to use or enjoy the Boomi Software (except for tools with safety and security functions); or (x) restrict, inhibit, interfere with or otherwise disrupt or cause a performance degradation to any Dell (or Dell supplier) facilities used to provide the Hosted Environment. End-Customer shall cooperate with Dell's reasonable investigation of Hosted Environment outages, security issues, and any suspected breach of this Section.

(c) Suspension. Dell may temporarily suspend End-Customer's use of Boomi Software and the AtomSphere Service (a) if so required by law enforcement or legal process, (b) in the event of an imminent security risk to Dell or its End-Customers, or (c) if continued use would subject Dell to material liability. Dell shall make commercially reasonable efforts under the circumstances to provide as much prior notice as possible to End-Customer of any such suspension.

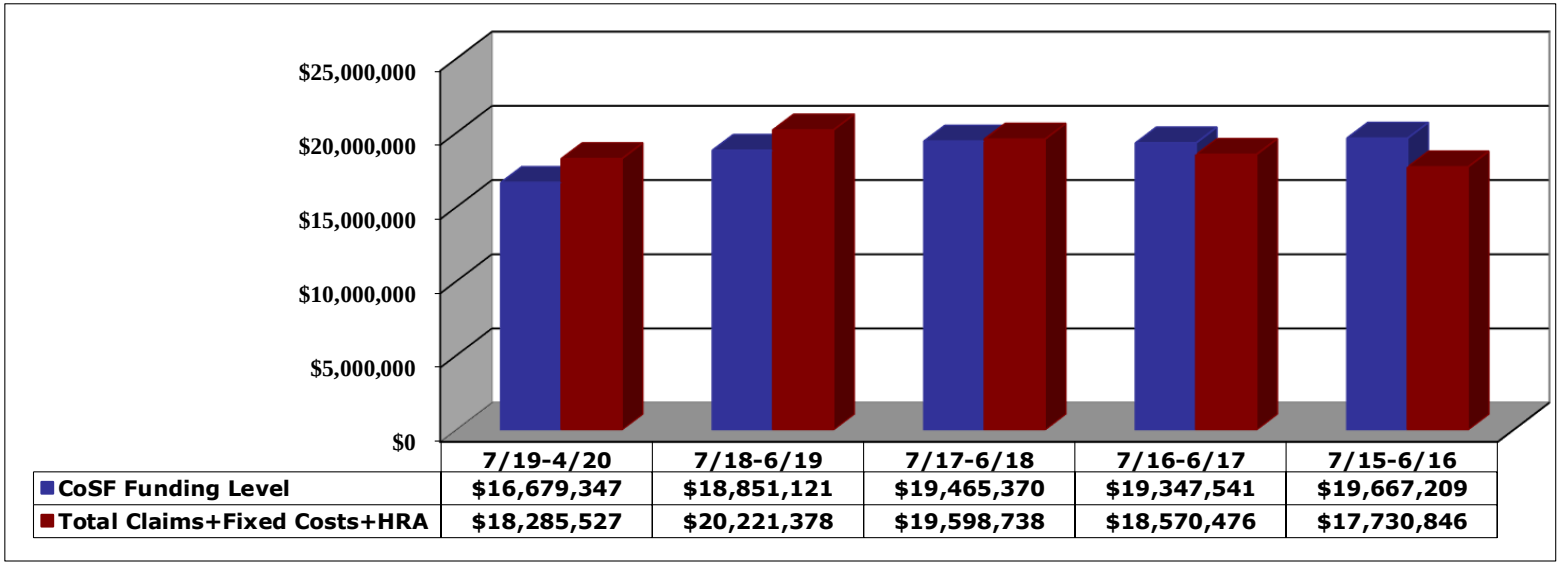
(9) Limitation of Liability. EXCEPT FOR (A) ANY MATERIAL BREACH OF THE "RESTRICTIONS", "CONFIDENTIAL INFORMATION"" SECTIONS OF THIS AGREEMENT, (B) AMOUNTS CONTAINED IN JUDGMENTS OR SETTLEMENTS WHICH DELL IS LIABLE TO PAY ON BEHALF OF END-CUSTOMER UNDER THE "INFRINGEMENT" SECTION OF THIS AGREEMENT AND CUSTOMER IS LIABLE TO PAY ON BEHALF OF DELL UNDER THE "CONDUCT" OR "EXPORT" SECTIONS OF THIS AGREEMENT, OR (C) ANY LIABILITY TO THE EXTENT LIABILITY MAY NOT BE EXCLUDED OR LIMITED AS A MATTER OF APPLICABLE LAW, IN NO EVENT SHALL END-CUSTOMER, KRONOS, KRONOS' AFFILIATES OR RESELLERS, DELL, DELL'S AFFILIATES OR SUPPLIERS BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL LOSS OR DAMAGE OF ANY KIND, INCLUDING BUT NOT LIMITED TO LOSS OF REVENUE, LOSS OF ACTUAL OR ANTICIPATED PROFITS, LOSS OF BUSINESS, LOSS OF CONTRACTS, LOSS OF GOODWILL OR REPUTATION, LOSS OF ANTICIPATED SAVINGS, LOSS OF, DAMAGE TO OR CORRUPTION OF DATA, HOWSOEVER ARISING, WHETHER SUCH LOSS OR DAMAGE WAS FORESEEABLE OR IN THE CONTEMPLATION OF THE PARTIES AND WHETHER ARISING IN OR FOR BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), BREACH OF STATUTORY DUTY, OR OTHERWISE. The foregoing limitation of liability shall not apply to (1) personal bodily injury or death resulting from Licensor's gross negligence; (2) for fraud; or (3) for any other matter for which liability cannot be excluded by law.
EXCEPT FOR (A) ANY MATERIAL BREACH OF THE "LICENSE," "RESTRICTIONS," OR "CONFIDENTIAL INFORMATION" SECTIONS OF THIS AGREEMENT, OR ANY OTHER VIOLATION OF THE OTHER PARTY'S INTELLECTUAL PROPERTY RIGHTS; (B) DELL'S EXPRESS OBLIGATIONS UNDER THE "INFRINGEMENT" SECTION OF THIS AGREEMENT AND END-CUSTOMER'S EXPRESS OBLIGATIONS UNDER THE "CONDUCT" AND "EXPORT" SECTIONS OF THIS AGREEMENT; (C) DELL BOOMI'S COSTS OF COLLECTING DELINQUENT AMOUNTS THAT ARE NOT SUBJECT TO A GOOD FAITH DISPUTE; OR (D) ANY LIABILITY TO THE EXTENT LIABILITY MAY NOT BE EXCLUDED OR LIMITED AS A MATTER OF APPLICABLE LAW, THE MAXIMUM AGGREGATE AND CUMULATIVE LIABILITY OF END-CUSTOMER, KRONOS, KRONOS' AFFILIATES OR RESELLERS, DELL, DELL'S AFFILIATES AND SUPPLIERS UNDER THIS AGREEMENT, WHETHER ARISING IN OR FOR BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), BREACH OF STATUTORY DUTY, OR OTHERWISE, SHALL NOT EXCEED THE AMOUNT THAT IS THREE TIMES THE FEES PAID AND/OR OWED (AS APPLICABLE) BY END-CUSTOMER TO DELL BOOMI DURING THE PRECEDING TWELVE (12) MONTHS, UP TO A MAXIMUM OF US$1,000,000. THE PARTIES AGREE THAT THESE LIMITATIONS OF LIABILITY ARE AGREED ALLOCATIONS OF RISK CONSTITUTING IN PART THE CONSIDERATION FOR DELL PROVIDING PRODUCTS AND SERVICES TO END-CUSTOMER, AND SUCH LIMITATIONS WILL APPLY NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY AND EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LIABILITIES OR FAILURES.
Dell's Affiliates and suppliers shall be beneficiaries of this "Limitation of Liability" Section; otherwise, no third party beneficiaries exist under this Agreement. Dell expressly excludes any and all liability to any third party.



City of Santa Fe
City Council Meeting
Medical/Dental Utilization Meeting

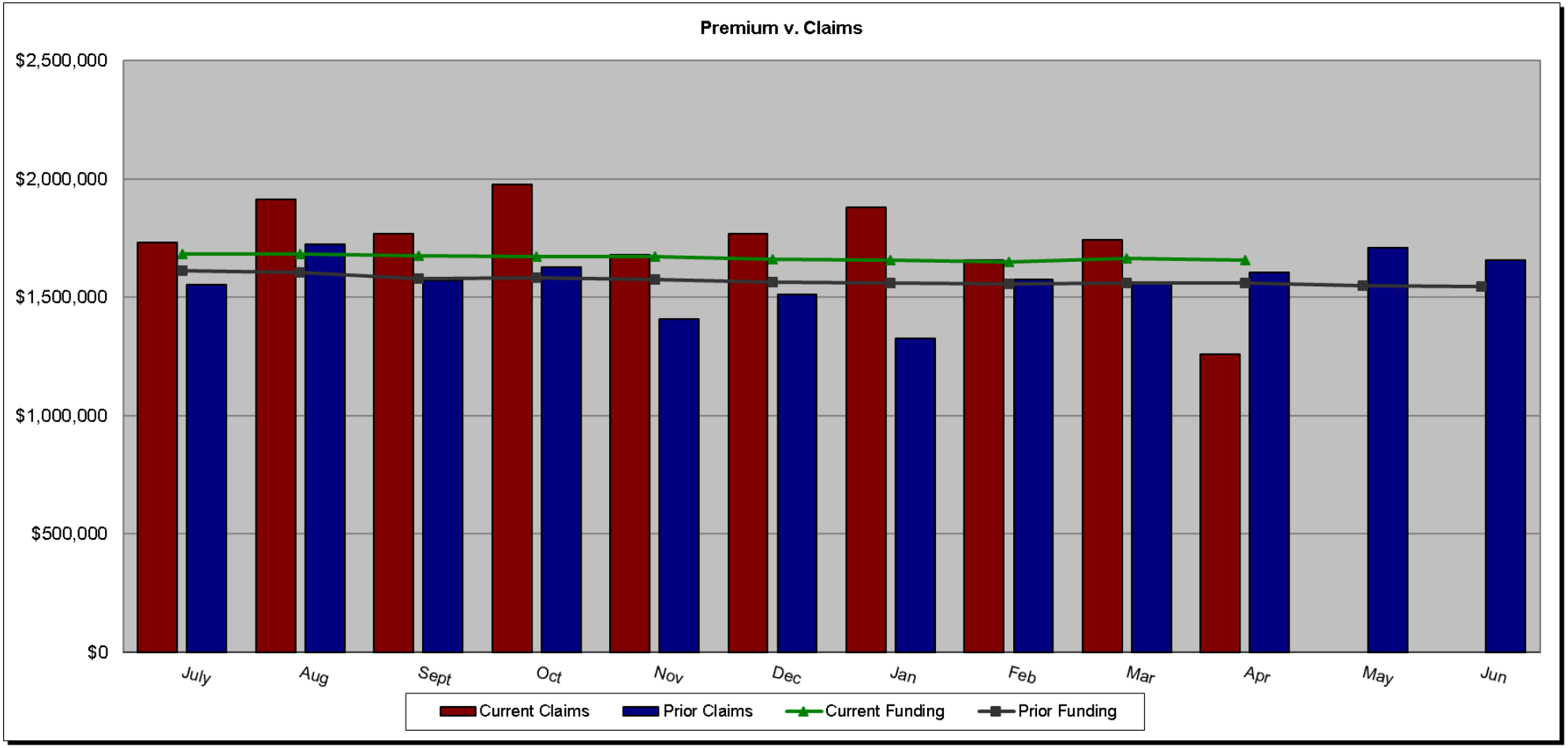
Meeting Date: June 24, 2020

Medical Utilization Update



	A	B	C	D	E
	CARRIER	**Cigna**			
	PLAN	**COMBINED**			
	YEAR	**7/19-4/20**	**7/18-6/19**	**7/17-6/18**	**7/16-6/17**	**7/15-6/16**
1	Average Contracts	1,189	1,203	1,230	1,220	1,233
2	**% Variance to Prior Year**	**-1.2%**	**-2.2%**	**0.8%**	**-1.0%**	**-1.6%**
3	Average Members	2,784	2,849	2,986	2,979	3,041
4	**% Variance to Prior Year**	**-2.3%**	**-4.6%**	**0.2%**	**-2.0%**	**-3.8%**
5	Average Contract Size	**2.34**	**2.37**	**2.43**	**2.44**	**2.47**
6	**UTILIZATION**					
7	**CoSF Funding Level**	**$16,679,347**	**$18,851,121**	**$19,465,370**	**$19,347,541**	**$19,667,209**
8	**CoSF Funding Level PMPM**	**$599.16**	**$551.41**	**$543.25**	**$541.30**	**$538.99**
9	**% Variance to Prior Year**	**8.7%**	**1.5%**	**0.4%**	**0.4%**	**6.4%**
10	Medical and RX Claims	$17,379,706	$18,833,676	$18,010,627	$17,458,924	$16,378,717
11	Actual Stop Loss Recovery	-$661,415	-$402,188	-$163,563	-$387,027	$0
12	**Claims (net of SL recoveries)**	**$16,718,291**	**$18,431,488**	**$17,847,064**	**$17,071,897**	**$16,378,717**
13	Fixed Costs	$1,565,136	$1,787,218	$1,750,151	$1,497,862	$1,351,155
14	**TOTAL CLAIMS + FIXED COSTS**	**$18,283,427**	**$20,218,706**	**$19,597,215**	**$18,569,759**	**$17,729,872**
15	HRA Spend	$2,100	$2,672	$1,523	$717	$974
16	**Total Claims+Fixed Costs+HRA**	**$18,285,527**	**$20,221,378**	**$19,598,738**	**$18,570,476**	**$17,730,846**
17	**Surplus / Deficit**	**($1,606,179)**	**($1,370,257)**	**($133,368)**	**$777,066**	**$1,936,363**
18	TOTAL PMPM	$656.85	$591.49	$546.98	$519.56	$485.92
19	**% Variance to Prior Year PMPM**	**11.1%**	**8.1%**	**5.3%**	**6.9%**	**5.8%**
20	COMPARE TO FUNDING	109.6%	107.3%	100.7%	96.0%	90.1%

Medical Claims by Month



3
Empower Results®

Medical Claims by Month

	A	B	C	D	E	F	G	H	I	J
				Funding		Claims				
	Current Period 2019-2020	**Subscribers**	**Members**	**Plan Funding**	**Funding PMPM**	**Total Medical Claims**	**Managed Pharmacy**	**Total Claims***	**Paid Claims PMPM**	**Loss Ratio**
1	July	1,198	2,796	$1,683,687	$602.18	$1,504,099	$227,555	$1,731,654	$619.33	102.8%
2	August	1,197	2,800	$1,684,514	$601.61	$1,691,717	$222,673	$1,914,390	$683.71	113.6%
3	September	1,187	2,800	$1,674,743	$598.12	$1,590,324	$179,303	$1,769,627	$632.01	105.7%
4	October	1,192	2,791	$1,672,598	$599.28	$1,792,928	$182,655	$1,975,583	$707.84	118.1%
5	November	1,192	2,792	$1,672,035	$598.87	$1,480,664	$197,130	$1,677,795	$600.93	100.3%
6	December	1,182	2,771	$1,660,782	$599.34	$1,573,502	$196,788	$1,770,290	$638.86	106.6%
7	January 2020	1,180	2,768	$1,658,026	$599.00	$1,683,519	$196,184	$1,879,703	$679.08	113.4%
8	February	1,177	2,765	$1,651,612	$597.33	$1,441,633	$217,311	$1,658,944	$599.98	100.4%
9	March	1,191	2,786	$1,664,674	$597.51	$1,441,787	$301,115	$1,742,902	$625.59	104.7%
10	April	1,189	2,769	$1,656,677	$598.29	$1,019,508	$239,311	$1,258,819	$454.61	76.0%
11	May									
12	June									
13	**Year-to-Date Totals**	**11,885**	**27,838**	**$16,679,347**	**$599.16**	**$15,219,681**	**$2,160,025**	**$17,379,706**	**$624.32**	**104.2%**
14	**% Change to 18-19**				**8.7%**				**13.3%**	**4.3%**

				Funding		Claims				
	Current Period 2018-2019	**Subscribers**	**Members**	**Plan Funding**	**Funding PMPM**	**Total Medical Claims**	**Managed Pharmacy**	**Total Claims***	**Paid Claims PMPM**	**Loss Ratio**
15	July	1,221	2,945	$1,611,326	$547.14	$1,328,724	$223,900	$1,552,625	$527.21	96.4%
16	August	1,215	2,929	$1,605,836	$548.25	$1,481,470	$242,267	$1,723,738	$588.51	107.3%
17	September	1,198	2,875	$1,578,643	$549.09	$1,370,143	$203,385	$1,573,528	$547.31	99.7%
18	October	1,202	2,875	$1,581,344	$550.03	$1,403,223	$223,158	$1,626,381	$565.70	102.8%
19	November	1,204	2,860	$1,575,489	$550.87	$1,218,152	$189,100	$1,407,251	$492.05	89.3%
20	December	1,198	2,836	$1,563,347	$551.25	$1,299,930	$212,736	$1,512,666	$533.38	96.8%
21	January 2018	1,200	2,828	$1,561,986	$552.33	$1,074,653	$252,185	$1,326,838	$469.18	84.9%
22	February	1,198	2,810	$1,557,222	$554.17	$1,390,865	$184,914	$1,575,779	$560.78	101.2%
23	March	1,200	2,827	$1,561,322	$552.29	$1,381,409	$181,832	$1,563,241	$552.97	100.1%
24	April	1,204	2,816	$1,559,886	$553.94	$1,385,392	$219,304	$1,604,696	$569.85	102.9%
25	May	1,198	2,800	$1,550,510	$553.75	$1,514,286	$194,195	$1,708,481	$610.17	110.2%
26	June	1,196	2,786	$1,544,210	$554.27	$1,476,881	$181,571	$1,658,452	$595.28	107.4%
27	**Year-to-Date Totals**	**14,434**	**34,187**	**$18,851,121**	**$551.41**	**$16,325,128**	**$2,508,548**	**$18,833,676**	**$550.90**	**99.9%**
28	**% Change to 17-18**	**-2.2%**	**-4.6%**	**-3.2%**	**1.5%**	**9.6%**	**-19.4%**	**4.6%**	**9.6%**	**7.4%**

Large Claims – July 2019 – April 2020

Claimant	Diagnosis	Diagnosis	Payments	Anticipated Stop Loss Recovery
1	Myelofibrosis	Myelofibrosis	$489,300	$239,300
2	Breast Cancer	Breast Cancer	$441,731	$191,731
3	Stomach Cancer	Stomach Cancer	$355,031	$105,031
4	Leukemia	Leukemia	$346,098	$96,098
5	ESRD	ESRD	$279,255	$29,255
6	Fracture	Fracture	$213,650	-
7	Lupus	Lupus	$211,313	-
8	Nephritic Syndrome	Nephritic Syndrome	$169,270	-
9	Throat Cancer	Throat Cancer	$167,966	-
10	Sepsis	Sepsis	$167,176	-
11	Newborn	Newborn	$148,576	-
12	Pulmonary Eosinophilia	Pulmonary Eosinophilia	$136,085	-
13	Sepsis	Sepsis	$128,851	-
	Total:		**$3,254,302**	**$661,415**

Total Medical+Rx Claims: $17,379,706

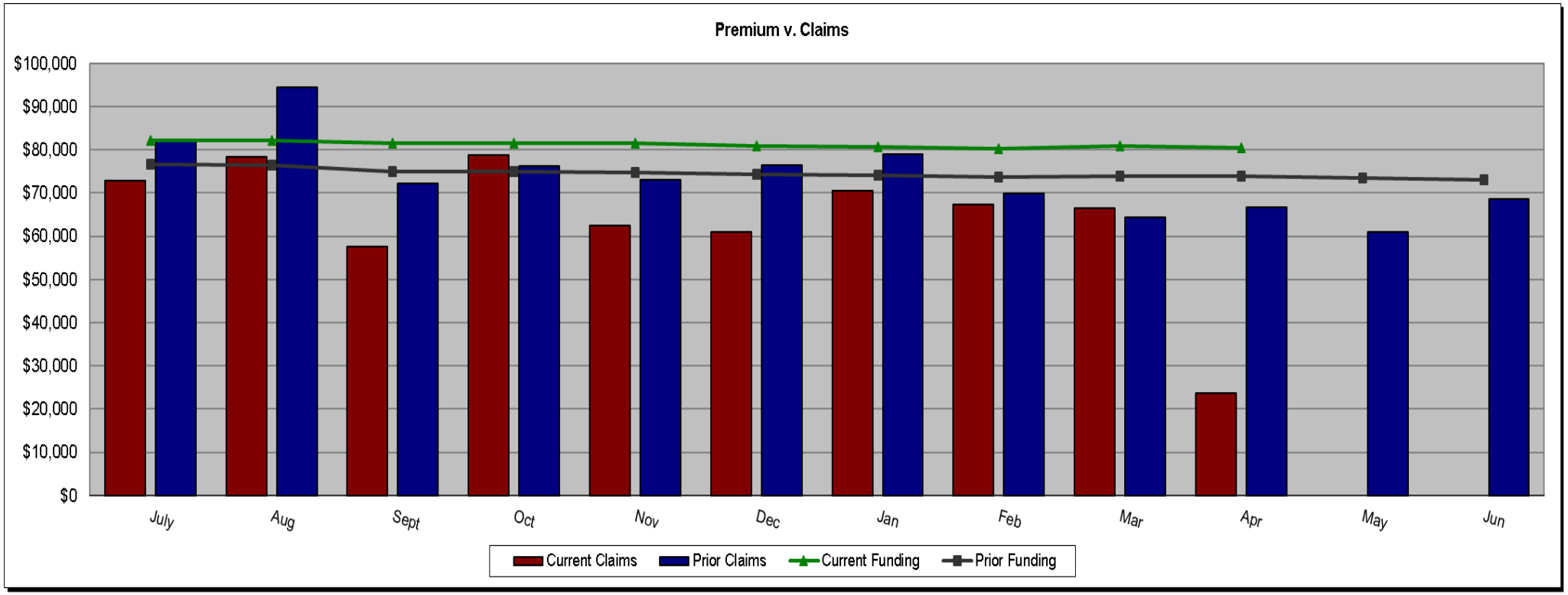
Large Claims % of Total: 18.7%

Individual Stop Loss (Includes Rx): $250,000

2018/2019 Large Claims Stats

- There were 12 large claims with over $125,000 in paid claims who accounted for 13.96% of paid claims
  - Four claimants exceeded the stop loss level
  - Stop loss recovery was $400,000

Dental Claims by Month



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Dental Claims by Month

	A	B	C	D	E	F	G
	2019-2020			**Claims**			**Total Claims + Fees**
		Subscribers	**City of SF Funding**	**Paid Claims**	**Paid Claims PEPM**	**Administration**	
1	Jul-19	1,176	$82,079	$72,765	$61.88	$4,316	$77,081
2	Aug-19	1,177	$82,243	$78,434	$66.64	$4,320	$82,754
3	Sep-19	1,165	$81,598	$57,522	$49.38	$4,276	$61,798
4	Oct-19	1,167	$81,464	$78,844	$67.56	$4,283	$83,127
5	Nov-19	1,168	$81,498	$62,413	$53.44	$4,287	$66,700
6	Dec-19	1,158	$80,926	$60,992	$52.67	$4,250	$65,242
7	Jan-20	1,157	$80,735	$70,418	$60.86	$4,246	$74,664
8	Feb-20	1,151	$80,312	$67,249	$58.43	$4,224	$71,473
9	Mar-20	1,164	$80,878	$66,481	$57.11	$4,272	$70,753
10	Apr-20	1,161	$80,499	$23,737	$20.45	$4,261	$27,998
11	May-20						
12	Jun-20						
13	**Totals**	**11,644**	**$812,231**	**$638,857**	**$54.87**	**$42,733**	**$681,591**
14	**% Change to 17-18**				**-11.7%**		

	2018-2019			**Claims**			**Total Claims + Fees**
		Subscribers	**City of SF Funding**	**Paid Claims**	**Paid Claims PEPM**	**Administration**	
15	Jul-18	1,210	$76,678	$82,340	$68.05	$4,175	$86,515
16	Aug-18	1,204	$76,345	$94,505	$78.49	$4,154	$98,658
17	Sep-18	1,183	$74,975	$72,207	$61.04	$4,081	$76,289
18	Oct-18	1,184	$74,860	$76,297	$64.44	$4,085	$80,382
19	Nov-18	1,186	$74,715	$73,082	$61.62	$4,092	$77,174
20	Dec-18	1,181	$74,246	$76,335	$64.64	$4,074	$80,409
21	Jan-19	1,180	$74,081	$78,998	$66.95	$4,071	$83,069
22	Feb-19	1,177	$73,664	$69,966	$59.44	$4,061	$74,027
23	Mar-19	1,182	$73,973	$64,365	$54.45	$4,078	$68,443
24	Apr-19	1,186	$73,930	$66,650	$56.20	$4,092	$70,742
25	May-19	1,180	$73,431	$61,031	$51.72	$4,071	$65,102
26	Jun-19	1,176	$73,062	$68,675	$58.40	$4,057	$72,732
27	**Totals**	**14,229**	**$893,960**	**$884,451**	**$62.16**	**$49,090**	**$933,541**
28	**% Change to 17-18**	**-2.2%**	**-3.0%**	**-6.9%**	**-4.8%**	**-2.2%**	**-6.6%**



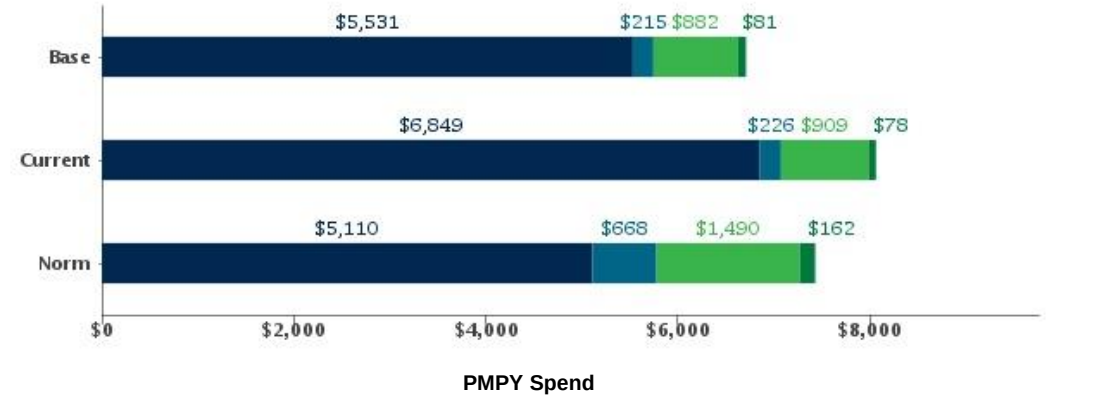
Appendix

- Cigna Reports
  - Report dates: April 2019 through March 2020

Executive Summary

City of Santa Fe - data thru April 2020

Medical & Rx Spend



Medical & Rx Trend

	Current PMPY	Trend	Variance from Norm
Total Plan Spend	$8,062.39	20.2%	8.5%
Total Employer Paid	$7,758.88	21.0%	17.6%
Total Member Paid	$303.51	2.6%	-63.4%
Medical Spend PMPY	$7,075.16	23.1%	22.5%
Employer Paid - Medical	$6,849.42	23.8%	34.1%
Pharmacy Spend PMPY	$987.23	2.5%	-40.2%
Employer Paid - Pharmacy	$909.47	3.1%	-39.0%

Demographics & Financial

	Base	Current	Trend	Norm
Members				
Average Number of Employees	1,209	1,192	-1.4%	
Average Number of Members	2,888	2,791	-3.4%	
Average Employee Age	43.6	43.3	-0.6%	
Demographic Factor	0.84	0.88	3.8%	1.08
Cost Trend				
Plan Spend - Medical	$16,592,538	$19,743,247	19.0%	
Plan Spend - Pharmacy	$2,781,179	$2,754,853	-0.9%	
Total Plan Spend	$19,373,717	$22,498,099	16.1%	
Medical Plan Spend PMPY	$5,745.17	$7,075.16	23.1%	$5,777.12
Pharmacy Plan Spend PMPY	$963.10	$987.23	2.5%	$1,652.24
Total Plan Spend PMPY	$6,708.27	$8,062.39	20.2%	$7,429.36
Performance Indicators				
Cat Claimants in Excess Per K	17.7	22.2	25.8%	20.4
Cat Plan Spend PMPY(Med+Rx)	$2,295.57	$2,893.65	26.1%	$2,790.85
Non-Cat Plan Spend PMPY(Med + Rx)	$4,412.79	$5,168.69	17.1%	$4,638.51
Network Penetration	93.3%	97.9%	4.6%	95.1%

Population Health & Pharmacy

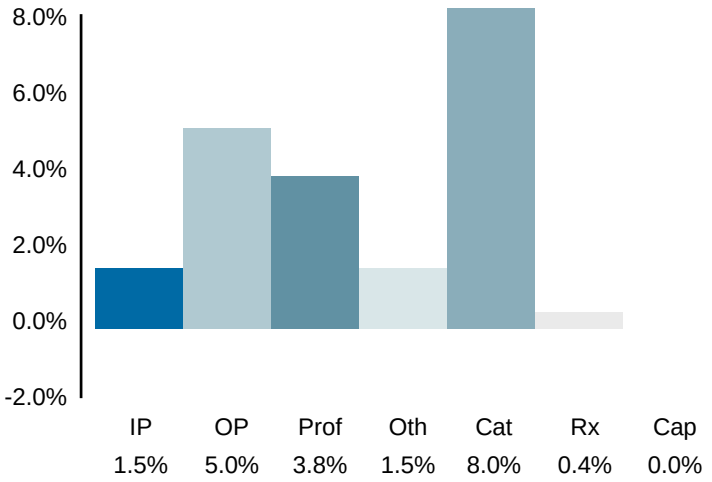
	Base	Current	Trend	Norm
Population Health Measures				
Chronic Percent of Population	34.6%	37.8%	3.2%	46.8%
Chronic Percent of Cost	70.1%	69.6%	-0.5%	78.4%
Total Health Engagement - % of Pop	32.7%	34.3%	1.6%	40.2%
Preventive Care Utilization	41.3%	40.3%	-1.0%	53.7%
Well Visit Completions	32.9%	31.8%	-1.1%	45.2%
Health Assessment Completions	8.3%	6.8%	-1.5%	15.2%
Gaps in Care Rule Compliance	69.2%	71.7%	2.5%	76.3%
Pharmacy Indicators				
Generic Dispensing Rate	90.7%	93.9%	3.2%	91.2%
Generic Substitution Rate	96.7%	97.5%	0.9%	97.9%
Specialty Plan Spend PMPY (Rx Only)	$260.08	$336.63	29.4%	$686.83
Specialty Plan Spend PMPY (Med Only)	$449.13	$566.48	26.1%	$415.02
Non-Specialty Plan Spend PMPY (Rx only)	$703.01	$650.59	-7.5%	$965.41
Prescriptions PMPY(Retail adjusted)	11.12	11.23	1.0%	16.25

Current Period reflects claims incurred between Apr. 2019 and Mar. 2020, paid through Apr. 2020
Base Period reflects claims incurred between Apr. 2018 and Mar. 2019, paid through Apr. 2020

Medical Service Category Trend Analysis

City of Santa Fe - data thru April 2020

Trend contribution



Account summary (PMPY basis)

	Base	Current	Trend	Trend Contribution	Norm
Non-Catastrophic Plan					
Inpatient	$253	$353	39.6%	1.5%	$367
Outpatient	$1,161	$1,494	28.7%	5.0%	$1,213
Professional	$1,786	$2,042	14.4%	3.8%	$1,425
Other	$556	$660	18.7%	1.5%	$361
Total Non-Cat Plan	$3,756	$4,549	21.1%	11.8%	$3,366
Capitation	$8	$9	22.1%	0.0%	$244
Catastrophic Plan	$1,982	$2,517	27.0%	8.0%	$2,168
Total Plan Spend - Medical	**$5,745**	**$7,075**	**23.1%**	**19.8%**	**$5,777**
Cost Share - Medical	$215	$226	5.2%	0.2%	$668
Net Employer Paid - Medical	**$5,531**	**$6,849**	**23.8%**	**19.7%**	**$5,110**
Total Plan Spend - Pharmacy	$963	$987	2.5%	0.4%	$1,652
Cost Share - Pharmacy	$81	$78	-4.3%	-0.1%	$162
Net Employer Paid - Pharmacy	$882	$909	3.1%	0.4%	$1,490
Medical and Pharmacy Plan Spend	**$6,708**	**$8,062**	**20.2%**		

Comments

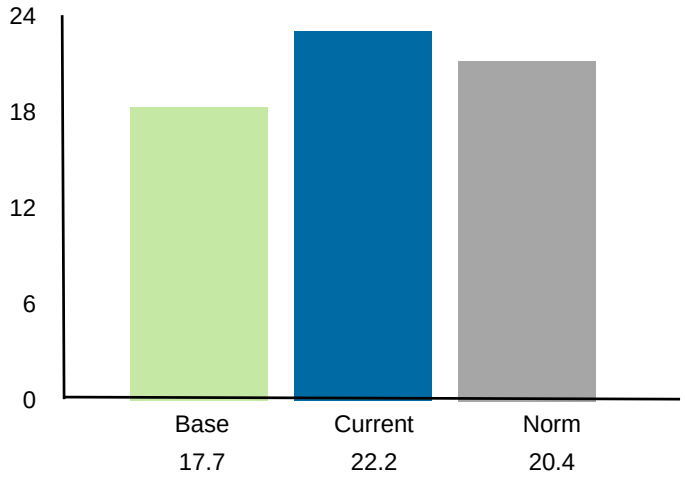
- Plan spend increased from $6,708 PMPY to $8,062 PMPY, an increase of 20.2%
- Net employer paid increased from $6,413 PMPY to $7,758 PMPY, an increase of 21.0% while member cost share increased from $296 PMPY to $304 PMPY, an increase of 2.6%
- Catastrophic Plan was the largest contributor to trend, contributing 8.0% of the overall 20.2% plan trend
- Trend contribution is a measure of each individual line item's impact on the overall cost change. It is calculated by subtracting the current period result for the item minus the base period result, and dividing this amount by the base period total plan spend

Current Period reflects claims incurred between Apr. 2019 and Mar. 2020, paid through Apr. 2020
Base Period reflects claims incurred between Apr. 2018 and Mar. 2019, paid through Apr. 2020

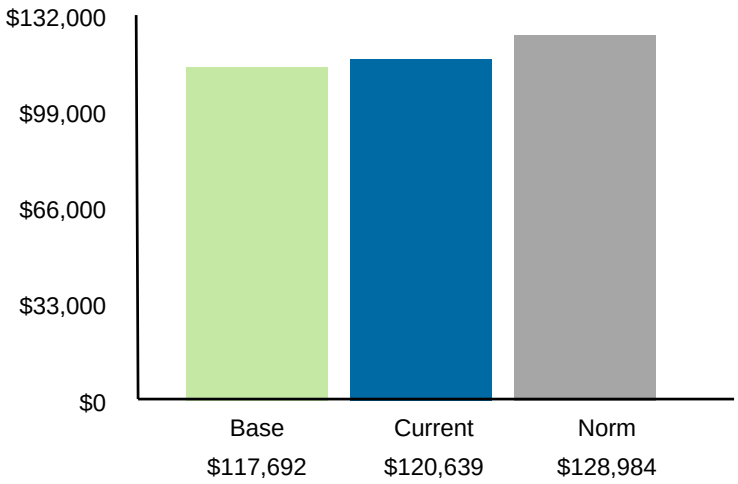
Catastrophic Claim Summary

City of Santa Fe - data thru April 2020

Catastrophic claimants in excess per 1,000 members



Average plan cost per catastrophic claimant



Account Summary (PMPY Basis)

	Base	Current	Trend	Trend Contribution
Catastrophic Plan Costs				
Inpatient	$599.44	$839.34	40.0%	3.6%
Outpatient	$521.77	$597.04	14.4%	1.1%
Professional	$318.13	$364.48	14.6%	0.7%
Other	$542.75	$716.49	32.0%	2.6%
Capitation	$0.96	$2.54	165.2%	0.0%
Pharmacy	$312.53	$373.76	19.6%	0.9%
Total Catastrophic Plan Cost	$2,295.57	$2,893.65	26.1%	8.9%
Non-Catastrophic Plan Cost	$4,412.79	$5,168.69	17.1%	11.3%
Total Plan Cost	**$6,708.27**	**$8,062.39**	**20.2%**	**20.2%**

Comments

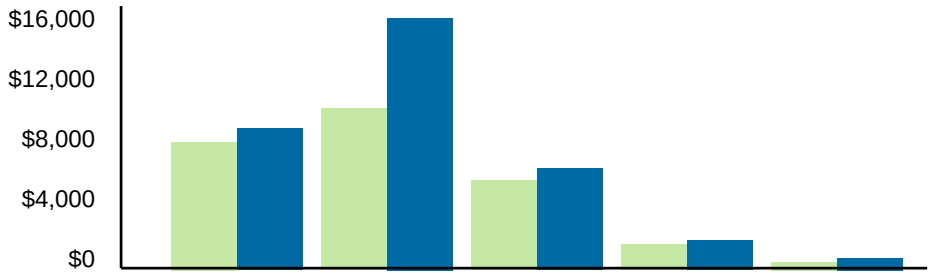
- Plan cost for catastrophic claimants was $2,893.65 PMPY in the current period, or 35.9% of the total plan cost of $8,062.39 PMPY
- Plan cost for catastrophic claimants increased from $2,295.57 PMPY to $2,893.65 PMPY, contributing 8.9% of the overall 20.2% plan trend
- Catastrophic claimants per thousand increased from 17.7 to 22.2, and compares to a norm of 20.4
- Average cost per claimant increased from $117,692 to $120,639, and compares to a norm of $128,984
- Catastrophic claimant threshold of $50,000 was used for this analysis

Current Period reflects claims incurred between Apr. 2019 and Mar. 2020, paid through Apr. 2020
Base Period reflects claims incurred between Apr. 2018 and Mar. 2019, paid through Apr. 2020

Condition Profile - Trend Details

City of Santa Fe - data thru April 2020

Trend by condition - non catastrophic



	Chronic	Maternity	Major	Minor	Healthy
Base	$8,099	$10,290	$5,692	$1,757	$616
Current	$8,969	$15,930	$6,527	$1,964	$787
Trend Contribution	13.0%	1.8%	4.0%	0.3%	0.1%

Comments

- Hypertension was the highest chronic condition by number of members, with an average cost of $829 and accounted for 1.70 of overall plan spend
- Asthma was the next highest chronic condition by number of members, with an average cost of $1,288 and accounted for 2.11 of overall plan spend
- Joint was the highest major acute condition by number of members, with an average cost of $3,178 and accounted for 11.24 of overall plan spend
- Chronic cost per member increased from $8,099 PMPY to $8,969 PMPY, contributing 13.0% of the overall 17.0% plan spend

Episode details

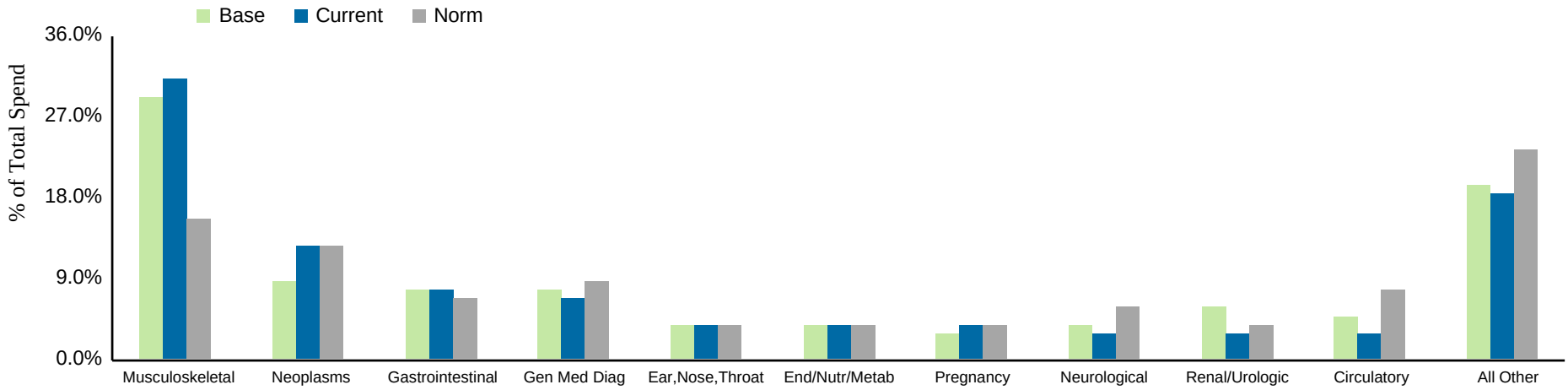
	Members		Average Cost per Condition		Percent of
	Base	Current	Base	Current	Total Cost
Chronic					
Hypertension	291	277	$849	$829	1.70%
Asthma	187	221	$1,337	$1,288	2.11%
Obesity	162	201	$695	$733	1.09%
Psych/Neurotic Disorder	171	185	$1,180	$1,000	1.37%
Diabetes	152	164	$4,870	$4,370	5.31%
Disease/Thyroid	154	149	$649	$1,066	1.18%
Metab/Immun Disorder	121	135	$252	$296	0.30%
Chr Sex Gland Disorder	92	83	$1,790	$1,154	0.71%
Visual Disturbance	87	72	$515	$602	0.32%
Bone/Joint-Infec/Inflm	38	39	$5,895	$2,734	0.79%
All Other	246	232	$2,829	$2,173	3.74%
Maternity					
Pregnancy Delivery	52	57	$7,289	$12,239	5.17%
Cond-Antenatal Preg	3	1	$858	$139	0.00%
Major					
Joint	442	477	$3,118	$3,178	11.24%
Gastro-Infections	190	211	$2,248	$2,188	3.42%
All Other	893	936	$3,326	$3,422	23.75%
Minor					
Orthopedic Other	1,053	1,065	$1,449	$1,532	12.10%
ENT Infections	892	795	$591	$662	3.90%
All Other	1,575	1,475	$1,276	$1,434	15.68%
Healthy					
Examinations	826	793	$333	$352	2.07%
Innoc/Infectious Dis	240	247	$240	$204	0.37%
All Other	1,817	1,633	$349	$303	3.66%
Non-User	635	591			

Current Period reflects claims incurred between Apr. 2019 and Mar. 2020, paid through Apr. 2020
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Total Plan Spend by Condition

City of Santa Fe - data thru April 2020

Top conditions by plan spend



Top ICD conditions

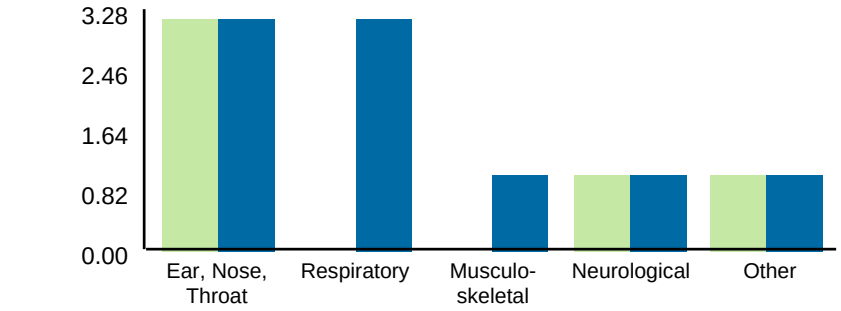
	PMPY				Claimants per 1k			Spend per Claimant		
ICD Category	Base	Current	Trend Contribution	Norm	Base	Current	Trend	Base	Current	Trend
Musculoskeletal	$1,632.12	$2,183.81	10.0%	$910.74	525.3	532.5	1.4%	$3,107	$4,101	32.0%
Neoplasms	$507.09	$862.74	6.4%	$717.82	133.3	140.8	5.6%	$3,804	$6,126	61.0%
Gastrointestinal	$457.45	$552.04	1.7%	$407.63	144.0	151.9	5.5%	$3,176	$3,633	14.4%
Gen Med Diag	$425.13	$493.76	1.2%	$487.67	662.4	681.2	2.8%	$642	$725	12.9%
Ear,Nose,Throat	$227.60	$271.29	0.8%	$200.39	336.9	341.2	1.3%	$676	$795	17.7%
End/Nutr/Metab	$204.75	$259.53	1.0%	$227.45	210.9	225.0	6.7%	$971	$1,153	18.8%
Pregnancy	$153.23	$241.21	1.6%	$227.85	21.8	24.7	13.4%	$7,025	$9,755	38.9%
Neurological	$206.53	$223.82	0.3%	$352.64	134.3	156.2	16.3%	$1,537	$1,433	-6.8%
Renal/Urologic	$331.13	$222.12	-2.0%	$216.04	85.9	92.1	7.3%	$3,856	$2,412	-37.5%
Circulatory	$295.13	$195.77	-1.8%	$451.69	115.6	119.0	2.9%	$2,552	$1,645	-35.5%
All Other	$1,086.42	$1,310.50	4.1%	$1,333.38	956.3	999.8	4.5%	$1,136	$1,311	15.4%
Total	**$5,526.59**	**$6,816.60**	**23.3%**	**$5,533.29**	**992.7**	**974.7**	**-1.8%**	**$5,567**	**$6,993**	**25.6%**

Current Period reflects claims incurred between Apr. 2019 and Mar. 2020, paid through Apr. 2020
Base Period reflects claims incurred between Apr. 2018 and Mar. 2019, paid through Apr. 2020

Cigna Virtual Care - Medical

City of Santa Fe - data thru April 2020

Top ICD visits per 1,000



Member user information

	User	Non-user
Percent Unique Users	0.7%	99.3%
Average Age	29.5	32.5
% User with a primary care office visit	34.5%	53.3%
Gender Distribution		
% Male	36.9%	55.0%
Male Average Age	29.7	33.0
Male Average Enrollment (member mths)	9.2	10.5
% Female	63.1%	45.0%
Female Average Age	29.4	32.0
Female Average Enrollment (member mths)	11.2	10.4

Virtual Care- Medical Visit detail

		Base			Current		
		1 Visit	2 Visits	3+ Visits	1 Visit	2 Visits	3+ Visits
MDLive	Employees	2	2	0	7	0	0
	Spouses	1	0	0	5	1	0
	Dependents	0	0	0	8	0	0
AmWell	Employees	1	0	0	0	0	0
	Spouses	2	0	0	2	0	0
	Dependents	1	0	0	0	0	0
Total	Employees	3	2	0	7	0	0
	Spouses	3	0	0	7	1	0
	Dependents	1	0	0	8	0	0
Total Unique Members		7	2	0	22	1	0

Office visit opportunities and savings

Cost per visit	Current
Average Office visit cost	$181
Average ER Steerable visit cost	$884
Virtual Care- Medical cost per visit	$55

Opportunity Redirect Savings	Current
Number of Office Visits Eligible for Virtual Care- Medical	2,523
10% Redirect to Virtual Care- Medical	$31,790
25% Redirect to Virtual Care- Medical	$79,475

Savings from Virtual Care- Medical vs. Office Visit	Current
Number of Virtual Care- Medical Visits instead of Office Visits	24
Savings from Virtual Care- Medical Visits vs Office Visits	$3,024

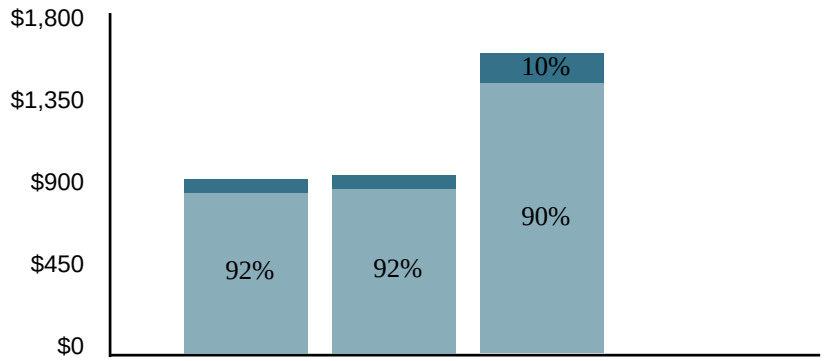
* Cost per visit represents the average cost of both vendors providing service in Cigna's standard offering

Current Period reflects claims incurred between Apr. 2019 and Mar. 2020, paid through Apr. 2020
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Executive Summary - Pharmacy

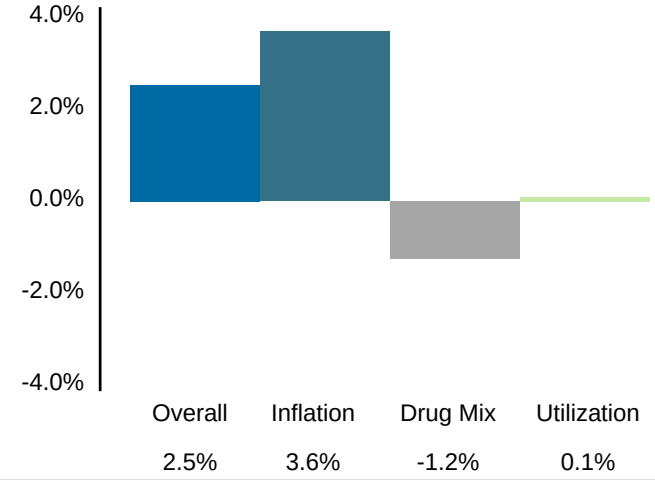
City of Santa Fe - data thru April 2020

Plan cost & trend



	Base	Current	Norm	Trend
Cost Share PMPY	$81.24	$77.76	$162.43	-4.3%
Paid Amount PMPY	$881.85	$909.47	$1,489.82	3.1%
Plan Spend PMPY	$963.10	$987.23	$1,652.24	2.5%

Trend impact



Pharmacy performance

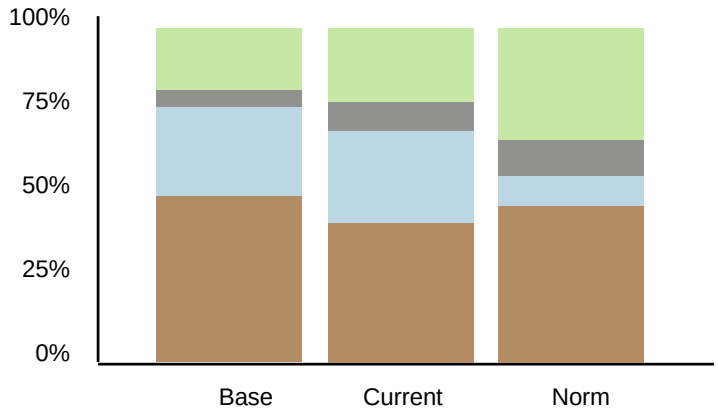
	Base	Current	Trend	Norm
Members				
Average Number of Employees	1,209	1,192	-1.4%	
Average Number of Members	2,888	2,791	-3.4%	
Average Utilizers	74.3%	73.5%	-0.7%	
Average Member Age	32.6	32.5	-0.2%	36.9
Cost Trend				
Plan Spend	$2,781,179	$2,754,853	-0.9%	
Employer Paid	$2,546,564	$2,537,863	-0.3%	
Member Cost Share	$234,615	$216,989	-7.5%	
Drug Mix				
Generic Dispensing Rate	90.7%	93.9%	3.2%	91.2%
Preferred Brand	7.6%	5.5%	-2.2%	6.4%
Non-Preferred Brand	1.6%	0.6%	-1.0%	2.4%
Generic Substitution Rate	96.7%	97.5%	0.9%	97.9%
Formulary Brand Compliance Rate	85.8%	92.7%	7.0%	76.8%
Utilization				
Total Prescriptions	24,782	24,069	-2.9%	
Retail Adjusted Scripts	32,109	31,328	-2.4%	
% Mail Order	20.9%	18.5%	-2.3%	11.0%
% Retail	64.5%	63.8%	-0.7%	58.4%
% Retail 90	14.6%	17.6%	3.0%	30.6%
Days Supply PMPY	285.42	285.70	0.1%	425.05
Specialty Pharmacy				
Pharmacy Plan Spend PMPY	$260.08	$336.63	29.4%	$686.83
Medical Plan Spend PMPY	$449.13	$566.48	26.1%	$415.02
Pharmacy Plan Spend as % of Total	27.0%	34.1%	7.1%	41.6%
Specialty Utilizers	145	246	69.7%	
Specialty Scripts PMPY	0.07	0.10	34.3%	0.15

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Specialty Pharmacy Executive Summary

City of Santa Fe - data thru April 2020

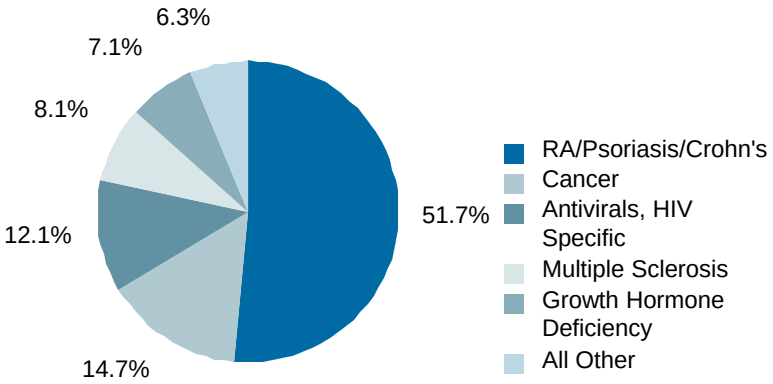
Pharmacy and medical drug plan spend



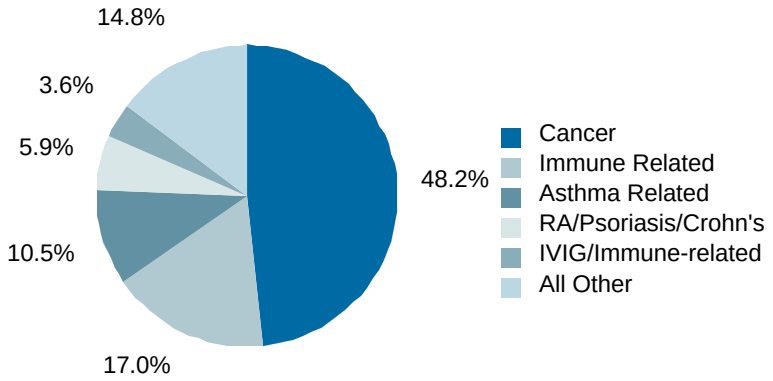
Account summary(PMPY basis)

Plan Spend	Base	Current	Trend	Norm
Pharmacy Specialty Rx	$260.08	$336.63	29.4%	$686.83
Medical SRx HCP/Home Infusion	$71.12	$132.04	85.5%	$228.44
Medical SRx Outpatient/Inpatient	$378.01	$434.44	14.9%	$186.57
Total Specialty Rx	$709.21	$903.11	27.3%	$1,101.85
Other Pharmacy	$703.01	$650.59	-7.4%	$965.41

Pharmacy Specialty Rx - Percent of current plan spend by condition



Medical Specialty Rx-HCP / Home Infusion & OP/IP Percent of current plan spend by condition



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Top Therapeutic Class Trend

City of Santa Fe - data thru April 2020

Therapeutic class trend driver analysis by plan spend

Rank Base	Rank Current	Therapeutic Class	Condition	Plan Spend PMPY Base	Plan Spend PMPY Current	Plan Spend PMPY Trend	Plan Spend PMPY Norm	Unique Members Current	Utilizing Members Trend	Days Supply PMPY Trend	Inflation Trend
2	1	Anti-Inflam Disease Modifiers	Arthritis	$124.92	$174.90	40.0%	$257.61	14	0.0%	20.3%	9.3%
1	2	Hypoglycemics	Diabetes	$128.70	$135.59	5.4%	$174.26	164	5.8%	2.0%	5.6%
3	3	Insulins	Diabetes	$97.52	$103.51	6.1%	$100.29	52	2.0%	1.1%	6.4%
5	4	Asthma Related	Asthma	$58.86	$53.54	-9.0%	$86.95	531	9.0%	6.3%	2.9%
4	5	Antineoplastics	Cancer	$62.71	$51.95	-17.2%	$124.71	59	1.7%	-1.9%	-4.5%
13	6	Antivirals, HIV Specific	HIV	$18.10	$40.82	125.6%	$57.80	2	-66.7%	108.1%	5.1%
7	7	Multiple/Lateral Sclerosis	Multiple Sclerosis	$30.30	$27.25	-10.1%	$59.13	2	0.0%	-8.1%	3.4%
11	8	Pituitary	Growth Hormone	$20.11	$25.17	25.2%	$21.24	9	125.0%	42.0%	12.8%
8	9	Estrogenic/Androgenic/Progest	Hormone Replacement	$26.91	$22.68	-15.7%	$21.53	103	-8.8%	-5.3%	7.4%
14	10	Lipid Lowering	Cholesterol	$15.90	$19.85	24.8%	$41.86	215	-3.2%	5.0%	-0.9%
9	11	Antidepressants	Depression	$22.17	$18.93	-14.6%	$37.75	296	-2.6%	8.2%	0.6%
12	12	Contraceptives	Contraception	$19.43	$18.61	-4.2%	$30.51	175	-3.3%	5.2%	2.0%
15	13	Anticoagulants	Blood thinner	$15.89	$18.14	14.2%	$40.17	49	14.0%	5.7%	4.5%
16	14	Antagonists/Withdrawal Aids	Narcotic Addiction	$14.85	$16.29	9.7%	$4.37	63	133.3%	33.6%	4.0%
20	15	Eye	Dry Eyes	$11.55	$15.01	29.9%	$24.62	168	-8.7%	14.5%	0.5%
		All Other		$295.19	$244.99	-17.0%	$569.42	1,901	-3.4%	-3.8%	2.7%
		Total		**$963.10**	**$987.23**	**2.5%**	**$1,652.24**	**2,052**	**-4.3%**	**0.1%**	**3.6%**

Comments

- The top 15 therapy classes accounted for 75.2% ($742.24) of total plan spend PMPY $987.23 in the current period

- Rebate discounts reduced plan spend by $0.00 PMPY (0.0%) in the current period, and are reflected in the Plan Spend above. The top therapeutic classes for rebate discounts were ACE/ARB, Acne Agents and Anesthetics

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High Cost Prescriptions

City of Santa Fe - data thru April 2020

High cost prescriptions ranking

Rank				Plan Spend PMPY				Cost per Script	Unique Members		Scripts	
Base	Current	Drug Name	Condition	Base	Current	Trend	Norm	Current	Base	Current	Base	Current
2	1	Jakafi (SRx)	Cancer	$60.02	$40.07	-33.2%	$5.28	$13,977	1	1	13	8
-	2	Mavyret (SRx)	Hepatitis	$0.00	$14.84	0.0%	$3.05	$13,803	0	2	0	3
-	3	Venclexta (SRx)	Cancer	$0.00	$9.36	0.0%	$1.13	$13,057	0	1	0	2
3	4	Tecfidera (SRx)	Multiple Sclerosis	$16.32	$15.13	-7.3%	$18.20	$8,443	1	1	6	5
-	5	Cimzia (SRx)	Arthritis	$0.00	$11.77	0.0%	$5.84	$6,566	0	1	0	5
6	6	Enbrel Mini (SRx)	Arthritis	$3.59	$10.29	187.0%	$5.34	$5,742	1	2	2	5
-	7	Cresemba	Antifungals	$0.00	$4.06	0.0%	$0.63	$5,661	0	1	0	2
5	8	Humira Pen (SRx)	Arthritis	$63.41	$26.20	-58.7%	$46.83	$5,623	5	1	35	13
4	9	Humira(Cf) Pen (SRx)	Arthritis	$22.07	$84.50	282.9%	$58.79	$5,614	3	6	12	42
8	10	Enbrel (SRx)	Arthritis	$15.29	$7.88	-48.5%	$8.81	$5,498	2	1	9	4
-	11	Rinvoq (SRx)	Arthritis	$0.00	$9.28	0.0%	$0.27	$5,177	0	2	0	5
23	12	Menopur (SRx)	Infertility	$1.91	$1.85	-3.1%	$0.95	$5,159	2	1	4	1
10	13	Xeljanz (SRx)	Arthritis	$2.98	$8.49	185.2%	$4.65	$4,740	1	1	2	5
-	14	posaconazole	Antifungals	$0.00	$8.36	0.0%	$0.19	$4,663	0	1	0	5
16	15	Actemra Actpen (SRx)	Arthritis	$2.17	$14.52	567.8%	$0.46	$3,683	2	2	3	11
12	16	Humatrope (SRx)	Growth Hormone	$19.87	$18.16	-8.6%	$15.34	$3,379	2	2	17	15
13	17	Biktarvy (SRx)	HIV	$1.08	$15.46	1326.8%	$11.90	$3,319	1	1	1	13
14	18	glatopa (SRx)	Multiple Sclerosis	$10.60	$12.12	14.3%	$3.67	$3,074	1	1	10	11
-	19	Olumiant (SRx)	Arthritis	$0.00	$0.81	0.0%	$0.15	$2,271	0	1	0	1
-	20	Norditropin Flexpro (SRx)	Growth Hormone	$0.00	$5.90	0.0%	$1.48	$2,057	0	2	0	8

Comments

- The top 20 high cost drugs accounted for 0.5% (164 scripts) of the overall prescription volume, and 32.3% ($319.03) of total plan spend PMPY in the current period

Top Drugs by Spend

City of Santa Fe - data thru April 2020

Top drugs by spend

Rank				Plan Spend PMPY				Plan Spend	Unique Members		Scripts	
Base	Current	Drug Name	Condition	Base	Current	Trend	Norm	Current	Base	Current	Base	Current
4	1	Humira(Cf) Pen (SRx)	Arthritis	$22.07	$84.50	282.9%	$58.79	$235,798	3	6	12	42
2	2	Jakafi (SRx)	Cancer	$60.02	$40.07	-33.2%	$5.28	$111,818	1	1	13	8
3	3	Trulicity	Diabetes	$44.40	$39.53	-11.0%	$44.82	$110,309	17	17	180	150
5	4	Tresiba Flextouch U-200	Diabetes	$21.49	$30.52	42.0%	$14.93	$85,174	12	10	100	111
1	5	Humira Pen (SRx)	Arthritis	$63.41	$26.20	-58.7%	$46.83	$73,101	5	1	35	13
12	6	Jardiance	Diabetes	$15.38	$19.09	24.1%	$20.71	$53,268	11	16	97	110
6	7	Humatrope (SRx)	Growth Hormone	$19.87	$18.16	-8.6%	$15.34	$50,683	2	2	17	15
158	8	Biktarvy (SRx)	HIV	$1.08	$15.46	1326.8%	$11.90	$43,148	1	1	1	13
10	9	Tecfidera (SRx)	Multiple Sclerosis	$16.32	$15.13	-7.3%	$18.20	$42,213	1	1	6	5
11	10	Humalog Kwikpen U-100	Diabetes	$16.12	$14.86	-7.8%	$18.04	$41,469	16	13	101	83
-	11	Mavyret (SRx)	Hepatitis	$0.00	$14.84	0.0%	$3.05	$41,410	0	2	0	3
7	12	Basaglar Kwikpen U-100	Diabetes	$17.83	$14.69	-17.6%	$9.55	$40,986	21	23	179	154
91	13	Actemra Actpen (SRx)	Arthritis	$2.17	$14.52	567.8%	$0.46	$40,515	2	2	3	11
117	14	buprenorphine-naloxone	Narcotic Addiction	$1.51	$12.71	742.3%	$1.45	$35,481	4	15	17	109
19	15	glatopa (SRx)	Multiple Sclerosis	$10.60	$12.12	14.3%	$3.67	$33,815	1	1	10	11
28	16	Victoza 3-Pak	Diabetes	$7.01	$11.87	69.3%	$8.25	$33,111	4	5	24	38
-	17	Cimzia (SRx)	Arthritis	$0.00	$11.77	0.0%	$5.84	$32,832	0	1	0	5
103	18	Ozempic	Diabetes	$1.80	$11.36	532.1%	$17.14	$31,700	2	6	10	45
18	19	Januvia	Diabetes	$11.12	$10.95	-1.6%	$20.28	$30,559	11	9	75	69
49	20	Enbrel Mini (SRx)	Arthritis	$3.59	$10.29	187.0%	$5.34	$28,710	1	2	2	5

Comments

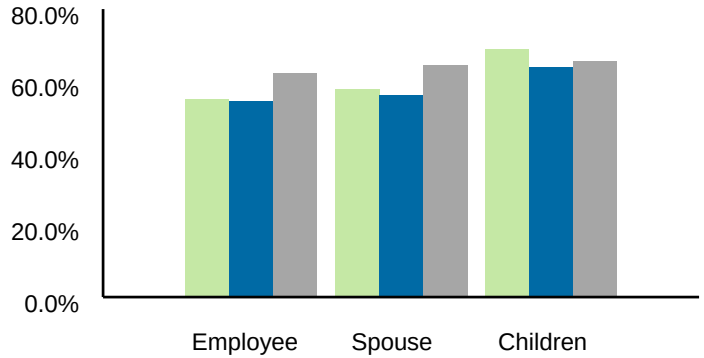
- The top 20 drugs by plan spend PMPY accounted for 43.4% ($428.63) of all plan spend PMPY ($987.23) in the current period

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Dental PPO - Cleanings Utilization

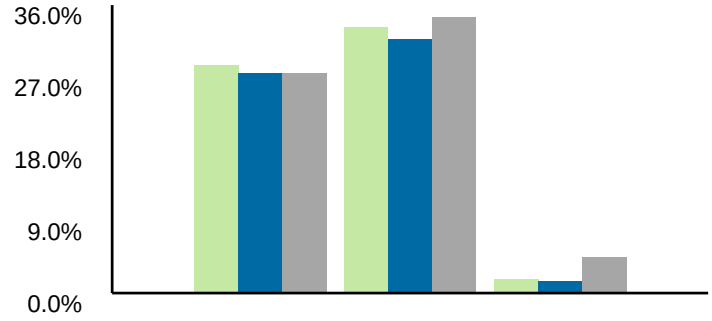
City of Santa Fe - data thru April 2020

% of unique members receiving a cleaning by tier



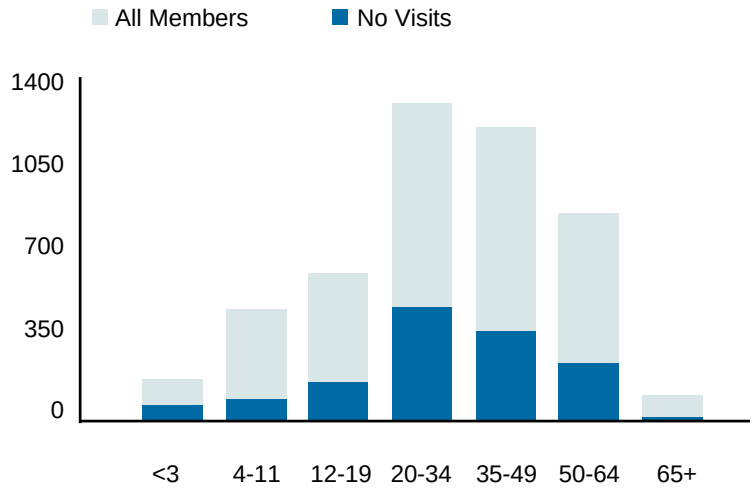
	Employee	Spouse	Children
Base	55.4%	58.2%	69.4%
Current	54.7%	56.3%	64.2%
Norm	62.7%	64.9%	65.9%

Cleanings utilization for total population



	1 Cleaning	2 Cleanings	3 or more Cleanings
Base	27.4%	32.1%	1.8%
Current	26.4%	30.6%	1.6%
Norm	26.4%	33.2%	4.5%

No visits by age in current period



Comments

- The percentage of the population having at least one cleaning decreased from 61.3% to 58.6%, and compares to a norm of 64.1%
- 32.2% of the population had two or more cleanings during the current period
- Includes all submitted cleanings for procedures 1110*(adult cleaning), 1120*(child cleaning) and 4910*(periodontal cleaning) without regard to coverage
- The percentage of No Visits population increased from 32.6% to 35.3%, and compares to a norm of 29.3%

*Current Dental Terminology © American Dental Association

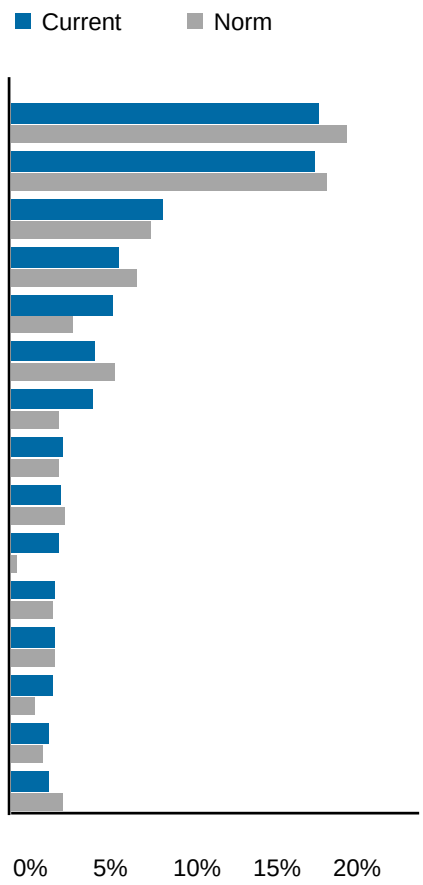
Current Period reflects claims incurred between Apr. 2019 and Mar. 2020, paid through Apr. 2020
Base Period reflects claims incurred between Apr. 2018 and Mar. 2019, paid through Apr. 2020

Dental PPO - Top 15 Procedure Types

City of Santa Fe - data thru April 2020

Ranking						Percent of Total	
Current	Base	Top 15 Procedure Types*	% of Total Uniques	Unique Members	Number of Services	Current	Norm
1	1	Periodic Oral Evaluation	71.9%	1,310	1,849	15.3%	16.7%
2	2	Prophylaxis - Adult	65.0%	1,185	1,828	15.1%	15.7%
3	3	Bitewings - Four Radiographic Images	47.8%	872	920	7.6%	7.0%
4	5	Intraoral - Periapical - First Radiographic Image	30.6%	557	655	5.4%	6.3%
5	4	Prophylaxis - Child	21.3%	388	616	5.1%	3.1%
6	7	Intraoral - Periapical - Each Additional Radiograp	21.0%	382	513	4.2%	5.2%
7	6	Topical Application Of Fluoride - Excluding Varnis	19.6%	358	491	4.1%	2.4%
8	10	Limited Oral Evaluation - Problem Focused	13.3%	242	309	2.6%	2.4%
9	9	Resin-Based Composite - Two Surfaces, Posterior	9.5%	173	297	2.5%	2.7%
10	15	2D Oral Facial Photographic Image Obtained Intra-o	4.8%	87	291	2.4%	0.3%
11	11	Resin-Based Composite - One Surface, Posterior	9.0%	164	271	2.2%	2.1%
12	12	Comprehensive Oral Evaluation	14.4%	263	269	2.2%	2.2%
13	8	Comprehensive Orthodontic Treatment Of The Transit	2.1%	38	249	2.1%	1.2%
14	14	Bitewings - Two Radiographic Images	11.3%	206	230	1.9%	1.6%
15	NR	Topical Application Of Fluoride Varnish	9.7%	176	224	1.9%	2.6%

*NR is No Ranking



Comments

- The top three procedure types represented 38.1% of services for the current period

*Current Dental Terminology © American Dental Association

City of Santa Fe New Mexico

Finance Department

Memorandum

DATE: June 15, 2020

TO: Governing Body

VIA: Jarel LaPan-Hill, City Manager
Mary McCoy, Finance Director

FROM: Bradley Fluetsch, CFA, Planning and Investment Officer bjf

RE: Request for Approval – Renewal of Comprehensive Insurance Program Coverage Submitted by A.J. Gallagher – RFP# "12/19/P

Summary:

Risk Management manages the insurance policies for the City with the exception of the health insurance policy. On June 13, 2012, the City Council awarded RFP#'12/19/P to A.J. Gallagher (AJG) for insurance broker services. Each June, AJG brings insurance policies to the City based on the needs of the City. The annual agreement expires at the end of June 2020, and the Risk Management Division is seeking a one year extension.

AJ Gallagher presented the attached options for the City's insurance renewal for FY21. The insurance policies are based on the City's operations, exposures and risk. The renewal is an increase of 11.4%, or $311,252; however, the renewal policy does not include General Liability for Mid-town Campus. The City's operation of the emergency homeless shelter in response to the coronavirus pandemic made the renewal of the General Liability insurance for Midtown Campus unattainable at any price for the City, so the City is now self-insured for General Liability at the Midtown Campus. The City can seek to renew the General Liability policy for the Midtown Campus when the City is no longer operating the emergency homeless shelter or when the City transitions the management of the emergency homeless shelter to a third party with insurance coverage.

The various insurance premiums will be incorporated into the FY21 budget with the Governing Body's approval of this renewal package.

Recommendation:

The Risk Management Division recommends approval of the FY21 renewal as presented by A.J. Gallagher in the amount of $3,034,268 and to purchase General Liability Insurance for the Mid-Town Campus at a later date when feasible.

Attachments:

AJ Gallagher Program Proposal Renewal Quotes
AJ Gallagher Broker Service Contract
Certificate of Insurance

Gallagher

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2020-2021
Premium Summary

The estimated program cost for the recommended program/options are outlined in the following table:

LINE OF COVERAGE		EXPIRING PROGRAM The Travelers Indemnity Company of Connecticut	PROPOSED The Travelers Indemnity Company of Connecticut	DIFFERENCE
TRAVELERS RENEWAL				
Property Including Inland Marine & Equipment Breakdown	Premium Taxes **Estimated Cost**	$264,158.00 - **$264,158.00**	$277,174.00 - **$277,174.00**	$13,016 or 4.93% increase
General Liability Including Liquor Liability	Premium Taxes **Estimated Cost**	$720,231.00 - **$720,231.00**	$746,381.00 - **$746,381.00**	$26,150 or 3.63% increase
Business Auto including Physical Damage and Liability	Premium Taxes **Estimated Cost**	$514,492.00 - **$514,492.00**	$592,741.00 - **$592,741.00**	$78,249 or 15.2% increase
Professional Liability (Including Employee Benefit, Law Enforcement, Public Entity Management, EPL)	Premium Taxes **Estimated Cost**	$573,906.00 - **$573,906.00**	$617,910.00 - **$617,910.00**	$44,004 or 7.67% increase
Umbrella	Premium Taxes **Estimated Cost**	$92,345.00 - **$92,345.00**	$100,145.00 - **$100,145.00**	$7,800 or 8.45% increase
TOTAL Expiring terms and retentions $100K retention	Premium Taxes **Estimated Cost**	$2,165,132.00 - **$2,165,132.00**	$2,334,351.00 - **$2,334,351.00**	**$169,219 or 7.82% increase**

Note: The autos and equipment that maintain the airport tarmac, runways etc. are excluded. Covered under Aviation policy

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MISC. POLICIES RENEWAL

LINE OF COVERAGE		EXPIRING PROGRAM	RENEWAL	DIFFERENCE	
Fiduciary Liability	Premium	$12,800.00	$12,800.00	**FLAT**	
	Taxes	-	-		
	Estimated Cost	**$12,800.00**	**$12,800.00**		
	TRIA Premium	Included	Included		
Excess Workers' Compensation	Premium	$120,172.00	$131,340.00	$109,450.00	**Coming out of a 2 year term**
	Taxes	-	-	-	
	Estimated Cost	**$120,172.00**	**$131,340.00**	**$109,450.00**	
Safety National	Payroll	$77,033,362	$70,160,372	$70,160,372	
	Retention	Police/Fire: $650K All others: $600K **Wildland Fire & Hot Shot Crews: $1,000,000**	Police/Fire: $750K All others: $600K **Wildland Fire & Hot Shot Crews: $1,000,000**	Police/Fire: $1M All others: $700K **Wildland Fire & Hot Shot Crews: $1,000,000**	
Aviation Liability	Premium	$13,272.00	$13,598.00	$326 or 2.46% increase	
	Taxes	-	-		
	Estimated Cost	**$13,272.00**	**$13,598.00**		
Storage Tank Liability	Premium	$8,691.00	NOT TO EXCEED $11,000	Still awaiting renewal numbers	
	Taxes	-			
	Estimated Cost	**$8,691.00**			
Pollution Legal Liability (city properties)	Premium	$134,458.00	$134,458.00		
	Taxes	$4,398.28	$4,037.77		
	Estimated Cost	$138,856.28	$138,495.77		
Santa Fe Solid Waste Pollution Liability Including General Liability	Premium	$35,883.00	$37,318.00		
	Taxes	$1,438.08	$1,120.66		
	Estimated Cost	**$37,321.08**	**$38,438.66**		
Inland Marine - Fine Arts	Premium	$4,950.00[1]	$4,950.00[1]	**FLAT**	
	Taxes	-	-		
	Estimated Cost	**$4,950.00**	**$4,950.00**		
Cyber Liability	Premium	$14,205.00	$20,000.00	$16,900.00	Increased retentions; Extortion/ransomware is on the rise in this class of business across the market and that threat is driving the increase in premium and retentions. Financial demands have also escalated
	Taxes	$ 426.58	$ 600.60	$ 507.51	
	Estimated Cost	**$14,631.58**	**$20,600.60**	**$17,407.51**	
	Retention	**$15,000**	**$25,000**	**$50,000**	
Crime	Premium	$6,594.00	$6,623.00	$29 or .44% increase	
	Taxes	-	-		
	Estimated Cost	**$6,594.00**	**$6,623.00**		
Total Premium		$357,289.00	$377,846.00	**$20,557 increase or 5.75% increase**	
Annual Broker Fee		$ 75,352.74	$ 77,613.32	**$2,261 or 3% increase**	

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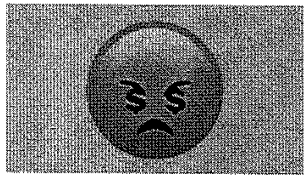
ESTIMATED TOTAL PREMIUM		**$2,597,774**	**$2,789,810**	**$192,036 or 7.39% increase**

[1]Coverage for Fine Arts for ALL locations owned and operated by City; Deductible $1,000 and $5,000 for outdoor sculptures. Extended coverage for consignments; broader policy form; $1mm Limit;

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IT HAD TO HAPPEN SOMETIME; MASSIVE CATASTROPHE LOSS ARE PUSHING INSURERS TO RAISE RATES

Not a hurricane, but rather a storm of premium increases and tightening terms and conditions in property and liability insurance. Commercial insurance pricing sees its 6th straight quarter of increases according to Global Market Insurance Index. Commercial insurance rates continue to rise across the globe.

While there is still plenty of risk transfer capacity out there, commercial insurance pricing is becoming painful in some lines. Carriers are feeling pain, not just in commercial auto and problematic property sectors, but across many other areas of property and casualty as well. This is leading to a reaction that we've already begun to see and that was recently highlighted at the 2019 Wholesale & Specialty Insurance Association (WSIA) Underwriting Summit.

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Here are the key trends in the coming months:

Market hardening. Even greater market hardening than we expected going into 2019 is being felt and is affecting nearly every line, not just property. Adverse loss development on casualty and some professional lines (D&O) is emerging.

Tighter treaty renewals. Not surprisingly, treaty reinsurance prices are on the rise as well, already seen in April 1 renewals being worked on. May 1 renewals are expected to demand even greater increases.

Profit emphasis. Carriers are laser focused on underwriting profitability. Undoubtedly this shift is due in part to loss development

Refocused distribution. As the market tightens, carriers are seeing an increase in the number of submissions from brokers, challenging their efforts to operate efficiently. As a result, some carriers are looking to decrease the number of brokers they do business with, choosing both wholesalers and retailers who are specialized and produce a consistent volume of high-quality submissions that generate strong quote hit ratios.

Carrier retrenching. In addition to increasing rate, carriers are deploying various approaches to improve results. This includes raising deductibles, tightening terms and conditions, and repositioning capacity on accounts.

Source: Risk&Insurance, and AmWins Group

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City of Santa Fe (SFUAD Property)
2020-2021 Schedule of Insurance Proposal

Line	Carrier	Eff Dates	Policy #	Deductibles	Coverages	Limits	2019 Premium	2020 Premium	Difference
General Liability	James River Insurance Company	7/1/2020	TBD	$2,500 (Per Occurrence)	General Liability Each Occurrence General Liability General Aggregate Products/Completed Operations Aggregate Personal & Advertising Injury Medical Expense Damaged to Premises Rented to You Assault & Battery - GL Only	$1,000,000 $2,000,000 $2,000,000 $1,000,000 Excluded $50,000 $50k/$100k	$27,795.80	NON-RENEWED	Not Applicable
Property 50% of $10,000,000	Lexington Insurance Company	7/1/2020	TBD	$100,000 AOP $100,000 WD	Property Limits	$5,000,000	$77,252.25	$90,127.63	$12,875 or 16.67% increase
Property 50% of $10,000,000	Landmark American Insurance Company	7/1/2020	TBD	$100,000 AOP $100,000 WD	Property Limits	$5,000,000	$77,252.25	$90,127.63	$12,875 or 16.67% increase
Excess Property	Homeland Insurance Company of New York	7/1/2020	TBD	$50,000 AOP $100,000 WD	Excess Property Limits	$54,893,592	$46,351.35	$43,776.28	$2,575 or -5.56% decrease
Habitational Property-Recovery Center	Seneca Specialty	7/1/2020	TBD	$10,000 AOP $25,000 WD	Habitational Property	$6,286,488	$19,507.74	$20,426.52	$919 or 4.7% increase
							$248,159.39	$244,458.06	$3,701 or -1.49% decrease

Arthur J. Gallager Co. Insurance Brokers of California, Inc.

ACORD®

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 6/11/2020

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	CONTACT NAME: Direct All Inquiries to Email
Arthur J. Gallagher Risk Management Services, Inc. 300 S. Riverside Plaza, Suite 1500 Chicago IL 60606	PHONE (A/C, No, Ext): FAX (A/C, No): E-MAIL ADDRESS: Chi_Certificates@ajg.com

INSURED	ARTHJGA113
Arthur J. Gallagher & Co. 18201 Von Karman, Suite 200 Irvine, CA 92612	

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Arch Insurance Company	11150
INSURER B : Arch Indemnity Insurance Company	30830
INSURER C :	
INSURER D :	
INSURER E :	
INSURER F :	

COVERAGES **CERTIFICATE NUMBER:** 2048540166 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE [X] OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: POLICY [ ] PRO-JECT [X] LOC OTHER:	Y	Y	41GPP4938412	10/1/2019	10/1/2020	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG $	$ 1,000,000 $ 1,000,000 $ 10,000 $ 1,000,000 $ 3,000,000 $ 3,000,000 $
A A	AUTOMOBILE LIABILITY X ANY AUTO OWNED AUTOS ONLY / SCHEDULED AUTOS X HIRED AUTOS ONLY / X NON-OWNED AUTOS ONLY			41CAB4938312 (AOS) 41CAB4939012 (MA)	10/1/2019 10/1/2019	10/1/2020 10/1/2020	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident) $	$ 3,000,000 $ $ $ $
	UMBRELLA LIAB [ ] OCCUR EXCESS LIAB [ ] CLAIMS-MADE DED [ ] RETENTION $						EACH OCCURRENCE AGGREGATE $	$ $ $
A B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANYPROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y / N [N] (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N / A		41WCI4938112 (AOS) 44WCI0501912 (NY, TX, CA, KY, MO)	10/1/2019 10/1/2019	10/1/2020 10/1/2020	X PER STATUTE [ ] OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	 $ 1,000,000 $ 1,000,000 $ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

General Liability:
General Aggregate Per Location Subject to $10 Mil Policy aggregate.

Certholder is shown as an Additional Insured on the General Liability policy per form 00 GL0596 00 04 10 attached as required by written contract pursuant to and subject to the policy's terms , definitions , conditions and exclusions.
Waiver of Subrogation appli es in favor of Additional Insured as respects General Liability policy, pursuant to and subject to the p olicy's terms, definitions, conditions and exclusions.

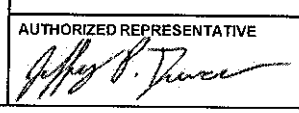
CERTIFICATE HOLDER

City of Santa Fe
Attn: Risk Management/Safety Division
200 Lincoln Avenue
Santa Fe NM 87504

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE



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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BLANKET ADDITIONAL INSURED

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE FORM
LIQOUR LIABILITY FORM
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE FORM

SECTION II – WHO IS AN INSURED is amended to include as an additional insured the person or organization who is required under a written contract with you to be included as an insured under this policy, but only with respect to liability arising out of your operations or premises owned by or rented to you.

All other terms and conditions of this policy remain unchanged.

Endorsement Number:

Policy Number: **41GPP4938412**

Named Insured: ARTHUR J GALLAGHER & COMPANY

This endorsement is effective on the inception date of this Policy unless otherwise stated herein:

Endorsement Effective Date: **10/1/2019**

POLICY NUMBER: **41GPP4938412**

COMMERCIAL GENERAL LIABILITY
CG 24 04 05 09

WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

SCHEDULE

Name Of Person Or Organization:
ANY PERSON OR ORGANIZATION WHERE WAIVER OF OUR RIGHT TO RECOVER REQUIRED BY WRITTEN CONTRACT WITH SUCH PERSON OR ORGANIZATION PROVIDED SUCH CONTRACT WAS EXECUTED PRIOR TO THE LOSS.
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

The following is added to Paragraph **8. Transfer Of Rights Of Recovery Against Others To Us** of **Section IV – Conditions:**

We waive any right of recovery we may have against the person or organization shown in the Schedule above because of payments we make for injury or damage arising out of your ongoing operations or "your work" done under a contract with that person or organization and included in the "products-completed operations hazard". This waiver applies only to the person or organization shown in the Schedule above.

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ITEM # 12-0405

CITY OF SANTA FE

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT is made and entered into by and between the City of Santa Fe (the "City") and Arthur J. Gallagher & Co. (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 provide the following services for the City:

A. Act as an independent insurance advisor to the City and proactively provide ongoing unbiased professional advice and recommendations that benefit the City and its members. Meet with City Risk Management staff, City committees, and /or staff of City departments as requested.

B. Proactively provide ongoing review and analysis of the City's insurance programs and make any appropriate recommendations for coverage changes or new coverages. Provide early warning of rate and coverage changes or renewal problems and annually provide a comprehensive report that reviews all City insurance programs.

C. Assure that insurance policies are placed in a timely manner, without lapses in coverage periods, with reputable and financially responsible insurers. Advise in writing of any changes to insurance policy within 14 days.

D. Review policies and other documents in detail within 14 days of receipt of the documents to check the wording and accuracy of each policy, binder,

certificate, endorsement or other document received from the insurers to ensure the intended coverage is provided, and all coverage, terms, and conditions, and other wording is complete and accurate, and in compliance with financial arrangements and administrative procedures acceptable to the City.

E. When more than one market is approached for a line of coverage, provide the City with copies of declination letters and all premium quotations received with a summary of coverages explaining deficiencies or benefits of the quote compared to the recommended insurance program.

F. Issue certificates of insurance within three (3) business days following the date of request.

G. Comply with all State and Federal laws and regulations pertaining to insurance brokers licensed in the State of New Mexico.

H. Make available consultation services as well as loss control services as requested by the City. Assist in analyzing loss exposures from existing and new operations, and determine the appropriate risk management alternatives, including types, availability, cost, and extent of coverages that should be considered.

I. Provide oversight and ensure compliance of third party administrators assigned to handle the City accounts.

2. STANDARD OF PERFORMANCE; LICENSES

A. The Contractor represents that it possesses the personnel, 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, for itself, its employees, agents, representatives and subcontractors.

3. COMPENSATION

A. From July 1, 2012 to July 1, 2013, the City shall pay to the Contractor in full payment for services rendered, a sum not to exceed sixty five thousand dollars ($65,000.00) inclusive of applicable gross receipts taxes. Effective July 1st of each fiscal year, the City shall pay to the Contractor in full payment for services rendered, $65,000 plus a 3% annual increase, inclusive of applicable gross receipt taxes,for the remainder of the term of this Agreement. ,

B. The Contractor shall be responsible for payment of gross receipts taxes levied by the State of New Mexico on the sums paid under this Agreement.

C. Payment shall be made upon receipt, approval and acceptance by the City of monthly detailed statements containing a report of services completed. Compensation shall be paid only for services actually performed and accepted by the City.

4. APPROPRIATIONS

The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the City for the performance of this Agreement. If sufficient appropriations and authorization are not made by the City, this Agreement shall terminate 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.

5. TERM AND EFFECTIVE DATE

This Agreement shall be effective when signed by the City and the Contractor, whichever occurs last, and shall terminate on June 30, 2020, unless sooner pursuant to Article 6 below.

6. TERMINATION

A. This Agreement may be terminated by the City upon 30 days written notice to the Contractor.

(1) The Contractor shall render a final report of the services performed up to the date of termination and shall turn over to the City original copies of all work product, research or papers prepared under this Agreement.

(2) Compensation is not based upon hourly rates for services rendered, it is based upon a monthly service basis, therefore, the City shall pay the Contractor for the reasonable value of services satisfactorily performed through the date Contractor receives notice of such termination, and for which compensation has not already been paid.

7. STATUS OF CONTRACTOR; RESPONSIBILITY FOR PAYMENT OF EMPLOYEES AND SUBCONTRACTORS

A. 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.

B. Contractor shall be solely responsible for payment of wages, salaries and benefits to any and all employees or subcontractors retained by Contractor in the performance of the services under this Agreement.

C. The Contractor shall comply with City of Santa Fe Minimum Wage, Article 28-1-SFCC 1987, as well as any subsequent changes to such article throughout the term of this Agreement.

8. 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.

9. CONFLICT OF INTEREST

The Contractor warrants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement. Contractor further agrees that in the performance of this Agreement no persons having any such interests shall be employed.

10. ASSIGNMENT; SUBCONTRACTING

The Contractor shall not assign or transfer any rights, privileges, obligations or other interest under this Agreement, including any claims for money due, without the prior written consent of the City. The Contractor shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of the City.

11. RELEASE

The Contractor, upon acceptance of final payment of the amount due under this Agreement, releases the City, its officers and employees, from all liabilities, claims and obligations whatsoever arising from or under this Agreement. The Contractor agrees not to purport to bind the City to any obligation not assumed herein by the City unless the Contractor has express written authority to do so, and then only within the strict limits of that authority.

12. INSURANCE

A. The Contractor, at its own cost and expense, shall carry and maintain in full force and effect during the term of this Agreement, comprehensive general liability insurance covering bodily injury and property damage liability, in a form and with an insurance company acceptable to the City, with limits of coverage in the maximum amount which the City could be held liable under the New Mexico Tort Claims Act for each person injured and for each accident resulting in damage to property. Such insurance shall provide that the City is named as an additional insured and that the City is notified no less than 30 days in advance of cancellation for any reason. The Contractor shall furnish the City with a copy of a Certificate of Insurance as a condition prior to performing services under this Agreement.

B. Contractor shall also obtain and maintain Workers' Compensation insurance, required by law, to provide coverage for Contractor's employees throughout the term of this Agreement. Contractor shall provide the City with evidence of its compliance with such requirement.

C. 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.

13. INDEMNIFICATION

The Contractor shall indemnify, hold harmless and defend the City from all losses, damages, claims or judgments, including payments of all attorneys' fees and costs on account of any suit, judgment, execution, claim, action or demand whatsoever arising from Contractor's performance under this Agreement as well as the performance of Contractor's employees, agents, representatives and subcontractors.

14. NEW MEXICO TORT CLAIMS ACT

Any liability incurred by the City of Santa Fe in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, Section 41-4-1, et. seq. NMSA 1978, as amended. The City and its "public employees" as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity, do not waive any defense and do not waive any limitation of liability pursuant to law. No provision in this Agreement modifies or waives any provision of the New Mexico Tort Claims Act.

15. THIRD PARTY BENEFICIARIES

By entering into this Agreement, the parties do not intend to create any right, title or interest in or for the benefit of any person other than the City and the Contractor. No person shall claim any right, title or interest under this Agreement or seek to enforce this Agreement as a third party beneficiary of this Agreement.

16. RECORDS AND AUDIT

The Contractor shall maintain, throughout the term of this Agreement and for a period of three years thereafter, detailed records that indicate the date, time and nature of services rendered. These records shall be subject to inspection by the City, the Department of Finance and Administration, and the State Auditor. The City shall have the right to audit the billing both before and after payment. Payment under this Agreement shall not foreclose the right of the City to recover excessive or illegal payments.

17. APPLICABLE LAW; CHOICE OF LAW; VENUE

Contractor shall abide by all applicable federal and state laws and regulations, and all ordinances, rules and regulations of the City of Santa Fe. In any action, suit or legal dispute arising from this Agreement, the Contractor agrees that the laws of the State of New Mexico shall govern. The parties agree that any action or suit arising from this Agreement shall be commenced in a federal or state court of competent jurisdiction in New Mexico. Any action or suit commenced in the courts of the State of New Mexico shall be brought in the First Judicial District Court.

18. AMENDMENT

This Agreement shall not be altered, changed or modified except by an amendment in writing executed by the parties hereto.

19. SCOPE OF AGREEMENT

This Agreement incorporates all the agreements, covenants, and understandings between the parties hereto concerning the services to be performed hereunder, and all such agreements, covenants and understandings have been merged into this Agreement. This Agreement expresses the entire Agreement and understanding

between the parties with respect to said services. No prior agreement or understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

20. NON-DISCRIMINATION

During the term of this Agreement, Contractor shall not discriminate against any employee or applicant for an employment position to be used in the performance of services by Contractor hereunder, on the basis of ethnicity, race, age, religion, creed, color, national origin, ancestry, sex, gender, sexual orientation, physical or mental disability, medical condition, or citizenship status.

21. SEVERABILITY

In case any one or more of the provisions contained in this Agreement or any application thereof shall be invalid, illegal or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions contained herein and any other application thereof shall not in any way be affected or impaired thereby.

22. NOTICES

Any notices required to be given under this Agreement shall be in writing and served by personal delivery or by mail, postage prepaid, to the parties at the following addresses:

City of Santa Fe
Risk Management/ Safety Division
200 Lincoln Avenue
Santa Fe, NM 87504

Contractor: Arthur J. Gallagher & Co.
15 Enterprise, Suite 200
Aliso Viejo, CA 92656

IN WITNESS WHEREOF, the parties have executed this Agreement on the date set forth below.

CITY OF SANTA FE:

David Coss

DAVID COSS, MAYOR

DATE: 6/15/12

ATTEST:

Yolanda Y. Vigil

YOLANDA Y. VIGIL
CITY CLERK

6-15-12

APPROVED AS TO FORM:

Judith Amer for

GENO ZAMORA, CITY ATTORNEY
5/31/12

CONTRACTOR:
Arthur J. Gallagher & Co.

By: _____
(Name & Title)

Title: Area President

Date: 6-20-2012

Fed.ID. ~~CRS#~~ 94-3015711

City of Santa Fe Business
Registration # 12-111023

APPROVED:

DR. MELVILLE L. MORGAN, FINANCE DIRECTOR

6/14/12

62012 555 300

Business Unit Line Item

various funds

FIRST AMENDMENT
TO
TERMINATION AGREEMENT

This First Amendment to Termination Agreement (this "Amendment") is made as of June ____, 2020 by and between the City of Santa Fe New Mexico, a New Mexico municipal corporation, (the "City") and Santa Fe Estates Incorporated, a New Mexico corporation, ("Santa Fe Estates").

RECITALS

This Amendment in based on the following facts, understandings, and intentions.

A. The City and Santa Fe Estates previously entered into that certain Termination Agreement dated January 6, 2020 (the "Termination Agreement").

B. The Termination Agreement was intended to terminate the "1930 Agreement" between the parties (or their predecessors-in-interest), convey the "Northwest Quadrant Property" to the City, and extinguish other outstanding obligations under the 1930 Agreement.

C. The Termination Agreement provided various periods for due diligence review, objection, and cure.

D. The parties have worked together in good faith to review all matters raised by and impacted by the Termination Agreement but feel that it would be mutually beneficial to extend the review, objection, and cure periods.

AGREEMENT

Now, therefore, the City and Santa Fe Estates amend the Termination Agreement as follows:

1. Review Period. The "Review Period", as described in the Termination Agreement and which applies to all matters raised by and impacted by the Termination Agreement, is ongoing. The City's right to object is hereby extended to **July 20, 2020** at 5:00pm Mountain Time (the "Objection Deadline"). If the City objects to any matter or matters raised during its review, it shall give notice to Santa Fe Estates by the Objection Deadline.

2. Cure Period. Santa Fe Estates shall have until **August 4, 2020** at 5:00pm Mountain Time (the "Cure Deadline") to cure any matters objected to by the City. Santa Fe Estates shall not, however, be obligated to cure any matter objected to by the City.

3. Accept/Waive. The City shall have until **August 14, 2020** at 5:00pm Mountain Time (the "Decision Deadline") to either accept any cure and/or waive any objection (and proceed to Closing), or not accept any cure and/or not waive any objection (and terminate the Termination Agreement).

4. Termination. If any matter objected to by the City is not cured to the reasonable satisfaction of the City, or not waived by the City, the City may terminate the Termination Agreement. If Santa Fe Estates is unwilling or unable to cure any matter objected to by the City, and such objection is not waived by the City, Santa Fe Estates may terminate the Termination Agreement.

4. Closing. If the Termination Agreement is not terminated, Closing under the Termination Agreement shall occur on or before **September 10, 2020**.

5. Communication. The parties shall work together in good faith, with full disclosure, and in frequent communication for the periods and purposes described above.

6. Terms. Any defined terms referenced herein but not defined herein, but which are defined in the Termination Agreement, shall have the meaning ascribed to them in the Termination Agreement. The Termination Agreement remains in full force and effect except as amended by this Amendment. To the extent that any terms in the Termination Agreement are inconsistent with the terms of this Amendment, the terms of this Amendment shall control.

[Signatures and attestations on following page.]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the later date of the parties' signatures below.

SANTA FE ESTATES INCORPORATED

By: _____ Date: _____, 2020
John D. McNeill, President

ACKNOWLEDGMENT

STATE OF NEW MEXICO)
) ss.
COUNTY OF SANTA FE)

This instrument was acknowledged before me this ___ day of _____, 2020 by John D. McNeill.

Seal:

_____
Notary Public

My Commission Expires:

_____

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the later date of the parties' signatures below.

THE CITY OF SANTA FE

By: _____ Date: _____, 2020
Alan M. Webber, Mayor

Attested:

_____
Yolanda Y. Vigil, City Clerk

Approved as to form:

_____
Erin K. McSherry, City Attorney

Approved:

_____
Mary T. McCoy, Finance Director

ACKNOWLEDGMENT

STATE OF NEW MEXICO)
) ss.
COUNTY OF SANTA FE)

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Seal:

_____
Notary Public

My Commission Expires:

_____

FIRST AMENDMENT
TO
TERMINATION AGREEMENT

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RECITALS

This Amendment in based on the following facts, understandings, and intentions.

A. The City and Santa Fe Estates previously entered into that certain Termination Agreement dated January 6, 2020 (the "Termination Agreement").

B. The Termination Agreement provides various periods for due diligence review, objection, and cure.

C. The parties believe that it would be mutually beneficial to extend the review, objection, and cure periods.

AGREEMENT

Now, therefore, the City and Santa Fe Estates amend the Termination Agreement as follows:

1. Review Period. The "Review Period" provided for in the Termination Agreement is hereby extended to **July 20, 2020** at 5:00pm Mountain Time. The period within which the City may object to any matter or matters arising from its reviews and investigations during the Review Period ends on **July 20, 2020** at 5:00pm Mountain Time (the "Objection Deadline"). If the City objects to any matter or matters raised during its review, it shall give notice to Santa Fe Estates by the Objection Deadline.

2. Cure Period. Santa Fe Estates shall have until **August 4, 2020** at 5:00pm Mountain Time (the "Cure Deadline") to give notice to the City of its intent to cure any or all matters to which the City has objected by the Objection Deadline. Santa Fe Estates shall not, however, be obligated to cure any matter objected to by the City.

3. Accept/Waive. In accordance with paragraph 4 of the Termination Agreement, the City shall have until **August 14, 2020** at 5:00pm Mountain Time (the "Decision Deadline") to either accept any cure and/or waive any objection (and proceed to Closing), or not accept any cure and/or not waive any objection (and terminate the Termination Agreement).

4. Closing. If the Termination Agreement is not terminated, Closing under the Termination Agreement shall occur no later than **September 10, 2020**.

5. Communication. The parties shall work together in good faith, with full disclosure, and in frequent communication for the periods and purposes described above.

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[Signatures and attestations on following page.]

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SANTA FE ESTATES INCORPORATED

By: _____ Date: _____, 2020
John D. McNeill, President

ACKNOWLEDGMENT

STATE OF NEW MEXICO)
) ss.
COUNTY OF _____)

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Seal:

_____
Notary Public

My Commission Expires:

_____

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the later date of the parties' signatures below.

THE CITY OF SANTA FE

By: _____ Date: _____, 2020
Alan M. Webber, Mayor

Attested:

_____
Yolanda Y. Vigil, City Clerk

Approved as to form:

_____
Erin K. McSherry, City Attorney

Approved:

_____
Mary T. McCoy, Finance Director

ACKNOWLEDGMENT

STATE OF NEW MEXICO)
) ss.
COUNTY OF SANTA FE)

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Seal:

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Notary Public

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[Signatures and attestations on following page.]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the later date of the parties' signatures below.

SANTA FE ESTATES INCORPORATED

By: _____ Date: _____, 2020
John D. McNeill, President

ACKNOWLEDGMENT

STATE OF NEW MEXICO)
) ss.
COUNTY OF SANTA FE)

This instrument was acknowledged before me this ___ day of _____, 2020 by John D. McNeill.

Seal:

_____
Notary Public

My Commission Expires:

_____

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the later date of the parties' signatures below.

THE CITY OF SANTA FE

By: _____ Date: _____, 2020
Alan M. Webber, Mayor

Attested:

_____
Yolanda Y. Vigil, City Clerk

Approved as to form:

_____
Erin K. McSherry, City Attorney

Approved:

_____
Mary T. McCoy, Finance Director

ACKNOWLEDGMENT

STATE OF NEW MEXICO)
) ss.
COUNTY OF SANTA FE)

This instrument was acknowledged before me this ___ day of _____, 2020 by Alan M. Webber.

Seal:

_____
Notary Public

My Commission Expires:

_____

REGULAR GOVERNING BODY MEETING OF
June 24, 2020
BILLS AND RESOLUTIONS SCHEDULED FOR INTRODUCTION
BY MEMBERS OF THE GOVERNING BODY

Mayor Alan Webber		
Co-Sponsors	**Title***	**Tentative Committee Schedule***
	AN ORDINANCE RELATING TO THE CITY OF SANTA FE'S PROCUREMENT CODE; AMENDING SECTION 11-13 TO INCREASE THE AWARDED PREFERENCE TO LOCAL BUSINESSES TO TEN PERCENT IN COMPETITIVE PROCUREMENTS.	Economic Development Advisory Committee – 7/8/20 City Council (request to publish) – 7/8/20 Finance Committee – 7/20/20 Quality of Life Committee – 7/22/20 City Council (public hearing) – 7/29/20
	AN ORDINANCE CREATING A NEW SECTION 7-1.11 SFCC ESTABLISHING A FEE SCHEDULE FOR SERVICES PROVIDED BY THE LAND USE DEPARTMENT; REPEALING SECTION 7-3.3 REGARDING THE PERMIT FEE TO MOVE A BUILDING; AMENDING CHAPTER 14, THE LAND DEVELOPMENT CODE, TO ADD A SECTION ESTABLISHING A FEE SCHEDULE FOR SERVICES PROVIDED BY THE LAND USE DEPARTMENT; AND ADDING A DEFINITION OF GRADING AT OWNER'S RISK PERMIT.	Planning Commission – 7/16/20 Public Works and Utilities Committee – 7/27/20 City Council (request to publish) – 7/29/20 Finance Committee – 8/3/20 City Council (public hearing) – 8/26/20
	A RESOLUTION SUPPORTING THE UNITED STATES CONFERENCE OF MAYORS COMPACT TO COMBAT HATE, EXTREMISM, AND BIGOTRY TO PROMOTE THE FUNDAMENTAL PRINCIPLES OF JUSTICE AND EQUALITY THAT DEFINE AMERICA.	Quality of Life Committee – 7/15/20 City Council – 7/29/20
	AN ORDINANCE RELATING TO THE CITY OF SANTA FE ECONOMIC DEVELOPMENT PLAN ORDINANCE, SECTION 11-11 SFCC 1987; APPROVING AND ADOPTING A LOCAL ECONOMIC DEVELOPMENT PROJECT PARTICIPATION AGREEMENT BETWEEN THE CITY OF SANTA FE AND SAVANT X, INC. FOR DESIGN, DEVELOPMENT, AND CONSTRUCTION OF TENANT IMPROVEMENTS AND LEASE PAYMENTS FOR THE EXPANSION OF A CORPORATE RESEARCH CENTER, A LOCAL ECONONOMIC DEVELOPMENT PROJECT.	Economic Development Advisory Committee – 7/8/20 City Council (request to publish) – 7/8/20 Finance Committee – 7/20/20 Quality of Life Committee – 7/22/20 City Council (public hearing) – 7/29/20
	AN ORDINANCE RELATING TO THE CITY OF SANTA FE ECONOMIC DEVELOPMENT PLAN ORDINANCE, SECTION 11-11 SFCC 1987; APPROVING AND ADOPTING A LOCAL ECONOMIC DEVELOPMENT PROJECT PARTICIPATION AGREEMENT BETWEEN THE CITY OF SANTA FE AND LA PUERTA ORIGINALS, LLC. FOR AN ECONOMIC DEVELOPMENT LOAN PROJECT FOR	Economic Development Advisory Committee – 7/8/20 City Council (request to publish) – 7/8/20 Finance Committee – 7/20/20

This document is subject to change.

	LEASE PAYMENTS TO PROVIDE ASSISTANCE FOR THE NEGATIVE FINANCIAL IMPACTS OF COVID-19.	Quality of Life Committee – 7/22/20 City Council (public hearing) – 7/29/20
Councilor Roman "Tiger" Abeyta		
Co-Sponsors	**Title***	**Tentative Committee Schedule***
Councilor Jamie Cassutt-Sanchez		
Co-Sponsors	**Title***	**Tentative Committee Schedule***
Councilor Michael J. Garcia		
Co-Sponsors	**Title***	**Tentative Committee Schedule***
Councilor Signe I. Lindell		
Co-Sponsors	**Title***	**Tentative Committee Schedule***
Councilor Chris Rivera		
Co-Sponsors	**Title***	**Tentative Committee Schedule***
		10/20
Councilor Carol Romero-Wirth		
Co-Sponsors	**Title***	**Tentative Committee Schedule***
Councilor JoAnne Vigil Coppler		
Co-Sponsors	**Title***	**Tentative Committee Schedule***
Councilor Renee Villarreal		
Co-Sponsors	**Title***	**Tentative Committee Schedule***

* Subject to change

Introduced legislation will be posted on the City Attorney's website, under legislative services. If you would like to review the legislation prior to that time or you would like to be a co-sponsor, please contact Jesse Guillen, 505-955-6518, jbguillen@santafenm.gov or Jeff Norris, 505-955-6692, jtnorris@santafenm.gov.

17. PETITIONS FROM THE FLOOR

Name: Miguel Gabaldon
Comment - 06/23/2020 10:14 PM: (No Vote)
While attending NMSU, I took a class on the geography of New Mexico that opened my eyes a little wider to the incredible history of New Mexico, and my hometown of Santa Fe. The class enriched my mind and challenged my understanding of New Mexico's history during the colonization period of this part of the world by Spain, France and, eventually, the United States of America. It was in this class that I learned about the reality of the conflicts between Spanish Settlers and Native Americans; the internal conflicts between Spanish Settlers; and the eventual mistreatment of both Spanish Settlers and Native Americans by the Anglo Settlers as they moved west from the original colonies of the United States of America. This made me realize that America's history was not always as simple as what we were taught in our early years of life in elementary and high school. In fact, I have come to realize that ALL OF AMERICA's history has, to quote Mayor Webber, "a dark and bloody past", not just Santa Fe and Northern New Mexico.

That said, what I think was even more of an eye-opener was that I realized that despite all of the conflicts that happened centuries before my time in Santa Fe, all of the races that I grew up with; Hispanic, Native American, Anglo and, yes even African American, all got along with each other in my wonderful hometown of Santa Fe. We didn't disrespect each other; we didn't look into our ancestors' past behaviors and hold them against each other; we didn't want to tear apart our community by holding grudges for things done by each of our ancestors so far back in our past. No, instead we learned to co-exist with each other; to become friends; and even get married to each other and raise families here to continue the great heritage that makes Santa Fe the "THE CITY DIFFERENT".

As a lifelong resident of Santa Fe with multiple generations of ancestors who resided for the past five centuries in Santa Fe and Northern New Mexico, and as a descendant of my ancestor who was granted the Juan de Gabaldon Land Grant in the 1700's by the Royalty of Spain located at the headwaters of the Santa Fe River (the lifeblood of Santa Fe), I request that you consider all aspects of the settlement of the New World, that began with the Spanish Settlers in the 16th Century and ended with the American Settlers in the 19th Century, and not remove anymore historical references.

Name: Rachel Kutcher
Comment - 06/24/2020 07:12 AM: (No Vote)
I would like to express my support for removal of the obelisk on the Plaza, and other statues in Santa Fe that glorify and memorialize colonialist actions and violence against Native peoples. These are monuments to violence and genocide, and keeping them standing in public spaces is a continued act of violence against the Native peoples of New Mexico.

VIGIL, XAVIER I.

From: VIGIL, YOLANDA Y.
Sent: Tuesday, June 23, 2020 8:07 AM
To: CARDENAS, GERALYN F.
Subject: FW: don't fund pump-to-dump

Importance: High

Petitions from the Floor

From: LINDELL, SIGNE I. <silindell@santafenm.gov>
Sent: Monday, June 22, 2020 9:49 PM
To: LAPAN HILL, JAREL <jlapanhill@santafenm.gov>; VIGIL, YOLANDA Y. <yyvigil@santafenm.gov>
Subject: Fwd: don't fund pump-to-dump

Please put this in public comments for Council meeting.

Thanks

Get Outlook for iOS

From: rocaudt@cybermesa.com <rocaudt@cybermesa.com>

Sent: Monday, June 22, 2020 6:56:38 PM

To: Mayors Office <mayor@santafenm.gov>; cromero-wirth@ci.santa.fe.nm.us <cromero-wirth@ci.santa.fe.nm.us>;

IVES, PETER N. <pnives@santafenm.gov>

Cc: LINDELL, SIGNE I. <silindell@santafenm.gov>

Subject: don't fund pump-to-dump

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi, All. I agree that the Water Division's pump-to dump funding should CEASE.

First, fix the problems at the Wastewater Treatment Plant (WWTP.) It was designed to meet effluent standards before discharge, and the City should address any failures in those regards. Ask the WWTP operators, one on one, what the problems are. Ask for a honest assessment of what they see

as the issues. They know the issues, what works, and what does not work, no matter what the engineers say. Listen and learn.

Then, Councilors, figure out how those impediments to properer operation can be fixed. This can be much more cost effective that pipeline construction and pumping Rio Grande water. Do not go further with the pump-to-dump proposal UNTIL the WWTP is in compliance. Pump-to-Dump may not be needed.

I helped pay for that WWTP and I as well as other Santa Fe tax payers, want our money's worth with what we have NOW.

For your information, I am retired from the NM Environment Department, Surface Water, and held Level III Water and Wastewater Certificates. I know several of the folks who submitted a My View comment in June 22, 2020, Santa Fe New Mexican newspaper, and agree with and value their comments.

Please make this comment part of the public record for the June 25, 2020 meeting. Thank you. Please contact me if needed.

Ann Young, 250 East Alameda, #232, Santa Fe, NM 87501 505-982-5876

VIGIL, XAVIER I.

From: Dani Katz <katzdanikatz@gmail.com>
Sent: Friday, June 19, 2020 4:25 PM
To: Petitions from the Floor; Public Comment
Subject: on speaking at the next City Council meeting

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello.

I am a Santa Fe resident, and I would like to arrange to speak at the next City Council meeting about this grossly unconstitutional mask ordinance.

Please advise me as to what additional steps I need to take to arrange.

Thank you,

Dani Katz
https://gcc01.safelinks.protection.outlook.com/?url=http%3A%2F%2Fwww.quantumlanguaging.com%2F&data=02%7C01%7Cpetitionsfromthefloor%40santafenm.gov%7Ca974a0291ddd4bd333de08d8149fa9be%7C77b69f5a55ed436386164867b0bc707f%7C0%7C0%7C637282023276192835&sdata=qD%2BmmdQtLIAD4PmpPu7KujDpl9IVbCG0EO92dtvAqto%3D&reserved=0
323.217.9395

VIGIL, XAVIER I.

From: David Burns <david@halburns.com>
Sent: Tuesday, June 23, 2020 4:58 PM
To: Petitions from the Floor
Subject: Statues

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

I was once told we forget the past we will repeat the past and our history is in our statues and we should not remove them !!!!!!! This is not right and I strongly object to the hast removal of our history regardless of its bad connotations .

David Burns

David@halburns.com

I woul also like to view the zoom meeting Sent from my iPhone

VIGIL, XAVIER I.

From: Nancy Quintana <organiclifenterprise@gmail.com>
Sent: Tuesday, June 23, 2020 1:13 PM
To: Petitions from the Floor
Subject: Oppose petition to keep the war obelisks up
Attachments: The other side of the story.docx; Cultural Revitalization in the Mora Valley by Gilbert Quintana.docx

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Honorable Mayor and City Council my name is Gilbert Quintana, Iam literally a Native New Mexican. My email address is organiclifenterprise@gmail.com and my phone number is 575-387-6669. I support the removal obelisks because we too on the eastern side of the Sangre de Cristo mountains have holcoast sites here that were developed when the the nowadays Department of Defense was called the "War Department". It was an all out war against the Native American and Mexican communities here. Till this day we have Historical Post Traumatic Stress Disorder and systemic racism here as well. Unfortunately the concept and practice of colonialism still exists here both by some newcomers and those who identify with "los Conquistadores".Often our people are so embellished in the psychological concept of Colonialism, we cannot separate that many are blood of the oppressor and that of the oppressed.

With that I leave two attachments for the record of recent articles that appeared in our local newspaper "La Voz de Mora", in Mora County, New Mexico.

Sincerely,
Gilbert Quintana
organiclifenterprise@gmail.com
575-387-6669
Jicarilla Apache/Taos Pueblo/ Mexican blood lines

The Other Side of the Story

By Gilbert Quintana



It has become increasing evident that this person, Ceran St. Vrain (May 5, 1802- October 28, 1870 /American son of a French aristocrat) despite dying and being buried in Mora, New Mexico still has his proxies trying to keep his history alive. His history in our back yard, as evident of recent Official Scenic Historic Marker of St. Vrain Mill, in Mora, New Mexico tells one side of the story.

At the age of 29 while residing here in Mexico (1831), remember this area was still part of Mexico at the time, he gained the ability to trade by becoming a naturalized Mexican citizen. It enables him to avoid the restrictions placed on American traders in which is now New Mexico. He formed a partnership with American traders William, George and Charles Bent, collectively they established a so-called “trading post” called Bent’s Fort near La Junta, Colorado. Despite it being still in Mexican territory it was the only privately held fort in the west.

He expanded his trading post business, by forming a business partnership with Cornelio Vigil. In 1843 the two petitioned and received from the Mexican government a land grant of approximately 4 million acres in now southeastern Colorado. He got the idea of land grants from La Merced de Santa Gertrudis

De Lo De Mora (AKA Mora Land Grant) given to 76 heirs in 1835 to the people of Mora. His plan halted due the onset of the Mexican-American War in 1847, by which the United States acquired the now day southwestern United States. He used his private fort to house weapons and ammunitions for the United States government to help defeat the people of Mora in the famous Battle of Mora (January 24 and February 1, 1847). The Battle of Mora was part of the Taos Revolt. This is often referred to the Siege of Pueblo de Taos. St. Vrain's "Emergency Brigade" played a key part in killing Mexicans and Taos Indians. Reference to the Battle of Mora can be found in the "Letter from the Secretary of War", in response to the Resolution of the US Senate of June 5, 1900, a report on the insurrection against the US military government in New Mexico in the years 1847 and 1848. This is a legal document and record issued by the 56th Congress of the United States Senate.

Following the creation of the U.S. provisional government of New Mexico, St. Vrain organized a group of volunteers who fought alongside the U.S. Army during the Taos revolt. Ammunitions and weapons were again used against the people from the privately held fort. The war ended with the Treaty of Guadalupe Hidalgo 1848 and is a legal and lawful treaty which is still used by land grant heirs and native pueblos to protect their rights today. After two of the Bent brothers' deaths, one in Taos during the revolt, William Bent and St. Vrain dissolved their partnership, and St. Vrain settled in Mora, New Mexico. He continued and owned a saw and flourmill and was a supplier to the U.S Army at Fort Union. The fort was used for the next forty years to conquer and displace Native American tribes to reservations, this is why no Native Americans have land on the eastside of the Sangre de Cristo mountains. In example the Jicarilla Apaches, who were removed from their homelands to the other side of the mountains on a reservation. This also led to underground movement of Las Gorras Blancas in resistance to the new government and the stealing of land through thievery and chicanery of the "Santa Fe Ring" during the patent process of recognized land grants.

One of Ceran's brothers, who was a US Indian agent was killed in 1832 by the Sauk tribe during the Black Hawk War. St Vrain acted as a translator in the military trial of numerous captives taken in Taos Revolt. Fifteen men were convicted of treason and sentenced to death. They were executed in April 1847. He also published one of Northern New Mexico first English language newspaper, the Santa Fe Gazette. This paper was used to inform heirs of land grant patent process to Spanish only speaking heirs.

Some of the settlers of the early 1800, here in the Mora Valley have heirs from French fur trappers but it seems that these fur trappers wanted just to trap and have a family. Some even changed their name from Joseph Michael Grine to Jose Miguel Grine and married Maria de Jesus Montoya, Taos Pueblo and moved to the Mora Valley. Ceran had historical disagreements on whether he was legally married to all his children mothers. He may have taken "country wives" among indigenous and Mexican women in New Mexico, this was typical of many new comers, even the soldiers from Fort Union. As the word had it "those women in Mora have a lot of land".

Finally, at his burial in Mora in1870 a large gathering, mostly military Army garrisons attend his funeral. He had large and sole contracts for the wheat to feed the soldiers to conquer native people and keep in check the New Mexicans.

Cultural Revitalization in the Mora Valley by Gilbert Quintana

If a picture is worth a thousand words then how many words are given to an article which is filled with pictures that truly do not reflect cultural revitalization in the many valleys that fill the County of Mora. The communities of Mora's have had long standing history of cultural traditions and keeping the native culture alive. These are not recent success in reviving cultural traditions and restoring historic buildings. For many of the churches, adobe homes, sacred sites that are here are not recent but reflect a long history of the People of the Valley. Mora surviving the onslaught of United States military attacks, colonization, genocide, thievery and chicanery of its lands and cultural heritage is a miracle in and of its self.

The success of Mora's success of keeping its language, food, art, music, spiritual traditions, architecture, acequias is not the recent but long-standing belief of people who love atole, chicos, tortillas just to mention a few parts of the food alone. If people who are recent new comers to the valley would just ask before they go on their saviors' trips about the people and their culture we could build a better Mora. We are not new to occupation of our lands in fact often we feel like trespasser on our own lands. The New Mexico success story here is how we have kept the culture alive with all these aspects that others think that they can now teach us how to "Revitalize".

These valleys are truly vibrant history not only of the people who have lived here for hundreds and hundreds of years. The people who have lived here some have been relocated to reservations, others through United States government actions are caught up in this world of confusion and have difficult understanding their roots. The fact of history is based on not mills which are recent history but on two major people the Jicarilla Apache and the Mexican settlers.

First look at our faces. Do our face look like the dominate culture, some do, but the old timers the people who have lived here for hundreds and hundreds of years do not, they are the cosmic race people, the mixed bloods mestizos, the "genizaros". The original people were are our ancestors the Jicarilla Apaches who had a lot of liken to the eight northern pueblos. Lot of us on the maternal side have great or great great grandmothers from these pueblos. Well the Mexicans keep that tradition going, they loved those beautiful women from the pueblos also. How precious and beautiful our grandmothers.

The people of this valley historically lived side by side, died side by side and created a beautiful people of mixed bloods. We could get really involved with this vibrant history but that is book in its self. For the short and to cut to the chase lets just go back to 1835. No one likes to mention this date as it pre-dates these concepts "Mora Arts and Cultural Compound" and all the mills, old courthouses, just to mention a few sites mentioned for the "Compound". The Mexican government in 1835 gave 76 heirs La Merced de Santa Getrudis de lo de Mora, also known as the Mora Land Grant. The "Compound" sites on the site of this compound. The original land grant also includes many other sites such as Fort Union, 826,000 acres is a lot of land. Oh, have you ever checked you warranty deeds when you purchase land, most of them will have Mora Land Grant as first in title.

Many of the elders in the community were born here, the numbers are dwindling as the people get older. The elders were born in adobe homes that are older than any mill, courthouse built in these

valleys of Mora. This community-based process as some people make it to believe is not a community-based process but a process of the dominate culture once again circumventing the process of this is how the people, think, act and believe. Cultural dominance, white privileging, and the other historic tools used by the dominate culture are at work. Who is community based? If you have some “Hispanics” (His Panic”) are they the New Mexico Volunteers type of Fort Union days or are they the Manuel Cortez, Battle of Mora type, on the community-based development plan.

Around this area many think of the plan, a hundred- and fifty-page document of trying to revitalizing the culture as not a cultural revitalization but commercialized promoting the commerce not the people. The majority of the people here, do not use or have access to the many moving ahead www contacts. Supporting local people in their development projects aimed at becoming self-sustaining is good. How you go about it can be devastating if not handled properly. Moving ahead is important but let’s be realistic. For a younger population of native people most will know of the concept of world wide web (www) but how many people know of these sites, especially the senior population will be familiar with this form of change. So here is the concept of a picture is worth a thousand words. You see who is in the article and you are going to reinforce the scares of history, you will not unite the community culturally or otherwise but continue the divide. This style of organization is not healing but dividing the community even more. Handled right with all players involved you can heal the wounds of the past. You cannot use the excuse that we invited the community in the development of a “Cultural Plan” and they did not participate. Good community organizer goes into the community and search and find who are the movers and shakers and bring them to the table. You do not act in a vacuum and say and promote Cultural Revitalization without making strong effort to bring people to the table.

Gilbert Quintana, University of Colorado, University of Denver graduate, is of Jicarilla Apache and Mexican decent with mixed blood. He is a community organizer specializing in in Cultural Retention and Development, acequias and land grant leader, drug addiction program development, and organic farmer. Has been appointed by Former Governor Bruce King to professional board, and elected to State Board of Land Grants.

VIGIL, XAVIER I.

From: Mara Raden <mararaden@yahoo.com>
Sent: Tuesday, June 23, 2020 4:34 PM
To: Petitions from the Floor
Subject: Petition to remove obelisks

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

My name is Mara Raden, this is my email- mararaden@yahoo.com, my phone number is 805-286-0404. I don't believe any Santa Fean should be uncomfortable in their own city. As the obelisks and statues portray men who decimated Native Americans' ancestors, families, and way of life with violence and intolerance, I don't see why we need them. History can be taught with fair perspective without celebrating and commemorating the victors. Might rarely means right. Thank you.

Sent from my iPhone

VIGIL, XAVIER I.

From: Orlando Watson <orlandojjw@yahoo.com>
Sent: Monday, June 22, 2020 10:50 AM
To: Petitions from the Floor
Subject: mayor and council unilaterlly taking action for the will of the few over the will of the city constituents

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

I would like to view my extreme disappointment in our elected officials in the name of deterring vandalism or violence... Taking statues and our culture in dead of night or without discussion, You have done just the opposite... You have created a culture of division in the opposite as your so-called measures... Hate runs deeper and vandalism has run rampant... Anger is at an all-time high...

1. Return the culture
2. Apologize to the majority of constituents 3. Never act without a public hearing 4. Act as a representative of the majority not as a patsy for the few whiners and entitled
5 if you cannot represent the city of who we are and not what you wish to be... (personal views)RESIGN!!!

From: Stefanie Beninato
To: Public Comment
Subject: comment on street closure
Date: Wednesday, June 24, 2020 1:05:07 PM

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Comments Re Closure of Streets

I am distressed that once again an important action is being taken without a public hearing. I am not opposed to making the downtown more of a walking town but the city needs to address the issues of loss of parking and interference with safe access for those with mobility issues. The "sale" of public sidewalks and streets far below market value is IMHO a violation of the anti donation clause.

Is the city going to allow merchants to put their goods out on the sidewalk or street further impeding those who need walkers and wheelchairs? Is it going to look like a schlotky fleamarket? Who decides which restaurant/retailer gets valuable sidewalk/street space? With the increased number of tables and maskless vistiors sitting at those tables during this pandemic, I do not see how it improves pedestrian experiences. Right now the Inn of the Anasazi has outdoor dining. It has expanded to the street in front of the hotel blocked off by concrete barriers. As a pedestrian I have to walk between the two food areas and the servers going back and forth to use that PUBLIC sidewalk. In addition, the Inn of the Anasazi had valet parking where the street restaurant part is now. The valet parking was moved southward so that part of it now overlaps with the parking in front of the Burrito Company. There is not enough room in the downtown to give all the merchants in these mini-malls etc space on public streets and sidewalks and still maintain the distance required during the pandemic. Although it may increase tourists' experiences to have more "eating experiences" outside, I think it will make locals who are not in the top half of income earners feel more excluded. IMHO it will make the plaza like an outdoor mall/carnival rather than the living heart and cultural center of historic Santa Fe.

Thank you

Stefanie Beninato
PO Box 1601
Santa Fe NM 87504

-----Original Message-----
From: MIHELCIC, KRISTINE M. <kmmihelcic@santafenm.gov>
Sent: Wednesday, June 24, 2020 11:34 PM
To: VIGIL, YOLANDA Y. <yyvigil@santafenm.gov>
Subject: FW: Statement

Last one

Kristine Mihelcic (Mi-hel-sick)
Constituent and Council Services Director

-----Original Message-----
From: Aaron Garcia <aaronmmgarcia1972@gmail.com>
Sent: Wednesday, June 24, 2020 9:57 PM
To: MIHELCIC, KRISTINE M. <kmmihelcic@santafenm.gov>
Subject: Statement

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Aaron Garcia, President
Santa Fe Fiesta Council Inc.

There is a cloud thats casted over the city of Santa Fe. Racism is wrong but it is alive today, as it was in the past. Today we we (Hispanos/Santafecinos/Mestizo) are now faced with Ethnic Racism and are also facing attacks on our beliefs and relegion. I asked of you councilors where did things go wrong? Perhaps support those groups who bring destruction to our community; Not allowing our community to have a voice; Removal of statue De Vargas. Recent events have sadly created division, anger and hate. Our celebration are not rage, hate or disrespect of others - it's peaceful and inclusive to all people and cultures. Not one culture is more important than another's. Just like we cannot change the failings of our ancestors. Their mistakes are not the fault of anyone living today. Our history cannot be erased or overlooked, but we need to be willing to listen to eachother and build relationships between communities. The words we speak must match our actions. I asked you councilors to promote the preservation of our customs and heritage. Our people need to be heard. You as a governing body should not crush one group to appease another, this is unfair. All cultures within our communities matter. We have had peace with all and now the division. Peace is the answer. I encourage each of you to educate and learn all of New Mexico History. DeVargas came to our community layed down his sword and welcomed for us to coexist...

Sent from my iPhone

From: Amy Tischler <amytischler@comcast.net>
Sent: Wednesday, June 24, 2020 9:30:36 PM
To: Mayors Office <mayor@santafenm.gov>
Cc: VILLARREAL, RENEE D. <rdvillarreal@santafenm.gov>; LINDELL, SIGNE I. <silindell@santafenm.gov>; GARCIA, MICHAEL J. <mjgarcia@santafenm.gov>; ROMERO-WIRTH , CAROL <cromero-wirth@santafenm.gov>; RIVERA, CHRISTOPHER M. <cmrivera@santafenm.gov>; ABEYTA, ROMAN R. <rrabeyta@santafenm.gov>; CASSUTT-SANCHEZ, JAMIE A. <jcsanchez@santafenm.gov>; COPPLER, JOANNE V. <jvcoppler@santafenm.gov>
Subject: My full statement made to the floor on 6/24/20

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Thank you Mayor Webber and City Council Members. I appreciate the opportunity for discourse. My name is Amy Tischler and I am a business owner and mother of three with my entire life invested in this community and would like to voice my support for removal of monuments in our city, very specifically the Obelisk in the Plaza.

I would like to humanize this issue for a moment and talk about the people directly affected by these monuments and the words carved into them. It really hit home for me when an indigenous friend of mine said she didn't feel that she could take her children to the plaza without feeling assaulted. I have spent decades waking past this monument without really thinking about how deeply those words might affect someone's psyche because it was it was "historical". But that perspective brought it into focus for me that the history represented in these monuments is a gigantic reminder to the indigenous people that they were considered "savages" to be defeated on their own land. And not only that, but to this day that sentiment is celebrated with a monument! How can we invite community to gather together to celebrate, eat pancakes, listen to music, and parade our pets while at the same time subject the indigenous community to that constant racist reminder?

There is absolutely a positive path forward. One that celebrates what our respective cultures have created for the betterment of our community as a whole. I have personally worked with many of the cultural institutions in Santa Fe and know that there is the artistic will, talent, desire, and thoughtfulness to create something truly inclusive and beautiful. We have an opportunity at this moment to heal and inspire and I urge this council to embrace change that will bring us together in our Plaza and city and not push us further apart. I want a city center where ALL our children feel safe and part of the fabric of this place.

Amy Tischler
505-231-1122

-----Original Message-----
From: LAPAN HILL, JAREL <jlapanhill@santafenm.gov>
Sent: Wednesday, June 24, 2020 10:50 PM
To: VIGIL, YOLANDA Y. <yyvigil@santafenm.gov>
Subject: FW: Mask Ordinance passage 6/11/2020

-----Original Message-----
From: Dani Katz <katzdanikatz@gmail.com>
Sent: Wednesday, June 24, 2020 9:48 PM
To: Mayors Office <mayor@santafenm.gov>; COPPLER, JOANNE V. <jvcoppler@santafenm.gov>; CASSUTT-SANCHEZ, JAMIE A. <jcsanchez@santafenm.gov>; ABEYTA, ROMAN R. <rrabeyta@santafenm.gov>; RIVERA, CHRISTOPHER M. <cmrivera@santafenm.gov>; ROMERO-WIRTH , CAROL <cromero-wirth@santafenm.gov>; GARCIA, MICHAEL J. <mjgarcia@santafenm.gov>; LINDELL, SIGNE I. <silindell@santafenm.gov>; VILLARREAL, RENEE D. <rdvillarreal@santafenm.gov>
Subject: Re: Mask Ordinance passage 6/11/2020

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Greetings, Council(wo)man Romero-Wirth, esteemed City Council members and Mayor Webber,

Upon receiving this thread from Mr. Harkey, I feel compelled to set the record straight about the legitimacy of anything the Washington Post reports. I am very disturbed by the notion that this is the media source you are relying on to track Coronavirus numbers, and is thus informing your decision to pass unconstitutional ordinances that override your constituents' civil liberties.

As a journalist who has written for CNN, Los Angeles Times, Vice, LA Weekly and Santa Fe Reporter, I understand why you would think the Washington Post is a trustworthy paper. It used to be. Alas, journalism has drastically changed over the past several years, especially so since Amazon CEO, Jeff Bezos, bought the paper.

Forbes magazine listed the Washington Post as #3 on their fake news list. The paper is known for its gross Left-leaning bias, and consistent factual errors. It is currently facing a number of defamation suits.

As Mayor Webber knows well, the cardinal rule of journalism, and drilling down to the truth of what's going on, is FOLLOW THE MONEY. To this end, we must keep in mind Jeff Bezos' various investments and avenues of profit, which the Washington Post's news is being skewed to serve. Bezos has partnered with Bill Gates on a number of projects, and - like Gates - is slated to make billions of dollars in profits off of the testing kits and vaccines he is developing/pushing, and that this virus has been set-up to mandate.

Coronavirus numbers are being faked in a number of ways - many of which I elucidated for you in my last correspondence. The CDC is rewarding hospitals with $19k bonuses for every Covid-19 diagnosis, which is sending the numbers through the roof. They are also being paid $39k for every person they put on a ventilator, which is why hospitalizations are also skyrocketing.

Let's take a look a the Texas numbers. Out of a total statewide population of 29,677,668, there are now a total of 125,921 reported cases, and five deaths. That makes the fatality rate .00000794%. Hardly a percentage that justifies a forced mask ordinance, let alone the other measures you are enforcing under the auspices of public health.

Moving forward, I urge you to refer to objectively reported numbers, instead of the fake ones coming out of the corporate media. I have sent you several links and sources for legitimate numbers, and I encourage you to familiarize with them so that you can catch yourself up to speed as to the reality of this situation, and do away with this unconstitutional mask ordinance, now.

Respectfully,

Dani Katz

> On Jun 24, 2020, at 6:01 PM, Brooks Harkey <brooks.harkey@gmail.com> wrote:
>
> Here is my letter and Carol's response, if it helps you any to see where her mind is. Good luck! I'll gonna watch!
>
>
>
> ---------- Forwarded message ----------
> From: ROMERO-WIRTH , CAROL <cromero-wirth@santafenm.gov>
> Date: Thursday, June 11, 2020
> Subject: Mask Ordinance passage 6/11/2020
> To: Brooks Harkey <brooks.harkey@gmail.com>
> Cc: Mayors Office <mayor@santafenm.gov>
>
>
>
https://gcc01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.washingtonpost.com%2Fhealth%2F2020%2F06%2F09%2Fcoronavirus-hospitalizations-rising%2F&data=02%7C01%7Cgfcardenas%40santafenm.gov%7Cc6375d7a10b249943edf08d8192aa31a%7C77b69f5a55ed436386164867b0bc707f%7C0%7C0%7C637287018201376512&sdata=KbOuJmR6ZyZSjDJhZT7%2Bs3Ewm4qZqvXk8ELf0y3yEoI%3D&reserved=0
>
> Stay Well,
> -Carol
>
> Carol Romero-Wirth
> City Councilor, District 2

> cromero-wirth@santafenm.gov
> (505)955-6815 Office
>
> Facebook & Twitter @romerowirth
>
> From: Brooks Harkey <brooks.harkey@gmail.com>
> Sent: Thursday, June 11, 2020 12:25:25 PM
> To: Mayors Office <mayor@santafenm.gov>; LINDELL, SIGNE I. <silindell@santafenm.gov>; VILLARREAL, RENEE D. <rdvillarreal@santafenm.gov>; GARCIA, MICHAEL J. <mjgarcia@santafenm.gov>; ROMERO-WIRTH , CAROL <cromero-wirth@santafenm.gov>; RIVERA, CHRISTOPHER M. <cmrivera@santafenm.gov>; ABEYTA, ROMAN R. <rrabeyta@santafenm.gov>; COPPLER, JOANNE V. <jvcoppler@santafenm.gov>; CASSUTT-SANCHEZ, JAMIE A. <jcsanchez@santafenm.gov>
> Cc: sfchamber@comcast.net <sfchamber@comcast.net>
> Subject: Mask Ordinance passage 6/11/2020
>
>
> CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.
>
>
> I listened with jaw-dropping interest late into the night last evening as you debated and passed the mask ordinance.
>
>
> I listened as citizen after citizen quoted you FACTS that masks are not effective, not required, citing government body after government body.
>
>
> I listened in astonishment as you threw all that out the window, quoted NO facts, governed solely on your feelings and what “they say”. It was clear to me that you’re only interested in placing POWER over people’s lives rather than listening to facts and common sense about enforcement, reality, etc.
>
>
> My wife and I go to Colorado every year and always make a side trip thru Santa Fe for a couple of days. Not this year. We’ve cancelled our reservations. We refuse to wear masks, PERIOD, as the science has shown they are not necessary. The citizens on the call last night made that perfectly clear to any THINKING person with any COMMON SENSE.
>
>
> We’ll spend our dollars in Texas and Colorado. Thanks for playing.
>
>
> --Brooks Harkey
>
> Dallas, TX
>
>
>

-----Original Message-----
From: LAPAN HILL, JAREL <jlapanhill@santafenm.gov>
Sent: Wednesday, June 24, 2020 9:42 PM
To: VIGIL, YOLANDA Y. <yyvigil@santafenm.gov>
Subject: FW: My statement about the unconstitutional mask ordinance which was cut unduly short at Wednesday night's public hearing

-----Original Message-----
From: Dani Katz <katzdanikatz@gmail.com>
Sent: Wednesday, June 24, 2020 9:41 PM
To: VILLARREAL, RENEE D. <rdvillarreal@santafenm.gov>; LINDELL, SIGNE I. <silindell@santafenm.gov>; GARCIA, MICHAEL J. <mjgarcia@santafenm.gov>; ROMERO-WIRTH , CAROL <cromero-wirth@santafenm.gov>; RIVERA, CHRISTOPHER M. <cmrivera@santafenm.gov>; ABEYTA, ROMAN R. <rrabeyta@santafenm.gov>; CASSUTT-SANCHEZ, JAMIE A. <jcsanchez@santafenm.gov>; COPPLER, JOANNE V. <jvcoppler@santafenm.gov>; Mayors Office <mayor@santafenm.gov>
Subject: My statement about the unconstitutional mask ordinance which was cut unduly short at Wednesday night's public hearing

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Dear Mayor, and City Council men and women:

This is the statement I prepared for Wednesday night's meeting, which was cut short in light of the intensity of the tasks on your evening's list:

"The lockdown the virus inspired, along with the media's 24/7 fear-mongering, has traumatized our community.

In addition to the very real economic devastation our community has endured, there is the matter of the emotional and psychological trauma that is only being exacerbated by this unlawful mask ordinance. We have been falsely led to believe that our fellow brothers and sisters are a threat to our very mortality, which already had us distancing and masking, and treating each other like pariahs, even before you decided to mandate the masks.

In addition to being unconstitutional and dangerous to our physiological health, this mask ordinance is destroying our social fabric. People who are not choosing to wear masks, either because of medical issues, or personal choice as self-responsible, sovereign beings, are being shamed, harassed, bullied, filmed, and ratted out to the cops.

This mask ordinance is destroying our quality of life, and fragmenting our already traumatized community. Healthy, young people who are being forced to wear masks are clearly miserable. Community morale has plummeted. Tensions are already extremely high because – 2020 - and this divisive and unconstitutional mask ordinance is only exacerbating them.

I know many Santa Fe residents who, like me, have no desire to go spend money in the community, because the experience of being out among morose, masked, disempowered people, shaming, fearing and barking at each other is incredibly disturbing. This is creating a creepy, divisive, aggressive environment, that is taking a real toll on the psycho-emotional wellbeing of our community, to say nothing of the very real health issues masks have been proven to cause.

I urge you to carefully read the letter I sent yesterday, and to educate yourselves as to the negligible threat this virus really, truly poses. This unlawful overreach is not worth the damage you are doing to this community's psycho-emotional wellbeing. This constitutional affront is not worth the trauma you are inflicting upon the children and the people of Santa Fe, who need to be coming together to heal - now – unmasked, and free. Thank you for rescinding this mandatory mask ordinance, immediately."

Thank you for considering. I was disappointed to hear Council-person Romero-Wirth double-down on her unconstitutional ordinance, citing false figures about the virus which has me extremely concerned about the council's competence to be making decisions about public health and wellbeing.

I will be forwarding you a thread about the grossly inaccurate Washington Post article Romero-Wirth cited in her correspondence with yet another citizen who is opposed to the ordinance. Thank you for keeping your eyes peeled for that one.

Respectfully,

Dani Katz

From: LAPAN HILL, JAREL <jlapanhill@santafenm.gov>
Sent: Wednesday, June 24, 2020 10:50 PM
To: VIGIL, YOLANDA Y. <yyvigil@santafenm.gov>
Subject: FW: Monument Removal

From: david quintana <dquin3407@yahoo.com>
Sent: Wednesday, June 24, 2020 10:35 PM
To: Mayors Office <mayor@santafenm.gov>; LINDELL, SIGNE I. <silindell@santafenm.gov>; rdvillarreal@santafenm.govm; GARCIA, MICHAEL J. <mjgarcia@santafenm.gov>; ROMERO-WIRTH , CAROL <cromero-wirth@santafenm.gov>; RIVERA, CHRISTOPHER M. <cmrivera@santafenm.gov>; ABEYTA, ROMAN R. <rrabeyta@santafenm.gov>; CASSUTT-SANCHEZ, JAMIE A. <jcsanchez@santafenm.gov>; COPPLER, JOANNE V. <jvcoppler@santafenm.gov>
Subject: Monument Removal

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Mr. Mayor, Councilors;

Listening to the comments tonight regarding the removal of historical statues has been very eye opening!!! Your rash decision to remove the Obelisk and statue of Don Diego has completely divided our City of Santa Fe. It is amazing that, for the most part, those that are for removal have certain sir names and those against have another. Why sir, did you make such a unilateral decision? Your HUBRIS is amazing; why wouldn't you at least have the decency to have this discussion and meeting prior to your decision. I'm incredulous that this can be done by someone who is a transplant. That's exactly what you are, a transplant. You divisive decision has opened up wounds that have been healed for many, many generations. For that; you deserve to be recalled and I will absolutely support that.

Open your eyes folks; human history the world over has blood and tears. Don't think that we are the only ones in the City, State, Country that has a history of violence and oppression; that is the history of man!

Councilor Villarreal; when will you change your name to placate your radical supporters???!!!

From: MIHELCIC, KRISTINE M. <kmmihelcic@santafenm.gov>
Sent: Wednesday, June 24, 2020 11:11 PM
To: VIGIL, YOLANDA Y. <yyvigil@santafenm.gov>
Subject: FW: Petitions from the Floor

Kristine Mihelcic (Mi-hel-sick)
Constituent and Council Services Director

From: David <dasl2001@hotmail.com>
Sent: Wednesday, June 24, 2020 9:48 PM
To: MIHELCIC, KRISTINE M. <kmmihelcic@santafenm.gov>; WEBBER, ALAN M. <amwebber@santafenm.gov>; VILLARREAL, RENEE D. <rdvillarreal@santafenm.gov>; GARCIA, MICHAEL J. <mjgarcia@santafenm.gov>; Sig Lindell <sigforthecity@gmail.com>; ROMERO-WIRTH , CAROL <cromero-wirth@santafenm.gov>; RIVERA, CHRISTOPHER M. <cmrivera@santafenm.gov>; ABEYTA, ROMAN R. <rrabeyta@santafenm.gov>; CASSUTT-SANCHEZ, JAMIE A. <jcsanchez@santafenm.gov>; COPPLER, JOANNE V. <jvcoppler@santafenm.gov>
Subject: Re: Petitions from the Floor

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Here's my written statement for the record:

The Santa Fe Indian Center supports the removal of any monument, statue or event that dehumanizes Native Americans or glorifies their death or killing them.
New Mexico Native tribes are an integral part of the history of the State of New Mexico
and must be included in community decisions and accurate representations of our history.

Thank you for the emergency proclamation to remove the Plaza obelisk, Kit Carson Monument on Federal Place, and Don Diego De Vargas Statue in Cathedral Park. I am a Diné (Navajo) and born and raised in Santa Fe. Knowing our indigenous grandmothers, grandfathers, aunts, uncles, and cousins who vend under the portal who recognize the historical context of 40

pueblo ancestors execution on the plaza, will not have to look at the monument which calls our ancestors "savages" brings me peace. Across the country we are reconciliating the history behind these false idols. Thank you for understanding how these monuments hurt our community. Lets work towards indigenous education center on SFUAD!

David Sloan
District 2 resident
Santa Fe Indian Center Board Member

Dear Mayor Webber, and the City of Santa Fe,

We call for the removal of all depictions of the settler / colonizer from our public spaces. We call for the removal of all monuments and statues that glorify the violence of conquest, perpetuate false narratives, and exert historical amnesia in the City of Santa Fe, the state of New Mexico, across the nation and around the globe. We stand in solidarity with communities across the world who have had their histories erased and falsely retold. It is time for these strategies- as a means of political control and systemic oppression- to cease to exist. We stand in solidarity with the Indigenous nations and communities of this land who have experienced invasion, colonization, theft, and genocide. The herein colonial structures, that sit on Tewa land and beyond, serve as painful reminders of those historical injustices and atrocities, and are viewed as symbols of hate and violence that need not be honored.

We must come to terms with our legacies of colonization, slavery and the extraction of the land. It is past time for our communities, and elected leaders, to be aggressively critical of monoliths and monuments of injustice that veil and hide our histories. It is time we recognize how harmful they are to our community. We must instead advocate for public art that celebrates the diversity of New Mexico, and shares an accurate history of this land and place no matter how traumatic or uncomfortable it might be, so that our children and their children no longer participate in the glorification and celebration of brutal and inhumane colonizers. As historian Estevan Rael Galvez has suggested, "We must work harder to recover our sense of identity, and we can begin recognizing true icons of identity, like the mayordomos (protectors of water), curanderas (protectors of health) and farmers (stewards of land), all of which reflect more deeply and meaningfully the essence of a community." New Mexican history has many heroes, people who spent their lives uplifting their communities and harming no one, people who deserve reverence and remembrance. It is time we prioritize these stories in our public art.

Our history books are full of lies and erasure, and must no longer be read or taught in our schools and the monuments of these vicious so-called heroes who used religion, nationalism and false dogmatic supremacy to justify total destruction must go. These statues, meant to stand still in bronze for eternity, must be taken down, as these men, be them Peralta, Oñate or Robert E. Lee, deserve to be remembered for who they were: criminals, thieves, rapists and murderers. They are to be melted and returned to their elementary form, bronze, copper and silver- elements from the earth that were also stolen from this land. This is not an act of erasure. This is a step toward making space for a kinder and more diverse set of stories to be told in our public spaces.

Following the shooting of an unarmed peaceful protestor at the Albuquerque Museum's Oñate sculpture, the City of Santa Fe must act immediately. It is now in the interest of public safety that these monuments are removed. We have come to a critical moment where the ancestors of the victims of these atrocities are being traumatized again for peacefully seeking truth and social justice. Do not be complicit in that trauma.

To begin this long overdue and positive change this community and its governance must act today to remove harmful monuments and other symbols of colonization and European supremacy- such as the Obelisk on the Plaza; the Kit Carson monument at the Federal Courthouse; the Founding of Santa Fe monument, which falsely tells the story of Pedro Peralta and the Santa Fe Pioneer Monument at Cathedral Park.

We must as a community, and a civic system, urgently revise the history books and the curriculums used in our schools to teach our children. You must protect the people you swore to serve in Santa Fe, White Shell Water Place, O'gha Po'oge by acknowledging the past, and creating a future where we do not celebrate or glorify the violence of conquest.

May we remember and celebrate the real patriots of 1680, like Po'pay, and the defenders of life and land of the past and present. May we strive to be better for the sake of justice for all until we achieve reparations for all victims and descendants of systems of colonial oppression and genocide. May we make space for kindness and new stories to be celebrated in our communities.

In Solidarity,

Drew Cassidy Lenihan	Amenity Applewhite
Brandee Caoba	Annaleeza Motyl
Terran Last Gun	Ellie Duke
Angie Rizzo	Adam Fulton Johnson
Samantha Platero	Kimmy Rohrs
Mario Cervantes	Charlotte Klein
Poppy Wilder	Bel Sigado
Alex De Vore	Amelia Bauer
Red Cell	Sean Sunderland
Angelo Harmsworth	Kevin Bond
Zoila Cleaver	Daisy Geoffrey
Sadaf Cameron	Jenn Shapland
Filipina E. Paras	Rachel Donner
Greg Stimac	Robert Migliori
Eric-Paul Riege	Nathan Hollis
Kaya Sorkin Learnard	Jieun Reiner
Emily Margarit Mason	Alison Nitkiewicz
Brad Trone	Porter McLeod
Jacob Park	Sebastain Klee
Luke Absolon	Justin Rhody
Dillon Sachs	Abigail Smith
Jason Crawford	Nicholas Pace

Spencer Byrne-Seres	Maredith Davis
Maxwell Holmes	Jacob Brenner
Samantha Tracy	Dakota Yazzie
Jorge Alejandro Rodriguez Solorzano	Geet Jacobs
Kevin Doria	Rica Maestas
Peach O'Brien	Nancy Sutor
Shane Austin Tolbert	Brandon Soder
Emily Markwiese	Rachel Yanda
Jesse Malmed	Sage Sommer
Devon Hawkes Ludlow	Justin Fiset
Luke Henley	Natasha Balwit
Marcia Lenihan	Justin Cheung
Michael J. Wilson	Sebastiaan Stokhof de Jong
Moira Garcia	Madison McClintock
Sam Ashman	Saskia Ison
Lauren Michelle Rawlings	Joe Ison
Anika Murray	Rembrandt Stokhof de Jong
Mary Francis Cheeseman	Jules Stokhof de Jong
Sarah Bradley	Devon Stokhof de Jong
Andres Machin	Sabrina Griffith
Varina Ann Kosovich	Damon Griffith
David Lee del Norte	Raquel Goldman
RJ Ward	Diana Emilia Padilla Ríos
Eleanor Bauer	Mike Young
Joanne Lefrak	Israel Haros
Mara Padilla	Ryan Jameson
Delaney Hoffman	Zac Brenner
Amanda Gould	Lindsey Kennedy
Patrick Boyles	Anastasio Wrobel
Elisa Boyles	Margaret Medrano
Chelsea Weathers	Maxwell Hogan
Sarah Ashkin	Eliza Lutz
Meridel Rubenstein	Serafina Gluck
Ryan Miller	Daniel McCoy jr.
Nina Elder	M Wingren
David Scheinbaum	Sofia Howard
Alexandra Salazar	Marie Claire Bryant
Kyle Gray	Carrie Tafoya
N.S. De Vore	Naomi Gibbons
Patrick Barrow	Sadel Perez
Theo Krantz	

From: MIHELCIC, KRISTINE M. <kmmihelcic@santafenm.gov>
Sent: Wednesday, June 24, 2020 11:39 PM
To: VIGIL, YOLANDA Y. <yyvigil@santafenm.gov>
Subject: FW: City Council

Sorry, so many emails. This one too

Kristine Mihelcic (Mi-hel-sick)
Constituent and Council Services Director

From: Emily Stern <emilyfstern@gmail.com>
Sent: Wednesday, June 24, 2020 9:10 PM
To: MIHELCIC, KRISTINE M. <kmmihelcic@santafenm.gov>
Subject: Fwd: City Council

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Kristine,

I assume that what I prepared to say will be longer than a minute. I wondered if you could please share what's below with city council members after the fact or during?

Thanks so much,

Emilie

---------- Forwarded message ---------
From: **Emily Stern** <emilyfstern@gmail.com>
Date: Wed, Jun 24, 2020 at 7:00 PM
Subject: City Council
To: Emily Stern <emilyfstern@gmail.com>

As part of my positive pandemic thinking, I would like to say in advance that I am grateful for and to each of you for both continuing to include us and for leading us into and through this unprecedented opportunity toward truth and reconciliation.

Maya Angelou has said that "Prejudice is a burden that confuses the past, threatens the future, and renders the present inaccessible."

I'm fortunate enough to be a teacher in Santa Fe. As a professional, I feel a personal responsibility to participate in movements that support students and young people, the future.

At the Santa Fe community college and IAIA, over the last 10 years, I've taught/teach English comp, humanities, and creative writing. I've had the opportunity to read students'

feelings, thoughts, and words about what it's like to be in the presence of an object that is uplifting the very idea or person that tried to kill them and their communities.

As an educator, parent, woman, queer human, and mother to a quarenteenager, I invite you to join me in trying to be a really good person and member in my community. I invite you to not uphold and uplift white supremacy when I am aware how very blessed I am to be here tonight on this Tewa land.

My problem with these statues is that they hinder the tender experience and process of learning.
Learning, in both my opinion and research would suggest, occurs when one is not being actively traumatized.
The DSM-V clearly links racism to PTSD.

How many meetings should taxpayers pay for teachers to brainstorm on how to encourage and retain students in schools if we're not going to address what is actively traumatizing people right here within communities?

How is Santa Fe going to build economic prowess with and among young people and young families if community members don't trust the very city leaders and institutions attempting to provide the skills to do that?

Please do not give my students messages that they and their lineage is and their existence is not valuable. That is awful and it is not true and it is your responsibility to say that and do that.

As leaders, I trust you understand that emperor's new clothes and elephants in rooms are not working anywhere, anymore.
You are the leaders.

These statues exist to revere false and incomplete narratives and histories.

These messages become systemic mechanisms of oppression — actions, behaviors, and policies that impacts all areas of a person and community's access and safety.

These messages show up as businesses the city decides to fund.

The location and direction of the affordable housing the city builds.

Transportation access.

The absence of city materials in English and in Spanish, since we are legally a dual-language state.

Cost of living.

Environmental racism.

The now-seeming assumption, notion, and fallacy that there is one community “on the Southside” that needs white-savior flavored saving, as opposed to the reality that its myriad communities that have been forcibly splintered, sprawled and are bearing the brunt and inequities of unfacilitated and non-collaborated gentrification.

The deaths of thousands and over time millions of people, quite simply because we choose to participate in white supremacists constructs that promote and propel violence and plain-old cruelty.

The problem with these statues is the exaltation and the reverence of one history above all others.

Cornel West has said that “Justice is what love looks like on the outside"
I want to be on the side of history remembered as the most loving. I to seeing each of you there.

--
Emily Stern, M.F.A.
she/her

Assistant Professor of English
Director of the Katie Besser Awards
School of Liberal Arts
Santa Fe Community College
6401 Richards Ave.
Santa Fe, NM 87508
Office: (505) 428.1467 / Cell: (505) 699-8766
www.emilystern.com/Intersectional Consulting

From: LAPAN HILL, JAREL <jlapanhill@santafenm.gov>
Sent: Wednesday, June 24, 2020 10:50 PM
To: VIGIL, YOLANDA Y. <yyvigil@santafenm.gov>
Subject: FW: Letter

From: evangeline angel <evantangel@yahoo.com>
Sent: Wednesday, June 24, 2020 10:13 PM
To: Mayors Office <mayor@santafenm.gov>
Cc: RIVERA, CHRISTOPHER M. <cmrivera@santafenm.gov>; ABEYTA, ROMAN R. <rrabeyta@santafenm.gov>
Subject: Letter

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Mayor Webber, Councilor Abeyta, and Councilor Rivera,

As a lifelong resident of Santa Fe with multiple generations of ancestors who resided for the past five centuries in Santa Fe and Northern New Mexico, and as a descendant of my ancestor who was granted the Juan de Gabaldon Land Grant by the Royalty of Spain located at the headwaters of the Santa Fe River (the lifeblood of Santa Fe), I am sending you this email to direct your attention to the subject matter and to request that you consider all aspects of the settlement of the New World, that began with the Spanish Settlers in the 16th Century and ended with the American Settlers in the 19th Century, before making anymore decisions.

While growing up in Santa Fe I always participated in the many cultural events that were held around the city, and did so with friends and families of different cultural backgrounds and races. I always enjoyed those times and will cherish those memories forever.

As I grew older and started to raise my family in my hometown, I learned more about New Mexico's history during the colonization period of this part of the world by Spain, France and, eventually, the United States of America. In reading the stories during the past few years about New Mexico's history and the settlement of this part of the world, I have learned about the reality of the conflicts between Spanish Settlers and Native Americans; between Spanish Settlers themselves; and the conflicts that both Spanish Settlers and Native Americans had with the Anglo Settlers who moved west from the original colonies of the United States of America. This made me realize that America's history was not always as simple as what we were taught in our early years of life in elementary and high school. In fact, I have come to realize that ALL OF AMERICA's history has, to quote you Mr. Mayor, "a dark and bloody past", not just Santa Fe and Northern New Mexico.

After learning more about my culture abs the history of New Mexico AAC's Santa Fe, I have realized that the most incredible part of Santa Fe is that despite all of the conflicts that happened centuries before my time, all of the races that I grew up with; Hispanic, Native American, Anglo and, yes even African American, all got along with each other in my wonderful hometown of Santa Fe. We didn't disrespect each other; we didn't look into our ancestors' past behaviors and hold them against each other; we didn't want to tear apart our community by holding grudges for things done by each of our ancestors so far back in our past. No, instead we learned to co-exist with each other; to become friends; and even get married to each other and raise families here to continue the great heritage that makes Santa Fe the "THE CITY DIFFERENT".

It is because of my experiences described above and in order to stop the tearing apart of our great city that has started as a result of past hasty reactions, that I ask you to please take a step back, and some deep breaths, before making any further decisions to remove historical markers, dedicated artwork, and/or street name signs of any ethnic groups of America citizens. If you make a decision to start removing/renaming street names of historic Spanish references, you will need to take similar actions regarding Anglo (Grant Avenue, Catron Street, etc.) and Native American (Taos Street, Navajo Drive, Apache Avenue, etc.) references as well. The only result of these actions will be the further destruction of an incredible multi-cultural community that has existed in Santa Fe for many generations, that future generations, which include my children, grandchildren and beyond, will not be able to experience for themselves.

I understand that you all are very busy with the challenging and extremely difficult items that have been thrust your way, but I am hopeful that you will consider this email and provide me with a response before any other actions are taken on this matter.

Sincerely,
Evangeline (Gabaldon) Angel

From: John Block <john@pinonpost.com>
Sent: Wednesday, June 24, 2020 7:49 PM
To: Mayors Office <mayor@santafenm.gov>; VILLARREAL, RENEE D. <rdvillarreal@santafenm.gov>; LINDELL, SIGNE I. <silindell@santafenm.gov>; GARCIA, MICHAEL J. <mjgarcia@santafenm.gov>; ROMERO-WIRTH , CAROL <cromero-wirth@santafenm.gov>; RIVERA, CHRISTOPHER M. <cmrivera@santafenm.gov>; ABEYTA, ROMAN R. <rrabeyta@santafenm.gov>; CASSUTT-SANCHEZ, JAMIE A. <jcsanchez@santafenm.gov>; COPPLER, JOANNE V. <jvcoppler@santafenm.gov>
Subject: Testinomy in front of Santa Fe City Council 4/24/2020

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Mayor Webber and City Councilors,

Please see my testimony in front of tonight's City Council meeting regarding the taking down of the Spanish and historical monuments across the City:

Mayor Webber and Members of the City Council,

My name is John Block and I am testifying in front of you today in regard to the recent actions taken by the city to remove historic Spanish landmarks across Santa Fe. I was born and raised in Santa Fe, and these statues, especially that of Don Diego De Vargas, mean much more to me and many across the City than simply a statue.

These statues, which symbolize our shared history, are a reminder to us of the struggles Santa Feans have been through in the past and how together we have overcome our challenges. Through our grassroots efforts, we have been able to stand against anti-Hispanic bigotry and gather over 2,000 signatures against the removal of such monuments.

After our petition launched last Thursday, we garnered over 1,500 signatures in just one day.

There is no reason that I can see why we cannot preserve both Spanish and Indigenous artwork around the city, and in doing so we would not need the “truth and reconciliation commission.” Especially with the City of Santa Fe’s recent $100 million budget shortfall, as reported by the Santa Fe New Mexican, I do not believe such a commission is economically feasible or the most imminent issue the city must expend its valuable resources on, at least at this time.

If we begin to tear down our shared history now, then when will it end? Especially with the recent hateful and lawless demonstrations, such as at India Palace and the assault on the obelisk in the heart of the Santa Fe Plaza, this violence must be stopped. As a civilized people, we should be able to respect others’ cultures, even if we disagree with them -- showing tolerance and respect.

I appreciate being given the opportunity to address this body this evening, and I hope to be a resource if you have any questions.

Thank you
John Block

Kathy Rivera P.O. Box 363 Santa Fe, NM, 87501

Mayor & Members of City Council:

I am a native of downtown Santa Fe as were my ancestors before me. I am also a world traveler that has seen Germany and a concentration camp and have marveled at how Jerusalem survives as a city at the heart of three major religions.

I am opposed to removing any of our cultural items based on the request of one small group: 3SC

- A group who does not respect previous government decisions
- A group who does not have the patience for proper due process
- A group whose leader, Elena Ortiz, will never be satisfied.
  For example: Councilor Villarreal will remember that when two statues planned to honor the two Tesuque runners instrumental in the Pueblo Revolt of 1680, Elena Ortiz & Three Sisters Collective (3SC) did not like where they were to be placed even though their location was requested/approved by the Tesuque Pueblo. Elena Ortiz & 3SC say that the pueblo governments do not speak for them

This is a person who says:

- "*There is only one version of history*" and calls anyone who thinks otherwise 'uneducated'.
- The City of Santa Fe must "*heed their demand*"
- "*This is the Pueblo Revolt of 2020 !* "

They will never be satisfied.
Their demands will never be met.
No apology will ever be enough.

Santa Fe has long been a leader in living in harmony among three cultures. We cannot simply now replace one culture at the expense of another.

If you want to show that Santa Fe can be better than the rest of the country, show that no **one** or no **single** group gets to dictate/demand the display of cultural treasures.

Show that you will di it a 'City Different' way: **show that you will put a vote to the people !**

I challenge you to let the people of Santa Fe vote/decide what is best for this city.
I challenge you as a governing body to direct your energies to be creative in allowing the people of this city to vote and have a say in this most important issue.

Thank you.

From: MIHELCIC, KRISTINE M. <kmmihelcic@santafenm.gov>
Sent: Wednesday, June 24, 2020 10:44 PM
To: VIGIL, YOLANDA Y. <yyvigil@santafenm.gov>
Subject: FW: Speech for Santa Fe City Council Meeting

FYI

Kristine Mihelcic (Mi-hel-sick)
Constituent and Council Services Director

From: Krystle Lucero <klucero84@gmail.com>
Sent: Wednesday, June 24, 2020 10:31 PM
To: Mayors Office <mayor@santafenm.gov>; LINDELL, SIGNE I. <silindell@santafenm.gov>; RIVERA, CHRISTOPHER M. <cmrivera@santafenm.gov>; CASSUTT-SANCHEZ, JAMIE A. <jcsanchez@santafenm.gov>; COPPLER, JOANNE V. <jvcoppler@santafenm.gov>; GARCIA, MICHAEL J. <mjgarcia@santafenm.gov>; VILLARREAL, RENEE D. <rdvillarreal@santafenm.gov>; ABEYTA, ROMAN R. <rrabeyta@santafenm.gov>; MIHELCIC, KRISTINE M. <kmmihelcic@santafenm.gov>; FREITAS, MARY M. <mmfreitas@santafenm.gov>
Subject: Speech for Santa Fe City Council Meeting

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Good evening Mayor Weber and Santa Fe city councilors.

I'm Krystle Lucero, a proud SantaFecina.

Santa Fe is often described as: beautiful, unique, diverse, united, and peaceful. People from around the world flock here to experience what we have.

Regretfully, this is no longer true. It is now synonymous with vandalism, division, hate and crime.

Santa Fe is not perfect … but for hundreds of years our ancestors have worked collectively to create a city of love, faith, acceptance, familia.

As one of the most historic cities in North America, it is considered the oldest capital city … we are the home to the most historic and oldest Marian statue in the United States … we produce the oldest community commemoration of a European kind in the United States. The list of our accomplishments is endless. We have a melting pot of beautiful cultures and people who have lived side-by-side with one another for many years.

Our Spanish market and Indian market display the art that comes from the people of New Mexico. Our food … well it speaks for itself.

Our history that has led to our Community is a rough road, but we have managed to come together and live side by side with one another.

Sadly, recent proclamations and covert destruction of public property has occurred at the hand of our government … a government that should have openly hosted a discussion, sought input from SantaFecinos … your voters.

Instead, voters and taxpayers were silenced, the city council was muzzled too in these one-sided decisions.

Decisions like this feel like back alley deals negotiated by a ***patron***… Santa Fe is frequently viewed as progressive … why then has this regressive behavior been okay with this governing body that remains so silent. You have been elected to represent us… what is going on?

NOW, there is a sudden call for reconciliation, discussion, working out a plan … this after our city was vandalized, and yet, there is no suspect.

Your lack of leadership has caused anxiety, frustration, and distress among your community members. Shame on you… your job is to lead, not create chaos. You represent us all, not just a select few. Your role is to be open minded. If we wanted autocratic leadership, we'd all live in a communist country.

I encourage you all to read and learn everything you can about New Mexico's history … the good, the bad, the ugly.

Remember, history led to the melting pot that so many admire. Please do not rely on 3rd party verbal information only.

Random decisions without any discussion or inclusion provide no transparency for anyone involved. This kind of behavior leads to mistrust.

Your lack of leadership and action has signaled to some that they can do whatever they desire.

In recent history, Santa Fe has never experienced vandalism, hate and destruction like we have experienced in the past few weeks.

It is disheartening to read comments online where people who have been neighbors for hundreds of years are now pitted against each other, threatening violence, threatening to burn the church, or bring harm to our blessed mother, Nuestra Senora de la Paz.

This ominous cloud looming over Santa Fe is your doing and is reflective of your lack of leadership … you should be ashamed.

Please think of all your constituents prior to making brash decisions based on one point of view.

This city is strong. Prove to us you are worthy leaders.

Thank you all for your time.

Respectfully submitted,
Krystle Lucero

Thank you Mayor and Councilors. My name is Marisa Frantz. I am here to strongly support Mayor Weber's emergency proclamation removing the monuments and to thank him for acknowledging the historical context of this moment. We cannot continue to support these symbols of oppression and hate. I also want to urge the councilors to also acknowledge the broader movement that is happening across our city, state and country right now. Statue removal is of course important, but as Councilor Villareal stated, we must continue this critical conversation and perform a full reconciliation of the continuing economic violence and structural oppression of the Indigenous peoples of New Mexico. I would also caution Councilor Vigil Coppler against focusing on the treatment of monuments rather than the treatment of human beings. I do agree with her though that the "timing of the removal of the monuments" was off. These monuments should have been removed a long long time ago. Thank you.

From: FREITAS, MARY M. <mmfreitas@santafenm.gov>
Sent: Thursday, June 25, 2020 1:24 PM
To: VIGIL, YOLANDA Y. <yyvigil@santafenm.gov>
Subject: FW: Comments from the floor June 25, 2020

Mary McCormick Freitas
Executive Assistant
Office of Mayor Alan Webber
City of Santa Fe, NM
505-955-6702

From: Melissa Mascarenas <missymas@msn.com>
Sent: Thursday, June 25, 2020 1:19 PM
To: Mayors Office <mayor@santafenm.gov>; VILLARREAL, RENEE D. <rdvillarreal@santafenm.gov>; slindell@santafenm.gov; GARCIA, MICHAEL J. <mjgarcia@santafenm.gov>; ROMERO-WIRTH , CAROL <cromero-wirth@santafenm.gov>; RIVERA, CHRISTOPHER M. <cmrivera@santafenm.gov>; ABEYTA, ROMAN R. <rrabeyta@santafenm.gov>; CASSUTT-SANCHEZ, JAMIE A. <jcsanchez@santafenm.gov>; COPPLER, JOANNE V. <jvcoppler@santafenm.gov>
Subject: Comments from the floor June 25, 2020

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Thank you for the opportunity to address the Mayor and the Santa Fe City Council.

My name is Melissa Mascarenas and I am the Immediate Past President of the Santa Fe Fiesta Council.

I have received numerous phone calls from the community saying that the Mayor and some City Councilor's that the Fiesta Council and Cabellos had agreed to remove the Historical Statues as part of our agreement when we agreed to retire the Entrada. This is a complete untruth. And we would of never agreed to that. This was the Mayor's decision on his own.

We Hispanics lost a lot when we agreed to retire the Entrada and replace it with the Community Celebration.

I feel very betrayed that the Mayor and Councilor Villareal would make this decision on his own without community involvement. This did not rise to the level of an Emergency Proclamation.

For the Mayor to stand on the plaza stage with the 3 Sisters group and celebrate such a horrible action was very disrespectful.

He allowed this group to gather without a permit or insurance and carry on a very insulting program against the entire city. Why was this group allowed to break the rules? Can any group decide to gather on the plaza?

The Governor has announced that no large gathering are allowed because of COVID-19, they disregarded this order and put our entire community at risk with the Mayor's blessing.

I respectfully ask that the Council overturn his decision and place the DeVargas statue back in his original place at the Cathedral park. And do whatever it takes to keep them from being vandalized. And if anyone attempts to do that that they be held accountable like any citizen would in our city.

I have also heard that the Mayor has plans to purchase using City money to place a statue of the two runners from Tesuque Pueblo where the Salmon's currently are between city hall and convention center. If statues are offensive why does he want to pay for more?

The city should spend money balancing the budget and paying their employees.

It is important to remember that we are a multicultural city. And we all matter. No group is better than the other.

Thank you Mr. Mayor- because of your actions you have given us the strength to never give in ever again.
We deserve better!

Thank you Councilor Vigil-Coppler and Councilor Garcia for doing the right thing.

From: WEBBER, ALAN M. <amwebber@santafenm.gov>
Sent: Thursday, June 25, 2020 10:08 AM
To: Stefanie Beninato <info@nmmediate.com>
Cc: VIGIL, YOLANDA Y. <yyvigil@santafenm.gov>
Subject: Re: against removal of the obelisk face covering not working

Will make sure the full statement goes into the record.

On Jun 24, 2020, at 9:58 PM, Stefanie Beninato <info@nmmediate.com> wrote:

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

PETITIONS FROM THE FLOOR 24 June 2020
OBELISK
I am deeply disturbed by the autocratic action of Alan Webber concerning the removal of statutes and more importantly obelisks from public spaces in the middle of the night when Alan could have given a more moderated response (protection of these statutes/monuments) until a public hearing on their removals or changes could be held. As a historian who decries presentism, I would like to see the plaza obelisk remain with the addition of a statute of the man who chiseled out the word "savage" doing so. It could then be surrounded by plaques or other means of educating those of the harm of racial bias/discrimination; the existence of white supremacy; changing attitudes over time etc. I think it would be quite powerful to have a monument to war contained and surrounded by reconciliation/peace. Even more disturbing is the blatant lie of Lisa Roach, head of Historic Preservation, who insisted that Alan Webber never tried to remove the obelisk in the middle of the night. Are we living in Trumplandia? Is it a prerequisite that you have to lie for the "dear leader" to hold these well-paying jobs? And having a commission that is directed to find ways to remove the statutes as per proclamation and obelisks is a waste of taxpayers' money and time since the decision seems predetermined. BTW you will have to have the statute of Fray Angelico Chavez removed since he too was a racist—suggesting Pueblo people were too disorganized and too lazy to lead the Pueblo Revolt of 1680. It is in front of the state History Library on Washington St.
I totally agree with the last speaker that you are not necessarily going to like the history but learn from it. Destroying such reminders denies the ability to talk about it.
I felt like Webber gave permission for the damage to the obelisk and that in itself was an opening for the race hate crime done at the India Palace.

FACE COVERING
And the face covering ordinance is not working—almost no one I see except for this past Monday afternoon have worn face masks including a city worker entering city hall. When is the education part of this ordinance coming on line? When will someone be on the plaza educating people? An ordinance that is not enforced makes a joke of the rule of law. Will the city enforce

table distancing at these public outdoor spaces it is leasing because the Plaza Café really needs help with that as do many other outdoor food services.
Only 5 ft wide for ADA as per John Romero's testimony concerning closing streets and sidewalks means you have 2.5 ft separation from those sitting at these tables.at each side will be less than 6 ft separation from these unmasked "diners". How is that promoting public safety?

Stefanie Beninato
PO Box 1601
Santa Fe NM 87504

From: MIHELCIC, KRISTINE M. <kmmihelcic@santafenm.gov>
Sent: Wednesday, June 24, 2020 11:11 PM
To: VIGIL, YOLANDA Y. <yyvigil@santafenm.gov>
Subject: FW: Petitions from the Floor

I am not sure if you want to compile and then distribute? I have a few.

Kristine Mihelcic (Mi-hel-sick)
Constituent and Council Services Director

From: Sunshine Muse <sunshinemuse@live.com>
Sent: Wednesday, June 24, 2020 9:49 PM
To: MIHELCIC, KRISTINE M. <kmmihelcic@santafenm.gov>
Subject: Re: Petitions from the Floor

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi, here's my statement, thank you for your patience tonight.

We will never have HEALTH or EQUITY if our collective history isn't reconciled. It's time to end the celebration of colonialism. Symbols of power are not just symbols. They are teachers and talisman, we cannot teach that colonialism is ok and ever expect to achieve equity, and we cannot celebrate genocide just because it's history. Remove the statues. There is no reconciliation without redistribution of power and its symbols.

Sunshine Muse

From: FREITAS, MARY M. <mmfreitas@santafenm.gov>
Sent: Thursday, June 25, 2020 1:13 PM
To: VIGIL, YOLANDA Y. <yyvigil@santafenm.gov>
Subject: FW: Santa Fe Plaza and Obelisks

Mary McCormick Freitas
Executive Assistant
Office of Mayor Alan Webber
City of Santa Fe, NM
505-955-6702

From: Valentine McKay-Riddell <vmckayriddell@gmail.com>
Sent: Thursday, June 25, 2020 12:42 PM
To: Mayors Office <mayor@santafenm.gov>
Subject: Santa Fe Plaza and Obelisks

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Mayor Webber,

I was one of the last to speak during last night's meeting, invited as "Orenda Healing International." In addition to being the founder and executive director of this nonprofit organization (based here in Santa Fe since 1993) I'm a psychologist and holistic health counselor.

First I want to thank you and the City Council for providing Santa Feans the opportunity to share their views about the fate of the Plaza and the obelisks in question. Thank you also for suggesting that we add whatever we didn't have time to say by sending those comments in. Here is the full text of what I wanted to share.

As I said last night, I support the removal of the obelisks.

True, there is some historical argument for leaving them up, but as we all know, history is always written by the conquerors. These obelisks do not reflect what actually happened and instead applaud the "valiant actions" of Anglo and Hispanic military commanders who enslaved, tortured, and murdered thousands of Native Pueblo people in New Mexico. This, sadly, is our true history, and the obelisks are painful reminders to our community -- especially to Native members of our community -- of a time and actions that deserve no praise but instead demand remorse, reparation, and reconciliation as we move forward.

What was once a tri-cultural community has branched out and now consists of people from many countries, many life-ways. If nothing else, this pandemic has shown us how deeply interdependent we are -- on each other and on the land where we all stand. Now more than ever, it is incumbent upon us to embrace *all* our citizens if we are to arrive at a viable future for ourselves and our children.

Here are some thoughts about what to do with the obelisks and the Plaza:

1. Place the obelisks outside at the Museum of Spanish Colonial Art on Museum Hill.

2. Create a fountain in the Plaza where the main obelisk stood, surrounded by attractive plantings. After all, here in the high desert, water is the most important element, is it not? And people of all cultures depend on water. Let us honor that which truly matters.

3. Invite sculptors (Native, Anglo, Hispanic, and those from all the other parts of the world who are now living here) to create sculptures that reflect unity, peace, harmony, and love for the Earth and all its creatures, and have those sculptures placed in various parts of the Plaza.

4. Finally, if there should be a task force addressing what to do with the Plaza, I would appreciate the opportunity to participate.

Most sincerely,

Dr. Valentine McKay-Riddell

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Valentine McKay-Riddell, PhD, MACP

Founder & Executive Director
Orenda Healing International
http://www.orenda-arts.org/

Publisher
Winds of Change Press
windsofchangepress@orenda-arts.org

Wholebeing Wellness Counseling
https://wholebeingupdates.com/

The Earth does not belong to man; man belongs to the Earth. Man is but one strand in the Web of Life. What we do to the Earth we do to ourselves.
Chief Seattle, Suquamish
~~~~~~~~~~~~~~~

ACTION SHEET
ITEM FROM QUALITY OF LIFE COMMITTEE MEETING OF 06/17/2020
FOR CITY COUNCIL MEETING OF 07/08/2020

ISSUE:

Request for the Approval of Using CARES Act Funding ($361,227) Provided by HUD to Partially Fund Operations at the Midtown Shelter Requiring Three (3) Approvals (Alexandra Ladd, Director, Office of Affordable Housing, agladd@santafenm.gov; 505-303-9868):

1. Amendment to the 2019 Annual Action Plan to increase CDBG resources by $361,227 via CARES Act funding provided by HUD
2. Budget Adjustment Request (BAR) to increase revenues in 2402750.490520 (CDBG) by $361,227 and move funds to expenditures (2402750.510400).
3. Approval of a Professional Services Agreement + Project Budget in the total amount of $361,227 of CARES Act funds for providing oversight and management of the Midtown Shelter; New Mexico Coalition to End Homelessness.

QUALITY OF LIFE COMMITTEE ACTION: Approved after discussion (removed from consent by Councilor Garcia)

SPECIAL CONDITIONS OR AMENDMENTS:

SEND TO:

VOTE	FOR	AGAINST	ABSTAIN
CHAIRPERSON ROMERO-WIRTH	X		
COUNCILOR VILLARREAL	X		
COUNCILOR RIVERA	X		
COUNCILOR GARCIA	X		
COUNCILOR CASSUTT-SANCHEZ	X		

ACTION SHEET
ITEM FROM FINANCE COMMITTEE MEETING OF 06/15/2020
FOR CITY COUNCIL MEETING OF 06/24/20

ISSUE:

a. Request for the Approval of Using CARES Act funding ($361,227) provided by HUD to partially fund operations at the Midtown Shelter requiring three (3) approvals (Alexandra Ladd, Director, Office of Affordable Housing, agladd@santafenm.gov; 505-303-9868):

1. Amendment to the 2019 Annual Action Plan to increase CDBG resources by $361,227 via CARES Act funding provided by HUD
2. Budget Adjustment Request (BAR) to increase revenues in 2402750.490520 (CDBG) by $361,227 and move funds to expenditures (2402750.510400).
3. Approval of a Professional Services Agreement + Project Budget in the total amount of $361,227 of CARES Act funds for providing oversight and management of the Midtown Shelter; New Mexico Coalition to End Homelessness.

FINANCE COMMITTEE ACTION:
Approved on Discussion

FUNDING SOURCE:

SPECIAL CONDITIONS OR AMENDMENTS

VOTE	FOR	AGAINST	ABSTAIN
CHAIRPERSON ABEYTA	X		
COUNCILOR LINDELL	X		
COUNCILOR ROMERO-WIRTH	X		
COUNCILOR VILLARREAL	X		
COUNCILOR CASSUTT-SANCHEZ	X		

3-19-18

City of Santa Fe, New Mexico

memo

Date: June 1, 2020

To: Finance Committee – June 15, 2020
Quality of Life Committee – June 17, 2020
Governing Body – June 24, 2020

From: Alexandra Ladd, Director, Office of Affordable Housing

Re: Request approval of proposed use of CARES Act funding ($361,227)

ACTION REQUESTED:
Approve the use of CARES Act Funding in the amount of $361,227 to continue to operate the City of Santa Fe Emergency Shelter until November 1, 2020 during the COVID-19 global pandemic. Three approvals are required to deploy funding:

1. Amendment to 2019 Annual Action Plan
2. Budget Adjustment Request (2402750.510400 – Increase by $361,227)
3. Professional Services Agreement – NM Coalition to End Homelessness (2402750.510400)

BACKGROUND:
In March of 2020, as the coronavirus threatened to overwhelm the nation's health care systems, the City of Santa Fe realized that people experiencing homelessness and staying in shelters were highly vulnerable to infection and spreading it to others. Community spread was likely to put unsustainable pressure on hospitals. Existing homeless shelters reduced their capacity to serve people in order to follow social distancing guidelines. Additionally, people experiencing homelessness did not have an appropriate place for self-quarantine after testing or in the event that they contracted the virus.

The City responded by converting dormitory rooms and apartments at the Midtown Campus (formerly the Santa Fe University of Art and Design) into an Emergency Shelter. The primary objectives of the Emergency Shelter were: 1) reduce the community spread of COVID-19 by preventing an outbreak in the homeless population and 2) support hospitals by providing an outlet for medically fragile and low acuity COVID-positive people being discharged without appropriate sheltering.

To date, over 100 people have been sheltered at Midtown, of which approximately 90% were experiencing homelessness prior to the pandemic, twenty percent (20%) of the people were low acuity COVID positive people and another 20% were medically fragile, without appropriate shelter. Once the shelter was in place, police and fire responses to situations involving homeless folks declined by over 30%. The shelter has provided a place for referrals from social services navigators as they encounter medically fragile or symptomatic people on the streets and in encampments. Christus St. Vincent's, Presbyterian, the NM Department of Health, and Indian Health Services have discharged and referred patients to the facility. It has been a critical element of the regional COVID response and embodies cross agency effort and coordination.

ITEM and ISSUE:

As a CDBG entitlement community, the City was granted $361,227 of CARES Act funding from HUD. The purpose of the funding is to directly address health and housing impacts from the COVID-19 pandemic and to improve public health outcomes. Supporting the continued operations of the City's Midtown Shelter via the CARES Act grant through December 2020 is an ideal project for this funding since it meets HUD's goals and timeline for expending the funds. Without the sheltering, isolating and COVID test coordination, it is likely that the virus could infect far more people in Santa Fe and put additional strain on the City's first responders and the local health care network. Additionally, if services were immediately ceased at the shelter, over 50 people would be released without access to safe living conditions. Local shelters will not be able to accommodate them because they are not operating at full capacity in order to observe social distancing guidelines. Without permanent supportive housing that offers wrap around services, most of these guests at the Emergency Shelter would not be able to sustain independent living situations. Furthermore, the cost of emergency calls responding to homeless issues and the cost of efforts to mitigate homeless encampments will increase. Finally, hospitals will have no place to safely discharge COVID-positive patients or medically fragile people unnecessarily utilizing critical hospital beds.

The total cost of operations at the Midtown Shelter through the end of the year are estimated to be approximately $555,000. The CARES funding would offset approximately 65% of the total cost. The City would continue to fund utilities, facilities maintenance and front desk staffing. Most of these costs would be an incremental increase of fixed costs to the City of maintaining the Midtown facilities and employing City staff whose work is not needed during pandemic shutdown. The CARES grant would fund a Shelter Director, Case Manager, Overnight Front Desk person, supplies, custodial, linen and security.

For these reasons, the Office of Affordable Housing and the Community Services Department recommend using the CARES funds to support the Midtown Shelter through the end of the year when the trajectory of the pandemic is better understood. Since there is a longer term need for this type of transitional housing to bridge the gap between homelessness and permanent supportive housing, the Emergency Shelter provides a unique opportunity to develop the framework for a future facility and comprehensive case management programming. In order to deploy the funds, the Office of Affordable Housing seeks three approvals:

1) **Amendment of the 2019 Action Plan.** The City's 2019 Action Plan, which describes proposed uses for the upcoming program year, has been amended to indicate the change in uses of funds in excess of $25K as required. HUD requires a public comment period which is usually 30 days, but for the CARES Act funds, HUD reduced the required public comment period. Therefore, the AAP amendment will be available from June 15 – 24, 2020, culminating in a public hearing at the Governing Body meeting on June 24, 2020.

2) **Approval of Budget Adjustment Request.** Approve the transfer of funds from the CDBG revenue side to make the funds available on the expense side.

3) **Approval of the Professional Services Agreement with the NM Coalition to End Homelessness (NMCEH).** The NMCEH is uniquely situated to assist the City by acting as a fiscal agent because of its familiarity with HUD funding, reporting and accounting requirements and also because of the Continuum of Care network that it manages. All of its member agencies are providers of services and shelter for the state's homeless population. NMCEH will be able to leverage future funding sources and support a coordinated response. Also, the agency is well-versed in public policy and can assist the City with establishing a permanent facility aligned with supportive services at a future location.

Attachments:

1. Draft Amendment to the 2019 Annual Action Plan
2. Budget Adjustment Request (BAR) (2402750.510400 – Increase by $361,227)
3. Professional Services Agreement with NMCEH

SUBSTANTIAL AMENDMENT

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ANNUAL ACTION PLAN
July 1, 2019- June 30, 2020

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SUBMITTED BY:

City of Santa Fe
Office of Affordable Housing
P.O. Box 909
200 Lincoln Avenue, Room 314
Santa Fe, New Mexico 87504
Phone # (505) 955-6574

Executive Summary

AP-05 Executive Summary - 24 CFR 91.200(c), 91.220(b)

1. Introduction

This document represents a substantial amendment to the 2019 Annual Action Plan for the City of Santa Fe. The purpose of the amendment is to describe proposed uses of CARES Act funding in the amount of $361,227. These funds are intended to address health impacts from the COVID-19 pandemic and will be used to partially fund six-months of operating the Midtown Shelter, located at 1600 St Michael's Drive, formerly the Santa Fe University of Art and Design. The funds will be provided to the City in ADDITION to its 2019 CDBG entitlement grant.

An Annual Action Plan is required of any city, county or state that receives federal block grant dollars for housing and community development funding from the U.S. Department of Housing and Urban Development (HUD). There are four types of HUD block grant housing and community development programs: the Community Development Block Grant (CDBG), the HOME Investment Partnerships Program (HOME), the Emergency Solutions Grant (ESG) and the Housing Opportunities for People with AIDS (HOPWA) program. The City of Santa Fe receives approximately $700,000 in CDBG dollars each year directly from HUD.

There are three components required by HUD to be submitted on an annual basis:

1) **Consultation and Citizen Participation:** the process through which the grantee engages the community in developing and reviewing the plan as well as consulting with partner stakeholders in the implementation of programs. This process is required annually as part of the Annual Action Plan.

3) **Annual Action Plan:** submitted to HUD at the beginning of each funding cycle, the AAP provides a concise summary of the actions, activities, and specific federal and non-federal resources that will be used each year to address the priority needs and specific goals identified in the Consolidated Plan.

4) **Consolidated Annual Performance and Evaluation Report (CAPER):** the annual report submitted to HUD in which grantees report accomplishments and progress toward meeting Consolidated Plan goals in the prior year.

2. Summarize the objectives and outcomes identified in the Plan

The City of Santa Fe's focus over the next year is to improve and sustain affordable housing, rental, homeownership, and economic opportunities for low- to moderate-income households in Santa Fe, as well as address the needs of those experiencing homelessness or at risk of becoming homeless. The City

will accomplish this by administering program funds to service providers, supporting collaboration and strategically applying resources to community needs.

HUD identifies three sets of planning objectives and three sets of activity outcomes to guide the Consolidated Plan planning process. All goals are expected to relate directly to these objectives and outcomes as illustrated in the following Goals Table. Objectives include:

1) **Creating Suitable Living Environments (SL)** – relates to activities that are designed to benefit communities, families, or individuals by addressing issues in their living environment. This objective relates to activities that are intended to address a wide range of issues faced by low- and moderate-income persons, from physical problems with their environment, such as poor quality infrastructure, to social issues such as crime prevention, literacy, or elderly health services.

2) **Providing Decent Housing (DH)** – covers the wide range of housing activities that could be undertaken with CDBG funds. This objective focuses on housing activities whose purpose is to meet individual family or community housing needs. It does not include programs where housing is an element of a larger effort to make community-wide improvements, since such programs would be more appropriately reported under Suitable Living Environments.

3) **Creating Economic Opportunities (EO)** – applies to activities related to economic development, commercial revitalization, or job creation.

HUD-mandated outcomes include:

1) **Availability/Accessibility** – applies to activities that make services, infrastructure, public services, public facilities, housing, or shelter available or accessible to low- and moderate-income (LMI) people, including persons with disabilities. In this category, accessibility does not refer only to physical barriers, but also to making the basics of daily living available and accessible to LMI people where they live.

2) **Affordability** – applies to activities that provide affordability in a variety of ways to LMI people. It can include the creation or maintenance of affordable housing, basic infrastructure hook-ups, or services such as transportation or day care. Affordability is an appropriate objective whenever an activity is lowering the cost, improving the quality, or increasing the affordability of a product or service to benefit a low-income household. (For instance, a low interest loan program might make loans available to low- and moderate-income microenterprise businesses at 1% interest, which is far below the market rate. This program lowers the cost of the loan, enabling entrepreneurs to start businesses. As a result, the program makes financing more affordable. Another example might be a subsidized day care program that provides services to low- and moderate-income persons/families at lower cost than unsubsidized day care.)

3) **Sustainability** – applies to activities that are aimed at improving communities or neighborhoods, helping to make them livable or viable by providing benefit to persons of low- and moderate-income or

by removing or eliminating slums or blighted areas, through multiple activities or services that sustain communities or neighborhoods

3. Evaluation of past performance

The following bullets outline progress in meeting goals identified in the 2018-2022 Consolidated Plan, almost all of which were met, or exceeded. These achievements are a testament to the strong partnerships the City supports with its nonprofit partners and subrecipient contractors.

- The City's goal for **rental housing** as stated in the 2018-2022 Consolidated plan was to serve renters earning less than 60 percent of Santa Fe's Area Median Income (AMI). For the 2018-2019 program year, the City allocated the Affordable Housing Trust Fund (AHTF) and Community Development Block Grant (CDBG) funds to rental facility improvements as well as to support services focused on the homeless, those in danger of becoming homeless, and very low-income renters
- City's goal for **home ownership housing** as outlined in the 2018-2022 Consolidated Plan was to provide comprehensive assistance to low-to-moderate-income homebuyers in the form of mortgage principal reduction assistance to an average of 10 households annually. From 2018-2019, and due to additional program income funds, (22) households were served through end of Q3 (17-Homewise, 5-Housing Trust) with CDBG-funded mortgage principal reduction assistance.
- The City's goal for **emergency shelters and permanent supported rental housing** as outlined in the 2018-2022 Consolidated Plan was to provide {33 permanent beds and/or longer-term units per year.} Approximately 100 shelter beds were provided and 40 transitional living beds were provided.} In 2018-2019 program year, CDBG funds were proposed for services including the Interfaith Women's Summer Safe Haven for a minimum of 180 women (As of Q3: 124 served.) Youth Shelters and Family Services (YSFS) provided services through the Emergency Shelter for children and youth, with 12 beds and an addition of the Cold Weather Shelter with 8 beds. (As of Q3: TLP and Cold Weather Shelter served 128.) The YSFS Street Outreach Program's goal was to serve an approximate minimum of 600 identified youth who utilize the Drop in Center (As of Q3: 244 served.) The Santa Fe Recovery Center, Life Link, SFPS Adelante and YouthWorks provided rental vouchers and emerency utility assistance. (167 served through the Affordable Housing Trust Fund for ELI individuals experiencing homelessness or at risk of homelessness in the community.)
- Facilities improvements investments from CDBG funds 2018-2019 totaled $105,000 ($10,000 YSFS Security, $40,000 PMS River Early Head Start, $55,000 Hopewell Mann Community Clinic). Public Services funding from CDBG funds 2018-2019 totaled $75,000.

4. Summary of Citizen Participation Process and consultation process

The City of Santa Fe's community participation process focuses upon meaningful engagement of residents and stakeholders representing local organizations and coalitions. **The following section describes the public participation process specific to this amendment.**

The City's Citizen Participation Plan as adopted by HUD requires that several public outreach avenues are used to inform the public about intended uses of HUD funds. It also requires that an amendment to the Action Plan is completed if an expenditure of funds is changed in any amount exceeding $25,000. The intent is to give the public ample opportunity to comment on the amended use. For the emergency allocation of CARES Act funds, HUD waived the requirement that the amendment is subject to a 30-day public comment period. Instead, the public will have a minimum of 5-days to review and comment on the amendment, in addition to three (3) public meetings and one (1) public hearing. The City has opted to provide the public a longer period of time for comments.

Methods of engagement. Engagement methods include opportunities for residents and stakeholders to participate in the development of planning strategies. Stakeholders are consulted and public is invited to comment **on the amendment to the AAP** and proposed use of funds as participants at public meetings

A print advertisement will be placed in the *Santa Fe New Mexican* on Friday, June 12, 2020 announcing the public review and comment period and describing how the public can participate. A press release will be issued through the City's Public Information Office with additional information for the public on the availability of the plan and how to submit a comment. Three public meetings and one public hearing are planned according to the following schedule:

- **Community Development Commission public meeting (June 3, 2020)**
- **Public Comment period (June 14 – June 24)**
- **Finance Committee public meeting (June 15, 2020)**
- **Quality of Life Committee public meeting (June 17, 2019)**
- **The Santa Fe City Council public hearing (June 24, 2020)**

These meetings are open to the public and agendas are available on the City's website. However, due to the coronavirus pandemic and the State of NM's prohibition on mass gatherings, meetings are not held in person. Rather, the public can participate via a Zoom virtual meeting or watch the meetings on the City of Santa Fe YouTube channel which also allows for participants to type questions or comments into the chat box. Note that the Community Development Commission is the only meeting not streamed on YouTube. The meetings can be made accessible to people with disabilities, including sign language interpretation with prior notice to the City Clerk's office. The meetings are also publicized in languages other than English.

Public outreach is also promoted through the City of Santa Fe and individual Council members' Facebook pages. Media relations included a press release to local media and postings on the city's website.

Partner outreach. Local stakeholders, including organizations, agencies and coalitions, promote the outreach efforts directly to their members, residents, consumers and clients. In addition to lending their subject-matter expertise, participating organizations promoted resident engagement opportunities to recruit focus group participants and encouraged residents to attend the community meeting events.

5. Summary of public comments

Public comments will be described in this section as applicable.

6. Summary of comments or views not accepted and the reasons for not accepting them

All comments will be considered and where applicable, addressed in the amendment.

7. Summary

This amendment enables the City of Santa Fe to ensure that its most vulnerable are safely housed and quarantined for the initial stages of the coronavirus pandemic. This effort will further the Office of Affordable Housing's efforts to prevent the most vulnerable City residents from falling into cycles of poverty and chronic homelessness, target low income "at risk" neighborhoods with comprehensive programming interventions, and work with the larger community to identify ways that community needs can be more effectively and efficiently identified and met with limited community resources.

PR-05 Lead & Responsible Agencies – 91.200(b)

1. Agency/entity responsible for preparing/administering the Consolidated Plan

Describe the agency/entity responsible for preparing the Consolidated Plan and those responsible for administration of each grant program and funding source.

Agency Role	Name	Department/Agency
Lead Agency	SANTA FE	
CDBG Administrator	SANTA FE	Office of Affordable Housing/City of Santa Fe
HOPWA Administrator		
HOME Administrator		
HOPWA-C Administrator		

Table 1 – Responsible Agencies

Narrative (optional)

The City of Santa Fe's Office of Affordable Housing Division administers the Community Development Block Grant (CDBG), the Affordable Housing Trust Fund (AHTF), and other local funds to support housing and community development activities in Santa Fe.

Consolidated Plan Public Contact Information

Alexandra Ladd
Director
Office of Affordable Housing
City of Santa Fe
505-955-6346 / agladd@santafenm.gov

AP-10 Consultation – 91.100, 91.200(b), 91.215(l)

1. Introduction

The City's partner for this proposed project is the NM Coalition to End Homelessness (NMCEH). Because its member agencies are the community's main providers of emergency shelter and supportive services for homeless people, NMCEH is uniquely situated to act as the City's fiscal agent for the disbursement of these funds and will provide ongoing consultation on behalf of its membership. NMCEH will be able to ensure that the services and case management provided at the shelter comprehensively meet the needs of the people staying there. More importantly, NMCEH can assist the City with designing and implementing a longer term system of support services and shelter with the eventual goal of connecting shelter residents with permanent housing.

Provide a concise summary of the jurisdiction's activities to enhance coordination between public and assisted housing providers and private and governmental health, mental health and service agencies (91.215(l))

The City's Youth and Family Services Division funds emergency housing and community development programs, social services and supports a juvenile justice program which provides program planning, service integration, data analysis, and program evaluation to ensure that youth are provided alternatives to detention and referral to support services, including housing, as appropriate. The City's partner organizations, YouthWorks, Adelante, and Youth Shelters and Family Services, have provided several programs to integrate disconnected youth with mainstream educational opportunities, job training and internships, reunification with families, and referral to other support services. Life Link, another City nonprofit partner, provides intake, referral and on-site social services to people with mental illness who are homeless or at risk of becoming homeless. The agency works closely with other governmental, private and nonprofit providers of services, as well as hospitals and correctional institutions to ensure that services are continuous. The City's CDBG allocation, its economic development fund and other local funds have supported several of these initiatives. Some beneficiaries of this funding also are recipients of public housing services. The City's CDBG sub-recipients strive to coordinate with the Santa Fe Civic Housing Authority so that outreach activities and some programming are located at housing authority sites.

Through the NMCEH's efforts to coordinate housing grants and HMIS, and the collaboration of partner agencies that receive funding from the City of Santa Fe's Human Services and Children and Youth funding programs, the vulnerability of discharged patients to becoming homeless is greatly reduced. In September 2017, the City Council approved a resolution establishing a Homeless Task Force that considered specifically these coordinated efforts. The Office of Affordable Housing participated on this task force to ensure that CDBG and other local housing funds are deployed in ways that prevent homelessness.

Describe coordination with the Continuum of Care and efforts to address the needs of homeless persons (particularly chronically homeless individuals and families, families with children, veterans, and unaccompanied youth) and persons at risk of homelessness.

Through the NMCEH's efforts to coordinate housing grants and HMIS, and the collaboration of partner agencies that receive funding from the City of Santa Fe's Human Services and Children and Youth funding programs, the vulnerability of discharged patients to becoming homeless is greatly reduced.

NMCEH operates a statewide system of coordinated assessment where every homeless family and individual is given an assessment based on the nationally recognized VI/SPDAT (Vulnerability Index/Service Prioritization Assessment Tool). The results of the assessment are used to refer homeless people to the type of housing that best fits their needs and the assessment is used to create a prioritized list with chronically homeless people at the top of the list for permanent supportive housing.

In addition to HUD funds, the City's local funds are used to support Life Link, St. Elizabeth Shelter, and the Interfaith Shelter to provide shelter to homeless people and help them make the transition to permanent housing. Additionally, the City directly supports Youth and Family Shelters through local administrative contracts to provide services to assist unaccompanied youth with securing housing, counseling, job training, and family re-unification when possible. CDBG funds will be used in the upcoming program year to provide expanded hours for the Youth Shelters Drop-in Center which provides food, case management and referral for disconnected youth.

In 2015 City Mayor Javier Gonzales signed on to the Mayor's Challenge to End Veteran Homelessness. Local nonprofits have been meeting monthly with the VA to go over the by-name list of homeless veterans and make sure they are all on their way to permanent housing. In 2016 the City met the requirements of the challenge and has continued to maintain the system that helps any newly homeless veterans quickly access housing through VA, state funded or Continuum of Care resources.

Describe consultation with the Continuum(s) of Care that serves the jurisdiction's area in determining how to allocate ESG funds, develop performance standards for and evaluate outcomes of projects and activities assisted by ESG funds, and develop funding, policies and procedures for the operation and administration of HMIS

The organizations within CoC that receive ESG funding are The Interfaith Community Shelter and St. Elizabeth Shelters & Supportive Housing. Both organizations work extensively with numberous other service groups in providing assistance to the homeless. Linkage to services include, yet are not limited to Healthcare for the Homeless (medical issues), The Lifelink (housing & counseling), Goodwill (employment and veteran housing), the New Mexico Human Services Department (Medicaid, SNAP and TANF) and the Santa Fe Recovery Center (drug and alcohol treatment). Consumers entering either organization are met with a case manager who assess their needs and assist them in the development of an Individual Service Plan, outlining the goals they wish to accomplish as a client. The case manager

then refers them to the appropriate agency(ies) which will best serve their needs. The Interfaith Community Shelter (ICS) is the only minimal barrier shelter in Northern New Mexico and, as such, accepts everyone, regardless of condition or circumstance, including their pets. ICS operates in accordance with US Department of Health and Human Services' strategic action plan and provides Resource Days every Tuesday, Wednesday and Friday, year-round. By creating a "one-stop shop" ICS has incorporated within its design a delivery system that will afford those who are chronically homeless the best opportunities to make the transition from homelessness to stable housing. Resource Partner Providers include those listed above as well as the VA Administration, the Food Depot, Youth Shelters Street Outreach, Street Homeless Animal Project, Upaya Zen Center, Santa Fe Desert Chorale Choir, Legal Clinic, and Homeless Court.

Also, in an attempt to help create systemic change, the Interfaith Community Shelter and St. Elizabeth follow policies and procedures that prioritize work with numerous inovative City and County programs designed to stabilize those individuals who are high utilizers of emergency, police and hospital services. Staff works closely with the CHRISTUS St. Vincent's HUGS program and the Santa Fe Fire Department's Mobile Integrated Health Office (MIHO), proactive approaches for addressing repeat users of the 911 system through a referral/linkage to services process that provides for the mental health and social needs of the consumer that opens the access doors to these needed services on site and in real time.

2. Describe Agencies, groups, organizations and others who participated in the process and describe the jurisdiction's consultations with housing, social service agencies and other entities

Table 2 – Agencies, groups, organizations who participated

1	**Agency/Group/Organization**	SANTA FE CIVIC HOUSING AUTHORITY
	Agency/Group/Organization Type	Housing
	What section of the Plan was addressed by Consultation?	Public Housing Needs
	Briefly describe how the Agency/Group/Organization was consulted. What are the anticipated outcomes of the consultation or areas for improved coordination?	The sections of the 2019 AAP are highlighted and the information is emailed for verification or update. Since their organization deals with these issues on a daily basis, accurate and precise data is anticipated. The SFCHA has received a completed copy of the document for review.
2	**Agency/Group/Organization**	THE LIFE LINK
	Agency/Group/Organization Type	Housing Services-homeless
	What section of the Plan was addressed by Consultation?	Homeless Needs - Chronically homeless Homeless Needs - Families with children Homelessness Needs - Veterans
	Briefly describe how the Agency/Group/Organization was consulted. What are the anticipated outcomes of the consultation or areas for improved coordination?	The sections of the 2019 AAP for the upcoming year are highlighted and emailed for verification or update. Since these organizations deal with these issues on a daily basis, accurate and precise data is provided to inform this plan.
3	**Agency/Group/Organization**	ST. ELIZABETH SHELTER
	Agency/Group/Organization Type	Housing Services-Elderly Persons Services-Persons with HIV/AIDS Services - Victims
	What section of the Plan was addressed by Consultation?	Homeless Needs - Chronically homeless Homeless Needs - Families with children Homelessness Needs - Veterans Homelessness Strategy
	Briefly describe how the Agency/Group/Organization was consulted. What are the anticipated outcomes of the consultation or areas for improved coordination?	The sections of the 2019 AAP for the upcoming year are highlighted and emailed for verification or update. Since these organizations deal with these issues on a daily basis, accurate and precise data is provided to inform this plan.

4	**Agency/Group/Organization**	The Housing Trust
	Agency/Group/Organization Type	Housing Service-Fair Housing Business and Civic Leaders Community Development Financial Institution
	What section of the Plan was addressed by Consultation?	Housing Need Assessment HOPWA Strategy Market Analysis
	Briefly describe how the Agency/Group/Organization was consulted. What are the anticipated outcomes of the consultation or areas for improved coordination?	The sections of the 2019 AAP for the upcoming year are highlighted and emailed for verification or update. Since these organizations deal with these issues on a daily basis, accurate and precise data is provided to inform this plan. The City of Santa Fe has worked with the Santa Fe Community Housing Trust to develop three apartment communities where 25% of the units are set aside for people exiting homelessness. The City has contributed financially in various ways to each of these projects.
5	**Agency/Group/Organization**	NEW MEXICO COALITION TO END HOMELESSNESS
	Agency/Group/Organization Type	Services-homeless Regional organization
	What section of the Plan was addressed by Consultation?	Homeless Needs - Chronically homeless Homeless Needs - Families with children Homelessness Needs - Veterans Homelessness Needs - Unaccompanied youth Homelessness Strategy
	Briefly describe how the Agency/Group/Organization was consulted. What are the anticipated outcomes of the consultation or areas for improved coordination?	The City also works with NMCEH to reduce the length of time all families and individuals remain homeless. Reducing the amount of time was one of the goals of the 2012 Santa Fe Mayor's Task Force on Homelessness. NMCEH now has good tools to measure the length of time people remain homeless and this will be a focus of the newly convened City Roundtable on homelessness this fall. In July of 2018, an update to the plan was presented for City Council approval.

6	**Agency/Group/Organization**	SANTA FE COUNTY
	Agency/Group/Organization Type	Housing PHA Services - Housing Other government - County
	What section of the Plan was addressed by Consultation?	Housing Need Assessment Public Housing Needs
	Briefly describe how the Agency/Group/Organization was consulted. What are the anticipated outcomes of the consultation or areas for improved coordination?	In addition to reviewing the Plan, County staff worked with the City to convene groups of stakeholders to design a strategy for increasing the inventory of rental housing affordable to low-income renters.

Identify any Agency Types not consulted and provide rationale for not consulting

This project is in direct response to a public health emergency. Because of the need to provide immediate relief and support for those experiencing homelessness during the pandemic, the City did not consult with other agencies. However, with the advent of the CONNECT network, the City and County are working closely to mitigate the public health impacts from the pandemic. Likewise, local health providers and the city's homeless shelters are involved with the Midtown Shelter so their input was considered when setting it up.

Other local/regional/state/federal planning efforts considered when preparing the Plan

Name of Plan	Lead Organization	How do the goals of your Strategic Plan overlap with the goals of each plan?
Continuum of Care	New Mexico Coalition to End Homelessness	Seeks to provide comprehensive support services aligned with housing.
5 Year Strategic Housing Plan	City of Santa Fe	Provides a needs assessment and housing affordability regarding unit inventory and demand; provides basis to shape policy and funding decisions. This document was finalized in January 2017.
PHA 5-Year and Annual Plan	Santa Fe Civic Housing Authority	Many of the goals are incorporated into this plan.
Five Year Plan to End Homelessness (2012)	New Mexico Coalition to End Homelessness	Staff from the Office of Affordable Housing and the Division of Health and Human Services participated on the task force to update the Plan for 2018.
2012-2017 CIP Plan	City of Santa Fe	Project priorities help shape the funding priorities in this plan.
Transportation Improvement Program	Santa Fe Metropolitan Planning Organization	Includes transportation projects for all modes expected to be funded.
Sustainable Land Use Code	City of Santa Fe	SLDC regulates the development and construction of affordable housing units.
Analysis of Impediments	City of Santa Fe	The AI evaluates barriers to fair housing and recommends strategies for mitigating them which is closely related to housing services for low-income people. In 2017, the City submitted the Assessment of Fair Housing which looks at housing through the lens of opportunity.
Fair Housing Assessment 2017	City of Santa Fe	The Fair Housing Assessment evaluates needs and recommends strategies for increasing access to housing.

Table 3 – Other local / regional / federal planning efforts

Narrative (optional)

The City solicits comments from local service providers (housing, human services, children and youth) and relies on them to outreach directly to their clientele and/or represent the needs of their clientele. Alternate avenues of public outreach were pursued in the 2016 Analysis of Impediments and the 2017 Assessment of Fair Housing. The City updated its Citizen Participation Plan during the 2018-2022 Consolidated Plan planning process with careful consideration of how to conduct more relevant public outreach that brings voices to the discussion that are not always heard to include online surveys and partnering with outside organization events related to specific geographic areas. Polling in the online survey on project's impact on the community and those individuals using the services or in close geographic location, with ties to others who benefited from the subject projects showed a resounding favorability for funding of the 2019 AAP CDBG related activities outlined in the Projects Summary of this year's plan (AP-35).

AP-12 Participation – 91.105, 91.200(c)

1. Summary of citizen participation process/Efforts made to broaden citizen participation/Summarize citizen participation process and how it impacted goal-setting

For the purposes of this amendment, the City amended its Citizen Participation Plan, allowed by HUD regarding CARES Act funding, as follows. The public will have a minimum of 5-days to review and comment on the amendment, in addition to three (3) public meetings and one (1) public hearing. The City has opted to provide the public 10 days for comments.

A print advertisement will be placed in the *Santa Fe New Mexican* on Friday, June 12, 2020 announcing the public review and comment period and describing how the public can participate. A press release will be issued through the City's Public Information Office with additional information for the public on the availability of the plan and how to submit a comment. Three public meetings and one public hearing are planned according to the following schedule:

- **Community Development Commission public meeting (June 3, 2020)**
- **Public Comment period (June 14 – June 24)**
- **Finance Committee public meeting (June 15, 2020)**
- **Quality of Life Committee public meeting (June 17, 2019)**
- **The Santa Fe City Council public hearing (June 24, 2020)**

These meetings are open to the public and agendas are available on the City's website. However, due to the coronavirus pandemic and the State of NM's prohibition on mass gatherings, meetings are not held in person. Rather, the public can participate via a Zoom virtual meeting or watch the meetings on the City of Santa Fe YouTube channel which also allows for participants to type questions or comments into the chat box. Note that the Community Development Commission is the only meeting not streamed on YouTube. The meetings can be made accessible to people with disabilities, including sign language interpretation with prior notice to the City Clerk's office. The meetings are also publicized in languages other than English.

Other conventional modes of outreach will also be implemented including outreach to the press through the City's public information office and notices on the City's Facebook page.

Citizen Participation Outreach

Sort Order	Mode of Outreach	Target of Outreach	Summary of response/attendance	Summary of comments received	Summary of comments not accepted and reasons	URL (If applicable)
1	Newspaper Ad	Minorities Non-English Speaking - Specify other language: Spanish Persons with disabilities Non-targeted/broad community Residents of Public and Assisted Housing	**Newspaper ad announcing public comment and public hearing: June 12, 2020**			
2	Public Meeting	Minorities Non-English Speaking - Specify other language: Spanish Persons with disabilities Non-targeted/broad community Residents of Public and Assisted Housing	**Community Development Committee Meeting: June 3, 2020 Finance Committee Meeting: June 15, 2020 Quality of Life Committee Meeting: June 17, 2020**			

Sort Order	Mode of Outreach	Target of Outreach	Summary of response/attendance	Summary of comments received	Summary of comments not accepted and reasons	URL (If applicable)
3	Internet Outreach	Minorities Non-English Speaking - Specify other language: Spanish Persons with disabilities Non-targeted/broad community Residents of Public and Assisted Housing	**City of Santa Fe Website and Facebook Page**			http://www.santafenm.gov
5	Press Release	Non-targeted/broad community	**Press Release: June 12, 2020**			
6	Electronic Copy Posted	Non-targeted/broad community	**Amendment will be available on the Office of Affordable Housing website for June 2020**			http://www.santafenm.gov
7	Public Hearing	Non-English Speaking - Specify other language: Spanish Persons with disabilities Non-targeted/broad community Residents of Public and Assisted Housing	Public Hearing: June 24, 2020	No comments received.	No comments received.	

Table 4 – Citizen Participation Outreach

Expected Resources

AP-15 Expected Resources – 91.220(c)(1,2)

Introduction

This amendment to the Annual Action Plan is specific to the allocation of CARES Act funding from the Department of Housing and Urban Development (HUD) directly to CDBG entitlement communities. The City of Santa Fe's allocation is $361,227.

Anticipated Resources

Program	Source of Funds	Uses of Funds	Expected Amount Available Year 1				Expected Amount Available Remainder of ConPlan $	Narrative Description
			Annual Allocation: $	Program Income: $	Prior Year Resources: $	Total: $		
CDBG	public - federal	Acquisition Admin and Planning Economic Development Housing Public Improvements Public Services	361,227	0	0	361,227	2,938,227	An amount of $361,227 will be awarded through CDBG from the CARES Act.
Other	public - local	Housing	0	0	0	0	0	

Table 5 - Expected Resources – Priority Table

Explain how federal funds will leverage those additional resources (private, state and local funds), including a description of how matching requirements will be satisfied

The CARES Act funds will be used to pay for the direct costs of providing shelter and services to people experiencing homelessness during the COVID-19 health pandemic. Currently, the City is using local funding and resources to support the operations at the Midtown Shelter by converting dormitory facilities and apartments into housing for people who need a safe place to live. The total cost of operations for 12 months of the shelter is $1,334,000, of which 27% will be covered by the CARES Act funds. This is almost a $4 leverage of local funds for every dollar of federal funds.

If appropriate, describe publically owned land or property located within the jurisdiction that may be used to address the needs identified in the plan

The shelter is located at 1600 St Michael's Drive, the site of the former Santa Fe University of Art and Design (and before that, the College of Santa Fe). The campus is owned by the City so this proposed use of funds will be 100% supported by the use of publicly-owned facilities. Furthermore, the shelter is currently staffed by City staff (who will continue working there for at least the next 6 months) and many related support services (security, maintenance, utilities) are paid by the City.

Discussion

Annual Goals and Objectives

AP-20 Annual Goals and Objectives

Goals Summary Information

Sort Order	Goal Name	Start Year	End Year	Category	Geographic Area	Needs Addressed	Funding	Goal Outcome Indicator
1	Increase Opportunities for At-Risk Populations	2019	2020	Affordable Housing Public Housing Homeless	Citywide	Emergency Shelter Support Services for Homeless and At Risk Rental Units & Support Services Rental Rehabilitation Homeowner Rehab, Upgrades and Retrofits Fair Housing Outreach Diversity of Housing Types AFH Factor: Aging Housing Stock AFH Factor: Work opportunities for disabled people AFH Factor: Accessible Housing for Disabled AFH Factor: Access to Schools & Transportation AFH Factor: Fair Housing Information and Resources	**CDBG: $361,227**	**Public service activities for Low/Moderate Income Housing Benefit: 150 Households Assisted** **Household Housing Unit** **Homeless Person Overnight Shelter: 150 Persons Assisted**

Sort Order	Goal Name	Start Year	End Year	Category	Geographic Area	Needs Addressed	Funding	Goal Outcome Indicator
2	Increase Affordable Rental Housing Opportunities	2019	2020	Affordable Housing	Citywide	Rental Units & Support Services Rental Rehabilitation Fair Housing Outreach Diversity of Housing Types AFH Factor: High Housing Costs AFH Factor: Aging Housing Stock AFH Factor: Accessible Housing for Disabled AFH Factor: Fair Housing Information and Resources	CDBG: 0	
3	Increase Affordable Homeowner Opportunities	2019	2020	Affordable Housing	Citywide	Refinancing Services & Support-Current Homeowners Mortgage Principal Reduction Homebuyer Training and Counseling Homeowner Rehab, Upgrades and Retrofits Construction of Affordably-priced Homes Fair Housing Outreach Diversity of Housing Types AFH Factor: High Housing Costs AFH Factor: Aging Housing Stock AFH Factor: Accessible Housing for Disabled	CDBG: 0	

Sort Order	Goal Name	Start Year	End Year	Category	Geographic Area	Needs Addressed	Funding	Goal Outcome Indicator
4	Align Housing Opportunities with Emerging Needs	2019	2020	Affordable Housing Non-Homeless Special Needs Non-Housing Community Development	Citywide	Support Services for Homeless and At Risk Rental Units & Support Services Rental Rehabilitation Fair Housing Outreach Diversity of Housing Types AFH Factor: High Housing Costs AFH Factor: Aging Housing Stock AFH Factor: Fair Housing Information and Resources	**CDBG: $361,227**	**Public service activities for Low/Moderate Income Housing Benefit: 150 Households Assisted**
5	AFH Goal1: Create more affordable, quality housing	2019	2020	Affordable Housing	Citywide	Rental Vouchers Refinancing Services & Support-Current Homeowners Rental Units & Support Services Rental Rehabilitation Mortgage Principal Reduction Homebuyer Training and Counseling Homeowner Rehab, Upgrades and Retrofits Construction of Affordably-priced Homes Diversity of Housing Types AFH Factor: High Housing Costs	CDBG: $0	

Sort Order	Goal Name	Start Year	End Year	Category	Geographic Area	Needs Addressed	Funding	Goal Outcome Indicator
6	AFH Goal 2: Preserve and Improve Existing Housing	2019	2020	Affordable Housing	Citywide	Rental Rehabilitation Homeowner Rehab, Upgrades and Retrofits AFH Factor: High Housing Costs AFH Factor: Aging Housing Stock	CDBG: $0	
7	AFH Goal 3: Cont. to work to improve econ. opport.	2019	2020	Non-Homeless Special Needs	Citywide		CDBG: $0	
8	AFH Goal 4: Create more access., afford. qual. hou	2019	2020	Affordable Housing Non-Homeless Special Needs	Citywide	Rental Units & Support Services Rental Rehabilitation Mortgage Principal Reduction Homeowner Rehab, Upgrades and Retrofits Fair Housing Outreach Diversity of Housing Types AFH Factor: High Housing Costs AFH Factor: Aging Housing Stock AFH Factor: Fair Housing Information and Resources	CDBG: $0	
9	AFH Goal 5: Improve access to high quality schools	2019	2020	Non-Housing Community Development	Citywide	Support Services for Homeless and At Risk Rental Units & Support Services AFH Factor: Access to Schools & Transportation	CDBG: $0	

Sort Order	Goal Name	Start Year	End Year	Category	Geographic Area	Needs Addressed	Funding	Goal Outcome Indicator
10	AFH Goal 6: Strengthen access to fair housing	2019	2020	Fair Housing & Renter's Rights	Citywide	Homebuyer Training and Counseling AFH Factor: Fair Housing Information and Resources	CDBG: $0	

Table 6 – Goals Summary

Goal Descriptions

1	**Goal Name**	Increase Opportunities for At-Risk Populations
	Goal Description	Increased Opportunities for At Risk Population-Reduced Rate of Households with cost burden: Preventing homelessness through rental vouchers, emergency assistance, support services expanding rental choices for households earning less than 30% AMI, providing rehab services for rental properties serving very low income renters, improving outreach efforts to mono-lingual Spanish speakers. This goal incorporates actions from the following AFH Goals: 1. Create more affordable, quality housing, that is equitably distributed throughout the City 2. Preserve and improve existing housing occupied by low and moderate income renters and owners 6. Strengthen access to fair housing and knowledge of fair housing among residents and landlords
2	**Goal Name**	Increase Affordable Rental Housing Opportunities
	Goal Description	Increased Affordable Rental Housing Opportunities- Inventory of very low income rental units and vouchers is expanded to meet increased demand: Supporting LIHTC projects and the provision or retention of permanent, subsidized rental units, rental units reserved for persons transitioning out of homelessness, rehabilitating existing rentals to expand choice and housing quality, identifying additional funding sources and/or creating revenue streams to fund local rental vouchers. This goal incorporates actions from the following AFH Goals: 1. Create more affordable, quality housing, that is equitably distributed throughout the City 2. Preserve and improve existing housing occupied by low and moderate income renters and owners 4. Create more accessible, affordable, quality housing, to accommodate persons with disabilities 6. Strengthen access to fair housing and knowledge of fair housing among residents and landlords

3	**Goal Name**	Increase Affordable Homeowner Opportunities
	Goal Description	Increase of Affordable Homeownership Opportunities-Increased homeownership opportunites and support for long term affordability and accessibility for current homeowners: Continuing mortgage principal reduction loans, homebuyer counseling and training services, production of affordably-priced homes, supporting partnerships with nonprofits, for-profit builders and other housing providers, considering acquisition/rehab programs to absorb existing market supply, funding energy efficiency upgrades, continuing foreclosure prevention and legal aid and refinancing services for existing homeowners, offering accessibility improvements to help "age in place" and multi-generational transfers. This goal incorporates actions from the following AFH Goals: 1. Create more affordable, quality housing, that is equitably distributed throughout the City 2. Preserve and improve existing housing occupied by low and moderate income renters and owners 4. Create more accessible, affordable, quality housing, to accommodate persons with disabilities 6. Strengthen access to fair housing and knowledge of fair housing among residents and landlords
4	**Goal Name**	Align Housing Opportunities with Emerging Needs
	Goal Description	Address Emerging and Current Needs and Changing Demographics-Housing opportunities reflect emerging needs, changing demographics and are aligned with redevelopment objectives and sustainability goals: Supporting non-traditional housing types and live/work housing, including housing as a required component of redevelopment projects, prioritizing housing that is located in transit corridors, has access to community facilities, accommodates live/work or other flexible scenarios, is aimed at the "creative" worker, can accommodate needs of aging residents, achieving high standards of sustainability through green building, design, and alternative energy sources. This goal incorporates actions from the following AFH Goals: 1. Create more affordable, quality housing, that is equitably distributed throughout the City 3. Continue to work to improve economic conditions of persons with disabilities 5. Improve access to high quality schools and public transportation
5	**Goal Name**	AFH Goal1: Create more affordable, quality housing
	Goal Description	This AFH goal corresponds to Consolidated Plan goals: 1, 2, 3, 4. The following milestones and metrics are established in the AFH to guide the achievement of this goal: support 60 rental units (min); revise SFCC 26-1 to require <50%AMI units in LIHTC (15 units); dedicate local funding to rental assistance to support 40 renter HH; DPA + homebuyer support services to 30 HH; revise SFCC 26-1 to create menu of compliance options to support inclusion of 100 rent-restricted units in market rate projects.

6	**Goal Name**	AFH Goal 2: Preserve and Improve Existing Housing
	Goal Description	*This goal corresponds with Consolidated Plan Goals: 1, 2, 3. Metrics and milestones include: continue support of emergency repair grants to serve 15 – 30 HH; continue support of emergency repair loans to serve 10 – 15; design program for historic districts to offset costs of repair to serve 3 – 5; rehab of affordable rental units and soft costs for construction of new affordable units to add 145 affordable units in the rental market.*
7	**Goal Name**	AFH Goal 3: Cont. to work to improve econ. opport.
	Goal Description	The metrics and milestones associated with this AFH goal are to establish and expand job creation opportunities for under-employed workers with disabilities. This work would be supported by the City's Office of Affordable Housing but is carried out primarily by other City divisions, government agencies and nonprofit partners. None of the funding would be housing-related.
8	**Goal Name**	AFH Goal 4: Create more access., afford. qual. hou
	Goal Description	This AFH goal correponds with Consolidated Plan Goals: 2, 3. Metrics and milestones include focusing housing rehabilitation programs (both homeownership and rental) on serving the needs of the disabled, including the mentally ill, chronically ill, developmentally disabled, mobility-impaired and those in recovery to rehab an additional 10 - 15 housing units. Also, this goal necessitates supporting the efforts of current homeless and special needs providers to link resources and align the provision of services. This would build on the model established by the NMCEH in its successful effort to meet the USICH's criteria for ending veteran homelessness.
9	**Goal Name**	AFH Goal 5: Improve access to high quality schools
	Goal Description	This AFH goal does not have a Consolidated Plan equivalent because it is not directly related to housing; however, it establishes the following metrics and milestones: align housing resources with efforts serving young people at risk of being homeless; align housing resources with school based social services and workforce training/support program; align housing resources with transit planning to expand services and improve access.
10	**Goal Name**	AFH Goal 6: Strengthen access to fair housing
	Goal Description	This AFH Goal corresponds with all Consolidated Planning Goals; however it is directly related to the City's obligation to further fair housing. Metrics and milestones include: continuing to support fair housing training (1 event/year) through donation of City meeting space, assistance with marketing, PSAs with trainers, etc.; dedicating local resources to support bi-lingual Landlord/Tenant counseling and assistance through Hotline, including focus on Landlord responsibilities under FHA (serving 300 renters/year).

Projects

AP-35 Projects – 91.220(d)

Introduction

In March of 2019, the State of NM issued a stay at home order for New Mexico residents to stem the tide of the coronavirus. In response, the City dedicated dormitory beds and apartments at the Midtown campus property to house people who did not have homes or safe places to shelter in place. A primary goal for the City's creation of the Midtown shelter was to reduce the potential for an outbreak among unhoused people by reducing the population density at local shelters and coordinating testing and isolation for those people who would otherwise be on the streets. Another objective was to relieve hospitals by creating a place where vulnerable patients and/or those with positive COVID tests could be discharged, as well as sheltering people leaving detox/recovery programs or detention centers.

This Action Plan Amendment proposes to use CARES Act funding to supplement the City's operation of the Midtown Shelter. The New Mexico Coalition to End Homelessness will act as the City's fiscal agent to hire staff and ensure that health care and programming is comprehensive and relevant to the people housed at the campus.

Projects

#	Project Name
1	Homewise Mortgage Principal Reduction
2	Santa Fe Habitat Home Repair
3	Santa Fe Civic Housing Authority Calle La Resolana LIHTC
4	Santa Fe Civic Housing Authority Villa Consuelo Rehabilitation
5	Youth Shelters and Family Services TLP/Cold Weather Shelter Security System
6	SFPS Adelante Expanded School Liaison Project
7	Coming Home Connection-Casa Cielo
8	Interfaith Women's Summer Safe Haven Shelter
9	Youth Shelters and Family Services Street Outreach Program
10	Project Administration
11	Housing Trust Principal Reduction
12	**NMCEH - Midtown Shelter**

Table 7 - Project Information

Describe the reasons for allocation priorities and any obstacles to addressing underserved needs

This project will directly address the highest and immediate need in the community which is to protect public health as related to the COVID-19 pandemic. Another goal is to improve the individual health outcomes of individuals and families experiencing homelessness who do not have a home or a safe place to be quarantined and remain socially distant. A longer term goal is to connect these shelter residents to supportive services and permanent housing. NMCEH was selected as the City's partner because of its organizational effectiveness, its ability to leverage funding for the project, and to positively and sustainably impact the most individuals in need.

AP-38 Project Summary

Project Summary Information

1	**Project Name**	Homewise Mortgage Principal Reduction
	Target Area	Citywide
	Goals Supported	Increase Affordable Homeowner Opportunities Align Housing Opportunities with Emerging Needs AFH Goal1: Create more affordable, quality housing AFH Goal 4: Create more access., afford. qual. hou AFH Goal 6: Strengthen access to fair housing
	Needs Addressed	Mortgage Principal Reduction Homebuyer Training and Counseling Fair Housing Outreach
	Funding	CDBG: $338,000
	Description	Mortgage principal reduction assistance for households under 80% AMI. 10-15 Households: $20K limit per h/h. Organizational Mission: To help create successful homeowners so that they improve their financial well being and contribute to the vitality of the community. Project Services: Assist 10-15 homeowners earning below 80% AMI in the City of Santa Fe to establish home ownership through mortgage reduction assistance services. This project addresses the following goals from the AFH:1. Create more affordable, quality housing that is equitably distributed throughout the City. Create more accessible, affordable, quality housing, to accommodate persons with disabilities. Strengthen access to fair housing and knowledge of fair housing among residents and landlords. Of the $330,000: $188,000 sourced from CDBG 2019 funding and estimated $150,000 from anticipated Program Income.
	Target Date	6/30/2020
	Estimate the number and type of families that will benefit from the proposed activities	Mortgage principal reduction assistance for households under 80% AMI. 10-15 Households: $20K limit per h/h.
	Location Description	1301 Siler Rd., Santa Fe, NM 87507
	Planned Activities	Homewise will provide mortgage principal reduction assistance to homebuyers who qualify and have completed educational requirements for eligibility.
2	**Project Name**	Santa Fe Habitat Home Repair
	Target Area	Citywide

	Goals Supported	Increase Opportunities for At-Risk Populations Increase Affordable Homeowner Opportunities AFH Goal1: Create more affordable, quality housing AFH Goal 2: Preserve and Improve Existing Housing AFH Goal 4: Create more access., afford. qual. hou AFH Goal 6: Strengthen access to fair housing
	Needs Addressed	Homeowner Rehab, Upgrades and Retrofits AFH Factor: High Housing Costs AFH Factor: Aging Housing Stock AFH Factor: Accessible Housing for Disabled AFH Factor: Fair Housing Information and Resources
	Funding	CDBG: $124,715
	Description	Emergency repairs for homeowners earning below below 60% AMI (CDBG). Limit of $10K per h/h. Organizational Mission: Santa Fe Habitat for Humanity promotes affordable home ownership for Santa Fe area residents by constructing simple, adequate and safe houses through the cooperative efforts of volunteers, partner families, donors and staff. Project Service: Will provide home repairs for 20-29 households earning less than 60% AMI.This project addresses the following AFH goals:1. Create more affordable, quality housing that is equitably distributed throughout the City. Preserve and improve existing housing occupied by low and moderate income renters and owners. Create more accessible, affordable, quality housing, to accommodate persons with disabilities. Strengthen access to fair housing and knowledge of fair housing among residents and landlords.
	Target Date	6/30/2020
	Estimate the number and type of families that will benefit from the proposed activities	30 Households earning less than 60% AMI. (Historically this program serves majority of elderly homeowners earning less than 50% AMI).
	Location Description	2520 Camino Entrada Ste. A, Santa Fe, NM 87507
	Planned Activities	Habitat for Humanity will provide emergency home repair for homeowners who qualify for the assistance.
3	**Project Name**	Santa Fe Civic Housing Authority Calle La Resolana LIHTC
	Target Area	
	Goals Supported	Increase Opportunities for At-Risk Populations Increase Affordable Rental Housing Opportunities Align Housing Opportunities with Emerging Needs AFH Goal1: Create more affordable, quality housing AFH Goal 4: Create more access., afford. qual. hou AFH Goal 6: Strengthen access to fair housing

	Needs Addressed	Rental Units & Support Services AFH Factor: High Housing Costs AFH Factor: Fair Housing Information and Resources
	Funding	CDBG: $47,100
	Description	Predevelopment, acquisition and soft costs for (45) Affordable rental unit development. Organizational Mission: To improve the living environment of low to moderate income families served by creating and sustaining safe, decent and affordable housing that fosters stability and increased self-sufficiency. The agency promotes personal, economic and social upward mobility by providing individuals and families the opportunity to make the transition from subsidized to non-subsidized housing. The mission emphasizes the efficient and successful management of resources in today's time of transition. Over the past twenty years, the SFCHA has collaborated with local non-profit agencies to make significant progress toward this mission. Project Service: The Santa Fe Civic Housing Authority will develop an affordable townhouse unit style on Calle La Resolana. The development will provide housing for 45 households earning below 80% AMI.
	Target Date	6/30/2020
	Estimate the number and type of families that will benefit from the proposed activities	45 households earning less than 80% of AMI will be served to include (11) ELI and (34) LI.
	Location Description	1115 Calle La Resolana, Santa Fe, NM 87507
	Planned Activities	Santa Fe Civic Housing Authority will provide pre-development activities for affordable rental development comprised of 45 units.
4	**Project Name**	Santa Fe Civic Housing Authority Villa Consuelo Rehabilitation
	Target Area	Citywide
	Goals Supported	Increase Opportunities for At-Risk Populations Increase Affordable Rental Housing Opportunities Align Housing Opportunities with Emerging Needs AFH Goal1: Create more affordable, quality housing AFH Goal 2: Preserve and Improve Existing Housing AFH Goal 4: Create more access., afford. qual. hou AFH Goal 6: Strengthen access to fair housing
	Needs Addressed	Rental Rehabilitation AFH Factor: High Housing Costs AFH Factor: Aging Housing Stock AFH Factor: Accessible Housing for Disabled AFH Factor: Fair Housing Information and Resources
	Funding	CDBG: $47,100

	Description	Villa Consuelo offers 100 Infill Rental Units and Support Services for Low Income households at or below 50% AMI. Funds will be used for soft costs associated with rehabilitation of 100 units to replace HVAC, windows, floor coverings, bathrooms and kitchens and bring each unit into 100% ADA compliance. Organizational Mission: To improve the living environment of low to moderate income families served by creating and sustaining safe, decent and affordable housing that fosters stability and increased self-sufficiency. The agency promotes personal, economic and social upward mobility by providing individuals and families the opportunity to make the transition from subsidized to non-subsidized housing. The mission emphasizes the efficient and successful management of resources in today's time of transition. Over the past twenty years, the SFCHA has collaborated with local non-profit agencies to make significant progress toward this mission. Project Service: The Santa Fe Civic Housing Authority will rehabilitate the affordable units at Villa Consuelo which are inhabited by individuals earning at or below 50% AMI.
	Target Date	6/30/2020
	Estimate the number and type of families that will benefit from the proposed activities	A minimum of (100) households earning less ELI-MLI, mainly seniors, will benefit from the rehabilitation of the rental units.
	Location Description	1200 Camino Consuelo, Santa Fe, NM 87507
	Planned Activities	Santa Fe Civic Housing Authority will rehabilitate 100 affordable rental units.
5	**Project Name**	Youth Shelters and Family Services TLP/Cold Weather Shelter Security System
	Target Area	Citywide
	Goals Supported	Increase Opportunities for At-Risk Populations Align Housing Opportunities with Emerging Needs AFH Goal 2: Preserve and Improve Existing Housing AFH Goal 6: Strengthen access to fair housing
	Needs Addressed	Emergency Shelter
	Funding	CDBG: $21,660

	Description	Security system expansion for the TLP/Cold Weather Shelter serving (30) ELI-LI youth ages 17-21. Organizational Mission: Youth Shelters and Family Services (YSFS) delivers life-changing solutions to homeless, runaway and in-crisis youth by providing shelter and addressing health, safety, education and workforce opportunities so they can achieve lifetime independence. Project Service: YSFS will install an expanded security system for the Youth Emergency Shelter and Transitional Living Program/Cold Weather Shelter in order to increase mitigation of unauthorized resident contact with non-residents, flight of minors, co-mingling, and provide security for on-site staff.
	Target Date	6/30/2020
	Estimate the number and type of families that will benefit from the proposed activities	An estimated minimum of (30) individuals ages 17-21 will benefit from the proposed project. The Youth Emergency is a 24-hour safe haven for youth in crisis ages 10-17. The Transitional Living Program is a supervised home and apartment setting for youth ages 17-21 attending school, job training, or working as youth transitioning to independence. The Cold Weather Shelter is a winter emergency shelter with 8 beds where youth can stay nightly during the coldest months.
	Location Description	4435 Airport Rd., Santa Fe, NM 87507
	Planned Activities	Youth Shelters and Family Services will expand the security system for the TLP and the Cold Weather Shelter.
6	**Project Name**	SFPS Adelante Expanded School Liaison Project
	Target Area	Citywide
	Goals Supported	Increase Opportunities for At-Risk Populations Align Housing Opportunities with Emerging Needs AFH Goal 4: Create more access., afford. qual. hou AFH Goal 5: Improve access to high quality schools AFH Goal 6: Strengthen access to fair housing
	Needs Addressed	Support Services for Homeless and At Risk Fair Housing Outreach AFH Factor: High Housing Costs AFH Factor: Access to Schools & Transportation AFH Factor: Fair Housing Information and Resources
	Funding	CDBG: $32,970

	Description	The liaison project links Adelante parents, their children K-12. Organizational Mission: The Santa Fe Public School (SFPS) Adelante Program works to strengthen opportunities for the academic achievement and life success of Santa Fe children and youth who are experiencing homelessness. Based on the federal McKinney-Vento Homeless Assistance Act, SFPS Adelante Program is part of the Santa Fe Public Schools and a fiscal project of Santa Fe Partners in Education Foundation. Services are bilingual and include advocacy, tutoring, evening programs, case management and providing material aid such as school supplies and clothing. Project Services: SFPS Adelante will provide staffing for multi-level, bilingual services to students and their families. The increased staffing will facilitate and expand access to long term, stable housing for a minimum of eight hundred and fifty (950) children, youth and their families experiencing homelessness. Children ages birth through five years of age, receive appropriate support in order to be prepared for Kindergarten. School age children experiencing homelessness receive the appropriate support to succeed in school. School age youth that are disconnected from school and experiencing homelessness will receive support to re-engage with school or attend an alternative program with career pathways.This project incorporates actions from the following AFH Goals: 6. Strengthen access to fair housing and knowledge of fair housing among residents and landlords.
	Target Date	6/30/2020
	Estimate the number and type of families that will benefit from the proposed activities	An estimated minimum of (950) youth and ELI/and or Homeless families will benefit from the proposed activities.
	Location Description	1300 Camino Sierra Vista, Santa fe, NM 87505
	Planned Activities	SFPS Adelante will provide housing and educational support services to youth and their families qualifying as homeless through McKinney-Vento.
7	**Project Name**	Coming Home Connection-Casa Cielo
	Target Area	Citywide
	Goals Supported	Increase Opportunities for At-Risk Populations AFH Goal 4: Create more access., afford. qual. hou
	Needs Addressed	Support Services for Homeless and At Risk AFH Factor: Accessible Housing for Disabled
	Funding	CDBG: $18,856

	Description	Staffing for End of life home and services for 15 Homeless, ELI and LI individuals. Organization Mission: For over ten years Coming Home Connection has provided skilled and compassionate in-home care to those in need in Santa Fe and the surrounding counties. They provide unique volunteer-hybrid model combines free and low-cost care, administering services to a wide range of people regardless of their ability to pay. Caregivers, all of whom are trained and background checked, are committed to honoring the dignity and privacy of each care recipient, and providing the highest quality of care. Project Goals: Casa Cielo will provide staffing specializing in care for the end-of-life and hospice support, for (15) elderly, indigent and ELI-LMI individuals facing end of life housing and care needs.
	Target Date	6/30/2020
	Estimate the number and type of families that will benefit from the proposed activities	An estimated minimum of (15) homeless, ELI-LMI individuals facing the end of their life will benefit from the proposed activities.
	Location Description	418 Cerrillos Rd. #27, Santa Fe, NM 87501
	Planned Activities	Coming Home-Casa Cielo will provide end of life services and housing for individuals facing terminal illness and/or are at the end of their life stage.
8	**Project Name**	Interfaith Women's Summer Safe Haven Shelter
	Target Area	Citywide
	Goals Supported	Increase Opportunities for At-Risk Populations
	Needs Addressed	Emergency Shelter Support Services for Homeless and At Risk AFH Factor: Fair Housing Information and Resources
	Funding	CDBG: $28,000
	Description	Staffing for Support Services/Emergency Shelter: WSSH will provide safety, security and community for 160 women and their children from May through October 2019. Organizational Mission: Interfaith Community Shelter offers hope and a safe place for anyone who is homeless or vulnerable as they overcome adversity, providing short-term survival services and long-term services in collaboration with other local service provider partners. Project Service: Interfaith will increase staffing for the Women's Summer Safe Haven (WSSH).This project incorporates actions from the following AFH Goals: 1. Create more affordable, quality housing that is equitably distributed throughout the City. Create more accessible, affordable, quality housing to accommodate persons with disabilities. Strengthen access to fair housing and knowledge of fair housing among residents and landlords

	Target Date	6/30/2020
	Estimate the number and type of families that will benefit from the proposed activities	An estimated minimum of (160) homeless/at risk for homelessness ELI to LI women and their children will benefit from the proposed activities.
	Location Description	2801 Cerrillos Rd., Santa Fe, NM 87505
	Planned Activities	Interfaith Shelters will provide shelter services for women and their children who are homeless or at risk for homelessness from May-October in 2019 and May-June in 2020.
9	**Project Name**	Youth Shelters and Family Services Street Outreach Program
	Target Area	Citywide
	Goals Supported	Increase Opportunities for At-Risk Populations Align Housing Opportunities with Emerging Needs
	Needs Addressed	Support Services for Homeless and At Risk AFH Factor: Fair Housing Information and Resources
	Funding	CDBG: $18,840
	Description	Funding will provide staff for outreach services at the Interfaith Community Shelter during the Winter season and during year-round Resource Center hours. Additional relief staff hours will continue at the drop in center to ensure shifts are covered. Organizational Mission: Youth Shelters and Family Services (YSFS) delivers life-changing solutions to homeless, runaway and in-crisis youth by providing shelter and addressing health, safety, education and workforce opportunities so they can achieve lifetime independence. Project Service: YSFS will provide staffing for street-based critical services such as food, water, clothing emergency aid supplies, tents, backpacks, sleeping bags and blankets to six hundred and fifty (400) ELI youth up to age 21. The Street Outreach Program also has a Drop-in Center where youth who do not have a safe place to live can shower, do laundry and receive case management support services.This project incorporates actions from the following AFH Goals: 1. Create more affordable, quality housing that is equitably distributed throughout the City. Strengthen access to fair housing and knowledge of fair housing among residents and landlords.
	Target Date	6/30/2020
	Estimate the number and type of families that will benefit from the proposed activities	An estimated minimum number of (400) homeless/ELI-LI individuals will benefit form the proposed activities.
	Location Description	402 S. St. Francis Dr., Santa Fe, NM 87501

	Planned Activities	Youth Shelters and Family Services will provide outreach and linkage to housing services to youth and young adults who are homeless or at risk for homelessness.
10	**Project Name**	Project Administration
	Target Area	Citywide
	Goals Supported	Increase Opportunities for At-Risk Populations Increase Affordable Rental Housing Opportunities Increase Affordable Homeowner Opportunities Align Housing Opportunities with Emerging Needs AFH Goal1: Create more affordable, quality housing AFH Goal 2: Preserve and Improve Existing Housing AFH Goal 4: Create more access., afford. qual. hou AFH Goal 6: Strengthen access to fair housing
	Needs Addressed	Emergency Shelter Support Services for Homeless and At Risk Rental Units & Support Services Rental Rehabilitation Mortgage Principal Reduction Homebuyer Training and Counseling Homeowner Rehab, Upgrades and Retrofits Diversity of Housing Types AFH Factor: High Housing Costs AFH Factor: Aging Housing Stock AFH Factor: Work opportunities for disabled people AFH Factor: Accessible Housing for Disabled AFH Factor: Access to Schools & Transportation AFH Factor: Fair Housing Information and Resources
	Funding	CDBG: $131,810
	Description	Administrative and staff activities associated with CDBG projects and services.
	Target Date	6/30/2020
	Estimate the number and type of families that will benefit from the proposed activities	An estimated total number of (1,700) ELI-MI individuals and households to benefit from the proposed CDBG projects.
	Location Description	500 Market Street, Suite 200, Santa Fe, NM 87501
	Planned Activities	Administration of 2019-20 CDBG projects.
11	**Project Name**	Housing Trust Principal Reduction
	Target Area	Citywide

	Goals Supported	Increase Affordable Homeowner Opportunities Align Housing Opportunities with Emerging Needs AFH Goal1: Create more affordable, quality housing AFH Goal 4: Create more access., afford. qual. hou AFH Goal 6: Strengthen access to fair housing
	Needs Addressed	Mortgage Principal Reduction AFH Factor: High Housing Costs
	Funding	CDBG: $50,000
	Description	Provide mortgage reduction assistance for homeowners 80% AMI and below through Program Income. Of the $50,000 expected in resources, 100% will be Program Income.
	Target Date	6/30/2020
	Estimate the number and type of families that will benefit from the proposed activities	It is anticipated that approximately three households will benefit from this mortgage reduction assistance activity funded through the generation of Program Income.
	Location Description	1111 Agua Fria St., Santa Fe, NM 87501
	Planned Activities	Mortgage reduction assistance provided for up to three households earning 80% or less of AMI.
12	**Project Name**	**NMCEH Midtown Shelter**
	Target Area	**Citywide**
	Goals Supported	**Increase Opportunities for At-Risk Populations** **Align Housing Opportunities with Emerging Needs**
	Needs Addressed	**Emergency Shelter** **Support Services for Homeless and At Risk**
	Funding	**CDBG: $361,227**
	Description	**Provide oversight for the operation of the Midtown Shelter, including case management (connecting residents to support services) and managing the facility (cleaning, maintenance, etc.)**
	Target Date	**6/30/2021**
	Estimate the number and type of families that will benefit from the proposed activities	**It is anticipated that approximately 150 individuals and families will be housed at the shelter.**
	Location Description	**1600 St Michael's Drive, Santa Fe, NM 87505**
	Planned Activities	**Mortgage reduction assistance provided for up to three households earning 80% or less of AMI.**

AP-50 Geographic Distribution – 91.220(f)

Description of the geographic areas of the entitlement (including areas of low-income and minority concentration) where assistance will be directed

The Community Development Commission placed the highest funding priority on affordable housing and provided related services citywide, rather than focusing on a specific area or neighborhood. Though it is desired to utilize CDBG towards rental units such as the Soleras Station project and additional rental developments in the Midtown Campus Qualified Census Tract, the developer expense of constructing these is challenging in the absence of Low Income Housing Tax Credits. One LIHTC project (Calle La Resolana) chosen this year will be developed along the main corridor of the City near Cerrillos Rd and will serve a growing area of need. The LIHTC application and award timeline does not often synchronize with that of CDBG; however, if future projects of this type are awarded and CDBG funding becomes available later in the year, it can be used towards them, such as in the case of Stage Coach Apartments in previous years.

The final high priority of the CDC is funding ***public facilities*** that most closely serve households transitioning out of homelessness as well as funding ***public services*** that help very low income individuals and households to transition out of homelessness. Again, because of Santa Fe's relatively compact geography, funds are not prioritized for a particular area as all facilities serve city-wide residents.

Geographic Distribution

Target Area	Percentage of Funds
Citywide	100

Table 8 - Geographic Distribution

Rationale for the priorities for allocating investments geographically

All programs for the 2019 CDBG program year will serve extremely low to moderate-income residents throughout the City as the City of Santa Fe does not have priorities for allocating resources geographically.

Discussion

The City's policy of city-wide distribution of resources is due in part because the population of low income/minority residents is not substantial enough relative to specific areas of concentration in Santa Fe. In contrast, a larger urban area with more population is more likely to have higher numbers of low income/minority residents living in concentrated areas which makes geographic priorities more feasible and effective. In Santa Fe, eligibility is defined based on household (income) versus the location of the project or program. For example the City allocates funding programs for mortgage principal reduction assistance which is dependent on the household income versus the location of the home, which is also

the same standard for home improvement funds. Likewise, public service programs that serve at risk youth, for example, focus on serving citywide residents versus those coming from a specific geographic area.

Affordable Housing

AP-55 Affordable Housing – 91.220(g)

Introduction

The City of Santa Fe's expenditure of funds - federal and local - supports projects and programming that serve the spectrum of housing needs from the homeless to the homeowner. The City identifies needs and evaluates existing housing gaps to ensure that programs and projects increase and improve the City's housing opportunities. Reflecting that objective, the funded projects in this plan serve the homeless both through public services that provide support and referral to housing as well as end of life needs for homeless and/or ELI-LMI individuals. The public service projects are Adelante School Liaison, Youth Shelters Outreach and Drop In, Interfaith Shelter's Women Safe Haven, Coming Home Connection-Casa Cielo. Installation of an expanded security system for the Youth Shelters and Family Services TLP/Cold Weather Shelter is a facility improvement project to serve homeless youth to young adults. Maintenance of homes and energy efficiency upgrades with home repair assistance and affordable rental rehabilitation projects include Habitat for Humanity Home Repair and the Santa Fe Civic Housing Authority-Villa Consuelo Apartments rehab. An additional development project of affordable rental units with an emphasis on sustainable design is the Santa Fe Civic Housing Authority-Calle La Resolana which are also included in 2019-2020 funding. Finally, home ownership opportunities are increased for LMI households through the Homewise-Mortgage Principal Reduction Assistance project. Delivery of these services is provided through the City's network of nonprofit partners which ensures they are effective, responsive and timely.

One Year Goals for the Number of Households to be Supported	
Homeless	**150**
Non-Homeless	158
Special-Needs	0
Total	**308**

Table 9 - One Year Goals for Affordable Housing by Support Requirement

One Year Goals for the Number of Households Supported Through	
Rental Assistance	0
The Production of New Units	45
Rehab of Existing Units	130
Acquisition of Existing Units	0
Total	175

Table 10 - One Year Goals for Affordable Housing by Support Type

Discussion

Households shown above to be supported through CDBG funded affordable housing in 2019-20 include estimates of (158) households receiving support through downpayment assistance and affordable rental developments. Calle Resolana will provide (45) new units, Habitat for Humanity and Villa Consuelo projects will provide (130) rebabbed units. The total projects addressing homelessness for the 2019-20 fiscal year will serve the following through public service and shelters: 950 households served through Adelante; 160 women provided shelter at the Women's Safe Haven; 400 youth households reached through outreach and other services; 3 through the Coming Home Connection End of Life services; and 30 through the Youth Shelters and Family Services TLP/Cold Weather Shelter security system expansion. Non-homeless households include: 30 households provided home repair and energy efficiency upgrade assistance; 100 households served with rehabbed, affordable apartment rental units; 45 households served with new affordable rental units; 12 individuals provided with end of life services through Coming Home Connection-Casa Cielo and 12 households provided with homeownership opportunities through mortgage principal reduction assistance with Homewise. The 2019-2020 projects listed also address the fair housing goals outlined in the City's AFH Plan.

In addition to the above stated CDBG funded projects, a LITHC mixed-use development proposal was approved for 65 units at the Siler Yard to be completed in 2020.

This amendment proposes directly addressing the shelter and services needs of 150 individuals and families, who are currently unhoused during the COVID-19 pandemic. The dual purpose of this project is to reduce the potential for an outbreak among unhoused people by reducing the population density at local shelters and coordinating testing and isolation for those people who would otherwise be on the streets. Another objective is to relieve hospitals by creating a place where vulnerable patients and/or those with positive COVID tests can be discharged, as well as sheltering people leaving detox/recovery programs or detention centers who would otherwise be vulnerable to infection.

AP-60 Public Housing – 91.220(h)

Introduction

This section describes how the City and the local housing authorities will work together to address the needs of residents of public housing, Housing Choice Voucher holders and other extremely low income residents.

The Santa Fe Civic Housing Authority (SFCHA) is the primary public housing agency in Santa Fe. It oversees 490 units of public housing, and manages 670 housing choice vouchers in Santa Fe. There are a total of 369 units for seniors and 121 units for families. Currently, 269 people are on the public housing waiting list for a housing authority apartment unit, and approximately 171 people on the Section 8 waiting list for Santa Fe. SFCHA receives approximately 35 applications per month for public housing. The wait for a unit is between 18 and 24 months; however, the waiting list is only open on a lottery basis at designated times during the year.

Santa Fe County also manages 200 units of public housing and administers 241 housing choice vouchers (44 VASH). Some vouchers are used within city limits.

Actions planned during the next year to address the needs to public housing

Maintenance of aging units is a continuous effort so the housing authority is systematically converting its units under the Rental Assistance Demonstration (RAD) project. For the upcoming year, funds will be used to rehabilitate public housing units to bring them up to current code requirements, improve energy efficiency, and update other quality of life amenities.

As noted in the project list, the Santa Fe Civic Housing Authority, will update 100 units at Villa Consuelo and were granted CDBG rehab funding for soft costs associated with this project.

Actions to encourage public housing residents to become more involved in management and participate in homeownership

Both PHAs provide a Family Self-Sufficiency Program which supports self-sufficiency with the eventual goal of becoming viable homeowners. The family enters into a five-year Contract of Participation with the Housing Authority and sets specific goals to be achieved over the term of the Contract. As part of the Contract, the Housing Authority opens an escrow account for each participating family and any time there is an increase to the family's earned income during the term of the Contract, money is deposited into the family's escrow account. Upon successful completion of the Program, the family receives the balance in their escrow account to use for home ownership and educational goals.

If the PHA is designated as troubled, describe the manner in which financial assistance will be provided or other assistance

The PHAs are not designated as troubled.

Discussion

As an active developer of LIHTC projects, the Santa Fe Civic Housing Authority is considered a partner of the City of Santa Fe's in the provision of affordable rental housing beyond the typical housing authority functions. The City has to subordinate and amend its lease agreements with the housing authority every time a funding application is submitted. During the program year, the City expects to put out for RFP the donation of another parcel of City-owned land and anticipates that the housing authority will submit a proposal to develop approximately 60 units of affordable rental housing.

AP-65 Homeless and Other Special Needs Activities – 91.220(i)

Introduction

The City works in partnership with many non-profit organizations who provide a wide range of services to prevent “at-risk” populations such as unaccompanied youth, families with children, veterans, battered families, people with disabilities and seniors from becoming homeless. Another objective is to help existing homeless populations obtain safe, affordable and sustainable housing opportunities as well as needed services such as health care, transportation and counseling.

These activities necessarily run along a continuum of housing program options that range from emergency shelter services to transitional housing and permanent supportive housing services to the new construction of mixed income and mixed use affordable rental development projects. Currently the City has in place emergency and transitional housing programs for homeless individuals, families with children, veterans, and unaccompanied youth.

The City has incorporated the mission of "Built for Zero" (BFZ) to address chronic homelessness in 2019. The BFZ project is a national, evidence based model used to end homelessness: https://www.community.solutions/what-we-do/built-for-zero. The first step to the model is to identify those who are homeless by August 2019, within the community, by name, followed by a strategic, coordinated outreach and networking system of linking homeless individuals and families to services as well as housing. The goal indicator for the BFZ program is a significant reduction (30%) in homelessness by January 2020. Service prioritization is made through the development of a simplified VI-SPDAT (Vulnerability Index-Service Prioritization Decision Assistance Tool). Finance consultants at Community solutions, the umbrella organization for the BFZ program identify innovative funding structures that will allow Santa Fe to expand its stock of affordable and supportive housing that will remain tied to the coordinated entry system providing a continuous housing supply for those in need.

Those who are facing homelessness or special needs are now able to benefit from long range transportation for access to VA services in Albuquerque and SOAR model benefits application assistance through YSFS, Life Link and Adelante. These are added services that are currently provided by organizations throughout the City and greatly contribute expanding access for consumers.

Describe the jurisdictions one-year goals and actions for reducing and ending homelessness including

Reaching out to homeless persons (especially unsheltered persons) and assessing their individual needs

All of the city’s nonprofit partners who work with homeless persons have extensive outreach activities and the City will be working to better coordinate outreach to make sure we are reaching everyone. The Resource Center called Pete’s Place, is part of the existing Interfaith Shelter and offers emergency beds

in winter, meals and clothing. Most importantly, the organization brings together outreach coordinators to provide information about available services. Medical care, job counseling, meals, clothing, transportation are a few of the services provided at Pete's Place, which is partially funded through local funds allocated through the City's Human Services Division. In response to direct community need, Interfaith proposed the Women's Summer Safe Haven when shelter staff and first responders noted that women were particularly vulnerable on the streets during summer months when the shelter is closed for the season. For the 2019-20 program year, the City allocated CDBG funds to provide safe shelter for women and expect to serve up to 160 women and their children.

The City of Santa Fe works closely with the New Mexico Coalition to End Homelessness to coordinate services for homeless individuals and families. NMCEH operates a statewide system of coordinated entry where every homeless family and individual is given an assessment based on the nationally recognized VI/SPDAT (Vulnerability Index/Service Prioritization Assessment Tool). The results of the assessment are used to refer homeless people to the type of housing that best fits their needs and the permanent supportive housing. As previously stated, the City recently signed up to be part of Built for Zero, a national movement to end chronic and veteran homelessness in participating communities. Since Santa Fe has met the federal benchmarks for effectively ending veteran homelessness, current efforts will concentrate on housing all of those in the City who are chronically homeless. The coordinated entry system will be used to create a regularly updated by-name list of those who are homeless, and the City is working with its nonprofit partners to develop more permanent supportive housing to meet the needs of the approximately 100 individuals who are currently chronically homeless in Santa Fe.

Addressing the emergency shelter and transitional housing needs of homeless persons

The NM Coalition to End Homelessness is uniquely situated to act as the City's fiscal agent for the disbursement of these funds because its member agencies are the community's main providers of emergency shelter and supportive services for homeless people. As the coordinator of this network and other federal funds, NMCEH will be able to ensure that the services and case management provided at the shelter comprehensively meet the needs of the people staying there. More importantly, NMCEH can assist the City with designing and implementing a longer term system of support services and shelter with the eventual goal of connecting shelter residents with permanent housing.

St. Elizabeth operates two emergency shelters and three longer-term supportive housing programs. Its Men's Emergency Shelter has 28 year-round beds along with a library, TV room, laundry, showers and intensive case management. *Casa Familia* has 10 beds for single women, eight rooms for individual families, and can accommodate up to 30 people, depending on family size. It also has a TV/play room, dining room, laundry and donations room where clothing and toys are available for guests. These shelters provide respite care for those who are in need of a place to recover from illnesses and behavioral health issues and both have a program manager, case managers and supervisory staff. *Casa Cerrillos* is a permanent housing program with 28 apartments for adults with disabilities, many with co-occurring substance abuse problems. Siringo Apartment is a permanent housing program with eight

apartments for seniors. *Sonrisa Family Shelter is a transitional housing program* with eight apartments for families with children. It has a two-year stay limit within which time families are expected to have overcome the issues leading to their becoming homeless and have saved enough funds to successfully move in to housing of their own. All three supportive housing programs have on-site program/case managers that work closely with each guest and monitor their progress.

Interfaith Community Shelter is a largely volunteer agency consisting of 40+ faith and community groups and nearly 2,000 active volunteers. ICS provides shelter and services to men, women and children who are experiencing homelessness in Santa Fe, and provides a point of entry to the other services necessary to make the transition from homelessness to stable housing. As a minimal barrier shelter, the three components of programming are the Seasonal Night Shelter; the Day Services Program; and the Women's Summer Safe Haven. Resource Days operate three days a week, year round, with 12 partner provider agencies.

Life Link, established in 1987 in a motel, has evolved into a highly effective behavioral health and supportive housing center. At *La Luz*, 24 apartment units and an additional 74 City wide scattered-site units are provided to people with mental illness and other co-occurring disorders, based on the permanent supportive housing model. Life Link provides extensive outpatient treatment, pyscho-social rehabilitation, homeless prevention and rental assistance, peer support services and onsite healthcare screening.

Esperanza is a full service organization offering advocacy, counseling, case management and legal advocacy for survivors of domestic violence. It operates a 24/7 Crisis hotline 1-800-473-5220, as well as, a shelter that can house up to 32 people. The organization also offers comprehensive non-residential counseling services.

Youth Shelters and Family Services. Youth Shelters and Family Services helps hundreds of homeless, runaway, and at-risk youth each year. The organization annually provides thousands of bed nights for youth through its emergency shelter, cold weather shelter, transitional living, and rapid rehousing programs. In addition, services are provided through the organization's drop-in center, street outreach, counseling center, pregnant and parenting initiative, youth appropriate referrals, case management, skill building services and activities geared toward self-sufficiency and readiness for adulthood. Youth ages 10-17 can stay at the emergency shelter for 1 - 90 days, youth ages 17-21 can stay in the transitional, apartment-style living units for up to 18 months, and youth ages 18-24 can stay in the scattered site rapid rehousing apartments for up to 2 years.

Helping homeless persons (especially chronically homeless individuals and families, families with children, veterans and their families, and unaccompanied youth) make the transition to permanent housing and independent living, including shortening the period of time that individuals and families experience homelessness, facilitating access for homeless individuals and families to affordable housing units, and preventing individuals and families who were

recently homeless from becoming homeless again

The City relies on its network of community partners to facilitate coordination of services and ensure that those vulnerable to homelessness don't "fall through the cracks". A newly formed Homeless Task Force began meeting in October of 2017 to analyze and provide recommendations to the Governing Body "to ensure that homelessness is prevented whenever possible or is otherwise a rare, brief and non-recurring experience." The task force reported back to the Governing Body and these recommendations shaped the 2018-2022 Consolidated Plan planning process. Also, the NMCEH continues to implement systems for ensuring that homeless who seek services are tracked through HMIS through a statewide system of coordinated assessment. Every homeless family and individual is given an assessment based on the nationally recognized VI/SPDAT (Vulnerability Index/Service Prioritization Assessment Tool). The results of the assessment are used to refer homeless people to the type of housing that best fits their needs and the assessment is used to create a prioritized list. Chronically homeless people are placed at the top of the list for permanent supportive housing.

The City of Santa Fe has worked closely with the Santa Fe Community Housing Trust to develop three apartment communities - Village Sage (60 units), Stagecoach Apartments (60 units) and the soon-to-be finished Las Soleras Station (87 units) where 25% of the units are set aside for people exiting homelessness. On-site support services and referral to other service providers is also provided. The City has contributed financially in various ways to each of these projects. During the 2019-20 program year, the City proposes to use $47,100 of funds to support the rehabilitation of Villa Consuelo Apartments, a 100-unit property that provides housing for at risk populations earning at or less than 50% AMI. The Coming Home Connection-Casa Cielo program will provide hospice beds for a minimum of 3 homeless individuals and 12 ELI-LMI at risk for homelessness individuals facing end of life needs.

An important component to the shelter provided at Midtown is matching residents with the necessary social services to meet and improve the other social determinants of health. Another piece is to streamline outreach with connecting people to shelter The City anticipates that the Midtown Shelter will provide the basis for better data collection (understanding who is homeless and who needs help) and integrating them into a coordinated system of social services.

Helping low-income individuals and families avoid becoming homeless, especially extremely low-income individuals and families and those who are: being discharged from publicly funded institutions and systems of care (such as health care facilities, mental health facilities, foster care and other youth facilities, and corrections programs and institutions); or, receiving assistance from public or private agencies that address housing, health, social services, employment, education, or youth needs.

The City's CDBG entitlement funds and local funds will be used used to support those with special needs through Adelante, Life Link, the Interfaith Shelter programs which will provide services to homeless, veterans, and people with special needs in order to help them in the area of their specific need(s) and/or

to make the transition to permanent housing. The City's Family and Youth Services Office funds numerous transitional homeless programs including: Youth Shelters (outreach, transitional living, and emergency shelter for youth with special needs and/or at risk of homelessness), Interfaith (Women's and Community Shelter for women with special needs and/or at risk for homelessness). In addition, these programs work with the Veterans Advisory Board which funds a veteran support worker through the Veterans Integration Center (VIC) and rental space at Interfaith for a Homeless Veterans Coordinator through the Veterans Administration. The City also funds Adelante school based program and Communities in Schools to identify and work with homeless students in Santa Fe Public Schools. CDBG funds are being used to provide enhanced security for homeless youth (Youth Shelters and Family Services TLP/Cold Weather Shelter), as well as the funding necessary to support an outreach coordinator for the Drop In Center run by Youth Shelters. Casa Cielo is a new program funded through CDBG for 2019-2020 and will address the needs of elderly and/or terminally ill individuals facing end of life transitions. Apart from HUD funding, the City also supports the Santa Fe Recovery Center to provide housing for individuals who have graduated from their addiction recovery program.

The City has set aside funding for supplementation of rental assistance programs provided by a collaboration of at-risk-for-homelessness-serving organizations (LifeLink, SFPS Adelante Program, YouthWorks and the Santa Fe Recovery Center) These organizations have joined forces to address the gap in housing availability and homelessness for young adults to seniors and those starting a new chapter toward addiction recovery within the community. It was formed from a working group of concerned organizations that work daily to serve the populations with the highest-needs in Santa Fe. In addition to the rental assistance, the organizations will work together to provide a coordinated system of entry, wraparound services, staff and administrative support and interagency referrals for optimal placement of residents.

The City works closely with its network of housing partners to ensure that the needs of those discharged from institutions are also being met. Many women have entered Casa Familia after giving birth once discharged from the hospital. Likewise, Youthworks receives many referrals from juvenile corrections systems.

A primary focus for the project proposed in this amendment is to streamline the placement into housing of people being discharged from institutions, detention centers and recovery programs. Without a safe and socially distant place to stay, many of these people would be even more vulnerable to infection than the average person.

Discussion

See above.

AP-75 Barriers to affordable housing – 91.220(j)

Introduction:

Typically, those who are most heavily cost-burdened, have the lowest incomes. The City of Santa Fe reviewed its policies and practices to mitigate barriers to housing development--particularly affordable housing development—as part of the 2011 Analysis of Impediments (AI) to Fair Housing Choice and has submitted the 2016 AI update which was made available for public review with its successor, the City's 2017 Assessment of Fair Housing (AFH). HUD required both documents to be submitted in consecutive years, though the 2016 AI contains much of the framework as required by the AFH, per the new federal rule to Affirmatively Further Fair Housing. This update provides an in-depth review of city housing policies and land use and zoning regulations and also incorporates elements of the successor study as required by HUD. This study examines in further depth any groups or individual citizens not captured in the 2016 AI participation, especially such persons who reside in areas identified as Racially or Ethnically-Concentrated Areas of Poverty (R/ECAP's), Limited English Proficient (LEP) persons, and persons with disabilities. Some of the barriers or impediments to affordable housing identified in the 2011 AI still exist according to the 2016 analysis and mitigation steps are incorporated in the 2018-22 Consolidated Plan as well as the 2019 Annual Action Plan.

Actions it planned to remove or ameliorate the negative effects of public policies that serve as barriers to affordable housing such as land use controls, tax policies affecting land, zoning ordinances, building codes, fees and charges, growth limitations, and policies affecting the return on residential investment

1. Lack of affordable housing; efforts are being made to introduce an ADU ordinance which will ease restrictive Land Use codes for building accessory dwellings, and therefore, provide incentive for infill development and increased accessory dwelling housing throughout the City.
2. Some residents lack equal access to opportunity due to lower performing schools in high-poverty neighborhoods, *and* the lack of public transportation; CDBG projects funded through the RFP process are scored based upon livability and sustainability to include higher scoring for walkability to services, transportation and quality schools.
3. Lack of fair housing information and supportive services; The City's Fair Housing Assessment is accessible to the public on the City website and is updated every few years. The Annual Action Plan and projects chosen for the year are largely influenced by the needs outlined in the FHA.
4. Stakeholders continue to view neighborhood resistance or NIMBYism (Not-In-My-Backyard mentality) as a barrier to fair housing choice; one quarter of these survey respondents identified this as a "very serious" contributing factor; The public engagement survey application of MetroQuest, will be incorporated into the outreach plan and used to provide an online venue, accessible through the City's website and social media. The application will be utilized to attract a more demographically diverse representation in voices and opinions to be shared throughout the City.

The City works with Spanish speaking fair housing advocates that actively meet with approximately 75 local small businesses and non-profit organizations that distribute fair housing literature published by the City and describe tenant rights.

The City of Santa Fe has been exploring efforts to potentially redevelop several of its underused corridors that have infrastructure and could support rental housing, and which wouldn't have existing residential neighbors concerned about higher density housing developments, while also providing easy access to transportation. These include the Siler Road corridor and the Midtown Local Innovation Corridor District, or Midtown LINC, at St. Michael's Drive.

Currently in place, an amendment to the City's Chapter 26 of the city's code which governs the Santa Fe Homes Program and allows multi-family developers of rental housing to pay a fee-in-lieu by right, rather than incorporating subsidized units on-site. Fees are established on an "affordability gap" basis, estimating the difference between an affordable rent, averaged over three income tiers, and HUD's Fair Market Rent. In the upcoming year, the code will sunset and will be amended to appropriately charge fee amounts, provide incentives and flexible options for the purpose of encouraging development that meets the community's current needs. The objective is to generate enough revenue to fund a rental assistance program for tenants that can be used citywide and does not have high requirements for eligibility. The assistance could be used for a variety of needs - rent, utilities, rental/utility arrears, rental deposits, etc. Another objective is to remove a financing barrier for multi-family housing with the expectation that the development of multi-family units will also loosen up some of the demand for existing units, stemming rising rental rates but also providing more options for voucher holders to use their subsidies. As with any revenue generated or earmarked for affordable housing, use of the funds is dictated by city code and must be compliant with the NM Affordable Housing Act.

Discussion:

The most recent data shows a current occupancy of almost 98 percent for all rental housing in Santa Fe. In the furtherance of planned actions to ameliorate barriers, the City has researched development proposals with the Land Use department, affordable housing service providers and with the County and as a result, provides general information on developments in this section. The Office of Affordable Housing is tracking the following apartment development proposals that have come up within the past year which are in varying stages:

Rodeo Village: a proposed 188-unit market-rate apartment project located on Rodeo Road, just west of St. Francis Drive and adjacent to the railroad tracks. The site area is just over eight acres, and the project will include multiple buildings of two and three stories, plus amenities to include a fitness center and pool. Construction is anticipated to commence by the end of 2019.

Gerhart Apartments: A 258-unit apartment complex proposed for an approximate 11-12-acre site on South Meadows Road in SW Santa Fe. It has not received development approvals, but was recently awarded an upgrade in zoning from R-1 to R-21. All units would be available at market rent (no income-

restricted) and would target a mid-price apartment tenant. At this time, an affordable housing payment fee-in-lieu has been discussed.

Madera Apartments: A 355-proposed apartment complex that is currently seeking land use approvals for a zoning change to accommodate higher density use. Located near Gerhardt and with easy access to the bypass route, the units could provide much needed workforce housing for those commuting downtown or even to Albuquerque.

Markana Apartments: A 188-unit project in the development approval process that is proposed for a 7-acre site near Home Depot. The units will be rented at moderate rents and residents will have easy access via transit to Santa Fe's main commercial areas.

Turquesa Apartments: A 240 unit apartment project that has received final approvals from the Planning Commission. Located near the Santa Fe Place Mall, the site offers great access to shopping, transit, other amenities and the Arroyo Chamiso bike trail.

Vizcaya III: the final phase of an existing rental property, this project will offer 52 units, with a mix of 1 and 2 bedroom sizes. The site is located near shopping areas, transit and a trail connection to the Arroyo Chamiso trail.

Capital Flats: this project is located in a redeveloping mid-town area near the Capital Station Railrunner Station and will provide 139 studio, 1BR and 2BR units. The property is within walking distance of several retail centers and the Rail Trail which connects to the Acequia Trail and the Arroyo Chamiso trail for bicycle and pedestrian connectivity.

Acequia Lofts: this multifamily community is planned for site off Agua Fria road, in a transition area between single family neighborhoods and the more commercial and mixed use areas near the intersection with Siler Road. 120 units will be built in a combination of 1BR and 2BR sizes. The site is located near the River Trail and easy biking distance of downtown, shopping areas, and community amenities.

AP-85 Other Actions – 91.220(k)

Introduction:

This section describes additional efforts to address obstacles to meeting underserved needs, promote efforts to coordinate and facilitate the many elements related to housing, create suitable living environments, and promote economic development for low and moderate income persons.

Having a roof over one's head is one of our essential needs as human beings, as important as eating, sleeping, and receiving medical care. Yet, too often, the poor, the disabled, the elderly and even many in the workforce are not able to afford a house that meets their needs. A lack of high quality housing directly affects one's ability to build wealth, participate in civic activities, enjoy leisure time, and most of all, to have a decent and safe place to live. The overall health and vitality of a community suffers directly when its residents aren't housed adequately.

In Santa Fe, this situation is compounded by the fact that as a tourist destination, the city has attracted people from all over the world to live here, driving up the value of real estate beyond the ability of many locals to afford housing. As noted earlier, the recession helped to level out skyrocketing appreciation, which has made homeownership more affordable for those with moderate incomes. However, those earning low incomes, mostly renters, are even more hard-pressed to attain affordable housing.

Actions planned to address obstacles to meeting underserved needs

The primary obstacle to meeting underserved needs is the lack of available resources. With continuing reductions in the available resources, the number of people and the extent to which they can be served is declining. The local economic environment is generally positive. Unemployment is low and the community has seen some commercial growth. However, recovery from the damage that was done to the financial status of many households, especially low and moderate income households, is still slow; for many, recovery has not happened. The City remains committed to using its limited financial resources in the most effective and efficient manner possible and to collaborate with other agencies and programs to address the community's needs.

Even before the economic downturn, a common obstacle to the underserved need of homeownership for Santa Fe residents was lack of credit worthiness and the inability to save a down payment for a home. Several of the City's partner organizations offer assistance in the rebuilding of credit history, as well as homebuyer education programs.

A focus in 2018 as well as 2019, has been on the development of new, sustainable (in location, as well as efficiency) affordable units and sustainable rehabilitation of existing units in order to maintain affordable rent and housing stock as well as increase the availability of affordable housing. The City of Santa Fe's 25-Year Sustainability Plan was adopted in December 2018 and is focused upon taking the necessary steps to become carbon neutral by 2040, while increasing ecological resilience, economic

vitality, quality of life and social equity for Santa Feans. Increasingly, interdisciplinary efforts are being made throughout the City to address the triple bottom line needs outlined in the 25-Year Plan for resiliency and sustainability through scaling and scoring each project's impact in environmental, economic and social health giving preference to the projects that will provide the most positive impact(s).

Actions planned to foster and maintain affordable housing

The City of Santa Fe is committed to providing funding that supports innovative and sustainable housing solutions that result in permanently affordable and sustainable housing for residents who live and/or work in Santa Fe. It will continue to prioritize the use of CDBG and the Affordable Housing Trust Fund allocations to support mortgage principal reduction assistance, home repair and rental assistance. The City also provides administrative funding to nonprofit partners to provide housing and/or housing-related services. The Youth and Family Services Division funds several programs that serve homeless and those with special needs and the City's Office of Affordable Housing provides funding to support homebuyer training and counseling and support for existing homeowners through home repair, refinancing, and Home Equity Conversion Mortgages (HECM).

The City's inclusionary zoning program requires all residential developments to provide a percentage of the total units as affordable, 20% for homeownership units and 15% for rental units. As mentioned in AP-75, an ordinance amendment allows for a fee in lieu to be paid, by right, for multi-family rental development. The fee is calculated using an "affordability gap" basis: the subsidized rent amount subtracted from the area's fair market rent. Fees paid support the Affordable Housing Trust Fund, which, in turn, can fund rental assistance throughout the City as well as down payment assistance. The incentives for this program are a 15% density bonus, fee reductions for water and wastewater connections and fee waivers for development review and permit fees. The affordability of homes created through the SFHP is controlled by the placement of a lien on the property that constitutes the difference between the appraised value of the home and the subsidized/effective sales price paid by the income-qualified buyer. If the unit is sold, the lien is either transferred to the new affordable buyer who is income qualified or repaid into the City's Affordable Housing Trust Fund (AHTF).

Actions planned to reduce lead-based paint hazards

According to the State of NM Department of Health, Santa Fe has low risk factors for lead exposure in children. 9.6% of its housing stock was built before 1950 and in 2011, 0 children in Santa Fe County tested positively for elevated blood levels. More recent studies by the NMDOH identified Santa Fe County as having "low levels" of lead exposure, as cited in the NM Epidemiology Report, April 2017. The Office of Affordable Housing also conducts environmental reviews on all CDBG-funded activities. In cases where individual homes are older than 1978 and may have lead based paint, the subrecipient is

required to follow all applicable law to assess the presence of lead and remediate it, if necessary.

Additionally, the City of Santa Fe's housing partners - Habitat for Humanity, The Housing Trust and Homewise - must notify homeowners of any potential lead-based paint issues as part of every home-buying transaction. If a homebuyer purchases an already existing home with financial assistance from the Housing Trust or Homewise, they are given a lead-based paint disclosure form that must be signed. If a home is purchased that was built before 1978, the EPA lead-based paint pamphlet entitled "Protect Your Family from Lead in Your Home" is also given to the homeowner. All federally funded home-repair activities are also subject to stringent guidelines for lead-based paint assessment and remediation. Both Habitat and Homewise are experienced in addressing the presence of lead-based paint in their home rehabilitation programs. Any presence of lead-based paint is remediated by a certified professional.

Actions planned to reduce the number of poverty-level families

As part of an anti-poverty strategy, the City will work toward implementing the following:

- Establish priorities for allocating federal tax credits to mixed income rental developments where at least 30% of the rental units will be affordable to households earning less than 50% of the AMI; (The Soleras Station project funded through CDBG initiated this strategy. The Siler Yard and Calle Resolana projects breaking ground in 2019-2020 will provide continuity in 2019 for this focus.)
- Fund a local housing voucher program to provide assistance to the homeless and near homeless; (Local funds will support a voucher program administered through Life Link.)
- Modify the Santa Fe Homes Program (SFHP) so that the rental requirement is relevant to the housing needs in the community. (Underway)
- Work with for-profit and non-profit organizations to develop one new multi-family, mixed income rental property. Total units not to exceed 100 per project (Support for the Siler Yard is ongoing);
- Identify all existing affordable rentals and develop a preservation plan as needed. (Underway as part of the revitalization of the Midtown Campus project.)

Given the city's high rate of cost burden, even for homeowners, it is apparent that continued focus on rehabilitation, home repair, and other support services is essential to alleviating poverty in Santa Fe.

Specific programs that reduce the number of poverty level families are:

- Conserve and maintain Santa Fe's existing housing stock and residential neighborhoods.
- Continue to support rehabilitation loan programs targeted toward low to moderate income homeowners (50%-80% AMI), which includes home renovations, emergency repairs and energy conservation measures including the purchase of new appliances, retrofits, and solar water

heaters.

- Support the SFCHA's ongoing RAD conversion projects to renovate public housing units, building new units when feasible.

Actions planned to develop institutional structure

During the current program year, the City will continue the successful institutional delivery efforts and, when needs arise, work with partners to address those challenges with program delivery.

The biggest challenge for the City of Santa Fe over the next five years will be to continue to address the increasing demands of housing needs with limited financial resources. The City of Santa Fe's model of service delivery is to pass through most federal funds to sub-grantees and enter into administrative contracts with service providers who provide the services. This ensures that services are provided in the most efficient and relevant manner as possible. The sub-grantees are then able to leverage additional programming and project funds, including LIHTC, HOME, ESG, CDFI, as well as funds allocated through the state's Mortgage Finance Authority.

The main strengths of the current institutional delivery system is the wide range of services provided by the City or the funding of Non-profit organizations to offer an array of services to low to moderate income residents. The City of Santa Fe will carry out the priorities in the Consolidated Plan and subsequently, the 2019 Annual Action Plan, by continuing to collaboratively work with our non-profit partners. The City's philosophy is to help build the capacity of our service providers, rather than increase the size of the City's bureaucracy. The City and its staff serve as advocates and coordinators for our partner non-profits. Another strength is the diversity of services provided with little overlap because of the coordination between City departments as well as between the City and the non-profit organizations. This communication and cooperation are key to ensuring that the services reach a wide range of the population who are in need, including homeless, senior citizens, low/mod income, at risk youth and people with special needs and disabilities.

Actions planned to enhance coordination between public and private housing and social service agencies

The City of Santa Fe has a long and successful history of working with the nonprofit, private, and governmental sectors to create collaborative partnerships. The City encourages partnerships with the state and federal governments to expand funding for affordable housing, especially housing for people with disabilities, seniors, minorities, female-headed populations and various special needs populations. The City acts as a convener through its use of funds to support a variety of housing services and programs related to housing security. Through its various citizen committees (Community Development Commission, Veterans Affairs Committee, the Mayor's Panel on Disability, the newly formed Mayor's Task Force on Homelessness, Built for Zero Initiative with Community Services, the Children and Youth Committee, and more efforts to network with Economic Development for the increase of affordable

workforce housing stock, etc.) the City ensures that funds are deployed to maximum benefit in the community. The Family and Youth Services Office funds numerous transitional homeless programs including: Youth Shelters (outreach, transitional living, and emergency shelter), Interfaith (Women's and Community Shelter), St Elizabeth Shelter (Men and Family shelter). In addition, the Veterans Advisory Board funds a veteran support worker through the Veterans Integration Center (VIC) and rental space at Interfaith for a Homeless Veterans Coordinator through the Veterans Administration. The City also funds Adelante school based program and Communities in Schools to identify and work with homeless families in Santa Fe Public Schools. CDBG funds are being used to provide renovation of a permanent supportive housing program (Casa Cerrillos) run by St Elizabeth Shelter, as well as the funding necessary to support an outreach coordinator for the Drop In Center run by Youth Shelters.

Specific projects that bridge economic development needs with that of housing providers and social services agencies include: redevelopment of the Midtown Campus; support of the Siler Yard live/work affordable housing project; support of the housing needs for youth participating in the Youthworks Culinary job training program; and support for low-mod homebuyers/homeowners which directly supports the local economy and the triple bottom line address of social, economic and environmental sustainability practices adoption throughout the City.

Discussion:

The most obvious gap is the reduction in funding on all levels from the federal to the local levels. Another effect of the recent economic downturn is the increase in households at risk becoming homeless or experiencing episodic homelessness. Without an increase in resources to support services and facilities, the service providers are grappling with limited capacity to meet emerging needs. In response, the Santa Fe City Council has supported an innovative combination of regulation, policy and financial support for the development, preservation and improvement of affordable housing.

The City's philosophy is to help build the capacity of community-based service providers, rather than to increase the size of its bureaucracy. This has been achieved by providing local funding to support administrative contracts in all areas of nonprofit services – affordable housing, youth programs, human services and economic development. As a result, the nonprofit network in Santa Fe is among the strongest in the state of New Mexico. Many pilot programs initiated in Santa Fe have been replicated not only statewide, but across the nation.

Another strength of the City's service delivery model is that a wide diversity of services is provided with little overlap because of the coordination between City departments as well as between the City and the non-profit organizations. This communication and cooperation are key to ensuring that services reach a those in the most need, including homeless families and individuals and those in danger of becoming homeless, veterans, senior citizens, victims of domestic violence, very-low income renters, at risk youth and people with special needs and disabilities.

Future production of new units will need to reflect the needs of emerging populations, specifically older,

smaller households; the elderly; the self-employed; and special needs groups such as veterans. Market demand for single-family suburban style housing is decreasing as more households seek housing that is close to transportation, economic centers, services and amenities and can be adapted to changing needs to allow “aging in place” and entrepreneurial activities. As a manner of addressing these needs, a new resolution to increase accessible dwelling units is in the works with Land Use and Housing partnering to create solutions to the challenge. The resolution, if adopted, will affect zoning regulations and density barriers, and proposes ADU's as age in place alternatives that will also serve to provide much needed, additional infill housing inventory throughout the City.

Program Specific Requirements

AP-90 Program Specific Requirements – 91.220(l)(1,2,4)

Introduction:

This section identifies program income that is available to the City of Santa Fe for use that is included in projects to be carried out during PY2018.

Projects funded for FY2019-2020 reflect a variety of programs, facilities and services in addition to the programs that are most commonly funded by the City – down payment assistance for homebuyers and home improvement for low-to moderate-income households as well as rental rehab projects and new affordable rental development. Public services are limited to 15% of the entitlement award and for this upcoming year four projects were funded: Adelante Elementary School liaison, Youth Shelters Outreach and Drop In Center, the Womens Summer Safe Haven Shelter and Coming Home Connection-Casa Cielo. Additionally, the City operates a local affordable housing trust fund (AHTF) that is funded through developer fees, pay off of City-held affordability liens, and land sales revenues from City-held mortgages. When a funding balance is accrued to support an allocation of local funds, the City disburses them in alignment with CDBG funds. The trust funds are monitored by the NM Mortgage Finance Authority for compliance with the NM Affordable Housing Act which allows funds to be used for beneficiaries earning up to 120% AMI (area median income). This enables the subrecipients to serve a full range of incomes as CDBG funds are used for those at 80% AMI and below and the AHTF can be used for those 81-120 AMI%.

Log # *{Finance use only}*:	
Journal # *{Finance use only}*:	

City of Santa Fe, New Mexico
BUDGET AMENDMENT RESOLUTION (BAR)

DEPARTMENT / DIVISION NAME	DATE

ITEM DESCRIPTION	ORG	OBJECT	PROJECT	INCREASE	DECREASE
EXPENDITURES				*{enter as positive #}*	*{enter as negative #}*
Grants & Services	2402750	510400		361,227	
REVENUES				*{enter as negative #}*	*{enter as positive #}*
US Deptt Housing Urban Dev	2402750	490520		(361,227)	
				$ -	$ -

JUSTIFICATION: *(use additional page if needed)*
--Attach supporting documentation/memo

The City was entitled $321,227 in CARES Act funding through its CDBG entitlement grant to use for mitigating the impacts of the COVID-19 global pandemic. Of particular importance was to keep people experiencing homelessness safe and in a place where they could be quarantined and observe social distancing, while reducing the population density in local shelters. To accomplish this, the City opened dormitory rooms and apartments at the Midtown Campus property. The CARES Act funding will keep this housing operational through at least December 2020 until a more permanent provider of services is found.

{Complete section below if BAR results in a net change to ANY Fund}

Fund(s) Affected	Fund Balance Increase/(Decrease)
240	361,227
TOTAL:	**361,227**

Jessica Sandoval 06/01/2020
Prepared By *{print name}* Date

Division Director Signature *{optional}* Date

Alexandra Ladd June 1, 2020
Department Director Signature Date

{Use this form for Finance Committee/ City Council agenda items ONLY}

CITY COUNCIL APPROVAL

City Council Approval Date

Agenda Item #:

Budget Officer Date

Finance Director *{≤ $5,000}* Date

City Manager *{≤ $60,000}* Date

CITY OF SANTA FE

COMMUNITY DEVELOPMENT BLOCK GRANT CONTRACT

THIS CONTRACT is made and entered into this _____day of _____, 2020 by and between the City of Santa Fe, a municipal corporation, (the "City") and New Mexico Coalition to End Homelessness, Inc.(the "Subrecipient").

RECITALS

1. The City of Santa Fe was entitled a CARES Act grant in the amount of $361,227 from the Department of Housing and Urban Development (HUD) for the purposes of responding to emerging needs related to the coronavirus pandemic.

2. The City's initial response to the coronavirus pandemic included opening up dormitory rooms and apartments at the Midtown Property (formerly the Santa Fe University of Art and Design) to house people experiencing homelessness and/or in need of a safe place for maintaining safe social distance and self-quarantine.

3. Other objectives for this initiative include relieving local hospitals, reducing the potential for community spread within the homeless population, reduce the population density in local shelter facilities and support those released from detention facilities and in-patient recovery programs.

4. The City desires to use this CARES Act funding to support the continued operations of the shelter, now known as the "Midtown Shelter," to relieve the City's budget and to establish an ongoing framework for the provision of these services.

5. The City desires to engage the Subrecipient to render certain services to the

City as a fiscal agent to ensure that the Midtown Shelter is operated efficiently and effectively so that the effects of the pandemic are moderated, particularly as they relate to those experiencing homelessness and the services providers helping them.

6. The Subrecipient further certifies that it is willing and able to perform these services and that said services to be performed are within the Subrecipient's legal powers and capabilities.

7. The City desires to engage the Subrecipient to render these certain services in connection therewith as more particularly set forth hereafter.

AGREEMENTS

NOW, THEREFORE, the parties hereto mutually agree as follows:

I. SCOPE OF SERVICES

The Subrecipient agrees to utilize CDBG funds for projects that serve low to moderate-income residents within the Santa Fe City limits based on current HUD Area Median Income (AMI) data for Santa Fe as follows:

A. Contractor will work with City staff to establish a Governing Board for the Midtown Shelter that will review expenditures related to the Shelter operations, approve staffing reports, analyze data, and guide decision making related to the Shelter. Members may be composed of City and County staff, the board and staff of the Contractor, and other services providers or advocates whose expertise and affiliations will support the Shelter's operations.

B. Contractor will recruit, interview and hire two (2) independent contractors to provide shelter management services and case management to the residents of the Midtown Shelter. Job descriptions are summarized as follows:

a. Shelter Manager: manages all aspects of direct services and operations to ensure that the Midtown Shelter offers unified programming with an immediate goal of sheltering individuals and families who do not have a safe place to stay or self-isolate during the COVID-19 pandemic and with a longer-term goal of moving individuals and families into permanent supported housing as quickly as possible.

b. Case Manager: provides case management and crisis intervention services to shelter guests including immediate needs related to shelter, medical services, food, clothing, hygiene, and referral to services to meet longer term needs (job skills training and placement, literacy and life skills, legal support and advocacy), using the Unite Us platform and other coordinated entry systems.

C. The Contractor will maintain all financial records relating to the Midtown Shelter, according to generally accepted accounting principles, and will establish and maintain a designated account, segregated on its books, in which all disbursements will be used in support of the Midtown Shelter, less a 10% administrative charge. All disbursements are subject to the Governing Board's approval and accompanied by documentation such as timesheets, accomplishment narratives, invoices and receipts.

D. Contractor will report to the City on a quarterly basis the use of funds, program outcomes achieved, AMI% of assisted household, size of household, addresses of assisted homes, and other demographic information as required by the City's CDBG quarterly reporting form.

II. NATIONAL OBJECTIVES

The Subrecipient certifies that the service carried out with funds provided under this Contract will meet one or more of the Community Development Block Grant (hereinafter

"CDBG") Program's National Objectives, with particular focus on the following:

A. Benefit low/moderate income persons.

B. Benefit extremely low income persons.

C. Benefit homeless and elderly persons.

III. PERFORMANCE MONITORING

The City shall monitor the performance of the Subrecipient against goals and levels of accomplishment as stated above. Substandard performance as determined by the City will constitute noncompliance with this Contract. If action to correct such substandard performance is not taken by the Subrecipient within a reasonable period of time after being notified by the Grantee, contract suspension or termination procedures will be initiated.

IV. WORK PLAN AND REPORTING

A. Work Plan: The Subrecipient shall provide the City, within sixty (60) days from signing this Agreement, a revised work plan outlining the major tasks or activities, the measurable objectives for each task or activity, and the time frames to be taken by the Subrecipient in the performance of this Agreement. Included in this report should be information regarding how much funding was leveraged during the program year and from which sources.

B. Annual Budget: All project activities will be in accordance with the attached budget (Exhibit A) per 24 CFR 570.503(b)(1).

C. Invoicing: The Subrecipient shall submit to the City quarterly reports in order to receive reimbursement for these services. Quarterly reports must be filed no later than the 15th calendar day for the preceding month. A fund requisition with documentation in support of each budgetary category will be submitted. This documentation must include the original or a certified copy or copies of invoices, vouchers, statements, etc. All costs

chargeable to the City must be in accordance with budgetary and other restrictions of expenses established by this Contract. Funds for reimbursement can be disbursed on any Friday of each month during the contract period. In order for the City to meet this deadline, the Subrecipient is required to submit its request for reimbursement by Monday, 5:00 p.m., in order to receive payment by the following Friday. The Subrecipient shall submit a Final Project Report assessing the comparison of results achieved in relation to stated goals and objectives in the Scope of Services approved by the City. This report is due to the Office of Affordable Housing fifteen (15) days after the completion of the Contract.

D. Final Payment: Since all payments under this Contract shall be quarterly on a cost reimbursement basis, the City shall be entitled to withhold the final ten percent (10%) due hereunder, pending final approval by the City of the services rendered. Upon receipt and acceptance of a final project report prior to the final payment, the Subrecipient shall furnish the City proof in documentary form that all claims, liens, salaries or other obligations incurred by it in accordance with the services specified herein, have been properly paid and released.

E. Program Monitoring and Financial Audits: At such time and in such form as the City may require there shall be furnished to the City such statements, records, reports, data and information as the City may request pertaining to matters covered by this Contract. Furthermore, at any time during normal business hours and as often as the City may deem necessary, there shall be made available to the City or its designee for examination, all records maintained by the Subrecipient with respect to all matters covered by this Contract; and, the Subrecipient will permit the City to audit, examine and make excerpts or transcripts from such records, and make audits of all contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating

to all matters covered by this Contract subject to the limitations set out above. Any Subrecipient receiving City CDBG funds in excess of fifteen thousand dollars ($15,000) or any combination of public (City, State, or Federal) monies in excess of twenty-five thousand dollars ($25,000) shall perform a final audit on all funds received from all sources for the program no later than ninety (90) days after completion of the sub-recipient's fiscal year, and shall furnish the City with said audit. This audit shall be performed by an independent agency. Any Subrecipient receiving a sum of less than fifteen thousand dollars ($15,000) in City CDBG funds must submit an audited financial statement on all funds received from all sources for the program after completion of the sub-recipient's fiscal year, and shall furnish the City with said financial statements.

V. STATUS OF CONTRACTOR

The Subrecipient, and its agents and employees, are independent contractors performing professional services for the City and are not employees of the City. The Subrecipient, 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 Contract.

VI. COMPENSATION

A. The City shall pay to the Contractor in full payment for services satisfactorily performed, such compensation shall not exceed three hundred sixty-one thousand two hundred twenty-seven dollars ($361,227). **The total amount payable to the Contractor under this Agreement, including gross receipts tax and expenses, shall not exceed ($361,227). 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.

B. Invoice must include documentation of staff costs incurred, including time sheets or payroll reports showing amount of staff time paid by CDBG funds.

C. 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. All invoices MUST BE received by the City no later than thirty 30) days after the termination of the Fiscal Year in which the services were delivered. Invoices received after such date WILL NOT BE PAID.

VII. TERM

THIS AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED BY THE CITY. This Agreement shall terminate on **June 30, 2021** unless terminated pursuant to paragraph 4 (Termination), or paragraph 5 (Appropriations). In accordance with Section 13-1-150 NMSA 1978, no contract term for a professional services contract, including extensions and renewals, shall exceed four years, except as set forth in Section 13-1-150 NMSA 1978.

VIII. ADDITIONAL CONTRIBUTIONS

The Subrecipient may use the funds of the City granted herein to obtain Federal,

State or other grants to carry out the Scope of Services herein.

A. Program Income: Program income received may be retained by the Subrecipient, but may be used only for support of the programs detailed in the Scope of Services section of this Contract. Program income on hand at the time of completion of the Contract period shall continue to be subject to the eligibility requirements and other applicable provisions of 24 CFR 570.504, Program Income of the Administrative Regulations of the CDBG program.

IX. APPROPRIATIONS

The terms of this Contract are contingent upon sufficient appropriations and authorization made by the City for the performance of this Contract. If sufficient appropriations and authorizations are not made by the City, this Contract shall terminate upon written notice being given by the City to the Subrecipient. The City's decision as to whether sufficient appropriations are available shall be accepted by the Subrecipient and shall be final.

X. BUDGET REVISIONS The Subrecipient will inform the City of any "line item" revisions to the attached budget, within the maximum compensation shown in this Agreement and will obtain the City's prior written approval of any change that represents at least 25 percent or more of the line item amount per the latest approved budget. Any budget revisions must be eligible expenditures under this Agreement and Title I of the Community Development Act.

XI. ELIGIBLE AND INELIGIBLE COSTS

A. Criteria. This section provides criteria for the determination of whether costs are eligible or ineligible for funding under this Contract. Costs incurred, which are

determined by the City to be ineligible under these criteria, may not be charged to this Contract.

B. Standards. All costs incurred must be reasonable and of a nature which clearly relates to the specific purposes and end product of the contract under which the services are being performed. Care must be exercised by all concerned in incurring costs to assure that expenditures conform to these general standards, including 2 CFR Part 200, and the following criteria for eligible costs.

C. Eligible Costs. To be eligible for inclusion, the cost must:

(1) Be necessary and reasonable for proper and efficient execution of the contractual requirements and in accordance with an approved budget.

(2) Be in conformance with any limitations, exclusions and provisions pursuant to this Contract, State and Local Laws, or other governing limitations.

(3) Be accorded consistent treatment through application of accounting policy and procedures approved and/or prescribed.

(4) Be net after allowance of all applicable credits such as purchase discounts, rebates or allowances, sales or publication of materials, or other income or refunds.

(5) Be in accordance with budgetary or other restrictions on expenses established by the City.

(6) Be fully documented.

(7) The Subrecipient shall reimburse the City any costs and expenses declared ineligible by the City which may have been reimbursed erroneously to the Subrecipient by the City under whatever conditions.

D. Ineligible Costs. Ineligible costs shall be as follows:

(1) Accounting. Costs of maintaining central accounting records necessary for overall local government purposes, such as appropriation of fund accounts by the Treasurer, or similar officials, are considered general expenses of the Subrecipient and are ineligible costs. However, the cost of establishing and maintaining accounting or other information systems required for the management of the program are eligible costs including costs incurred by central services agencies for these purposes.

(2) Bad Debts. Any losses arising from uncollectible accounts and other claims, and related costs.

(3) Budget. Costs of a central budget office, except the costs of employees in the central budget office of the Subrecipient directly involved in the program as set forth in the Scope of Services, hereto, and clearly identifiable. However, costs incurred for the development, preparation, presentation, and execution of program and project budgets performed by the Subrecipient are eligible costs.

(4) Contingencies. Contribution to a contingency reserve or any similar provision for unforeseen events.

(5) Contributions and Donations. Political, charitable and fundraising solicitations, payments, gifts and expenses.

(6) Entertainment. Costs of amusements, social activities, and incidental costs, such as meals, beverages, lodgings, and gratuities, relating to entertainment.

(7) Board Expenses. The salary and expenses if any, of the Chairman of the Board of the Subrecipient are considered a cost of the Subrecipient and are not eligible costs in any way to this Contract.

(8) Fines and Penalties. Costs resulting from violations of or failure to comply with federal, state and local laws and regulations.

(9) Interest and other Financial Costs. Interest on borrowing (however represented); bond discounts, cost of financing and refinancing operations and legal and professional fees paid in connection therewith.

(10) Legal Fees. Costs for legal advice or work are ineligible, except those required directly for the administration of the program, which are eligible.

(11) Legislative Expenses. Costs for lobbying or testimony before the legislature or any of its committees, whether incurred for the purposes of legislation or executive direction, are not eligible.

(12) Membership Expenses. Cost of membership in any organization is ineligible.

(13) Travel. Costs in excess of those allowed by the City for its employees are ineligible.

(14) Meeting Attendance. Costs of attending meetings which are not included in the budget are ineligible.

(15) Expenses Related to Fundraising. Cost of postage, printing or external subcontracting for grant writers or development specialists.

XII. SPECIAL PROVISIONS

A. The Subrecipient realizes that the availability of funds for the activity covered by the "Scope of Services," herein and for performance of this Agreement, depend solely on the provisions of said funds by HUD, such provisions being contingent on the City's approval of these activities as eligible under the Housing and Community Development Act of 1974, the National Affordable Housing Act of 1990 and other pertinent federal regulations. However, the City shall notify the Subrecipient in writing within five days of receipt by the City of any determination by HUD to terminate CDBG funding.

B. In the event the Subrecipient or its organization is dissolved or discontinues making loans as provided herein, or this Agreement is not renewed after it expires, the Subrecipient shall upon such dissolution, discontinuation or within sixty (60) days after expiration of this Agreement if its renewal has not in the meantime been executed:

(1) Return to the City all unexpended Community Development Block Grant funds received from the City and CDBG program income in the possession of the Subrecipient that have not been already obligated through contracts.

(2) Assign and transfer to the City the equity on all outstanding loans and mortgages which have been provided by the Subrecipient from Community Development grant funds and related program income under this and previous agreements. The Subrecipient shall provide the City with a listing of the borrowers and outstanding amounts, together with up-to-date records of principal and interest payments and balances of the accounts of said borrowers.

XIII. CONFLICT OF INTEREST

The Subrecipient agrees to abide by the provision of 2 CFR Part 200 and 570.611, which include (but are not limited to) the following:

A. Interest of Members of City: No officer, employee, or agent of the City who exercises any functions or responsibilities in connection with the planning and carrying out any of the provisions of this Contract, or any other person who exercises any functions or responsibilities in connection with any of the provisions of the Contract, shall have any personal financial interest, direct or indirect, in this Contract; and the Subrecipient shall take appropriate steps to assure compliance.

B. Interest of Subrecipient and Employees: The Subrecipient shall not allow any person who presently exercises any functions or responsibilities in connection with the

provisions of this Contract, to have personal financial interests, direct or indirect, in this Contract. The Subrecipient further shall not allow in the performance of this Contract any person having any conflicting interest to be employed by the Subrecipient. Any interest on the part of the Subrecipient or its employees must be disclosed to the City. Provided, however, that this paragraph shall be interpreted in such a manner so as not to unreasonably impede the requirement that maximum opportunity for employment of area residents and resident participation shall be of primary concern to the Subrecipient.

Should the subrecipient discover a potential conflict of interest, the subrecipient shall immediately disclose in writing to the City and specifically ask for guidance on how to resolve the conflict and prior to any act in furtherance of the conflict. The disclosure shall include a description of the nature of the conflict; the name, position, phone number and address of the person with the conflict; the date of the notification; and requested action to address the conflict. Disclosures of real, apparent or perceived conflicts of interest shall be made to the City and the City must agree in writing to a proper course of subsequent action prior to the disbursement of CDBG funds.

C. Certification:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the State, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of a Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or

will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the State shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.

XIV. DISCRIMINATION PROHIBITED

A. In all hiring or employment made possible by or resulting from this Contract, there (1) will not be any discrimination against any employee or applicant for employment because of race, color, age, religion, sex, sexual orientation, national origin, and physical or mental disability; and (2) affirmative action will be taken to ensure that qualified applicants are employed, and that employees are treated during employment without regard to their race, color, age, religion, sex, sexual orientation, national origin, and physical or mental disability. This requirement shall apply, without limitation, to the following: employment, upgrading, demotion or transfer, recruitment advertising, layoff or termination, and selection for training, including apprenticeship. There shall be posted in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this clause. All solicitations or advertisements for employees shall state that all qualified applicants will receive consideration for employment without regard to race, color, age, religion, sex, sexual orientation, national origin, and physical or mental disability.

B. No person in the United States shall, on account of race, color, age, religion, sex, sexual orientation, national origin, and physical or mental disability, be excluded from participating in, denied the benefits of, or subjected to discrimination under this Contract or activity made possible by or resulting from the Contract.

C. Subrecipient will abide by all requirements of the Americans with Disabilities

Act. Subrecipient shall be kept informed of employee discrimination prevention requirements and program and facility accessibility standards.

XV. WOMEN- AND MINORITY- OWNED BUSINESSES (W/MBE)

The Subrecipient will use its best efforts to afford small businesses, minority business enterprises, and women's business enterprises the maximum practicable opportunity to participate in the performance of this contract. As used in this contract, the terms "small business" means a business that meets the criteria set forth in section 3(a) of the Small Business Act, as amended (15USC 632), and "minority and women's business enterprise" means a business at least fifty-one (51) percent owned and controlled by minority group members or women. For the purpose of this definition, "minority group members" are Afro-Americans, Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian-Americans, and American Indians. The Subrecipient may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

XVI. POLITICAL ACTIVITY PROHIBITED

None of the funds, materials, property or services provided for directly or indirectly under this Contract shall be used in the performance of this Contract for any political activity prohibited by Federal, State or local law.

XVII. CONFIDENTIALITY

Any confidential information provided to or developed by the Subrecipient in the performance of this Contract shall be kept confidential and shall not be made available to any individual or organization by the Subrecipient without the prior written approval of the City.

XVIII. REPRESENTATIONS IN SUBMITTALS

The City has relied on all representations in the Subrecipient's submittals in awarding this Agreement and the Subrecipient warrants the accuracy of all representations. Misrepresentations in the submittals will be cause for termination of this Agreement.

XIX. AMENDMENT

This Contract shall not be altered, changed or amended except by amendment in writing executed by the parties hereto.

XX. NOTICES AND ADDRESSES

Any notices required to be given under this agreement shall be in writing and served by personal delivery or by mail, postage prepaid, to the parties at the following addresses:

For the City, notices may be sent to:

City of Santa Fe
Office of Affordable Housing
P.O. Box 909
Santa Fe, New Mexico 87504-0909

For the Subrecipient, notices may

NM Coalition to End Homelessness.
440 Cerrillos Road
Santa Fe, NM 87501

XXI. ASSIGNABILITY

The Subrecipient shall not assign any interest in this Contract and shall not transfer any interest in the same (whether by assignment or otherwise) without the prior written consent of the City.

XXII. WARRANTY OF AUTHORITY

The Subrecipient warrants that it has full corporate and other authority, under its articles of corporation, bylaws, resolutions, other pertinent corporate documents, instruments, and agreements, and otherwise to enter into this agreement, to bind itself under this agreement, and to perform this Agreement in accordance with the terms and

provisions of this Agreement.

XXIII. BINDING EFFECT

This Agreement is binding upon and inures to the benefit of the successors, successors-in interest, assigns and transferees of the City and the Subrecipient.

XXIV. SEVERABILITY

In case any one or more of the provisions contained in this Agreement or any application thereof shall be invalid, illegal or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions contained herein and any other application thereof shall not in any way be affected or impaired thereby.

XXV. DISPOSITION OF PROPERTY

A. All non-expendable property acquired by the Subrecipient pursuant to this Contract shall be recorded in the property records of the City prior to reimbursement to the Subrecipient for expenses incurred in order to acquire said property. For purposes of this Contract, the term "non-expendable property" means items of tangible, personal property that are non-perishable such as equipment, software, and furniture. The use and disposition of real property and equipment under this Contract shall be in compliance with the requirements of 24 CFR Part 84 and 24 CFR 570.502, 570.503, and 570.504, as applicable.

B. Subrecipient shall be accountable for all recorded non-expendable property which is recorded as City property for a period of five years as established by the City.

C. All non-expendable property acquired pursuant to this Contract shall remain in the possession of and shall be used only by the Subrecipient, provided that said property continues to be used for the same purposes and in the same manner as originally intended.

D. If the Subrecipient cannot continue to effectively use recorded non-expendable property for the same purposes and in the same manner as originally intended and described in this Contract, all such non-expendable property shall remain in the possession of, and shall be used by the Subrecipient for similar purposes and in a similar manner as initially used; provided, however, that conversion of said property to a similar use in another similar program must first receive the express written consent of the City.

E. If the Subrecipient can neither continue to effectively use recorded non-expendable property for the same purposes and in the same manner originally intended nor continue to effectively use said property for the same or similar purposes and in a similar manner as permitted by this Contract, the City may provide for the disposition of said property wholly and entirely at the City's discretion.

F. The City may, in writing, waive and relinquish all claims the City may have in and to recorded non-expendable property.

G. When the Subrecipient's period of accountability for any non-expendable property expires, said property shall revert to the City unless otherwise provided for in a written agreement between the Subrecipient and the City. Assets on hand at the expiration of the Contract in excess of twenty-five thousand dollars ($25,000) shall be disbursed in accordance with reversion of assets of 24 CFR 570.503 Agreements with Subrecipients of the CDBG regulation; or

(i) The Subrecipient shall pay to the City an amount equal to the current market value of the property less any portion of the value attributable to the expenditures of non-CDBG funds for the acquisition of, or improvement to, the property. The payment is program income to the City. (No payment is required after the period of time specified in 24 CFR 570.503(b)(7)(i).

XXVI. COMPLIANCE WITH LOCAL LAW

The Subrecipient shall comply at its own cost with all applicable laws, ordinances and codes of the State and the City.

XXVII. THIRD PARTY BENEFICIARIES

By entering into this Contract, the parties do not intend to create any right, title or interest in or for the benefit of any person other than the City and the Subrecipient. No person shall claim any right, title or interest under this Contract or seek to enforce this Contract as a third party beneficiary of this Contract.

XXVIII. JURISDICTION CLAUSE

This Contract shall be performed in Santa Fe, New Mexico. Any legal action or cause of action arising in connection herewith shall be within the jurisdiction and venue of the appropriate court in Santa Fe, New Mexico, for all purposes.

XXIX. SUSPENSION AND TERMINATION

A. This Contract 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. By such termination, neither party may nullify obligations already incurred for performance or failure to perform prior to the date of termination. In addition, the City may terminate this agreement for convenience in accordance with 2 CFR Part 200.

B. The City may enforce remedies for noncompliance in accordance with 2 CFR Part 200. The City may also suspend or terminate this Contract, in whole or in part, if the Subrecipient materially fails to comply with any term of this Contract, or with any of the rules, regulations or provisions referred to herein; and the City may declare the Subrecipient ineligible for any further participation in the City's contracts, in addition to other remedies as provided by law. In the event there is probable cause to believe the

Subrecipient is not in compliance with any applicable rules or regulations, the City may withhold up to fifteen percent (15%) of said contract funds until such time as the Subrecipient is found to be in compliance by the City, or is otherwise adjudicated to be in compliance.

XXX. 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.

XXXI. 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.

A. Commercial General Liability insurance shall be written on an occurrence basis and be a broad as ISO Form CG 00 01 with limits not less than $2,000,000 per occurrence and $2,000,000 in the aggregate for claims against bodily injury, personal and advertising injury, and property damage. Said policy shall include broad form Contractual Liability coverage and be endorsed to name the City of Santa Fe their officials, officers, employees, and agents as additional insured.

B. Business Automobile Liability insurance for all owned, non-owned automobiles, with a combined single limit not less than $1,000,000 per accident.

C. Broader Coverage and Limits. The insurance requirements under this Agreement shall be the greater of (1) the minimum coverage and limits specified in this Agreement, or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the Named Insured. It is agreed that these insurance requirements shall not in any way act to reduce coverage that is broader or that includes higher limits than the minimums required herein. No representation is made that the minimum insurance requirements of this Agreement are sufficient to cover the obligations of Contractor hereunder.

D. 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.

XXXII. INDEMNIFICATION

The Subrecipient shall indemnify, hold harmless and defend the City from all losses, damages, claims or judgments, including payments of all attorneys' fees and costs on account of any suit, judgment, execution, claim, action or demand whatsoever arising from Subrecipient's performance under this Agreement as well as the performance of Subrecipient's employees, agents, representatives and subcontractors.

XXXIII. ENTIRE CONTRACT

This Contract constitutes the entire contract between the parties hereto. Prior contracts, whether written or oral, or assertion of statement, of understanding, or other commitment antecedent to this Contract shall have no force or effect whatsoever, unless

the same is mutually agreed to by the parties hereto and reduced to writing.

XXXIV. GENERAL CONDITIONS

A. General Compliance: The Subrecipient agrees to comply with the requirements of Title 24 of the Code of Federal Regulations, Part 570 (the Housing and Urban Development regulations concerning Community Development Block Grants (CDBG). The Subrecipient also agrees to comply with all other applicable Federal, state and local laws, regulations, and policies governing the funds provided under this contract and as set forth at 24 CFR Part 570 subpart K, except that the Subrecipient does not assume the recipient's environmental responsibilities under 24 CFR 570.604 and 24 CFR Part 52. The Subrecipient further agrees to utilize funds available under this Contract to supplement rather than supplant funds otherwise available.

B. Grantor Recognition: The Subrecipient shall ensure recognition of the role of the City in providing services through this contract. All activities, facilities and items utilized pursuant to this contract shall be prominently labeled as to funding source. In addition, the Subrecipient will include a reference to the support provided herein in all publications made possible with funds made available under this contract.

XXXV. ADMINISTRATIVE REQUIREMENTS

A. Financial Management

1. Accounting Standards. The Subrecipient agrees to comply with 2 CFR Part 200 and agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.

2. Cost Principles. The Subrecipient shall administer its program in conformance with the Uniform Administrative Requirements of 24 CFR 570.502, 24 CFR

570.503, and 2 CFR Part 200. These principles shall be applied for all costs incurred whether charged on a direct or indirect basis.

XXXVI. DOCUMENTATION AND RECORD KEEPING

A. Records to be Maintained. The Subrecipient shall maintain all records required by the Federal regulations specified in 24 CFR 570.506 that are pertinent to the activities to be funded under this Contract. Such records shall include but not be limited to:

(1) Records providing a full description of each activity undertaken;

(2) Records demonstrating that each activity undertaken meets one of the National Objectives of the CDBG program;

(3) Records required to determine the eligibility of activities;

(4) Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG assistance;

(5) Records documenting compliance with the fair housing and equal opportunity components of the CDBG program;

(6) Records documenting compliance with EPLS/SAM for each sub-contractor;

(7) Financial records as required by 24 CFR 570.502, and 2 CFR Part 200;

(8) Other records necessary to document compliance with Subpart K of 24 CFR Part 570.

(9) Other records necessary to document compliance with Sections 1012 and 1013 of Title X amending the Lead-based Paint Poisoning Prevention Act of 1971 and title 24 of the Code of Federal Regulations as part of 35 (24 CFR 35).

XXXVII. CLIENT DATA

The Subrecipient shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, income level or other basis for determining eligibility, and description of service provided. Such information shall be made available to the City or its designees for review upon request.

XXXVIII. DISCLOSURE

The Subrecipient understands that client information collected under this Contract is private and the use or disclosure of such information, when not directly connected with the administration of the City's or Subrecipient's responsibilities with respect to services provided under this contract, is prohibited by the State of New Mexico unless written consent is obtained from such person receiving service and, in the case of a minor, that of a responsible parent or guardian.

XXXIX . PROPERTY RECORDS

The Subrecipient shall maintain real property inventory records, which clearly identify properties purchased, improved or sold. Properties retained shall continue to meet eligibility criteria and shall conform to the "changes in use" restrictions specified in 24 CFR 570.503 (b) (8), as applicable.

XL. RELOCATION, REAL PROPERTY ACQUISITION AND ONE-FOR-ONE HOUSING REPLACEMENT

The Subrecipient agrees to comply with (a) the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), and implementing regulations at 49 CFR Part 24 and 24 CFR 570.606(b); (b) the requirements of 24 CFR 570.606(c) governing the Residential Anti-displacement and Relocation Assistance Plan

under section 104(d) of the HCD Act; and (c) the requirements in 24 CFR 570.606(d) governing optional relocation policies.

XLI. ENVIRONMENTAL CONDITIONS

A. Air and Water: The Subrecipient agrees to comply with the following requirements insofar as they apply to the performance of this Contract:

(1) Clean Air Act, 42 USC, 7401, *et seq.*;

(2) Federal Water Pollution Control Act, as amended, 33 USC, 1251, *et seq.*, as amended 1318 relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder;

(3) Environmental Protection Agency (EPA) regulations pursuant to 40 CFR Part 50, as amended.

B. Flood Disaster Protection: In accordance with requirements of the Flood Disaster Protection Act of 1973 (42 USC 4001), the Subrecipient shall assure that for activities located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, flood insurance under the National Flood Insurance Program is obtained and maintained as a condition of financial assistance for acquisition or construction purposes (including rehabilitation).

C. Lead-Based Paint: The Subrecipient agrees that any construction or rehabilitation of residential structures with assistance provided under this Contract shall be subject to HUD Lead-Based Paint Regulations at 24 CFR 570.608, and 24 CFR Part 35, Subpart B. Such regulations pertain to all CDBG-assisted housing and require that all owners, prospective owners, and tenants of properties constructed prior to 1978 be property notified that such properties may include lead-based paint. Such notification shall

point out the hazards of lead-based paint and explain the symptoms, treatment and precautions that should be taken when dealing with lead-based paint poisoning and the advisability and availability of blood lead level screening for children under seven. The notice should also point out that if lead-based paint is found on the property, abatement measures may be undertaken. The regulations further require that, depending on the amount of Federal funds applied to a property, paint testing, risk assessment, treatment and/or abatement may be conducted.

D. Historic Preservation: The Subrecipient agrees to comply with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, as amended (16 USC 470) and the procedures set forth in 36 CFR Part 800, Advisory Council on Historic Preservation Procedures for Protection of Historic Properties, insofar as they apply to the performance of this agreement. In general, this requires concurrence from the State Historic Preservation Officer for all rehabilitation and demolition of historic properties that are fifty years old or older or that are included on a Federal, state, or local historic property list.

XLII. CLOSE OUTS

The Subrecipient's obligation to the City shall not end until all closeout requirements are completed. Activities during this close-out period shall include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the City), and determining the custodianship of records.

XLIII. LAND COVENANTS

This Contract is subject to the requirements of Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and 24 CFR 570.601 and 602. In regard to the sale, lease, or other transfer

of land acquired, cleared or improved with assistance provided under this contract, the Subrecipient shall cause or require a covenant running with the land to be inserted in the deed or lease for such transfer, prohibiting discrimination as herein defined, in the sale, lease or rental, or in the use or occupancy of such land, or in any improvements erected or to be erected thereon, providing that the City and the United States are beneficiaries of and entitled to enforce such covenants. The Subrecipient, in undertaking its obligation to carry out the program assisted hereunder, agrees to take such measures as are necessary to enforce such covenant, and will not itself so discriminate.

XLIV. SECTION 504

The Subrecipient agrees to comply with any Federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973 (29 USC 794), which prohibits discrimination against the handicapped in any Federally assisted program.

XLV. PROHIBITED ACTIVITY

The Subrecipient is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities; sectarian or religious activities; lobbying, political patronage, and nepotism activities.

XLVI. LABOR STANDARDS

A. The Subrecipient agrees to comply with the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act as amended, the provisions of Contract Work Hours and Safety Standards Act (40 USC 327 *et seq.*), the Copeland "Anti-Kickback" Act (18 USC 874 *et seq.*), its implementing regulations of the U.S. Department of Labor at 29 CFR Part 5, and all other applicable Federal, state and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this contract. The Subrecipient shall maintain documentation which demonstrates compliance

with hour and wage requirements of this part. Such documentation shall be made available to the City for review upon request.

B. The Subrecipient agrees that, except with respect to the rehabilitation or construction of residential property containing less than eight units, all contractors engaged under contracts in excess of two thousand dollars ($2,000.00) for construction, renovation or repair work financed in whole or in part with assistance provided under this contract, shall comply with Federal requirements adopted by the City pertaining to such contracts and with the applicable requirements of the regulations of the Department of Labor, under 29 CFR Parts 1, 3, 5 and 7 governing the payment of wages and ratio of apprentices and trainees to journey workers; provided, that if wage rates higher than those required under the regulations are imposed by state or local law, nothing hereunder is intended to relieve the Subrecipient of its obligation, if any, to require payment of the higher wage. The Subrecipient shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions meeting the requirements of this paragraph.

XLVII. COMPLIANCE

A. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR 135, ("Section 3") and all applicable rules and orders issued thereunder prior to the execution of this contract, shall be a condition of the Federal financial assistance provided under this contract and binding upon the City, the Subrecipient and any of the Subrecipient's subcontractors. Failure to fulfill these requirements shall subject the City, the Subrecipient and any of the Subrecipient's subcontractors, their successors and assigns, to those sanctions specified by the contract through which Federal assistance is provided. The Subrecipient certifies and agrees that no contractual or other disability exists which would prevent compliance with these requirements.

B. The Subrecipient further agrees to comply with "Section 3" requirements and to include the following language in all subcontracts executed under this Contract.

"The work to be performed under this contract is a project assisted under a program providing direct Federal financial assistance from HUD and is subject to the requirements of "Section 3" of the Housing and Urban Development Act of 1968, as amended (12 USC 1701). "Section 3" requires that to the greatest extent feasible opportunities for training and employment be given to low and very low-income residents of the project area and contracts for work in connection with the project be awarded to business concerns that provide economic opportunities for low-and very low-income persons residing in the metropolitan area in which the project is located".

XLVIII. NOTIFICATIONS

The Subrecipient agrees to send to each labor organization or representative of workers with which it has a collective bargaining contract or other contract or understanding, if any, a notice advising said labor organization or worker's representative of its commitments under the above-referenced "Section 3" clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

XLIX. SUBCONTRACTS

The Subrecipient will include the above-referenced "Section 3" clause in every subcontract and will take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the City. The Subrecipient will not subcontract with any entity where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR 135 and will not let any subcontract unless the entity has first provided it with a preliminary statement of ability to comply with the

requirements of these regulations.

L. RESPONSIBILITY FOR PAYMENT OF EMPLOYEES AND SUBCONTRACTORS

A. The Subrecipient shall be solely responsible for payment of wages, salaries and benefits to any and all employees or subcontractors retained by the Subrecipient in the performance of the services under this Contract.

B. The Contractor shall comply with City of Santa Fe Minimum Wage, Article 28-1-SFCC 1987, as well as any subsequent changes to such article throughout the term of this Agreement. .

LI. WAIVER

The Grantee's failure to act with respect to a breach by the Subrecipient does not waive its right to act with respect to subsequent or similar breaches. The failure of the City to exercise or enforce any right or provision shall not constitute a waiver of such right or provision.

LII. NEW MEXICO TORT CLAIMS ACT

Any liability incurred by the City of Santa Fe in connection with this Contract is subject to the immunities and limitations of the New Mexico Tort Claims Act, Section 41-4-1, *et seq.* NMSA 1978, as amended. The City and its "public employees" as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity, do not waive any defense and do not waive any limitation of liability pursuant to law. No provision in this Contract modifies or waives any provision of the New Mexico Tort Claims Act.

LIII. RELEASE

The Subrecipient, upon final payment of the amount due under this Contract, releases the City, its officers and employees, from all liabilities, claims and obligations whatsoever arising from or under this Contract. The Subrecipient agrees not to purport

to bind the City to any obligation not assumed herein by the City unless the Subrecipient has express written authority to do so, and then only within the strict limits of that authority.

LIV. ENTIRE AGREEMENT

This agreement constitutes the entire agreement between the City and the Subrecipient for the use of funds received under this Contract and it supersedes all prior or contemporaneous communications and proposals, whether electronic, oral, or written between the City and the Subrecipient with respect to this Contract.

IN WITNESS WHEREOF, the City and the Subrecipient have executed this Contract on the dates set forth below.

APPROVED AND AUTHORIZED:

_____
ALAN WEBBER, MAYOR

DATE: _____

ATTEST:

SUBRECIPIENT:
NM COALITION TO END HOMELESSNESS

_____
YOLANDA Y. VIGIL
CITY CLERK

_____
HANK HUGHES
EXECUTIVE DIRECTOR

DATE: _____

New Mexico Taxation and Revenue Dept. CRS No. 02-937190-00-2

City of Santa Fe Business Registration No. 225192

CITY ATTORNEY'S OFFICE:

Marcos Martinez
Marcos Martinez (May 28, 2020 15:53 MDT)

SENIOR ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

MARY MCCOY
FINANCE DIRECTOR

2402750.510500
ORG/OBJ

EXHIBIT A: Per Section V.B. of the Professional Services Agreement and per 24 CFR 570.503(b)(1).

NMCEH_Midtown_CDBG Contract

Final Audit Report 2020-05-28

Created:	2020-05-28
By:	Irene Romero (ikromero@ci.santa-fe.nm.us)
Status:	Signed
Transaction ID:	CBJCHBCAABAAV_9z41CgvWXwG5qOpNel8R8FHIqmIOjx

"NMCEH_Midtown_CDBG Contract" History

Document created by Irene Romero (ikromero@ci.santa-fe.nm.us)
2020-05-28 - 9:36:14 PM GMT- IP address: 63.232.20.2

Document emailed to Marcos Martinez (mdmartinez@santafenm.gov) for signature
2020-05-28 - 9:37:01 PM GMT

Email viewed by Marcos Martinez (mdmartinez@santafenm.gov)
2020-05-28 - 9:53:31 PM GMT- IP address: 67.0.206.220

Document e-signed by Marcos Martinez (mdmartinez@santafenm.gov)
Signature Date: 2020-05-28 - 9:53:51 PM GMT - Time Source: server- IP address: 67.0.206.220

Signed document emailed to Irene Romero (ikromero@ci.santa-fe.nm.us) and Marcos Martinez (mdmartinez@santafenm.gov)
2020-05-28 - 9:53:51 PM GMT

Budget for City of Santa Fe Emergency Shelter Note: Assumes 60 residents	Annual cost to operate	City ($ in 1000s)	CARES (or other) ($ in 1000s)	This contract (CARES) July - Dec
Shelter Director (new) – Responsible for overall operation of shelter and coordination with community partners. Establishes operating procedures, policy and budget with oversight and approval from Board. Manages day to day operations and facilities including staff, roles and responsibilities, scheduling, training, expenditures and escalation response. Primary ownership of the emergency phone line to answer and triage incoming calls for assistance. Communicate with partners and ongoingly assess covid response and community needs.	$ 120	$ -	$ 120	$ 60
Case Manager (new) - provides case management and crisis intervention services to shelter guests	$ 75	$ -	$ 75	$ 38
Overnight Front Desk Staff (new)	$ 64	$ 0	$ 64	$ 32
Front Desk (existing) – 3 staff scheduled from 8:30am – 10:00pm; serve meals, provide personal and food items to residents, communicate with transit for trips, manage cleaning and preparation of rooms, new resident intake, maintain supplies, enter data into resident log and Unite Us system, ensure that residents have phones, coordination with partners to arrange for medical visits, etc.	$ 330	$ 330	$ -	$ 0
Facilities Maintenance (existing) – ongoing plumbing, electrical and mechanical repairs, currently provided by City of Santa Fe Facilities Maintenance team; management of service contracts, supplies	$ 100	$ 100	$ -	$ 0
Security (inside building and outside building 10PM - 10AM)	$ 90	$ 90	$ -	$ 0
Office supplies and protective equipment	$ 50		$ 50	$ 22
Utilities	$ 150	$ 150	$ -	$ 0
Linen (existing) – Sheets, blankets, towels are supplied and laundered	$ 15		$ 15	$ 7
Cleaning and Disinfection (existing): • Common areas are cleaned and disinfected daily by a contracted custodial service. Staff also disinfects throughout the day. Residents perform cleaning and room preparation.	$ 25		$ 25	$ 12
Meals • Three prepared meals delivered each day. Cost $13/day/person	$ 240		$ 240	$ 116
Personal Items • This expense is for items needed in addition to donations, includes personal care items, small copays on prescriptions, cost to get people cell phones, etc.	$ 75		$ 75	$ 38
Fiscal Administration (10%)	$	$ 0	$ -	$ 36
TOTAL	**$ 1,334**	**$ 670**	**$ 664**	**$ 361**

ACTION SHEET
ITEM FROM QUALITY OF LIFE COMMITTEE MEETING OF 06/17/2020
FOR CITY COUNCIL MEETING OF 06/24/2020

ISSUE:

Consideration of Bill #2020-14: An Ordinance Amending Section 23-6.2 SFCC 1987 to Allow Licensed Establishments That Have Obtained an Obstruction Permit From the City and a Temporary Change/Expansion of Liquor License Premises From the New Mexico Alcoholic Beverage Control Division to Serve Alcohol on City Sidewalks, Streets, Rights-of-Way, or Other Property That Has Been Specifically Authorized for Temporary use Due to the COVID-19 Public Health Emergency; and Establishing an Effective Date as the Date of Bill Adoption. (Mayor Webber) (Randy Randall, TOURISM Santa Fe Director, rrandall@santafenm.gov, 955-6209; John Romero, Acting Public Works Director, jjromero1@santafenm.gov, 955-6638)

Committee Review:

City Council (request to publish) (approved)	6/10/20
Public Works and Utilities Committee (scheduled)	6/22/20
City Council (public hearing) (scheduled)	6/24/20

QUALITY OF LIFE COMMITTEE ACTION: Approved after discussion (removed from consent by Councilor Villarreal)

SPECIAL CONDITIONS OR AMENDMENTS:

SEND TO:
City Council, Public Works

VOTE	FOR	AGAINST	ABSTAIN
CHAIRPERSON ROMERO-WIRTH	X		
COUNCILOR VILLARREAL	X		
COUNCILOR RIVERA	X		
COUNCILOR GARCIA	X		
COUNCILOR CASSUTT-SANCHEZ	X		

City of Santa Fe New Mexico
Memorandum

Date: June 11, 2020

To: Quality of Life Committee, Public Utilities/Public Works Committee, and Governing Body

Via: Erin McSherry, City Attorney

From: Michael Prinz, Assistant City Attorney

RE: Temporary sale of alcohol on City property

ITEM AND ISSUE

The reopening of restaurants for outdoor dining permitted by the May 27, 2020 Public Health Order allows for occupancy not exceeding 50% of total outdoor occupancy, reducing the economic benefit for these restaurants. The City of Santa Fe ("City") is working to increase opportunities for restaurants to ex pand their dining areas onto City property where possible.

BACKGROUND AND SUMMARY

The May 27, 2020, Public Health Order of the NM Department of Health allows limited outdoor dining service for restaurants that generate more than 50% of their annual revenue from food. These outdoor dining areas cannot exceed 50% of their outdoor occupancy, tables must be spaced at least six feet apart, and restaurants must abide by all other COVID Safe Practices.

The City is considering allowing restaurants to expand their service areas onto City sidewalks and streets.

However, a restaurant with a liquor license can only serve alcoholic beverages on the licensed premises or it will violate the Liquor Control Act and they could lose their license.

In response to these circumstances, the NM Alcoholic Beverage Control Division developed a process by which restaurants can appl y for approval of temporary floor plan changes. ABC does not charge a fee for the temporar y change of floor plan. The temporary floor plan will be for a limited duration and will expire automatically on October 31, 2020.

The sale and consumption of alcohol is not permitted on City property except for a few specific locations or by resolution of the Governing Body.

When alcohol is allowed on City Property at the enumerated locations or through resolution of the Governing Bod y, the regulations in SFCC 23-6.3 apply. These regulations include

requirements for physical barriers around the alcohol service area, security guards, wrist bands, and signage.

If the Governing Bod y passed a resolution allowing restaurants to serve alcohol on City sidewalks pursuant to Section 23-6.2(C) SFCC, the regulations in SFCC 23-6.3 would be quite burdensome for the restaurants and would not achieve the results desired by the City.

An ordinance to change the requirements for the sale and consumption of alcohol on City property for liquor license holders that have received a temporary chan ge or expansion of their licensed premises from the New Mexico Alcoholic Beverage Control Division ("ABC") is the most effective way to achieve the desire results. The bill adds a paragraph E to Section 23-6.2 SFCC 1987 that allows the sale and consumption of alcohol on City prope rt y that has been designated and approved for temporary use by the City. The restaurant must first obtain a temporary modified liquor license from ABC before applying for a permit with the City.

ACTION REQUESTED

Staff requests adoption of the Bill.

CITY OF SANTA FE, NEW MEXICO
PROPOSED AMENDMENT(S) TO BILL NO. 2020-14
Temporary Sale of Alcohol on City Property

Members of the City Council:

I propose the following amendment(s) to Bill No. 2020-14:

1. On page 3, line 14 after the closed bracket, ***strike*** the remainder of the paragraph and ***insert*** in lieu thereof:

"1. A licensed establishment shall obtain and maintain a general liability policy in the amount of one million dollars ($1,000,000.00) and a liquor liability policy in the amount of two million dollars ($2,000,000.00) and must name the city, officers, employees, and agents as additional insureds.

2. The licensed establishment must apply for and receive an obstruction permit from the city that includes the requirement to indemnify the city.

3. The licensed establishment must also obtain a temporary change/expansion of liquor license premises issued by the alcoholic beverage control division of the New Mexico regulation and licensing department. Proof of the approved temporary change/expansion of liquor license premises must be produced upon request of police, fire, or other authorized city official.

4. The sale and consumption of alcoholic beverages on any city property allowed under this subsection shall be subject to the regulations concerning alcoholic beverages contained in SFCC Section 4-2, 1987.

5. Unless extended by ordinance or resolution, any license or permit issued pursuant to this subsection shall expire on October 31, 2020."

Respectfully submitted,

_____
Alan Webber, Mayor

Approved as to Form:

_____
Erin K. McSherry, City Attorney

ADOPTED: _____
NOT ADOPTED: _____
DATE: _____

_____
Yolanda Y. Vigil, City Clerk

10208.1(A)

SUBSTITUTE BILL

CITY OF SANTA FE, NEW MEXICO

BILL NO. 2020-14

INTRODUCED BY:

Mayor Alan Webber

underscored material = new [~~bracketed material~~] = delete

AN ORDINANCE

AMENDING SECTION 23-6.2 SFCC 1987 TO ALLOW [RESTAURANTS] *LICENSED ESTABLISHMENTS* THAT HAVE OBTAINED *AN OBSTRUCTION PERMIT FROM THE CITY AND* A TEMPORARY *CHANGE/EXPANSION OF* LIQUOR LICENSE [MODIFICATION] *PREMISES* FROM THE NEW MEXICO ALCOHOLIC BEVERAGE CONTROL DIVISION TO SERVE ALCOHOL ON CITY SIDEWALKS, STREETS, RIGHTS-OF-WAY, OR OTHER PROPERTY THAT HAS BEEN SPECIFICALLY AUTHORIZED [~~BY THE CITY~~] FOR TEMPORARY [BUSINESS] USE DUE TO THE COVID-19 PUBLIC HEALTH EMERGENCY; AND ESTABLISHING AN EFFECTIVE DATE AS THE DATE OF BILL ADOPTION.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SANTA FE:

Section 1. Section 23-6.2 of SFCC 1987 (being Ord. No. 2012-20, as amended) is amended to read:

23-6.2 - Permitted locations for the sale and consumption of alcohol on city property.

A. The sale or consumption of alcoholic beverages is permitted at the following

locations on city property:

(1) The Santa Fe community convention center and adjacent outdoor spaces under the center's control;

(2) That area of the Santa Fe regional airport main terminal building and adjacent areas operated as a restaurant;

(3) The Marty Sanchez links de Santa Fe (golf course);

(4) Buildings owned by another party located on land owned by the city;

(5) On land or buildings owned by the city, located within the Santa Fe Railyard, as described in the Railyard Master Plan, for which the city has entered into a lease with another party for six (6) months or more except for the Railyard park, Plaza and Alameda (as defined in the Deed of Conservation Easement dated October 1, 2004) where alcohol is prohibited, unless specifically permitted under subsection 23-6.2 SFCC 1987;

(6) On land or buildings owned by the city for which the city has entered into a lease with another party for six (6) months or more;

(7) In or on railroad cars located on railroad tracks except as prohibited by state or federal law; and

(8) During professional baseball games, the area of Fort Marcy ballpark designated for concessions and seating.

B. The only alcohol sales and consumption permitted at Fort Marcy ballpark are beer and wine.

C. The governing body may approve by resolution the sale and consumption of alcohol at all other locations on city property, except within the plaza as defined by subsection 23-5.1([R]S). The resolution specifying the event, date, hours, location, number of expected attendees, type of alcohol to be served, required permits, and insurance shall be

adopted at least thirty (30) days in advance of the event. The resolution shall be limited to authorization for a single event, unless otherwise stated in the resolution.

D. All other applicable approvals required by state or city laws and regulations shall be obtained prior to the sale or consumption of alcoholic beverages on the property described in this subsection 23-6.2.

E. As a response to the May 27, 2020, public health order [of] *issued by* the New Mexico department of health allowing limited outdoor dining service for qualified restaurants and to enhance physical distancing restrictions due to the COVID-19 pandemic, sale and consumption of alcohol on any city sidewalk, street, right-of-way, or other specified property that has been designated and approved for temporary use by a ~~[permitted business]~~ *current liquor licensee* may serve alcohol pursuant to the following limitations. ~~[Before alcohol may be sold or consumed on the designated and approved city property, a permitted business shall have a valid temporarily modified liquor license issued by the alcoholic beverage control division ("ABC") of the New Mexico public regulation department~~] *A licensed establishment shall apply for and receive an obstruction permit from the city and a temporary change/expansion of liquor license premises issued by the alcoholic beverage control division of the New Mexico regulation and licensing department before alcohol may be sold or consumed on the designated and approved city property* Proof of the *approved* temporary *change/expansion of* liquor license *premises* ~~[issued by ABC]~~ must be produced upon request of ~~[a city code enforcement officer,~~]police, [or] fire, *or other authorized city* official. The sale and consumption of alcoholic beverages on any city property allowed under this subsection shall be subject to the regulations concerning alcoholic beverages contained in SFCC Section 4-2, 1987. Unless extended by ordinance or resolution, any license or permit issued pursuant to this subsection shall expire on October 31, 2020.

Section 2. Effective Date. *This ordinance shall take effect immediately upon adoption by the governing body.*

APPROVED AS TO FORM:

ERIN K. McSHERRY, CITY ATTORNEY

CITY OF SANTA FE, NEW MEXICO

BILL NO. 2020-14

INTRODUCED BY:

Mayor Alan Webber

AN ORDINANCE

AMENDING SECTION 23-6.2 SFCC 1987 TO ALLOW RESTAURANTS THAT HAVE OBTAINED A TEMPORARY LIQUOR LICENSE MODIFICATION FROM THE NEW MEXICO ALCOHOLIC BEVERAGE CONTROL DIVISION TO SERVE ALCOHOL ON CITY SIDEWALKS, STREETS, RIGHTS-OF-WAY, OR OTHER PROPERTY THAT HAS BEEN SPECIFICALLY AUTHORIZED BY THE CITY FOR TEMPORARY BUSINESS USE DUE TO THE COVID-19 PUBLIC HEALTH EMERGENCY.

underscored material = new [bracketed material] = delete

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SANTA FE:

Section 1. Section 23-6.2 of SFCC 1987 (being Ord. No. 2012-20, as amended) is amended to read:

23-6.2 - Permitted locations for the sale and consumption of alcohol on city property.

A. The sale or consumption of alcoholic beverages is permitted at the following locations on city property:

(1) The Santa Fe community convention center and adjacent outdoor spaces under the center's control;

(2) That area of the Santa Fe regional airport main terminal building and adjacent areas operated as a restaurant;

(3) The Marty Sanchez links de Santa Fe (golf course);

(4) Buildings owned by another party located on land owned by the city;

(5) On land or buildings owned by the city, located within the Santa Fe Railyard, as described in the Railyard Master Plan, for which the city has entered into a lease with another party for six (6) months or more except for the Railyard park, Plaza and Alameda (as defined in the Deed of Conservation Easement dated October 1, 2004) where alcohol is prohibited, unless specifically permitted under subsection 23-6.2 SFCC 1987;

(6) On land or buildings owned by the city for which the city has entered into a lease with another party for six (6) months or more;

(7) In or on railroad cars located on railroad tracks except as prohibited by state or federal law; and

(8) During professional baseball games, the area of Fort Marcy ballpark designated for concessions and seating.

B. The only alcohol sales and consumption permitted at Fort Marcy ballpark are beer and wine.

C. The governing body may approve by resolution the sale and consumption of alcohol at all other locations on city property, except within the plaza as defined by subsection 23-5.1([~~R~~]S). The resolution specifying the event, date, hours, location, number of expected attendees, type of alcohol to be served, required permits, and insurance shall be adopted at least thirty (30) days in advance of the event. The resolution shall be limited to authorization for a single event, unless otherwise stated in the resolution.

D. All other applicable approvals required by state or city laws and regulations

shall be obtained prior to the sale or consumption of alcoholic beverages on the property described in this subsection 23-6.2.

E. As a response to the May 27, 2020, public health order of the New Mexico department of health allowing limited outdoor dining service for qualified restaurants and to enhance physical distancing restrictions due to the COVID-19 pandemic, sale and consumption of alcohol on any city sidewalk, street, right-of-way, or other specified property that has been designated and approved for temporary use by a permitted business may serve alcohol pursuant to the following limitations. Before alcohol may be sold or consumed on the designated and approved city property, a permitted business shall have a valid temporarily modified liquor license issued by the alcoholic beverage control division ("ABC") of the New Mexico public regulation department. Proof of the temporary liquor license issued by ABC must be produced upon request of a city code enforcement officer, police, or fire official. The sale and consumption of alcoholic beverages on any city property allowed under this subsection shall be subject to the regulations concerning alcoholic beverages contained in SFCC Section 4-2, 1987. Unless extended by ordinance or resolution, any license or permit issued pursuant to this subsection shall expire on October 31, 2020.

APPROVED AS TO FORM:

ERIN K. McSHERRY, CITY ATTORNEY

FIR No. 3256

FISCAL IMPACT REPORT

General Information:

(Check) Bill: X Resolution: _____

Short Title(s): Temporary Sale of Alcohol on City Property

Sponsor(s): Mayor Webber

Revie wing Department(s): City Attorney's Office, City Clerk's Office, Economic Development Department

Staff Completing FIR: Randy Randall/John Romero Date: 6/11/20 Phone: 955-6209/955-6638

Revie wed by City Attorney: _____ Date: Jun 12, 2020

Revie wed by Finance Director: Mary McCoy Date: Jun 15, 2020

Summary:
Eligible establishments are being offered the opportunity to expand seating to outdoor areas on City sidewalks, rights-of-wa y, and in some cases streets that can be closed to help offset the impact of current COVID-19 restrictions on seating capacity. To ma ke this work, the City must support temporary changes to the floor plan of the licensed premises to allow for alcohol service to be extended to the additional outdoor space. The ma xi mum amount of space allowed by the New Mexico Alcoholic Beverage Control Division for a temporary floor plan mo dification is 25% of the current licensed floor plan.

Departments Affected:
City Clerk's Office, Economic Development Department, Public Works Department, and TOURISM Santa Fe

Consequences of Not Enacting Legislation:
Eligible establishments will not be able to expand their outdoor service area onto City property to accommodate social distancing and other COVID safe practices required by the State and the City.

Conflict, Duplication, Companionship, or Relationship to Other Legislation:
This legislation relates to the New Mexico Alcohol Beverage Control Division's temporary authorization for liquor licensees to expand their outdoor service area to a maximum of 25% of their current licensed floor plan.

Performance and Administrative Implications:
Obstruction permits will be issued by Public Works Department to allow for the use of City property. Approval from the City for the expanded alcohol service will be issued by the City Clerk.

Fiscal Implications:
The obstruction permits issued by the City are available to eligible liquor licensees for $100. It is unclear at this time how ma ny will apply for the temporary permits, but the City has received expressions of interest from 35 establishments wishing to obtain a permit. An estimated 20 establishments will ultimately apply for and be granted the temporary permits. There will not be a fee assessed for the application of temporary change/expansion of liquor license premises due to COVID-19.

Fiscal Impact

_____ Check here if no fiscal impact

Expenditures

Expenditure Type	FYE __	FYE __	FYE __	Require BAR (Y/N)	Recurring (R) or Non-recurring (NR)	Fund	3-Year Total Cost
Personnel and	$	$	$				
Benefits*							
Capital Outlay	$	$	$				
Contractual/	$	$	$				
Professional Services							
Operating	$	$	$				$
Total:	$	$	$				$

* This includes all staff time associated with executing the job functions of the proposed legislation .

Expenditure Narrative:

Revenue

Revenue Type	FYE 21	FYE 22	FYE 23	Recurring (R) or Non-recurring (NR)	Fund
General Fund	$ 2000	$	$	NR	100
Special Revenue	$	$	$		
CIP	$	$	$		
Enterprise	$	$	$		
Internal Service	$	$	$		
Trust and Agency	$	$	$		
Federal	$	$	$		
Other	$	$	$		
Total	$ 2000	$	$		

Revenue Narrative:

An estimated 20 temporary permits w ill be issued at a cost of $100 per permits equaling a total estimated revenue of $2000.

City of Santa Fe, New Mexico

200 Lincoln Avenue, P.O. Box 909, Santa Fe, N.M. 87504-0909
www.santafenm.gov

Alan Webber, Mayor

Councilors:
Signe I. Lindell, Mayor Pro Tem, District 1
Renee Villarreal, District 1
Michael J. Garcia, District 2
Carol Romero-Wirth, District 2
Roman "Tiger" Abeyta, District 3
Chris Rivera, District 3
Jamie Cassutt-Sanchez, District 4
JoAnne Vigil Coppler, District 4

MEMORANDUM

To: **Members of the Governing Body**

From: **Sally A. Paez, Assistant City Attorney**

Via: **Erin K. McSherry, City Attorney**

Re: **Appeal No. 2020-2043-APPL of Case No. 2019-1600-HDRB.** Appeal by Rosewood Hotels of the Historic Districts Review Board's March 10, 2020 decision to impose conditions on its approval of rooftop improvements at the Rosewood Inn of the Anasazi, located at 113 Washington Avenue, including a fifty-six foot (56') high addition, which exceeds the maximum allowable building height and requires an exception to the height limitations in the Historic Districts Ordinance.

Date: **June 15, 2020; for the June 24, 2020 Meeting of the Governing Body**

Owner Rosewood Hotels ("Appellant" or "Rosewood"), through agent Karl Sommer, challenges the Historic Districts Review Board's ("Board") decision to impose conditions on its approval of an exception to the maximum allowable building height, which will allow Rosewood to construct an addition and rooftop improvements at the Rosewood Inn of the Anasazi. The conditions of approval concern the location and design of the chimneys. **[*See* Ex. E, 03/10/20 Staff Report, pp. 83-91 of 138 (drawings of proposed chimneys)]** In this de novo appeal, the Governing Body should independently determine whether to uphold the conditions of approval imposed by the Board.

I. BACKGROUND & PROCEDURAL HISTORY

The commercial building at 113 Washington Avenue was constructed sometime after 1945 in the Territorial Revival style and was originally known as the State Securities Building. **[Ex. E,**

Staff Report, p. 61 of 138] In 1989, the Rosewood Inn of the Anasazi substantially remodeled the building in the Spanish Pueblo Revival style for adaptive reuse as a hotel. **[*Id.*]** The building is located within the Downtown and Eastside Historic District, where it is listed as a noncontributing structure. **[*Id.*]** The existing building is forty-two feet (42') tall, but the maximum allowable height, as calculated pursuant to the City's Historic Districts Ordinance, is twenty feet, one inch (20'1"). **[*Id.*]** *See generally* Santa Fe City Code ("SFCC"), § 14-5.2(D)(9). **[*Id.*]**

On January 15, 2020, Rosewood filed an application with the City's Historic Preservation Division ("HPD"), requesting Board review and approval of a rooftop event space, bar, and swimming pool ("Project"). **[Ex. H, Application, p. 138 of 138]** The Board held two public hearings on the application, on February 11, 2020 and March 10, 2020.

As set forth in the application, Rosewood requested Board approval of the following rooftop improvements at the first public hearing, held February 11, 2020:

> (1) **Event Space:** The front (westernmost) one-third of the space (closest to Washington Avenue) would feature an outdoor event space with tile decking, seating, an informal lobby area, elevator overrun, stairwell, and storage space. The seating area would be set back six feet (6') from the front façade of the building. The seating area would feature a twelve-foot, eight-inch (12'8") tall tan canopy, situated on dark bronze tracks, which could be extended or retracted, depending on weather. The space would be framed by five-foot (5') tall stuccoed walls and chimney extensions.
>
> (2) **Bar and Lounge:** The central one-third of the space would feature an enclosed bar and lounge with required back-of-the-house spaces, including kitchen and restrooms. The height of this stuccoed addition would result in a total height of fifty-six feet (56'), would rise fourteen feet (14') above the existing parapet, and would be set back from the street-facing façade by more than seventy feet (70').
>
> (3) **Pool:** The rear (easternmost) one-third of the space would feature a rectangular pool and tile deck, set back approximately four feet (4') from the edge of the building. The perimeter of the pool deck would be framed by four-foot 4' high stuccoed walls, wood-framed cabana structures, and a retractable tan canopy with dark bronze rails to a height of twelve feet, eight inches (12'8") above the existing parapet. The southeast corner of the pool deck would contain a stairwell and mechanical and storage spaces, and the northwest corner of the pool deck would feature an outdoor fireplace and seating area.

[Ex. G, 02/11/20 Staff Report, p. 109 of 138]

HPD staff reviewed the application and presented a report and recommendation to the Board to facilitate its review. As stated above, Rosewood proposed an addition to a height of fifty-six feet (56'), but under the height limitations in the Historic Districts Ordinance, the maximum allowable height for structures at this location is twenty feet, one inch (20'1"). **[Ex. E, Staff Report, p. 59 of 138]** *See generally* SFCC § 14-5.2(D)(9) (height provisions). If a property owner wants to exceed one of the limitations set forth in the Historic Districts Ordinance, the owner may

request an exception to the applicable SFCC provision. HPD Staff is responsible for determining whether an exception is required for approval of an application. *See* SFCC § 14-5.2(C)(5). The Board then reviews the exception request and decides whether to grant or deny an exception. *See* SFCC § 14-5.2(C)(5)(c).

In this case, HPD staff determined that Rosewood would need an exception to increase the height of the hotel, which is already taller than the maximum allowable height, and Rosewood requested the exception. To grant the height exception, the Board needed to find that Rosewood had conclusively demonstrated that the exception complied with all six exception criteria set forth in SFCC Section 14-5.2(C)(5)(c), as follows:

> (i) Do not damage the character of the streetscape;
> (ii) Prevent a hardship to the applicant or an injury to the public welfare;
> (iii) Strengthen the unique heterogeneous character of the city by providing a full range of design options to ensure that residents can continue to reside within the historic districts;
> (iv) Are due to special conditions and circumstances which are peculiar to the land or structure involved and which are not applicable to other lands or structures in the related streetscape;
> (v) Are due to special conditions and circumstances which are not a result of the actions of the applicant; and
> (vi) Provide the least negative impact with respect to the purpose of this section as set forth in Subsection 14-5.2(A)(1).

In the staff report, HPD staff recommended that the Board should grant the exception and approve the application because in staff's determination, Rosewood had satisfied the exception criteria, and the Project otherwise complied with the design standards in the Historic Districts Ordinance. **[Ex. G, 02/11/20 Staff Report, p. 108 of 138]**

At the February 11, 2020 hearing, individual Board members expressed concerns about the proposed height of the additions and improvements, and the visibility of the additions from Washington Avenue and other locations in downtown Santa Fe. **[Ex. F, 02/11/20 Minutes, pp. 102-04 of 138]** Board members also expressed concern about the increased height of the chimneys located closest to the street-facing façade and suggested that perhaps the added height should be stepped-back farther from this façade. **[*Id.*]** The Board postponed a decision on the application and asked Rosewood to provide additional information about the proposed additional height and to consider a redesign, based on the Board's input. **[*Id.* at 104-05]**

On March 10, 2020, Appellant returned to the Board with revised drawings, which reflected a few modifications to the Project design, and digital renderings that better captured the visual effects of the additions on the streetscape. **[Ex. E, 03/10/20 Staff Report, p. 61, 84-91 of 138]** The relevant changes to the design included the following:

> (1) **Event Space**: In the revised plans, the seating area would be set back further from the front façade of the building than originally proposed. Rosewood redesigned the chimney structures closest to the street (west end of the space) by

consolidating them into several stuccoed structures, making them more massive, and setting them farther back from the front façade, with the intent of better integrating them into the architectural features of the existing building. The side chimneys were also made more massive and sculptural to blend with the existing hotel. Finally, the tracks for the retractable canopy were redesigned to be seated on top of the three chimney structures located closest to the street.

(2) **Bar and Lounge:** No significant revisions were proposed for the bar and lounge area.

(3) **Pool:** Like the other chimneys, the chimneys in the pool area were moved closer together and incorporated into fewer, larger masses, instead of having multiple smaller chimneys.

[*Id.* at 61-62, 84-91]

The primary issue on appeal is the appearance of the stuccoed chimney massings and associated canopy support structures, and the visibility of these design features from the street. **[*See* Ex. E, 03/10/20 Staff Report, pp. 85-91 of 138 (drawings that depict these design features)]** HPD staff reviewed the revised plans and recommended that the Board grant the height exception and approve the application. **[*Id.* at 60]**

At the March 10, 2020 hearing, Rosewood testified that the chimney design and location had been revised based on the Board's input and that in the redesigned proposal, the chimneys closest to the street had been stepped back to be fourteen feet (14') away from the street-facing façade, along with the supports for the shade canopies. **[Ex. D, 3/10/20 Minutes, p. 49 of 138]** Rosewood also explained that the building code requires chimneys to be at least two feet (2') higher than any structural element within ten feet (10') of the chimney. **[*Id.*]** Some members of the Board expressed concern about the height and massing of the redesigned chimneys closest to the street-facing façade. **[*Id.* at 46-54 of 138]** Other members of the Board thought that the chimneys would not be especially visible from the street and that the revised plans represented a good design solution and were responsive to the input that the Board had provided in February. **[*Id.*]**

At the end of the public hearing, the Board concluded that Appellant had failed to meet the burden of demonstrating that all six exception criteria had been met with regard to the proposed location and height of the three chimney massings closest to the street-facing façade. **[Ex. B, FOF & COL, p. 24 of 138, FOF #8**] Specifically, the Board found "that the proposed location and height of the three front chimney massings would damage the character of the streetscape" and that the "proposed location and height of the three (3) front chimney massings would not provide the least negative impact with respect to the purposes of SFCC Section 14-5.2 [Historic Districts Ordinance], as set forth in SFCC Section 14-5.2(A)(1)." **[*Id.* at p. 25, FOF #9, #14]** The proposes of the Historic Districts Ordinance, as set forth in Subsection 14-5.2(A)(1), are as follows:

(a) The continued existence and preservation of historical areas and buildings;
(b) The continued construction of buildings in the historic styles; and
(c) A general harmony as to style, form, color, height, proportion, texture and material between buildings of historic design and those of more modern design.

The Board further found "that the potential damage to the character of the streetscape and negative impacts with regard to the purposes of SFCC Section 14-5.2 would be minimized by ensuring that the three (3) front chimneys do not exceed the height of the existing chimneys." **[*Id.* at FOF #15]**

Based on these findings, the Board approved the Project, including the requested height exception, with the following conditions (collectively, the "Chimney Conditions"):

- the proposed three (3) front chimney massings shall be eliminated from the design, and the existing chimney stacks at the front west elevation shall remain in their current location and at their current height;
- the size of the event space shall be limited by the distance that the building code requires the space to be from the existing westernmost chimneys; and
- Applicant shall submit new drawings to staff for approval before seeking permits.

[*Id.* at pp. 25-26, COL #2] Four Board members voted in favor of this decision, and one Board member voted against it. **[Ex. D, 3/10/20 Minutes, p. 55 of 138]** The Board adopted written findings of fact and conclusions of law reflecting its decision on April 28, 2020. **[Ex. B, FOF & COL, at pp. 23-26 of 138]** Rosewood timely appealed the decision to the Governing Body. **[Ex. A, Petition, at pp. 14-21 of 138]**

II. GROUNDS FOR APPEAL TO THE GOVERNING BODY

Under the SFCC Section 14-3.17(A)(2), an appeal of a Board decision may be filed for one or more of the following reasons only:

(1) The Board's final action does not comply with SFCC Chapter 14 or the Zoning Enabling Act, NMSA 1978, Sections 3-21-1 to -14;
(2) The Board misapplied SFCC Chapter 14; or
(3) The Board's decision is not supported by substantial evidence.

III. ANALYSIS

Appellant raises the following arguments on appeal:

1. Appellant has been harmed by the imposition of the Chimney Conditions because the Chimney Conditions would put people at the rooftop patio at risk of breathing smoke; would make portions of the patio dangerous, uninviting, or unusable; and would decrease the aesthetic appeal of the design. **[Ex. A, Petition, at p. 19-21 of 138]**
2. The Board exceeded its authority under the Historic Districts Ordinance when it imposed the Chimney Conditions, and Rosewood is entitled to dictate the design of its project. **[*Id.*]**

As stated in Part II above, an appeal of a Board decision must be based on an argument that the decision violated the Land Use Code or state zoning laws, or that the decision was not supported by substantial evidence. Appellant's first argument does not fit squarely into any of these categories. The argument does, however, implicate the building code provision that

prescribes the required height of chimneys. Specifically, "Chimneys shall extend not less than 2 feet (610 mm) higher than any portion of the building within 10 feet (3048 mm), but shall not be less than 3 feet (914 mm) above the highest point where the chimney passes through the roof." 2015 International Building Code (IBC), § 2113.9 (adopted by SFCC § 7-1.1(A)(4)). Although the building code is contained in Chapter 7 of the SFCC and is not a part of the Land Use Code (Chapter 14), the Land Use Code does reflect that most construction projects require construction permits from the City, which must be reviewed by City building officials for compliance with applicable building codes. *See generally* SFCC § 14-3.11(A).

The Board was aware of the building code requirement for chimney height and took it into account when making its decision. At the March hearing, the Board acknowledged that the Chimney Conditions would require Appellant to move the five-foot (5') stuccoed walls back from the parapet, so that they are located at least ten feet (10') away from the chimneys, which would slightly decrease the space available for patio tables. The Board's Chimney Conditions are not inconsistent with the building code requirement and do not violate any provision of Chapter 14 concerning chimney location.

Second, Appellant relies on SFCC Section 14-5.2(A)(4) to argue that the Board lacks authority to place conditions on the Project design, which should be left to the discretion of Appellant. **[Ex. A, Petition, at pp. 20-21 of 138]** SFCC Section 14-5.2(A)(4) provides as follows:

> (4) Design of Buildings
> Full responsibility for the design and development of structures is left to the applicant; however, the file of previously approved applications shall be made available to the applicant.

The language in SFCC Section 14-5.2(A)(4) means that an applicant is responsible for proposing a design in the application that meets the requirements of the City's regulations, and that the applicant is responsible for developing an approved project in accordance with City approvals and regulations. This code provision also means that an applicant cannot rely on City staff or the Board to design or develop a project.

SFCC Section 14-5.2(A)(4) does not, however, mean that the Board lacks authority over project design. Once an applicant submits an application, the Board must review the application to see if it meets the requirements of the Historic Districts Ordinance, and the Board must determine whether to approve the application, with or without conditions, or to deny it. The Ordinance establishes specific design standards, and the Ordinance requires the Board to apply those standards when reviewing proposals.

Relevant here, the Ordinance provides the method for calculating the maximum allowable height of structures and provides that the Board cannot approve excess height unless the applicant conclusively demonstrates that an exception should be granted. *See* SFCC § 14-5.2(D)(9)(a)-(c) (height); § 14-5.2(C)(5)(c) (exceptions). The Board had an obligation to apply these provisions when evaluating Appellant's Project. Additionally, the Ordinance gives the Board authority to "require that upper floor levels be stepped back" to ensure that additional height on a building "is

in harmony with the massing of the applicable streetscape and preservation of the historic and characteristic visual qualities of the streetscape." SFCC § 14-5.2(D)(9)(f).

The primary issue on appeal is whether the Governing Body agrees with the Board that the Chimney Conditions are an appropriate way to reduce the visual impact of the Project's additional height. In the application, Appellant argued that the Project would not damage the character of the streetscape and would not have a negative impact with respect to the purposes of the Historic Districts Ordinance for the following reasons:

> On this block of Washington Ave (on both sides of the street), tall institutional and commercial buildings define the streetscape. The hotel adjacent and to the north of the Inn of the Anasazi is about the same height, and the buildings across Washington Avenue are taller than the Inn of the Anasazi. Typically, the buildings rise from the sidewalk up several stories without setting back. This character - tall institution and commercial buildings adjacent to the sidewalks - is unique in many ways to this area of the downtown area. The proposed addition will be set back from the edge of the existing parapet. It will not be visible from the east side of the street and will hardly be noticeable from the west side of the street. As a result, the addition will fit into the existing character of the streetscape, rather than do damage to it. The human scale enjoyed today on this section of the streetscape will not be adversely affected or damaged.
>
> The proposed addition and amenities will not have any negative impact on the streetscape or the historic character of the downtown area. The addition will be set back from the edge of the existing parapet so it will reduce its visibility as discussed above and will not add or cast a shadow on to the streets below. In short, it will not exacerbate any of the effects that tall building may have on a streetscape - "canyon effect," shadows, disproportionate scale or massing. So, any potentially negative impacts have been mitigated by the design.

[Ex. E, 03/10/20 Staff Report, pp. 62-63 of 138]

Appellant submitted these responses based on the original project design and did not update the responses based on the redesigned chimney structures. When reviewing the revised project design at the March 10, 2020 hearing, the Board acknowledged that the buildings on the west side of Washington Avenue are taller than the Rosewood Inn of the Anasazi but noted that the hotel is already the tallest building on the east side of the street. **[Ex. D, 3/10/20 Minutes, p. 48 of 138]** Individual members of the Board disagreed somewhat about the extent to which the redesigned chimneys and associated canopy support structures would be visible from Washington Avenue and whether those design features would have a negative impact on the streetscape. **[Ex. D, 3/10/20 Minutes, pp. 50-54 of 138]**

A majority of the Board ultimately decided that approving the tall, stuccoed chimney massings and associated canopy support structures near the street-facing façade would have a negative visual impact on the streetscape. In applying the exception criteria to the requested height exception, the Board concluded that the Chimney Conditions were necessary to protect the

character of the streetscape and ensure that the Project would have the least negative impact with respect to the purposes of the Historic Districts Ordinance.

IV. CONCLUSION & MOTIONS OPTIONS

The Board imposed the Chimney Conditions to ensure that the project is harmonious with the streetscape and that the height of the proposed addition does not have a negative visual impact. The City, acting through the Board or the Governing Body, has authority to place conditions of approval on a project to ensure compliance with the Historic Districts Ordinance.

In this appeal, the Governing Body should consider the Board's reasoning and Appellant's arguments to determine whether the Governing Body agrees with the Board's imposition of the Chimney Conditions. In doing so, the Governing Body should independently determine whether the Chimney Conditions are an appropriate way to ensure that the Project does not damage the character of the streetscape and does not have a negative impact with respect to the purposes of the Historic Districts Ordinance.

There are two options for motions in this case. Sample motions are as follows:

Motion 1: *I move to **grant** the appeal and to approve the Project **without** the Chimney Conditions that were imposed by the Board.*

Motion 2: *I move to **deny** the appeal and to approve the Project **with** the Chimney Conditions that were imposed by the Board.*

APPENDIX A:

EXCERPTS FROM HISTORIC DISTRICTS ORDINANCE

General Purpose; § 14-5.2(A)(1)

In order to promote the economic, cultural, and general welfare of the people of the city and to ensure the harmonious, orderly and efficient growth and development of the city, it is deemed essential by the governing body that the qualities relating to the history of Santa Fe, and a harmonious outward appearance, which preserve property values and attract tourists and residents alike, be preserved, some of these qualities being:

(a) The continued existence and preservation of historical areas and buildings;
(b) The continued construction of buildings in the historic styles; and
(c) A general harmony as to style, form, color, height, proportion, texture and material between buildings of historic design and those of more modern design.

Design of Buildings; SFCC § 14-5.2(A)(4):

Full responsibility for the design and development of structures is left to the applicant; however, the file of previously approved applications shall be made available to the applicant.

Exceptions; SFCC § 14-5.2(C)(5)(c):

Staff shall determine whether an exception to this section is required. The historic board may grant an exception to the regulations set forth in this section provided that such exception does not exceed the underlying zoning.

. . . .

The board may grant exceptions and impose conditions thereon to Subsection 14-5.2(D)(9) for height of structures within the historic districts as specified in Subsection 14-5.2(D)(9)(a). The applicant for such exceptions shall conclusively demonstrate and the board shall make a positive finding of fact that such exceptions comply with all the criteria listed as follows:

(i) Do not damage the character of the streetscape;

(ii) Prevent a hardship to the applicant or an injury to the public welfare;

(iii) Strengthen the unique heterogeneous character of the city by providing a full range of design options to ensure that residents can continue to reside within the historic districts;

(iv) Are due to special conditions and circumstances which are peculiar to the land or structure involved and which are not applicable to other lands or structures in the related streetscape;

(v) Are due to special conditions and circumstances which are not a result of the actions of the applicant; and

(vi) Provide the least negative impact with respect to the purpose of this section as set forth in Subsection 14-5.2(A)(1).

General Design Standards for Height, Pitch, Scale, Massing and Floor Stepbacks; SFCC § 14-5.2(D)(9)

The height, pitch, scale, and massing of any structure in an historic district, as defined in this section, shall be limited as provided for in this section, unless further restricted within this chapter.

. . . .

(c) Height

(i) Official map of building heights in the historic districts - procedures.

A. The historic districts review board shall recommend the adoption of an official map reflecting building heights in the historic districts to the governing body. This map shall be used for the purpose of regulating building height in the historic districts. The map shall be adopted at a public hearing of the governing body, which hearing shall be advertised in a local newspaper no less than fifteen days prior to the hearing. All affected property owners and owners of lots or of land within one hundred (100) feet, excluding public right-of-way, of the property affected shall be notified of the public hearing by first class mail, mailed at least fifteen days prior to the public hearing. The official map shall be adopted by the governing body by ordinance.

. . . .

(ii) In exercising its authority under this section, the board shall limit the height of structures as set forth in this section. Heights of existing structures shall be as set forth on the official map of building heights in the historic districts.

A. If a proposed building has a parapet, the façade shall not be in excess of two (2) feet of the average of the height of the façades in the streetscape.

B. If the proposed building has a pitched roof, the ridge height of the proposed building shall not be in excess of two (2) feet of the average of the ridge height of the pitched roofs in the streetscape.

C. Yard walls and fences shall be limited to a height that does not exceed the average of the height of other yard walls and fences in the streetscape.

D. Pursuant to Section 14-7.4(C), the height of any other structure shall be limited to the allowable building height within the applicable streetscape, as defined in this section. (Ord. No. 2002-37 § 26)

E. The height and dimension of signage are as set forth in Section 14-8.10(H).

F. The board may increase the allowable height for proposed buildings and additions located on a sloping site where the difference in the natural grade along the structure's foundation exceeds two (2) feet. In no case shall the height of a façade exceed four (4) feet above the allowable height of the applicable streetscape measured from natural or finished grade, whichever is more restrictive. This increase in height shall be constructed only in the form of building stepbacks from the street.

(iii) In historic districts, height shall be the vertical distance measured between the highest part of a structure and the existing grade or finished grade, whichever is more restrictive, at the midpoint of the street facing facade, excluding rooftop appurtenances, the increased height of walls or fences over pedestrian and vehicular openings, and gates (either in opened or closed position). For structures which do not have street frontage, height shall be determined by the facade which contains the tallest vertical distance measured between the highest part of a structure and the existing grade or finished grade, whichever is more restrictive. The height of walls and fences is measured from the street -facing side of the wall or fence. (Ord. No. 2002-37 § 27)

(e) Scale

The height of a proposed building or addition, its façade length, and its roof form and pitch shall appear to be in proportion to the height, façade length, and roof form and pitch of buildings in the applicable streetscape , or the building on which the addition is proposed.

(f) Massing and Floor Stepbacks

The Board may require that upper floor levels be stepped back, to carry out the intent of this section; provided that the board in making such determinations shall take into account whether the

height of the proposed building, yard wall, fence, or proposed stepback of upper floor levels is in harmony with the massing of the applicable streetscape and preservation of the historic and characteristic visual qualities of the streetscape. The Board shall also require that the publicly visible façades of the structure be in conformance with Subsections 14-5.2(E) through (H), and in meeting those requirements, may require that different floor levels be stepped back.

Definitions; SFCC § 14-12.1:

FAÇADE
One whole exterior face or elevation of a structure from grade up to and including the top of the parapet. An individual façade is defined as including at least an eight-foot width that is offset from an adjacent plane by at least four feet.

NONCONTRIBUTING STRUCTURE
A structure, located in an H[istoric] district, that is less than fifty years old or that does not exhibit sufficient historic integrity to establish and maintain the character of the H[isotric] District.

APPENDIX B:

EXCERPT FROM 2015 INTERNATIONAL BUILDING CODE

2113.9 Termination. Chimneys shall extend not less than 2 feet (610 mm) higher than any portion of the building within 10 feet (3048 mm), but shall not be less than 3 feet (914 mm) above the highest point where the chimney passes through the roof.

Exhibits to City Attorney's Office Memorandum

Appeal No. 2020-2043-APPL of Case No. 2020-1592-HDRB

Appellant Inn of the Anasazi, 113 Washington Avenue

June 24, 2020 Meeting of the Governing Body

A	Verified Appeal Petition	Apr. 29, 2020	pp. 13-21
B	Historic Districts Review Board's Written Findings of Fact (FOF) and Conclusions of Law (COL)	Apr. 28, 2020	pp. 22-26
C	Relevant Excerpts from Board Meeting Minutes (amending 3/10/20 minutes and approving written FOF & COL)	Apr. 28, 2020	pp. 27-36
D	Relevant Excerpts from Board Meeting Minutes (voting to approve the application and to grant a height exception with conditions)	Mar. 10, 2020	pp. 37-57
E	Historic Preservation Division (HPD) Staff Report and Exhibits	Mar. 10, 2020	pp. 58-91
F	Relevant Excerpts from Board Meeting Minutes (postponing the case)	Feb. 11, 2020	pp. 92-105
G	HPD Staff Report and Exhibits	Feb. 11, 2020	pp. 106-136
H	Application	Jan. 15, 2020	pp. 137-38

EXHIBIT

A

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Of Counsel

April 29, 2020

VIA HAND DELIVERY

Ms. Lisa Roach
Division Director
Historic Preservation Division
City of Santa Fe
200 Lincoln Ave.
Santa Fe, New Mexico 87501

Re: Property: Inn of the Anasazi
Address: 113 Washington Ave, Santa Fe, NM 87501

Dear Lisa:

Enclosed herewith is the original and two copies of the Verified Petition of Appeal for Inn of the Anasazi. Please endorse one as being filed today and return it it us for our records. Additionally, please let us know when the Findings Fact and Conclusions of Law are adopted by the Board.

Thank you for your attention to this matter.

Sincerely,

Karl H. Sommer

cc: Lutz Arnold
Richard Martinez

LUD Use Only

Time Filed:
Fee paid: $
Receipt attached:)

(date stamp)

APR 29 2020
BY: NCB 4:18PM

VERIFIED APPEAL PETITION

Two originals of this form must be filed. The Land Use Department Director or his/her designee will enter the date and time of receipt and initial both originals. See Section 14-3.17(D) SFCC 2001 for the procedure.

Appellant Information

Name: Rosewood Hotels
Last *First* *M.I.*

Address: 113 Washington Avenue
Street Address *Suite/Unit #*

Santa Fe, New Mexico 87501
City *State* *ZIP Code*

Phone: ( ) E-mail Address: lutz.arnhold@rosewoodhotels.com

Additional Appellant Names:

Correspondence Directed to: ☐ Appellant ☐ Agent ☐ Both

Agent Authorization (if applicable)

I/We: Rosewood Hotels

authorize Sommer Karnes Associates (Karl Sommer) to act as my/our agent to execute this application.

Signed: Date: April 29, 2020

Signed: Date:

Subject of Appeal

Project Name: Inn of the Anasazi Addition

Applicant or Owner Name: Rosewood Hotels

Location of Subject Site: 113 Washington Avenue, Santa Fe NM 87501

Case Number: 2019-001600-HDRB Permit Number (if applicable):

Final Action Appealed:

☐ Issuance of Building Permit ☐ Other Final Determination of LUD Director

Final Action of Board or Commission (specify): ☐ Planning Commission ☐ Board of Adjustment ☐ BCD-DRC ☒ HDRB

Basis of Standing (see Section 14-3.17(B) SFCC 2001):

Basis for Appeal: ☒ The facts were incorrectly determined ☒ Ordinances/laws were violated and/or misrepresented

Description of the final action appealed from, and date on which final action was taken:

Please see attached letter from the City of Santa Fe - Exhibit A

☐ Check here if you have attached a copy of the final action that is being appealed.

Description of Harm

Describe the harm that would result to you from the action appealed from (attach additional pages if necessary):

See attached Exhibit B.

Explain the Basis for Appeal

Please detail the basis for Appeal here (be specific):

See attached Exhibit B

Signature and Verification

The signature/s and notarization below occurred during the COVID-19 Public Health Emergency, when the Governor of the State of New Mexico issued Executive Order 2020-015, allowing notarization of documents to be done remotely through video conferencing during the signature of the signer and scanning or faxing to transmit the signed document/s to the notary. Our signatures below affirm that, both the person seeking notarization and the notary are located in New Mexico during this video conference; that the person who is seeking notarization presented satisfactory evidence of identity (e.g., a valid state-issued photo identification) during the video conference; and that the person whose signature is being notarized transmitted by fax or other electronic means provided a legible copy of the signed document directly to any required witnesses and then to the notary on the same day it was signed.

I hereby certify that the documents submitted for review and consideration by the City of Santa Fe have been prepared to meet the minimum standards outlined in the Land Development Code, Chapter 14 SFCC 2001. Failure to meet these standards may result in the rejection or postponement of my application. I also certify that I have met with the City's Current Planning staff to verify that the attached proposal is in compliance with the City's zoning requirements.

Appellant Signature: _____ Date: 4/29/20

Agent Signature: Karl N. Arnhold Date: 4/29/20

State of New Mexico)
) ss.
County of Santa Fe)

I/We LUTZ ARNHOLD, being first duly sworn, depose and say: I/We have read the foregoing appeal petition and know the contents thereof and that the same are true to my/our own knowledge.

Appellant/s:

_____ _____

Signature GENERAL MANAGER *Signature*

Lutz Arnhold _____

Print Name *Print Name*

Subscribed and sworn to before me this 28th day of April, 2020.

Karl H Sommer

NOTARY PUBLIC

My commission expires:
3-18-23

OFFICIAL SEAL
Karl H. Sommer
NOTARY PUBLIC - STATE OF NEW MEXICO
My Commission Expires: 3-18-23

City of Santa Fe, New Mexico

200 Lincoln Avenue, P.O. Box 909, Santa Fe, N.M. 87504-0909
www.santafenm.gov

Alan Webber, Mayor

Councilors:
Signe I. Lindell, Mayor Pro Tem, District 1
Renee Villarreal, District 1
Michael J. Garcia, District 2
Carol Romero-Wirth, District 2
Roman "Tiger" Abeyta, District 3
Chris Rivera, District 3
Jamie Cassutt-Sanchez, District 4
JoAnne Vigil Coppler, District 4

PROJECT DESCRIPTION: Martinez Architecture Studio, agent for Rosewood Inn of the Anasazi, owner, proposes to construct a 3,078 sq. ft. fourth floor addition to a height of 56'0" with a pool and dining area. An exception is requested to exceed the maximum allowable height of 20'1" (Section 14-5.2(D)(9)).

Case number: **2019-001600-HDRB**
Project Type: HDRB

PROJECT LOCATION (S): 113 Washington Avenue

OW – Rosewood Inn of the Anasazi	113 Washington Avenue	Santa Fe, NM 87501
AP – Martinez Architecture Studio PC	P.O. Box 925	Santa Fe, NM 87504

BOARD ACTION

This is to certify that the Historic Districts Review Board (HDRB) acted on your request at their hearing on March 10, 2020. The decision of the Board was to approve the project, having found that the criteria for a height exception have been met, with the following conditions: 1) that the front (westernmost) three chimney massings shall be eliminated from the design and that the existing westernmost chimney stacks shall remain in their existing locations and at their current heights; 2) that the size of the event space shall be limited by the distance that the building code requires the space to be from the existing westernmost chimneys; and 3) that the applicant shall provide revised drawings to staff for review that conditions have been met. For further information please call 955-6605.

Sincerely,

Lisa Roach

Lisa Gavioli Roach
Planner Manager, Historic Preservation Division

NOTE: Applicant can use this action letter to apply for construction permit, but the permit shall not be released until the end of the appeal period which starts on the date of filing of the Findings and Conclusions in the City Clerk's office (SFCC 14-3.17(D)). Your permit will be denied if any changes on plans that were not approved by the HDRB or if conditions of approval are not met. **Please attach copies of this letter to all sets when submitting for construction permits.**

EXHIBIT A

Exhibit B to Verified Appeal Petition

Describe the harm that would result to you from the action appealed from (attached additional pages if necessary):

Appellants' Response:

I. Brief Summary of Harm.

As explained fully below, the harm that would result is as follows:

1. The imposition of the condition of approval that the chimneys remain low and at the front of the building (defined below as the "Chimney Condition") places the occupants the proposed rooftop patio area ("Patio Area") at the risk of breathing smoke from the fireplaces, and it renders the Patio Area dangerous and uninviting to patrons of the hotel;

2. The imposition of the Chimney Condition will render a significant portion of the Patio Area unusable, and as such, will impose an unnecessary economic burden on the Appellant for improvements in the Patio Area that are not useable; and,

3. The imposition of the Chimney Condition imposes a design limitation that detracts from the continuity of the design of the Patio Area and reduces the overall aesthetic of the project as seen from the public view.

II. Background of Application.

The Appellant (the "Anasazi") applied (the "Application") to add a rooftop addition (the "Addition") to the hotel that includes a the open-air Patio Area (located on approximately the western one-third of the roof facing Washington Avenue), an enclosed structure with lounge, restrooms and "back of house" facilities (located in the center one-third of the roof), and a swimming pool and deck area (located on the eastern one-third of the roof in the rear of the building). The Addition represents a significant commitment on the part of the Anasazi to invest not only in the property *but in the future success of Santa Fe* – in order to maintain the property and downtown Santa Fe as a world-class destination. The Addition will keep the property at least on par with the many other hotel properties that have rooftop amenities that help to distinguish those other downtown properties and enhance the experience of visitors and residents alike, namely the Drury Hotel (with a rooftop pool, bar and patio area), La Fonda Hotel (with rooftop pool, eating and patio areas), and the El Dorado Hotel (newly added rooftop pool facilities, patio and bar area).

The Application for the Addition required approval of an exception to the height limitations applicable to the property under the Historic District Overlay (SFCC 1987 § 14-5.2 et seq.). The property, as is, exceeds the applicable height limitation of nineteen feet (19'). As Staff noted before the Historic Districts Review Board (the "HDRB"), almost all hotel properties and many of the commercial buildings in the Downtown Eastside Historic subdistrict exceed the

applicable height limitations, as the limitations are aimed more at residential (not commercial) development. The existing hotel is forty-two feet (42') above the ground. The Addition will rise fourteen feet (14') above the existing building height. The Application requested a height exception to allow the Addition at the proposed height of fifty-six feet (56').

The HDRB first heard the Application on February 11, at which time the Application was tabled with directions for the Anasazi to redesign the feature where the existing chimneys rise above the rooftop. More specifically, the HDRB directed the Anasazi to move the proposed chimneys at the front of the building back as far away from the front façade as possible. Anasazi followed the direction of the HDRB and redesigned the chimneys by consolidating the chimneys into a single structural element and by moving them fourteen feet (14') from the front façade. On March 10, 2020, the HDRB heard the revised Application and found that (1) the Anasazi met a'l of the Exception Criteria for the height exception under Section 14-5.2.C.5, and (2) met all of the requirements of the styles requirements under Section 14-5.2D for the Downtown and Eastside Historic District standards. On that basis, the HDRB approved the application, but imposed a condition that the chimneys be brought down to their original locations and left at their existing height. This condition results in the chimneys sitting two feet (2') above the rooftop and ***below*** the height of the occupants standing in the Patio Area (the "Chimney Condition").

The Chimney Condition rested solely upon an aesthetic and purely design objection of certain members of the HDRB. The Chimney Condition will result in smoke and fumes from the chimneys blowing into the Patio Area. The Application for the Addition raises the chimneys above the height of the occupants so as to avoid smoke and fumes from blowing into the faces of the occupants of the Patio Area. This will render a good portion of the Patio Area unusable and undesirable for patrons of the hotel – utterly defeating the purpose behind providing an outdoor, open-air rooftop experience for the hotel customers. The obvious harm to the Anasazi is that:

1. The imposition of the Chimney Condition places the occupants of the proposed rooftop Patio Area at the risk of breathing smoke and fumes from the fireplaces, rendering the Patio Area dangerous and uninviting;

2. The imposition of the Chimney Condition will render a significant portion of Patio Area unusable, and as such, will impose an unnecessary economic burden on the Appellant for improvements in the Patio Area that are not useable; and,

3. The imposition of the Chimney Condition creates a purely design-driven element that detracts from the continuity of the design of the Patio Area and reduces the overall aesthetic of the project as seen from the public view.

Please detail the basis for the Appeal here (be specific):

The Anasazi appeals the imposition of the Chimney Condition on the basis that it exceeds the authority of the HDRB under the Historic District Ordinance (SFCC 1987 § 5.2 et seq.) (the "Historic Ordinance"). The Historic Ordinance grants the HDRB's very broad authority in considering applications brought before it. Indeed, the Historic District Ordinance has as one of

its main purposes the promotion of "[a] general harmony as to style, form, color, height, proportion, texture and material between buildings of historic design and those of more modern design." Many of the HDRB's decisions rest upon the harmonious or disharmonious nature of the proposed buildings, modifications and additions that are heard by the HDRB. At the same time, the Historic Districts Ordinance leaves the design of a project to the applicant; it is not the HDRB's role to design or impose its own design considerations upon the applicant. The Ordinance is specific on the design responsibility of the HDRB when it states "[f]ull responsibility for the design and development of structures is ***left to the applicant*** . . . ." SFCC 1987 § 5.2(A)(4). (emphasis added).

Importantly, the HDRB did *not* find that the Addition was disharmonious with the streetscape and did *not* deny the Application on that basis. The opposite is true: the HDRB found that all of the exception criteria and the design criteria in the Ordinance had been met. The record is clear that the certain members of the HDRB did not prefer *the design* solution for the chimneys that the Applicant proposed and required that Addition be re-designed to meet the their preferred aesthetic.

For this reason, the Anasazi appeals the approval because it imposes the Chimney Condition in violation of the provisions of SFCC 1987 § 5.2(A)(4) which leaves the responsibility for design with the applicant.

EXHIBIT B

ITEM # 20-0218

City of Santa Fe
Historic Districts Review Board
Findings of Fact and Conclusions of Law

Case # 2020-1600-HDRB
Address – 113 Washington Avenue
Agent's Name – Martinez Architecture Studio PC
Owner/Applicant's Name – Rosewood Inn of the Anasazi

THIS MATTER came before the Historic Districts Review Board ("Board") for hearing on March 10, 2020.

BACKGROUND

113 Washington Avenue is a commercial hotel structure constructed after 1945 in the Territorial Revival style, when it was known as the State Securities Building. The building was substantially remodeled in 1989 in the Spanish Pueblo Revival style and was adaptively reused as the Inn of the Anasazi. In 2014, the Board approved window replacement throughout the structure (Case #H-14-025). The building is listed as non-contributing to the Downtown and Eastside Historic District. At the February 11, 2020, hearing of the Board, the applicant proposed to construct an addition to the rooftop level of the building, and after discussing several design details, the Board postponed the case, requesting redesign with particular attention to the street-facing west elevation.

The Applicant has now submitted revised drawings that reflect a few modifications to the design, as well as digital renderings, which capture the visual effects of the additions on the streetscape. The project is proposed as follows:

(1) Construct an addition and improvements to the rooftop level of the hotel. The Applicant requests an exception to exceed the maximum allowable height of 20'1", and exception criteria and responses were provided in the staff report. The Applicant proposes to build to a height of 56' in the central portion of the existing roof level. This massing will rise a maximum of 14' above the existing parapet and will be set back from the street-facing façade by more than 70'.

(2) The front (street-facing) third of the space will be used as an outdoor event space with tile decking, seating, an informal lobby area, elevator overrun, stairwell, and storage space. The seating area will be set back further from the front façade of the building than originally proposed. The Applicant redesigned the chimney structures that are prominent on the proposed design, such that the central chimneys have been consolidated, made more massive, and set back further from the front façade, resulting in better integration of the chimneys into the architectural features of the existing building. The side chimneys have also been made more massive and sculptural so as to blend better with the existing hotel. The seating area will feature a 12'8" high tan canopy situated on dark bronze tracks on which the canopy can be extended or retracted depending on weather. The canopy tracks have been redesigned to be seated on top of the three chimney structures at the west end of the seating area, and the space will be framed by 5' high stuccoed walls.

(3) The central third of the space will feature an enclosed lounge and bar with required back-of-the-house spaces, including kitchen and restrooms. The stuccoed massing will match the

Spanish-Pueblo Revival style of the hotel, and windows will match those that are featured elsewhere on the hotel. As stated above, the height of this massing will rise 14' above the existing parapet, resulting in a total height of 56'. Any rooftop appurtenances and skylights placed on the roof of this addition will not be publicly visible.

(4) The rear third of the space will include a rectangular pool and tile deck, set back approximately 4' from the edge of the building. The perimeter of the pool deck will be framed by 4' high stuccoed walls and a retractable tan canopy with dark bronze rails to a height of 12'8" above the existing parapet. The previously presented wood framed cabana structures have been modified to free-standing fabric structures. In this area, the chimneys have also been moved closer together from the previous design and incorporated into fewer, larger masses rather than having multiple smaller chimneys. A stairwell and mechanical and storage spaces will be located at the southeast corner of the pool deck, and the northwest corner of the pool deck will feature an outdoor fireplace and seating area.

FINDINGS OF FACT

After conducting a public hearing and having heard from the Applicant and all interested persons, the Board hereby FINDS, as follows:

1. Land Use Department Staff conducted a preliminary zoning review (PZR) and determined that the Application appears to meet the underlying zoning standards set forth in the Santa Fe City Code (SFCC).
2. Historic Preservation Division City staff reviewed the Application and related materials and information submitted by the Applicant for conformity with applicable SFCC requirements and provided the Board with a written report of its findings (Staff Report), which evaluates the factors relevant to the Application.
3. Historic Preservation Division Staff Recommendation: Staff found that the Applicant met the exception criteria and recommended approval of the proposed project because the application complies with SFCC Sections 14-5.2(D), General Design Standards for all Historic Districts; and 14-5.2(E), Downtown and Eastside Design Standards.
4. The project is subject to requirements of the following sections of the SFCC:
    - Section 14-5.2(D)(9), General Design Standards, Height Pitch Scale and Massing (of any structure);
    - Section 14-5.2(D), General Design Standards; and
    - Section 14-5.2(C), Regulation of Significant and Contributing Structures.
5. The property is located in the Downtown and Eastside Historic District and subject to the Section 14-5.2(E) of the SFCC.
6. Staff calculated the maximum allowable height to be 20'1", and the Applicant proposes to exceed this maximum allowable height.
7. Staff determined that an exception would be required for approval of the proposed height, and the Applicant requested an exception.
8. The Board finds that the Applicant has failed to demonstrate that all of the exception criteria have been met with regard to the proposed height of the three (3) front chimneys massings.

9. Pursuant to SFCC Section 14-5.2(C)(5)(c)(i), the Board finds that the proposed location and height of the three (3) front chimney massings would damage the character of the streetscape.
10. Pursuant to SFCC Section 14-5.2(C)(5)(c)(ii), the Board adopts staff's finding that a height exception is required to present a hardship to the applicant.
11. Pursuant to SFCC Section 14-5.2(C)(5)(c)(iii), the Board adopts staff's finding that a height exception is required to strengthen the unique heterogeneous character of the city by providing a full range of design options to ensure that residents can continue to reside within the historic districts.
12. Pursuant to SFCC Section 14-5.2(C)(5)(c)(iv), the Board adopts staff's finding that a height exception is required due to special conditions and circumstances which are peculiar to the land or structure involved and which are not applicable to other lands or structures in the related streetscape.
13. Pursuant to SFCC Section 14-5.2(C)(5)(c)(v), the Board adopts staff's finding that a height exception is required due to special conditions and circumstances that are not a result of the actions of the Applicant.
14. Pursuant to SFCC Section 14-5.2(C)(5)(c)(vi), the Board finds that approving the proposed location and height of the three (3) front chimney massings would not provide the least negative impact with respect to the purposes of SFCC Section 14-5.2, as set forth in SFCC Section 14-5.2(A)(1).
15. The Board finds that the potential damage to the character of the streetscape and negative impacts with regard to the purposes of SFCC Section 14-5.2 would be minimized by ensuring that the three (3) front chimneys do not exceed the height of the existing chimneys.
16. Under SFCC Sections 14-2.6(C), 14-2.7(C)(2), 14-5.2(A)(1), 14-5.2(C)(2)(a-d & f), 14-5.2(C)(3)(a-b), and 14-5.2(D), the Board has authority to review, approve, with or without conditions, or deny, all or some of the Applicant's proposed design to assure overall compliance with applicable design standards.
17. Under SFCC Section 14-5.2(C)(3)(b), the Board has the authority to approve an application for alteration or new construction on the condition that changes relating to exterior appearance recommended by the Board be made in the proposed work, and no permit is to issue until new exhibits, satisfactory to the Board, have been submitted.
18. The information contained in the Application, and provided in testimony and evidence establishes that all applicable requirements for Board review as herein described have been met.
19. The information contained in the Application and provided in testimony and evidence establishes that all applicable design criteria have been met.

CONCLUSIONS OF LAW

Under the circumstances and given the evidence and testimony submitted during the hearing, the Board acted upon the Application as follows:

1. The Board has the authority to review and approve the Application.
2. The Board approves the Application and grants the requested height exception with the following conditions:

- the proposed three (3) front chimney massings shall be eliminated from the design, and the existing chimney stacks at the front west elevation shall remain in their current location and at their current height;
- the size of the event space shall be limited by the distance that the building code requires the space to be from the existing westernmost chimneys;
- Applicant shall submit new drawings to staff for approval before seeking permits.

IT IS SO ORDERED ON THIS 28th DAY OF April, 2020, BY THE HISTORIC DISTRICTS REVIEW BOARD OF THE CITY OF SANTA FE.

Cecilia Rios
Chairperson

5/8/20
Date:

FILED:

Yolanda Y. Vigil
City Clerk

5/8/20
Date:

APPROVED AS TO FORM:

Sally A. Paez
Assistant City Attorney

May 6, 2020
Date:

EXHIBIT C

City of Santa Fe

Agenda

HISTORIC DISTRICTS REVIEW BOARD FIELD TRIP

*****FIELD TRIP CANCELLED*****

HISTORIC DISTRICTS REVIEW BOARD HEARING

TUESDAY, April 28, 2020 at 5:30 P.M.

*****AMENDED*****

ATTEND VIRTUALLY

SPECIAL PROCEDURES FOR VIRTUAL ATTENDANCE AND PUBLIC COMMENT:

In response to the State's declaration of a Public Health Emergency, the Mayor's Proclamation of Emergency, and the ban on public gatherings of more than five (5) people, this meeting will be conducted virtually using Zoom.

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- Phone numbers: +1 301 715 8592 or +1 253 215 8782 (Meeting ID: 184 636 049)

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CALL TO ORDER

A. ROLL CALL

B. APPROVAL OF AGENDA

C. APPROVAL OF MINUTES:

1. **HDRB Field Trip minutes from February 11, 2020, February 25, 2020 and March 10, 2020**
2. **HDRB Hearing minutes March 10, 2020**

D. FINDINGS OF FACT & CONCLUSIONS OF LAW

Case #2020-001553-HDRB. 1292 Lejano Road.
Case #2020-001600-HDRB. 113 Washington Avenue.
Case #2020-001736-HDRB. 824 Canyon Road.
Case #2020-001737-HDRB. 325 Paseo de Peralta
Case #2020-001663-HDRB. 908 Old Santa Fe Trail.
Case #2020-001734-HDRB. 225 W. San Francisco St.
Case #2020-001731-HDRB. 492, 494, 496 W. Water St.
Case #2020-001781-HDRB. 868, 868½ E. Alameda St.

E. BUSINESS FROM THE FLOOR
F. COMMUNICATIONS
G. ACTION ITEMS

1. **Case #2020-1663-HDRB. 512 Agua Fria Street. Westside Guadalupe Historic District. Joel Miller, agent for George Wright and Grace Witking-Wright, owners, proposes to demolish a contributing accessory structure. An exception is requested, per Section 14-5.2(D)(1). (Daniel Schwab, dnschwab@santafenm.gov, 955-6660) (POSTPONED FROM 2/25/2020 and FROM 3/25/2020)**

2. **Case #2019-001553-HDRB. 1292 Lejano Lane. Downtown and Eastside Historic District. Thomas Hughes, agent for Linda Carey, owner, proposes to construct a new single-family residence on a vacant lot. An exception is requested to install windows that are greater than 30 inches in any dimension without divides, per Section 14-5.2(E)(2)(e). (Daniel Schwab) (POSTPONED FROM 3/10/2020 and FROM 3/25/2020)**

3. **Case #2020-001732-HDRB. 868 and 868 ½ East Alameda Street. Downtown and Eastside Historic District. Liaison Planning Services, agent for Christina Halaburka, owner, requests to partially demolish a contributing yard wall and to construct a 5 ft. high coyote yardwall and gate at a contributing residence. An exception is requested to remove historic material from contributing structure, per Section 14-5.2(D)(1)(a). (Daniel Schwab) (POSTPONED FROM 3/10/2020 and FROM 3/25/2020)**

4. **Case #2020-001664-HDRB. 1204 Canyon Road. Downtown and Eastside Historic District. Gerald Valdez, agent for Josie and Fred Lucero, owners, proposes to construct additions and to remodel a non-contributing residential structure. (Lisa Roach, lxroach@santafenm.gov, 955-6657) (POSTPONED FROM 3/25/2020)**

5. **Case #2020-001784-HDRB. 339 and 341 Plaza Balentine. Downtown and Eastside Historic District. H.Q. Construction, agent for Elizabeth Beall, owner, requests historic status review with primary façade designation, if applicable, for a contributing residential structure. (Daniel Schwab) (POSTPONED FROM 3/25/2020)**

6. **Case #2020-001823-HDRB. 339 and 341 Plaza Balentine. Downtown and Eastside Historic District. H.Q. Construction, agent for Elizabeth Beall, owner, proposes to replace windows, replace a fence with a yard-wall, restucco and construct an addition. (Daniel Schwab) (POSTPONED FROM 3/25/2020)**

7. **Case #2020-001856-HDRB. 328 Otero Street. Downtown and Eastside Historic District. Jay Jay Shapiro, agent for Georges Fengali, owner, requests an historic status review with primary façade designation, if applicable, for a non-contributing residential structure. (Daniel Schwab) (POSTPONED FROM 3/25/2020)**

8. **Case #2020-001817-HDRB. 328 Otero Street. Downtown & Eastside Historic District. Jay Jay Shapiro, agent for Georges Fengali, owner, proposes to enclose a carport, to construct a new carport with storage, to construct a bathroom addition, to replace windows with doors, to replace a gate, and to extend the existing fence at a contributing residential property. (Daniel Schwab) (POSTPONED FROM 3/25/2020)**

9. **Case #2020-001820-HDRB. 1027 Camino San Acacio. Downtown and Eastside Historic District. Will McDonald, agent for Vicki Rodriguez and Christella Castro, owners, propose to replace windows and doors and to construct two small additions to a contributing residence. An exception is requested to replace historic windows on a primary façade, per Section 14-5.2(D)(5)(a). (Lisa Roach) (POSTPONED FROM 3/25/2020)**

10. **Case #2020-001910-HDRB. 448 Camino Monte Vista. Downtown and Eastside Historic District. Eric Enfield, agent for John Horton, owner, proposes to change windows and doors and to construct additions at a non-historic, non-contributing residence. (Lisa Roach)**

11. **Case #2020-001900-HDRB. 410 South Guadalupe Street. Barbara Felix, agent for the City of Santa Fe, proposes to replace deteriorated windows and doors, to repair damaged architectural features, and to restore historic openings, features, and finishes at the Santa Fe Depot, a landmark structure. (Lisa Roach)**

H. MATTERS FROM THE BOARD

1. **2020 Santa Fe Heritage Preservation Awards – Selection of Winners**

I. ADJOURNMENT

Cases on this agenda may be postponed to a later date by the Historic Districts Review Board at the noticed meeting. Please contact the Historic Preservation Division at 955-6605 or check https://www.santafenm.gov/historic_districts_review_board for more information regarding cases on this agenda. Persons with disabilities in need of accommodations, contact the Historic Preservation Division office at (505) 955-6605 five (5) working days prior to the meeting date.

RECEIVED AT THE CITY CLERK'S OFFICE
DATE: April 22, 2020
TIME: 10:33 AM
29

City of Santa Fe

Agenda

HISTORIC DISTRICTS REVIEW BOARD FIELD TRIP

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Case #2020-001734-HDRB. 225 West San Francisco Street.
Case #2020-001731-HDRB. 492, 494, and 496 West Water Street.
Case #2020-001781-HDRB. 868 and 868½ East Alameda Street.
Case #2020-001664-HDRB. 1204 Canyon Road
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1. **Case #2020-1663-HDRB. 512 Agua Fria Street. Westside Guadalupe Historic District. Joel Miller, agent for George Wright and Grace Witking-Wright, owners, proposes to demolish a contributing accessory structure. An exception is requested, per Section 14-5.2(D)(1). (Daniel Schwab, dnschwab@santafenm.gov, 955-6660) (POSTPONED FROM 2/25/2020 and FROM 3/25/2020)**

2. **Case #2019-001553-HDRB. 1292 Lejano Lane. Downtown and Eastside Historic District. Thomas Hughes, agent for Linda Carey, owner, proposes to construct a new single-family residence on a vacant lot. An exception is requested to install windows that are greater than 30 inches in any dimension without divides, per Section 14-5.2(E)(2)(e). (Daniel Schwab) (POSTPONED FROM 3/10/2020 and FROM 3/25/2020)**

3. **Case #2020-001732-HDRB. 868 and 868 ½ East Alameda Street. Downtown and Eastside Historic District. Liaison Planning Services, agent for Christina Halaburka, owner, requests to partially demolish a contributing yard wall and to construct a 5 ft. high coyote yardwall and gate at a contributing residence. An exception is requested to remove historic material from contributing structure, per Section 14-5.2(D)(1)(a). (Daniel Schwab) (POSTPONED FROM 3/10/2020 and FROM 3/25/2020)**

4. **Case #2020-001664-HDRB. 1204 Canyon Road. Downtown and Eastside Historic District. Gerald Valdez, agent for Josie and Fred Lucero, owners, proposes to construct additions and to remodel a non-contributing residential structure. (Lisa Roach, lxroach@santafenm.gov, 955-6657) (POSTPONED FROM 3/25/2020)**

5. **Case #2020-001784-HDRB. 339 and 341 Plaza Balentine. Downtown and Eastside Historic District. H.Q. Construction, agent for Elizabeth Beall, owner, requests historic status review with primary façade designation, if applicable, for a contributing residential structure. (Daniel Schwab) (POSTPONED FROM 3/25/2020)**

6. **Case #2020-001823-HDRB. 339 and 341 Plaza Balentine. Downtown and Eastside Historic District. H.Q. Construction, agent for Elizabeth Beall, owner, proposes to replace windows, replace a fence with a yard-wall, restucco and construct an addition. (Daniel Schwab) (POSTPONED FROM 3/25/2020)**

7. **Case #2020-001856-HDRB. 328 Otero Street. Downtown and Eastside Historic District. Jay Jay Shapiro, agent for Georges Fengali, owner, requests an historic status review with primary façade designation, if applicable, for a non-contributing residential structure. (Daniel Schwab) (POSTPONED FROM 3/25/2020)**

8. **Case #2020-001817-HDRB. 328 Otero Street. Downtown & Eastside Historic District. Jay Jay Shapiro, agent for Georges Fengali, owner, proposes to enclose a carport, to construct a new carport with storage, to construct a bathroom addition, to replace windows with doors, to replace a gate, and to extend the existing fence at a contributing residential property. (Daniel Schwab) (POSTPONED FROM 3/25/2020)**

9. **Case #2020-001820-HDRB. 1027 Camino San Acacio. Downtown and Eastside Historic District. Will McDonald, agent for Vicki Rodriguez and Christella Castro, owners, propose to replace windows and doors and to construct two small additions to a contributing residence. An exception is requested to replace historic windows on a primary façade, per Section 14-5.2(D)(5)(a). (Lisa Roach) (POSTPONED FROM 3/25/2020)**

10. **Case #2020-001910-HDRB. 448 Camino Monte Vista. Downtown and Eastside Historic District. Eric Enfield, agent for John Horton, owner, proposes to change windows and doors and to construct additions at a non-historic, non-contributing residence. (Lisa Roach)**

11. **Case #2020-001900-HDRB. 410 South Guadalupe Street. Barbara Felix, agent for the City of Santa Fe, proposes to replace deteriorated windows and doors, to repair damaged architectural features, and to restore historic openings, features, and finishes at the Santa Fe Depot, a landmark structure. (Lisa Roach)**

H. MATTERS FROM THE BOARD

1. **2020 Santa Fe Heritage Preservation Awards – Selection of Winners**

I. ADJOURNMENT

Cases on this agenda may be postponed to a later date by the Historic Districts Review Board at the noticed meeting. Please contact the Historic Preservation Division at 955-6605 or check https://www.santafenm.gov/historic_districts_review_board for more information regarding cases on this agenda. Persons with disabilities in need of accommodations, contact the Historic Preservation Division office at (505) 955-6605 five (5) working days prior to the meeting date.

RECEIVED AT THE CITY CLERK'S OFFICE
DATE: April 9, 2020
TIME: 9:48 AM

SUMMARY INDEX
HISTORIC DISTRICTS REVIEW BOARD
April 28, 2020

ITEM	ACTION TAKEN	PAGE(S)
Call to Order	5:30 pm	1
A. Roll Call	Quorum Present	1
B. Approval of Agenda	Approved as Amended	1
C. Approval of Minutes		
Field Trip Minutes	Approved	2
March 10, 2020 Hearing	Approved as Amended	2
D. Findings of Fact & Conclusions of Law	Approved	2-3
E. Business from the Floor	Comments	3
F. Communications	None	3
G. Action Items		
1. Case #2020-1663-HDRB 512 Agua Fria Street	Approved	3-7
2. Case #2019-001553-HDRB 1292 Lejano Lane	Approved with Condition	7-12
3. Case #2020-001732-HDRB 868 and 868 ½ East Alameda Street	Denied in Part; Approved in Part	13-23
4. Case #2020-001664-HDRB 1204 Canyon Road	Approved with Conditions	23-30
5. Case #2020-001784-HDRB 339 and 341 Plaza Balentine	Postponed	30-34
6. Case #2020-001823-HDRB 339 and 341 Plaza Balentine	Postponed	34-35
7. Case #2020-001856-HDRB 328 Otero Street	Approved	35-36

8. Case #2020-001817-HDRB 328 Otero Street	Approved	36-38
9. Case #2020-001820-HDRB 1027 Camino San Acacio	Approved	38-42
10. Case #2020-001910-HDRB 448 Camino Monte Vista	Approved with Conditions	42-52
11. Case #2020-001900-HDRB 410 South Guadalupe Street	Approved	52-54
H. Matters from the Board	Comments	54-55
I. Adjournment	Adjourned at 10:50 p.m.	55

MINUTES OF THE CITY OF SANTA FE
HISTORIC DISTRICTS REVIEW BOARD
APRIL 28, 2020
VIRTUAL HEARING

CALL TO ORDER

A regular meeting of the City of Santa Fe Historic Districts Review Board was called to order by Cecilia Rios, Chair, on the above date at approximately 5:30 p.m. at a virtual meeting held at https://www.youtube.com/user/cityofsantafe.

A. ROLL CALL

Roll Call indicated the presence of a quorum as follows:

MEMBERS PRESENT:
Ms. Cecilia Rios, Chairwoman
Mr. Frank Katz, Vice Chair
Ms. Jennifer Biedscheid
Mr. John Bienvenu
Mr. Anthony Guida
Ms. Flynn G. Larson
Mr. Buddy Roybal

MEMBERS EXCUSED:

OTHERS PRESENT:
Ms. Lisa Roach, Planner Manager
Mr. Daniel Schwab, Senior Planner
Ms. Sally Paez, Assistant City Attorney
Ms. Melissa Byers, Stenographer

NOTE: **All items in the Committee packet for all agenda items are incorporated herewith by reference. The original Committee packet is on file in the Historic Preservation Office and available on the City of Santa Fe Website.**

B. APPROVAL OF AGENDA

MOTION: Member Roybal moved, seconded by Member Katz to approve the agenda.

VOTE: The motion passed by unanimous (6-0) roll call vote with Members Biedscheid, Bienvenu, Katz, Guida, Larson and Roybal voting in favor and none voting against.

C. APPROVAL OF MINUTES:

1. HDRB Field Trip minutes from February 11, 2020, February 25, 2020 and March 10, 2020

MOTION: Member Biedscheid moved, seconded by Member Larson, to approve the HDRB Field Trip minutes from February 11, 2020, February 25, 2020 and March 10, 2020.

VOTE: The motion passed by unanimous (6-0) roll call vote with Members Biedscheid, Bienvenu, Katz, Guida, Larson and Roybal voting in favor and none voting against.

2. HDRB Hearing minutes March 10, 2020

Member Biedscheid requested that the following changes be made:

- On page 12, 3rd paragraph, replace "and" with "instead of" to read: "if the post was freestanding instead of attached to the chimney…"
- On page 20, last paragraph, 4th sentence, in the sentence, "She also thought a window replacement exception was granted in a previous case" insert *"*with itself*"* at the end to read: "because it would remain in harmony with itself".
- On page 33, 5th paragraph, 3rd line "reestablished and was…" replace "and was" with "if" to read: "reestablished if done by a different applicant."
- On page 38, 2nd paragraph, 2nd sentence, should read… "the lot is not severely sloped".
- On page 40, 2nd paragraph, 4th sentence, "She thought the slope of the land was" should read: "She thought…slope of the land was *not* a compelling reason."

MOTION: Member Katz moved, seconded by Member Biedschied, to approve the HDRB Hearing Minutes of March 10, 2020 as amended.

VOTE: The motion passed by majority (5-0) roll call vote with Members Biedscheid, Katz, Guida, Larson and Roybal voting in favor and none voting against. Member Bienvenu abstained.

D. FINDINGS OF FACT AND CONCLUSIONS OF LAW

Case #2020-001553-HDRB. 1292 Lejano Road
Case #2020-001734-HDRB. 225 W. San Francisco St.
Case #2020-001600-HDRB. 113 Washington Avenue
Case #2020-001731-HDRB. 492, 494, 496 W. Water St
Case #2020-001736-HDRB. 824 Canyon Road
Case #2020-001781-HDRB. 868, 868½ E. Alameda St.
Case #2020-001737-HDRB. 325 Paseo de Peralta

Case #2020-001663-HDRB. 908 Old Santa Fe Trail.

MOTION: Member Roybal moved, seconded by Member Katz, to approve the Findings of Fact and Conclusions of Law.

VOTE: The motion passed by majority (5-0) roll call vote with Members Biedscheid, Katz, Guida, Larson and Roybal voting in favor and none voting against. Member Bienvenu abstained.

E. BUSINESS FROM THE FLOOR

Stefanie Beninato said she was somewhat disappointed that since they are using Zoom the members are not also using video. She thought the visual part important in feeling like they are connecting to people.

She appreciated that the portal without a permit at 616 Galisteo came down but it was confusing because they did not know who the owner is, and then the portal comes down. Or, that 604 Galisteo was replaced in kind, but it wasn't. It is distressing to get conflicting information about different projects.

She also wanted to bring to their attention the greenhouse in the Railyard District behind REI. The greenhouse has been there several years, and it is obvious, it is plastic with iron supports. She wondered about that if they left that greenhouse but told the people on Canyon Road, they couldn't have one. She said that looks like discriminatory enforcement.

F. COMMUNICATIONS

None

G. ACTION ITEMS

Chair Rios said there are 11 cases on the agenda. She reminded applicants if they disagree with the Board's decision, they have the option to appeal to City Council, within 15 days after the Findings of Fact and Conclusions of Law have been approved.

She limited public comment to two minutes and said that Ms. Paez would assist with timing.

1. **Case #2020-1663-HDRB. 512 Agua Fria Street.** Westside Guadalupe Historic District. Joel Miller, agent for George Wright and Grace Witking-Wright, owners, proposes to demolish a contributing accessory structure. An exception is requested,

EXHIBIT D

City of Santa Fe

Agenda

HISTORIC DISTRICTS REVIEW BOARD FIELD TRIP

TUESDAY, March 10, 2020 at 12:00 NOON

HISTORIC PRESERVATION DIVISION, 1st FLOOR CITY HALL

HISTORIC DISTRICTS REVIEW BOARD HEARING

TUESDAY, March 10, 2020 at 5:30 P.M.

CITY COUNCIL CHAMBERS

****AMENDED****

CALL TO ORDER

A. ROLL CALL
B. APPROVAL OF AGENDA
C. APPROVAL OF MINUTES: February 25, 2020
D. FINDINGS OF FACT & CONCLUSIONS OF LAW

Case #2020-001601-HDRB. 100 East Water Street.
Case #2020-001695-HDRB. 828 Camino Atalaya.
Case #2020-001660-HDRB. 121 Lorenzo Road.
Case #2020-1662-HDRB. 829 El Caminito.
Case #2019-001514-HDRB. 127 East Santa Fe Avenue.
Case #2020-001544-HDRB. 828 Camino Atalaya.
Case #2020-1669-HDRB. 1204 Canyon Road.
Appeal #2020-001644-APPL. 509 Camino Lejo

E. BUSINESS FROM THE FLOOR
F. COMMUNICATIONS
G. ACTION ITEMS

1. **Case #2020-001600-HDRB. 113 Washington Avenue. Downtown & Eastside Historic District. Martinez Architecture Studio, agent for Rosewood Inn of the Anasazi, owner, proposes to construct a 3,078 sq. ft. fourth floor addition to a height of 56'0" with a pool and dining area. An exception is requested to exceed the maximum allowable height of 20'1" (Section 14-5.2(D)(9)). (Lisa Roach, lxroach@santafenm.gov, 955-6657) (POSTPONED FROM 2/25/2020)**

2. **Case #2019-001553-HDRB. 1292 Lejano Lane. Downtown and Eastside Historic District. Thomas Hughes, agent for Linda Carey, owner, proposes to construct a new single-family residence on a vacant lot. (Daniel Schwab, dnschwab@santafenm.gov, 955-6660) (POSTPONED FROM 1/28/2020)**

3. **Case #2020-001781-HDRB. 868 and 868 ½ East Alameda Street. Downtown and Eastside Historic District. Liaison Planning Services, agent for Christina Halaburka, owner, requests a status review for the street-facing yard wall at a contributing residential structure. (Daniel Schwab)**

4. **Case #2020-001732-HDRB. 868 and 868 ½ East Alameda Street. Downtown and Eastside Historic District. Liaison Planning Services, agent for Christina Halaburka, owner, requests to partially demolish a yard wall and to construct a 5 ft. high coyote yardwall and gate at a contributing residential structure. (Daniel Schwab)**

5. **Case #2020-001736-HDRB. 824 Canyon Road. Downtown and Eastside Historic District. Architectural Alliance Inc., agent for Igor Choromanski, owner, proposes to construct a new 6 ft high yard wall and a 204 sq. ft. new free-standing garage and pergola adjacent to a significant residential structure. (Daniel Schwab)**

6. **Case #2020-001737-HDRB. 325 Paseo de Peralta. Downtown and Eastside Historic District. Architectural Allliance Inc., agent for Montgomery Andrew Co., owner, proposes to install new doors and to repair stucco at a non-contributing residential structure. (Daniel Schwab)**

7. **Case #2020-001740-HDRB. 212 Barela Street. Downtown and Eastside Historic District. Joe Simmons and Wendy Waites, owners, propose to construct three new attached residential units. (Daniel Schwab)**

8. Case #2020-001731-HDRB. 492, 494, and 496 West Water Street. Downtown and Eastside Historic District. Perez-Daple Architects, agent for The Orchard LLC, owner, proposes to construct a new mulit-unit commercial structure on a vacant lot. Preliminary design review is requested, along with an exception to exceed the maximum allowable building height, per Section 14-5.2(D)(9)(C)(ii). (Lisa Roach)

9. Case #2020-001663-HDRB. 908 Old Santa Fe Trail. Downtown & Eastside Historic District. Woods Design Builders, Inc., agent for Christy and JC Butler, owners, requests an exception to exceed the maximum allowable wall / fence height, per Section 14-5.2(D)(9)(c)(ii). (Lisa Roach)

10. Case #2020-001734-HDRB. 200 Block of West San Francisco Street (next to 225). Downtown and Eastside Historic District. Sommer, Karnes & Associates, LLP, agent for G. E. Senlic, LLC, owner, requests to demolish a parking kiosk and stairwell and to construct a new four-story commercial hotel structure with two-level underground parking. Exceptions are requested to exceed the maximum allowable building height, per Section14-5.2(D)(9)(c)(ii); to construct a pitched roof where fewer than 50% of the structures in the applicable streetscape have pitched roofs, per Section 14-5.2(D)(9)(d); and to deviate from the district design standards, per Section 14-5.2(E). (Lisa Roach)

H. MATTERS FROM THE BOARD

I. ADJOURNMENT

Cases on this agenda may be postponed to a later date by the Historic Districts Review Board at the noticed meeting. Please contact the Historic Preservation Division at 955-6605 or check https://www.santafenm.gov/historic_districts_review_board for more information regarding cases on this agenda. Persons with disabilities in need of accommodations, contact the Historic Preservation Division office at (505) 955-6605 five (5) working days prior to the meeting date.

RECEIVED AT THE CITY CLERK'S OFFICE
DATE: March 4, 2020
TIME: 11:30 AM

MINUTES OF THE CITY OF SANTA FE
HISTORIC DISTRICTS REVIEW BOARD
FIELD TRIP

Date: 3/10/2020

Time: Approximately 12:00 noon

Place: Historic Districts within the City of Santa Fe

Members Present:

	Present	Absent
Cecelia Rios, Chair	✓	
Frank Katz, Vice Chair	✓	
Jennifer Biedscheid	✓	
Anthony Guida	✓	
Flynn G. Larson		✓
Buddy Roybal		✓
(Vacant)	—	—

Business Conducted:

The Board conducted site visits for the property addresses listed on the agenda for this evening's public hearing, scheduled to begin at 5:30 p.m. The Board conducted the site visits for the sole purpose of making factual observations. The Board did not take any action or make any decisions, and no votes were taken.

Time Adjourned: 1:45pm

Approved by:

Cecilia Rios
Board Chair or Designee

Submitted by:

Risa Roach
Historic Preservation Division Staff

SUMMARY INDEX
HISTORIC DISTRICTS REVIEW BOARD
March 10, 2020

ITEM	ACTION TAKEN	PAGE(S)
Call to Order	5:30 pm	1
A. Roll Call	Quorum Present	1
B. Approval of Agenda	Approved as Amended	1
C. Approval of Minutes February 25, 2020 Hearing	Approved as Amended	2
D. Findings of Fact & Conclusions of Law	Approved	2
E. Business from the Floor	Comments	3
F. Communications	Comments	3
G. Action Items		
1. Case #2020-001600-HDRB 13 Washington Avenue	Approved with Conditions	3-14
2. Case #2019-001553-HDRB 1292 Lejano Lane.	Approved with Condition	14-23
3. Case #2020-001781-HDRB 868 and 868 ½ East Alameda Street	Designated as Contributing	23-25
4. Case #2020-001732-HDRB 868 and 868 ½ East Alameda Street	Postponed	25-26
5. Case #2020-001736-HDRB 824 Canyon Road. Downtown and Eastside Historic District	Approved with Conditions	26-30
6. Case #2020-001737-HDRB 325 Paseo de Peralta	Approved with Conditions	30-31
7. Case #2020-001740-HDRB 212 Barela Street	Postponed	31-40

8. Case #2020-001731-HDRB 492, 494, and 496 West Water Street.	Approved with Condition	40-43
9. Case #2020-001663-HDRB 908 Old Santa Fe Trail	Approved with Condition	43-47
10. Case #2020-001734-HDRB 200 Block of West San Francisco Street (next to 225)	Approved with Conditions	47-55
H. Matters from the Board	None	31
I. Adjournment	Adjourned at 11:25 p.m.	31

MINUTES OF THE CITY OF SANTA FE
HISTORIC DISTRICTS REVIEW BOARD
March 10, 2020

CALL TO ORDER

A regular meeting of the City of Santa Fe Historic Districts Review Board was called to order by Ceceilia Rios, Chair, on the above date at approximately 5:30 p.m. in the City Council Chambers, 200 Lincoln Avenue, Santa Fe, New Mexico.

A. ROLL CALL

Roll Call indicated the presence of a quorum as follows:

MEMBERS PRESENT:
Ms. Cecilia Rios, Chairwoman
Mr. Frank Katz, Vice Chair
Ms. Jennifer Biedscheid
Mr. Anthony Guida
Ms. Flynn G. Larson
Mr. Buddy Roybal

MEMBERS EXCUSED:
One Vacancy

OTHERS PRESENT:
Ms. Lisa Roach, Planner Manager
Mr. Daniel Schwab, Senior Planner
Ms. Sally Paez, Assistant City Attorney
Ms. Melissa Byers, Stenographer

NOTE: **All items in the Committee packet for all agenda items are incorporated herewith by reference. The original Committee packet is on file in the Historic Preservation Office and available on the City of Santa Fe Website.**

B. APPROVAL OF AGENDA

MOTION: Member Roybal moved, seconded by Member Katz to approve the agenda.

VOTE: The motion passed by unanimous (5-0) voice vote with Members Biedscheid, Katz, Guida, Larson and Roybal voting in favor and none voting against.

E. BUSINESS FROM THE FLOOR

Stephanie Beninato pointed out some inconsistencies for IPRAs. She said that at 108/110 E. Santa Fe Avenue, walls were built without a permit, she was told it was covered under 607 Don Gaspar.

She said the application for 604 Galisteo Street was for an adobe brick wall to be replaced. Their insurance company paid entirely for this and Ms. Roach said it was fine to do the brick wall. Public records showed no request to change the project. Also, she wondered how two windows on the southside, and the door were not damaged by the impact and were also replaced under the idea of replacing in kind the west/east wall. She wonders what *replacing in kind* really means.

Ms. Roach commented she could justify any of the decisions she made in the Galisteo case. She is under the impression the walls for Santa Fe Ave. and Don Gaspar have a permit.

F. COMMUNICATIONS

Ms. Roach said the date has been set for the Santa Fe Heritage Preservation Rewards on Thursday, May 14, 2020 at 5:30 PM at the San Miguel Chapel.

Ms. Paez noted that Gabe Smith, Assistant City Attorney, left the City and she will be the only one covering hearings. The City is in the process of hiring another Assistant City Attorney.

G. ACTION ITEMS

Chair Rios said there are ten action items on the agenda. She reminded applicants if they disagree with the Board decision, they can appeal to City Council, within 15 days of when the Findings of Fact and Conclusions of Law are approved.

1. **Case #2020-001600-HDRB. 113 Washington Avenue.** Downtown & Eastside Historic District. Martinez Architecture Studio, agent for Rosewood Inn of the Anasazi, owner, proposes to construct a 3,078 sq. ft. fourth floor addition to a height of 56'0" with a pool and dining area. An exception is requested to exceed the maximum allowable height of 20'1" (Section 14-5.2(D)(9)). (Lisa Roach, lxroach@santafenm.gov, 955-6657) (POSTPONED FROM 2/25/2020)

Related to this case, two photographs were submitted and are attached as Exhibit "1" and Exhibit "2".

Ms. Roach presented the staff report as follows:

STAFF REPORT:

113 Washington Avenue is a commercial hotel structure that was constructed after 1945 in the Territorial Revival style, when it was known as the State Securities Building. The building was substantially remodeled in 1989 in the Spanish Pueblo Revival style and was adaptively reused as the Inn of the Anasazi. In 2014, the HDRB approved window replacement throughout the structure (Case H-14-025). The building is listed as non-contributing to the Downtown and Eastside.

At the February 11, 2020, hearing of the HDRB, the applicant proposed to construct an addition to the rooftop level of the building, and after discussing several design details, the Board postponed the case, requesting redesign with particular attention to the street-facing west elevation. The applicant submitted revised drawings, reflecting a few modifications to the design, as well as digital renderings which better capture the visual effects of the additions on the streetscape. The project is proposed as follows:

1) Construct an addition and improvements to the rooftop level of the hotel. An exception is requested to exceed the maximum allowable height of 20'1", and exception criteria and responses are provided in the packet. The applicant proposes to build to a height of 56' in the central portion of the existing roof level, and this massing will rise a maximum of 14' above the existing parapet and will be set back from the street-facing façade by more than 70'.

2) At the front (street-facing) third of the space will be an outdoor event space with tile decking, seating, an informal lobby area, elevator overrun, stairwell, and storage space. The seating area will be set back further from the front façade of the building than originally proposed. The applicant redesigned the chimney structures that are prominent on the proposed design, such that the central chimneys have been consolidated, made more massive, and set back further from the front façade, resulting in better integration of the chimneys into the architectural features of the existing building. The side chimneys have also been made more massive and sculptural so as to blend better with the existing hotel. The seating area will feature a 12'8" high tan canopy situated on dark bronze tracks on which the canopy can be extended or retracted depending on weather. The canopy tracks have been redesigned to be seated on top of the three chimney structures at the west end of the seating area, and the space will be framed by 5' high stuccoed walls.

3) The central third of the space will feature an enclosed lounge and bar with required back of the house spaces, including kitchen and restrooms. The stuccoed massing will match the Spanish-Pueblo Revival style of the hotel, and windows will match those that are featured elsewhere on the hotel. As stated above, the height of this massing will rise 14' above the existing parapet, resulting in a total height of 56'. Any rooftop appurtenances and skylights placed on the roof of this addition will not be publicly visible.

4) At the rear third of the space will be a rectangular pool and tile deck, set back approximately 4 feet from the edge of the building. The perimeter of the pool deck will be framed by 4' high stuccoed walls and a retractable tan canopy with dark bronze rails to a height of 12'8" above

the existing parapet. The previously presented wood framed cabana structures have been modified to free-standing fabric structures. In this area, the chimneys have also been moved closer together from the previous design and incorporated into fewer, larger masses rather than having multiple smaller chimneys. At the southeast corner of the pool deck, a stairwell, mechanical and storage spaces will be located, and the northwest corner of the pool deck will feature an outdoor fireplace and seating area.

STAFF RECOMMENDATION:

Staff finds that the exception criteria have been met and recommends approval of the proposed project and finds that the application complies with Section 14-5.2(D) General Design Standards for all Historic Districts, and 14-5.2(E) Downtown and Eastside Design Standards.

QUESTIONS FOR STAFF

Member Roybal asked, from the street view, would anyone notice the south, north or west chimneys. He looked at it from across the street and it is set back a lot on the west side.

Ms. Roach explained when standing right in front of the hotel you may not notice the additional massing and the west side is set back a lot. There are no dimensions on the drawings, and they are not a standard scale. They could ask the applicant how far back the two chimneys will be from the street façade.

Member Roybal asked how high La Fonda is in height. Ms. Roach did not know.

Chair Rios asked how many of the existing chimneys will be changed.

Ms. Roach said the reason for the chimney extensions is because of Building Code requirements. The chimneys already exist and have to be extended for the proper draft so people can occupy the space below. They have been consolidated in the new design and four chimneys are within the front event space on the west end of the rooftop level. The chimneys at the rear have been consolidated to three or four different chimneys. The applicant could be asked to provide more clarification.

Chair Rios asked if it is correct that the maximum allowable height is 20 feet, 1 inch.

Ms. Roach explained that is the calculation based on methodology in the Code. The downtown area calculations are tricky because the Code requires doing height calculations without considering noncontributing structures over 16 feet in height.

Chair Rios asked what else is excluded in the height calculation.

Ms. Roach offered to read the Code; noncontributing structures over 16 feet in height; institutional structures.

Ms. Roach said in 14-5.2(D)(9)(c)(ii)(A) it states: "*If a proposed building has a parapet, the façade shall not be in excess of two (2) feet of the average of the height of the façades in the streetscape .*" They then have to go back to how streetscape is defined to determine which façades are included and applicable. Ms. Roach said she couldn't find the exact language in Code but for a long time the procedure was to look at the applicable streetscape, defined by Code, eliminate noncontributing buildings 16 feet or over and any institutional buildings, hotels.

Member Biedscheid noted the height section B and C prior to that on streetscape standards discusses the determination of streetscape and refers to height and structures that should be eliminated.

Chair Rios thought it was important to consider that the building is in harmony with the streetscape.

Ms. Roach said Member Biedscheid was correct. Under Streetscape Standards in 14-5.2(D)(9)(b)(ii): "When determining streetscape, the following structure types shall be excluded: institutional, buildings originally constructed to house a hotel, residential multiple unit, buildings with non-historic multiple stories, non-historic pitched roof, auxiliary outbuildings such as sheds, existing structures approved by way of variance or exception, and yardwalls or fences whose height is inconsistent with the predominant height of yardwalls and fences on an applicable streetscape."

Member Roybal asked when looking at the commercial if they should take into account the height existing in the surrounding structures like the La Fonda, the Cathedral in the calculation.

Ms. Roach thought the predominant height of buildings in the streetscape should be a consideration in the downtown area beyond the exclusions. It would be worth considering a different methodology for calculation for downtown at some point.

Member Roybal agreed.

Chair Rios noted the application was divided into three parts. She asked how far back the seating area and tables start after entering the building.

Ms. Roach did not know the exact distance from the front façade. She suggested they ask the applicant.

Chair Rios confirmed the massing with a bar and lounge, kitchen, and restrooms would be in the second space. She noted massing in that portion is about 70 feet back. She asked to confirm that the third portion would be the area for the swimming pool.

Ms. Roach agreed.

Member Katz said with regard to the height issue, there is confusion of what it is or should be but also a concern there is a height increase. He thought if the Board continued to allow

exceptions for height it would bleed from the downtown district. His concern is the hotel is on Washington Street. The buildings on the west side may not be considered in height calculation but are considerably taller than this. And on the east side they quickly move into the residential area. The east side moves into the residential area and this building on the east side is already the tallest building on that side and is asking for another story. He asked if that wouldn't trigger concern about leap frogging, making things taller and taller and a special concern about having height on the edge of town.

Ms. Roach thought the Board is able to discern when a height exception is appropriate when taking into account the rest of the streetscape around the building. She did not believe there is fear allowing another story to a building already nonconforming hotel structure similar in height to other hotels downtown, or that it would have an impact on the heights of residential properties adjacent or beyond the business district.

Member Katz asked Ms. Roach when she stated the Code requirement could not be too close to a low chimney, what is too close.

Ms. Roach thought the seating area has to be 10 feet from the chimney.

Member Biedscheid asked on staff interpretation of Code on the stucco massing in the center of the building they believed to be a significant step back. She asked how they looked at the chimneys, which are also stuccoed structures, that are not significantly stepped back.

Ms. Roach replied Code specifies that additional height in stories be stepped back to be made the same height. Throughout the design and space, the chimney structures have been consolidated and made more massive. At the west facing façade, the chimney structures are stepped back, but she didn't know the distance from the front. Code does not specify how deep a step back is required to be considered a step back. She thought the Board has to evaluate and that it is a matter of scale and visual impact.

Member Biedscheid asked how staff considered fabric is historic in terms of material such as the awnings proposed.

Ms. Roach noted fabric awnings are throughout the downtown area and generally are regulated in color palette and compatibility predominantly in the streetscape.

Member Biedscheid asked if the awnings are considered temporary structures.

Ms. Roach said the awnings can be extended or retracted as needed, and because the rails they are mounted on are permanent, she thought the canopies would also be considered permanent. Usually awnings over entrances are permitted as permanent structures, opposed to tenting or vestibules around seasonal openings.

APPLICANT'S PRESENTATION

Lutz Arnhold, 2861 Cliff Palace, was sworn. He wanted to point out how important the project is for those in the hotel business and downtown area, and to him personally. He thanked the Board for their comments. He heard their comments and moved the chimney back 14 feet on the front street façade. Secondly, he wanted the renderings to show the Board how great the step back was of the front chimney façade. He not only took the Board's comments seriously and did what was asked but thanks them. He thought their comments had improved the project significantly.

Richard Martinez, 1524 Paseo de Peralta, was sworn.

Chair Rios thanked Mr. Martinez for the digital color visualization.

Mr. Martinez responded to questions. He said the La Fonda is 65 feet tall and the applicant is asking for 52 feet. There are 58 rooms, each with a fireplace and there is a fireplace in the lobby and bar. Chimneys are required to be 2 feet above anything within 10 feet and have been lowered as much as possible. He took advantage of the floor space, which is 6 feet above the existing roof deck. They angled the chimney 45 degrees and moved the chimney mass back. The front façade of the building has a steel structure with another steel structure every 16 feet. The beam across the front of the building holds up the awning and is back 16 feet. The chimneys going up from the hotel must be in front of that beam, so the front of the mass is 14 feet back from the front façade. The smaller wall surrounds the deck area and the area called the event space and is six feet back from the front façade. The chimneys and structures for the canopies are 14 feet back from the front façade. The chimneys were moved back to the deck area with a reconfiguration of the tables. The two end chimneys are moved back as far as possible and integrated and the hotel façade is buttressed. All the other chimneys were grouped together and moved back to be more integrated into the façade.

QUESTIONS FOR THE APPLICANT

Member Katz asked Mr. Martinez to confirm that the chimneys in front on the west façade were moved back to the east and back from the façade.

Mr. Martinez explained they are now 14 feet back from the façade and directly behind the parapet. He confirmed there is a vertical space of the wall and then the chimney and the vertical space is the existing façade. He explained when he said 14 feet, he meant the front of the stucco from the façade, not the chimney itself.

Member Katz asked how far back from the front of the stucco the chimney is currently. He was told about 18 inches to a foot and half.

Member Katz said they did a great job on the redesign of the chimneys, but he was not happy that from Washington Street you could see the three stucco mass chimneys and the beam across. He did not think they needed tall chimneys in front if more than 10 feet from the outdoor space. He noted Mr. Martinez has mentioned it is 18 inches from the front of the façade and the chimneys are 14 feet back, and if the chimneys were left low up front as they are, it would allow the same space. Member Katz said but the three tall chimneys in the front would not be seen.

Mr. Martinez replied that was not true. He explained the wall at the edge of the roof deck above the parapet is within ten feet. He presented they would have to go above that parapet at the last meeting. The chimney currently sticks up above the existing parapet and would have to be 2 feet higher if positioned as Member Katz stated. It is only six feet back but is 14 feet back behind the wall.

Member Katz asked why the wall couldn't be where the chimney is now, with the low chimneys in front.

Chair Rios asked if that was possible.

Mr. Martinez said that was not what the Board asked for at the last meeting.

Member Katz said the Board was quite clear they did not want to see the chimney from Washington Street. It could be seen very clearly and is more massive.

Karl Sommer, PO Box 2476, was sworn. He thought there was confusion. He asked what the Code standard required for the height of the chimney.

Mr. Martinez replied Code is that the chimney has to be 2 feet higher than anything within 10 feet of it.

Mr. Sommer asked why is that the height for anything within 10 feet, design wise.

Mr. Martinez explained it is two feet higher than the beam.

Member Katz said looking at the photograph there is what looks like a parapet line of the current building. Several feet back from that is the wall of the decking upstairs. He thought the current chimney is behind the lower parapet - east to west.

Mr. Martinez explained the current chimney is directly behind the existing parapet.

Ms. Roach asked if it would be helpful to look at the existing roof plan.

Member Katz noted the plan shows that the chimney is directly behind the front parapet. If you drop down to the other one, it is moved 6, 8, 10 feet back.

Mr. Martinez replied it is fourteen feet back from the front parapet.

Member Katz thought the edge of the deck could be moved 10 feet back from the current location of the chimney and it would meet Code. Then the front chimneys would not have to be taller.

Mr. Martinez thought that would be unattractive to have a main chimney for the log fireplace that burns 300 days a year, spew smoke below.

Member Katz suggested on days they have a big event on the roof they could choose not to have a fire. The Board has to look at this for 365 days a year and there is no need to do what is proposed. There should be a compromise to preserve the view from Washington Street.

Member Roybal asked how many changes were made by the applicant to comply with the Board's requests. He noted Mr. Martinez redrew the plan trying to work around the requests previously made.

Mr. Martinez replied he had, and the chimneys were moved back 14 feet. He wanted to take advantage of the space to angle the chimneys back from the front façade. He also integrated the chimneys on the sides of the building, above the parapets. He used that angle to group the chimneys together instead of standing individually, to have fewer and be more mass. He also worked to integrate them with the structure that holds the awning, which is necessary. He used it to move the chimneys back and around the structure. He removed the roof of the cabanas that originally were in the back of his proposal because the owner said it wasn't necessary to have a solid roof.

Member Larson thanked Mr. Martinez for taking the Board's comments to heart. She thought the design creative and liked the integration of the structures and thought it would function nicely. She agreed with Member Katz that something could possibly be done with the chimneys, but it was not a huge visual issue to her.

Member Katz said looking at the roof plat, at the right end of the chimney on the bottom, he could see a vertical line that cuts the two left most tables in half. He guessed that was the edge of the canopy and the beam above it. That is more than 10 feet, it was 14 feet back from the chimney. The only thing he thought would be lost if the tall chimneys were not in front is a small piece of territory that includes half of two tables.

Mr. Martinez explained there are seated areas in front of that and a bar area and seating area with bar stools.

Member Katz said that could be moved back about 7 feet.

Chair Rios asked the height of the chimneys on the west façade.

Mr. Martinez said they are 56 feet, the same height as the building behind it.

Chair Rios asked if that was measured from where they start.

Mr. Martinez clarified it was from the floor to the top.

Ms. Roach said the proposed height would be 14 feet higher than the existing parapet.

Mr. Martinez said it is fourteen feet. He explained the parapet dips and is not all the same height, and 14 feet is the highest.

Chair Rios confirmed that the two beams were moved 14 feet from the existing parapet and 14 feet from that base.

Mr. Sommer asked to add he didn't want Member Katz to think they ignored his comment about keeping the chimney low, but at the last meeting they discussed how they could move it back. There were several comments about redesigning it and looking at it differently. The original design had a straight up, very tall singular element in the middle of the building.

The applicant has done his best from a structural and construction standpoint to take that back and integrate what was there to add more massing. They did not intentionally ignore. And if the Board's comment was to remove the chimney, the applicant misunderstood. The applicant tried to address what they thought the Board had suggested and is their thinking behind the design and the proposal.

Member Biedscheid said she was trying to understand why the chimneys are 14 feet above the deck. She asked if solely because of the canopy railing that is attached.

Mr. Martinez replied yes.

Member Biedscheid asked if he had considered the use of umbrellas or something that would allow a reduction of the chimney height.

Mr. Martinez explained the canopy is retractable and a more high-end, elegant solution. They don't want something unattractive. They wanted the entire addition on the roof to look like it is part of the hotel. He intends to face the beam at the front with wood, so it appears to be a wood beam. Also, the canopy has to go over certain elements like the egress stairs and elevators, etc. and determines the height of the canopy. The canopy is not free standing, it is attached to the solid building in the middle.

Member Biedscheid asked if rather than attaching the beam to the chimney it is attached to the end to reduce the chimney height. She asked if redesigned as freestanding, the chimney could be lower and 10 feet away.

Mr. Martinez said no, they are not 10 feet away and that is the problem. They would be as high as they are now but standing as free elements instead of integrated into the frame of the canopy. The façade has two big elements going to the top. He pointed on the drawing, to the chimneys in the structure for the canopy. Behind that is the elevator, egress stairs, etc. and they were sticking straight up, and he moved those together and used the angles to get the chimneys to that area.

Member Biedscheid asked if the front chimneys could be lower if the post was freestanding and attached to a chimney.

Mr. Martinez replied no. They would still be within 10 feet of the canopy structure or the elevator as he indicated on the plan.

Member Biedscheid asked the options to reduce the front chimneys.

Member Katz asked "what was wrong with Frank's options that would do exactly that?"

Mr. Martinez pointed to the drawing and the place they could stop the deck and reduce the middle chimney, but not the entrance. That is stepped back from the sides.

Member Guida asked if the two chimneys on the end were angled back 45 degrees as the one from the lobby.

Mr. Martinez stated they are angled back but are not exactly behind the front façade. He wasn't sure how far back they were, all of them were not shown.

Ms. Roach said there is only one in question - the front center chimney.

Member Katz said they don't show any on the plan but that does not mean they don't exist. They could angle west instead of east.

Member Guida pointed out they were discussing two schemes. The one presented by the applicant is an admirable design adjustment of what the Board reviewed last time. It is a clear incorporation of the Board's direction and comments. He recalled discussing the last time that the overall massing of the four-story proposal was fine and clear. Their reaction was to the Washington Avenue façade and the presence of the middle of that as a façade point. This design changes that and pushes the point back 14 feet and changes the massing of the chimneys.

Mr. Martinez added it also makes it wider so he can line up the chimneys.

Member Guida said for him that's a good reaction and it did not sacrifice a lot of real estate.

Mr. Martinez said they lost 75 square feet.

Member Guida thought it an elegant design solution. What the Board is discussing now is whether they want to see three chimneys from the street, or at all. They are set back from the façade and to him, looking at line of sight from Washington Avenue upward he would not see them at all. Only the view from across the street shows a glimpse of the chimneys. The renderings did a good job of showing the worst-case scenario - the view from across the street. This is the full exposure in both cases.

He thought the other scenario was to eliminate the three chimneys visually by keeping them above the existing roof and pulling them back about 10 feet or more from the façade. That would obviously cause a loss in square footage. And there is the question of what would support the canopy at that point, and if they should bring it back to the second row of chimneys, or to posts. He thought the second scheme more conservative, but personally agreed that a chimney that emits smoke in an occupied space is less than optimal, even when it meets the letter of Code. He thought the plan did not infringe much on the streetscape.

Chair Rios asked the width of the chimneys that faced Washington.

Mr. Martinez said he tapered the chimneys as they go up and at the least is 2 feet deep. They are as wide as needed to accommodate the chimney at about 8 to 10 feet wide.

PUBLIC HEARING.

John Eddy 227 E. Palace, Suite D, was sworn. He said the spirit of advice given at the last meeting was very clear. The existing building on the west façade is at a height consistent with the surrounding buildings, despite that it is the tallest building. The applicant in trying to redesign, pushed the chimneys back. They tried to decrease the massing fronting on the west side but only to a certain degree. What they see is very visible massing that is disruptive to the streetscape. That is driven by the program the applicant wants on the rooftop to use as much of the area as possible. Looking at the building in thirds from east to west, the middle third is the major massing. Taking everything back at least 25% from the original façade and eliminating rooftop use would eliminate 80% of the visual obstruction on the streetscape.

Stephanie Beninato was sworn. She agreed with Mr. Eddy. She thought this has a huge impact on the streetscape, especially from the Plaza in the northeast corner. They should get rid of the wood burning fireplaces which adds to carbon foot printing. Possibly they could have a smaller opening with gas burning fireplaces. Also, there will be a very visible awning that will impact the streetscape and although allowed, it is a mistake and looks tacky. There is no hardship, it is about making money and using space. they should get rid of the first third and allow the back

third. Also, the applicant should reconsider the pool. She asked if another rooftop pool is needed when they are in a drought. They could advertise the hotel as sustainable, and the awning and pool area could possibly be seen from the streetscape. The scale should be done to standard scale and the drawing should have all of the details. The applicant should be made to make drawings to scale.

BOARD DISCUSSION

Member Katz said he understood the comments from the public but was in no way trying to eliminate the outdoor event space on the roof. The applicant would possibly lose seven feet and two tables but could still have a bar looking west, and it would be nice if the awning did not come all the way across. They might want to discuss that because you could see the underside of the awning. It would be nice if that was not visible.

MOTION: In Case #2020-001600-HDRB, 113 Washington Avenue, Member Katz moved to approve the application as submitted with the condition that the three front chimney massing be eliminated, and the three chimney groupings be at the front of the façade at the current height, and that the rest of the back be the required 10-14 feet from the chimneys and be the front of the event area, and that the applicant submit drawings to show that. Member Biedscheid seconded the motion and added a friendly amendment that the conditions in the motion meet the exception criteria for criteria #5.

VOTE: The motion passed by majority (4-1) voice vote with Members Biedscheid, Guida, Katz and Larson voting in favor and Member Roybal voting against.

2. **Case #2019-001553-HDRB. 1292 Lejano Lane.** Downtown and Eastside Historic District. Thomas Hughes, agent for Linda Carey, owner, proposes to construct a new single-family residence on a vacant lot. (Daniel Schwab, dnschwab@santafenm.gov, 955-6660) (POSTPONED FROM 1/28/2020)

Related to this case, two photographs were submitted and are attached as Exhibit "3".

Mr. Schwab presented the Staff report as follows:

STAFF REPORT:

1292 Lejano Lane is currently an unbuilt residential site in the Downtown and Eastside Historic District. The site has a steep grade and sits at the corner of Lejano Lane and Lorenzo Road. It has public visibility from both roads.



tabbies

EXHIBIT

56

tabbies

EXHIBIT

2

EXHIBIT E

CITY OF SANTA FE, NEW MEXICO

PROJECT DESCRIPTION: Martinez Architecture Studio, agent for Rosewood Inn of the Anasazi, owner, proposes to construct a 3,078 sq. ft. fourth floor addition to a height of 56'0" with a pool and dining area. An exception is requested to exceed the maximum allowable height of 20'1" (Section 14-5.2(D)(9)).

Case number: **2019-001600-HDRB**
Project Type: HDRB

PROJECT LOCATION (S): **113 Washington Avenue**

OW – Rosewood Inn of the Anasazi	113 Washington Avenue	Santa Fe, NM 87501
AP – Martinez Architecture Studio PC	P.O. Box 925	Santa Fe, NM 87504

PROJECT DATA:

HISTORIC DISTRICT

Don Gaspar Area ☐ Downtown and Eastside ☑ Historic Review ☐ Transition ☐ Westside-Guadalupe ☐

HISTORIC BUILDING STATUS

Non-Statused ☐ Non-Contributing ☑ Contributing ☐ Significant ☐ Landmark ☐ N/A ☐

PRIMARY ELEVATIONS: North ☐ South ☐ West ☐ East ☐ N/A ☑

PUBLICLY VISIBLE FACADE-EAST Yes ☐ No ☑

PUBLICLY VISIBLE FACADE-NORTH Yes ☑ No ☐

PUBLICLY VISIBLE FACADE-SOUTH Yes ☑ No ☐

PUBLICLY VISIBLE FACADE-WEST Yes ☑ No ☐

HISTORIC DISTRICT INVENTORY NUMBER H3537

YEAR OF CONSTRUCTION post 1945

PROJECT TYPE

Status ☐ Primary Elevations ☐ Remodel ☑ Demolition ☐ New ☐ Other _____

USE, EXISTING Residential ☐ Non-Residential ☑ Vacant ☐

USE, PROPOSED Residential ☐ Non-Residential ☑

HISTORIC BUILDING NAME State Securities Building

City of Santa Fe, New Mexico

memo

DATE: March 10, 2020

TO: Historic Districts Review Board Members

FROM: Lisa Gavioli Roach, Historic Preservation Division Manager

Case # 2020-001600-HDRB
(POSTPONED FROM 2/11/2020)

Address: 113 Washington Ave
Historic Status: Non-contributing
Historic District: Downtown and Eastside

REFERENCE ATTACHMENTS (Sequentially):

CITY SUBMITTALS

____ **District Standards & yard wall & fence standards.**

__x__ **Historic Inventory Form**

__x__ **Zoning Review Sheet**

__x__ **Other**: Height calculation – maximum allowable height calculated to be 20'1"

APPLICANT SUBMITTALS

__x__ **Proposal Letter (original and revised)**

__x__ **Site Plan/Floor Plan (original and revised)**

__x__ **Elevations (original and revised)**

__x__ **Photographs**

__x__ **Other:** digital renderings

STAFF RECOMMENDATION:

Staff finds that the exception criteria have been met and recommends approval of the proposed project and finds that the application complies with Section 14-5.2(D) General Design Standards for all Historic Districts, and 14-5.2(E) Downtown and Eastside Design Standards.

BACKGROUND & SUMMARY:

113 Washington Avenue is a commercial hotel structure that was constructed after 1945 in the Territorial Revival style, when it was known as the State Securities Building. The building was substantially remodeled in 1989 in the Spanish Pueblo Revival style and was adaptively reused as the Inn of the Anasazi. In 2014, the HDRB approved window replacement throughout the structure (Case H-14-025). The building is listed as non-contributing to the Downtown and Eastside.

At the February 11, 2020, hearing of the HDRB, the applicant proposed to construct an addition to the rooftop level of the building, and after discussing several design details, the Board postponed the case, requesting redesign with particular attention to the street-facing west elevation. The applicant submitted revised drawings, reflecting a few modifications to the design, as well as digital renderings which better capture the visual effects of the additions on the streetscape. The project is proposed as follows:

1) Construct an addition and improvements to the rooftop level of the hotel. An exception is requested to exceed the maximum allowable height of 20'1", and exception criteria and responses are provided below. The applicant proposes to build to a height of 56' in the central portion of the existing roof level, and this massing will rise a maximum of 14' above the existing parapet and will be set back from the street-facing façade by more than 70'.

2) At the front (street-facing) third of the space will be an outdoor event space with tile decking, seating, an informal lobby area, elevator overrun, stairwell, and storage space. The seating area will be set back further from the front façade of the building than originally proposed. The applicant redesigned the chimney structures that are prominent on the proposed design, such that the central chimneys have been consolidated, made more massive, and set back further from the front façade, resulting in better integration of the chimneys into the architectural features of the existing building. The side chimneys have also been made more massive and sculptural so as to blend better with the existing hotel. The seating area will feature a 12'8" high tan canopy situated on dark bronze tracks on which the canopy can be extended or retracted depending on weather. The canopy tracks have been redesigned to be seated on top of the three chimney structures at the west end of the seating area, and the space will be framed by 5' high stuccoed walls.

3) The central third of the space will feature an enclosed lounge and bar with required back of the house spaces, including kitchen and restrooms. The stuccoed massing will match the Spanish-Pueblo Revival style of the hotel, and windows will match those that are featured elsewhere on the hotel. As stated above, the height of this massing will rise 14' above the existing parapet, resulting in a total height of 56'. Any rooftop appurtenances and skylights placed on the roof of this addition will not be publicly visible.

4) At the rear third of the space will be a rectangular pool and tile deck, set back approximately 4 feet from the edge of the building. The perimeter of the pool deck will be framed by 4' high stuccoed walls and a retractable tan canopy with dark bronze rails to a

height of 12'8" above the existing parapet. The previously presented wood framed cabana structures have been modified to free-standing fabric structures. In this area, the chimneys have also been moved closer together from the previous design and incorporated into fewer, larger masses rather than having multiple smaller chimneys. At the southeast corner of the pool deck, a stairwell, mechanical and storage spaces will be located, and the northwest corner of the pool deck will feature an outdoor fireplace and seating area.

EXCEPTION CRITERIA AND RESPONSES

Exception to exceed the maximum allowable height, per Section 14-5.2(D)(9):

i) Do not damage the character of the streetscape;

Applicant Response: On this block of Washington Ave (on both sides of the street}, tall institutional and commercial buildings define the streetscape. The hotel adjacent and to the north of the Inn of the Anasazi is about the same height, and the buildings across Washington Avenue are taller than the Inn of the Anasazi. Typically, the buildings rise from the sidewalk up several stories without setting back. This character - tall institution and commercial buildings adjacent to the sidewalks - is unique in many ways to this area of the downtown area. The proposed addition will be set back from the edge of the existing parapet. It will not be visible from the east side of the street and will hardly be noticeable from the west side of the street. As a result, the addition will fit into the existing character of the streetscape, rather than do damage to it. The human scale enjoyed today on this section of the streetscape will not be adversely affected or damaged.

Staff Response: *Staff agrees with this response.*

(i) Prevent a hardship to the applicant or an injury to the public welfare;

Applicant Response: The hardship to the applicant results from the fact that Inn of the Anasazi sits on a lot that already occupies 100% of the lot, and there is no additional area to provide the amenities that are being proposed in the addition. It is in the interest of the public welfare (and the Inn of the Anasazi) for this property to remain economically viable and competitive in the hospitality industry in downtown; the Inn of the Anasazi must be at least as attractive to visitors as other luxury hotels in the downtown area. All of the Inn of the Anasazi's major competitors- La Fonda, the Drury, and the Eldorado Hotel - all provide swimming facilities (all of which are on the roof tops), and opportunities for outdoor and indoor dinning, socializing and event-staging on their rooftops. In order to compete and remain relevant and to avoid eventual obsolescence – and thereby avoid a hardship and harm to the public welfare of the City of Santa Fe – the Inn of the Anasazi must invest in the facilities with the propose addition, but has nowhere to add them except on top of the existing hotel.

Staff Response: *Staff agrees with this response.*

(iii) Strengthen the unique heterogeneous character of the city by providing a full range of design options to ensure that residents can continue to reside within the historic districts;

Applicant Response: This criterion really addresses residential uses in the historic district and a "full range of design options to ensure that residents can continue to reside" and has no applicability to addition of a commercial building. However, the proposed addition will strengthen commercial character of the downtown by adding amenities to a downtown hotel that will allow visitors and patrons a greater range of possibilities to enjoy the unique culture of Santa Fe.

Staff Response: *Staff agrees with this response.*

(iv) Are due to special conditions and circumstances which are not a result of the actions of the applicant;

Applicant Response: Inn of the Anasazi sits on a lot that has for decades been occupied by a tall building covering the entire lot, and the applicant did not divide the property to create a lot with a small area of land. Rather, the small lot was created many, many decades ago. The condition of the lot is not the result of the action of the owner.

Staff Response: *Staff agrees with this response.*

(v) Provide the least negative impact with respect to the purpose of this section as set forth in Subsection 14-5.2(A)(1).

Applicant Response: The proposed addition and amenities will not have any negative impact on the streetscape or the historic character of the downtown area. The addition will be set back from the edge of the existing parapet so it will reduce its visibility as discussed above and will not add or cast a shadow on to the streets below. In short, it will not exacerbate any of the effects that tall building may have on a streetscape - "canyon effect," shadows, disproportionate scale or massing. So, any potentially negative impacts have been mitigated by the design.

Staff Response: *Staff agrees with this response.*

RELEVANT CODE CITATIONS:

14-5.2(A)(1) General Purpose

In order to promote the economic, cultural, and general welfare of the people of the city and to ensure the harmonious, orderly and efficient growth and development of the city, it is deemed essential by the governing body that the qualities relating to the history of Santa Fe, and a harmonious outward appearance, which preserve property values and attract tourists and residents alike, be preserved, some of these qualities being:

(a) The continued existence and preservation of historical areas and buildings;

(b) The continued construction of buildings in the historic styles; and
(c) A general harmony as to style, form, color, height, proportion, texture and material between buildings of historic design and those of more modern design.

14-5.2(E) Downtown and Eastside Design Standards

(1) Old Santa Fe Style

Old Santa Fe style, characterized by construction with adobe, is defined as including the so-called "pueblo" or "pueblo-Spanish" or "Spanish-Indian" and "territorial" styles and is more specifically described as follows:

(a) With rare exception, buildings are of one story, few have three stories, and the characteristic effect is that the buildings are long and low. Roofs are flat with a slight slope and surrounded on at least three sides by a firewall of the same color and material as the walls or of brick. Roofs are never carried out beyond the line of the walls except to cover an enclosed portal or porch formed by setting back a portion of the wall or to form an exterior portal, the outer edge of the roof being supported by wooden columns. Two-story construction is more common in the territorial than in other sub-styles, and is preferably accompanied by a balcony at the level of the floor of the second story. Façades are flat, varied by inset portales, exterior portales, projecting vigas or roof beams, canales or water-spouts, flanking buttresses and wooden lintels, architraves and cornices, which, as well as doors, are frequently carved and the carving may be picked out with bright colors. Arches are almost never used except for nonfunctional arches, often slightly ogive, over gateways in freestanding walls;
(b) All exterior walls of a building are painted alike. The colors range from a light earth color to a dark earth color. The exception to this rule is the protected space under portales, or in church-derived designs, inset panels in a wall under the roof, in which case the roof overhangs the panel. These spaces may be painted white or a contrasting color, or have mural decorations;
(c) Solid wall space is always greater in any façade than window and door space combined. Single panes of glass larger than thirty (30) inches in any dimension are not permissible except as otherwise provided in this section;
(d) The rule as to flat roofs shall not be construed to prevent the construction of skylights or installation of air conditioning devices, or any other necessary roof structures, but such structures other than chimneys, flues, vents and aerials, shall be so placed as to be concealed by the firewall from the view of anyone standing in the street on which the building fronts;
(e) True old Santa Fe style buildings are made of adobe with mud plaster finish. Construction with masonry blocks, bricks, or other materials with which the adobe effect can be simulated is permissible; provided, that the exterior walls are not less than eight (8) inches thick and that geometrically straight façade lines are avoided. Mud plaster or hard plaster simulating adobe, laid on smoothly, is required; and

(2) Recent Santa Fe Style

Recent Santa Fe style intends to achieve harmony with historic buildings by retention of a similarity of materials, color, proportion, and general detail. The dominating effect is to be that of adobe construction, prescribed as follows:

(a) No building shall be over two stories in height in any façade unless the façade shall include projecting or recessed portales, setbacks or other design elements;

(b) The combined door and window area in any publicly visible façade shall not exceed forty percent of the total area of the façade except for doors or windows located under a portal. No door or window in a publicly visible façade shall be located nearer than three (3) feet from the corner of the façade;

(c) No cantilevers shall be permitted except over projecting vigas, beams, or wood corbels, or as part of the roof treatment described below;

(d) No less than eighty percent of the surface area of any publicly visible façade shall be adobe finish, or stucco simulating adobe finish. The balance of the publicly visible façade, except as above, may be of natural stone, wood, brick, tile, terra cotta, or other material, subject to approval as hereinafter provided for building permits;

(e) The publicly visible façade of any building and of any adjoining walls shall, except as otherwise provided, be of one color, which color shall simulate a light earth or dark earth color, matte or dull finish and of relatively smooth texture. Façade surfaces under portales may be of contrasting or complimentary colors. Windows, doors and portals on publicly visible portions of the building and walls shall be of one of the old Santa Fe styles; except that buildings with portals may have larger plate glass areas for windows under portals only. Deep window recesses are characteristic; and

(f) Flat roofs shall have not more than thirty (30) inches overhang.

14-5.2(D)(9) Height, Pitch, Scale, Massing and Floor Stepbacks

The height, pitch, scale , and massing of any structure in an historic district, as defined in this section, shall be limited as provided for in this section, unless further restricted within this chapter.

(c) Height

(i) Official map of building heights in the historic districts - procedures.

A. The historic districts review board shall recommend the adoption of an official map reflecting building heights in the historic districts to the governing body . This map shall be used for the purpose of regulating building height in the historic districts. The map shall be adopted at a public hearing of the governing body , which hearing shall be advertised in a local newspaper no less than fifteen days prior to the hearing. All affected property owners and owners of lots or of land within one hundred (100) feet, excluding public right-of-way, of the property affected shall be notified of the public hearing by first class mail, mailed at least fifteen days prior to the public hearing. The official map shall be adopted by the governing body by ordinance.

B. The official map of building heights in the historic districts may be amended from time to time. This historic districts review board shall make

recommendations to the governing body for the amendment of the official map, at a public hearing. Such hearing shall be advertised in a local newspaper no less than fifteen days prior to the hearing.

C. The governing body shall hold a public hearing on any amendments to the official map. The official map, inclusive of amendments, is hereby adopted by reference and incorporated as if set out herein. Such public hearing shall be advertised in a local newspaper no less than fifteen days prior to the hearing. All affected property owners and owners of lots or of land within one hundred (100) feet, excluding public right-of-way, of the property affected shall be notified of the public hearing by first class mail, mailed at fifteen days prior to the public hearing.

D. The official map is available in the city planning office and is accessible at all reasonable times for inspection.

(ii) In exercising its authority under this section, the board shall limit the height of structures as set forth in this section. Heights of existing structures shall be as set forth on the official map of building heights in the historic districts.

A. If a proposed building has a parapet, the façade shall not be in excess of two (2) feet of the average of the height of the façades in the streetscape .

B. If the proposed building has a pitched roof, the ridge height of the proposed building shall not be in excess of two (2) feet of the average of the ridge height of the pitched roofs in the streetscape .

C. Yard walls and fences shall be limited to a height that does not exceed the average of the height of other yard walls and fences in the streetscape .

D. Pursuant to Section 14-7.4(C), the height of any other structure shall be limited to the allowable building height within the applicable streetscape , as defined in this section. (Ord. No. 2002-37 § 26)

E. The height and dimension of signage are as set forth in Section 14-8.10(H).

F. The board may increase the allowable height for proposed buildings and additions located on a sloping site where the difference in the natural grade along the structure's foundation exceeds two (2) feet. In no case shall the height of a façade exceed four (4) feet above the allowable height of the applicable streetscape measured from natural or finished grade , whichever is more restrictive. This increase in height shall be constructed only in the form of building stepbacks from the street .

(iii) In historic districts, height shall be the vertical distance measured between the highest part of a structure and the existing grade or finished grade , whichever is more restrictive, at the midpoint of the street facing facade, excluding rooftop appurtenances , the increased height of walls or fences over pedestrian and vehicular openings, and gates (either in opened or closed position). For structures which do not have street frontage, height shall be determined by the facade which contains the tallest vertical distance measured between the highest part of a structure and

the existing grade or finished grade , whichever is more restrictive. The height of walls and fences is measured from the street -facing side of the wall or fence. (Ord. No. 2002-37 § 27)

Attachment B

NEW MEXICO HISTORIC BUILDING INVENTORY FORM

H3537

building threatened? yes	surveyed date 5/3/85 by HMW	county SANTA FE	ID no. 051610424
field map SFHD #1	number 424	UTM reference zone 12 13	easting northing

location description: 113 WASHINGTON

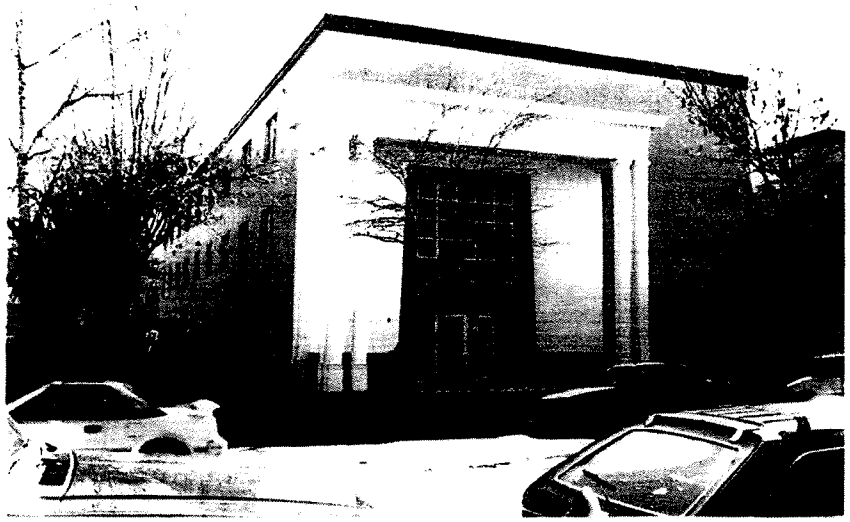
city/town: SANTA FE

land ~~grant~~/reservation

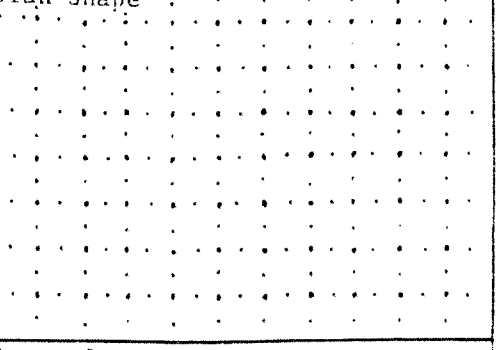
building name: STATE SECURITIES BLDG

legal description: tnsp ___ N S range ___ E W sec ___ ¼ ___ ¼

film roll by HMW no. SFHD 16	negative nos. 28	Loc. of neg. HPB



plan shape



date of construction: P45 estimate _____ actual

source

use
present: residential
other: _____
historic: residential
other: _____

condition
___excellent ___good
___fair ___deteriorating

wall material/surface

degree of remodeling
___minor ___moderate ___major
describe:

architectural features

surroundings: COMMERCIAL

relationship to surroundings
___similar x not similar

district potential
___yes ___no

significance
___eligible ___of interest x none

if eligible, why?

comments

remodeled 1989 H-89-132
as Spanish-Pueblo Revival
Inn of the Anasazi OR

associated buildings? ___yes
what type?

if inventoried, list ID nos.

see back? ___yes

Preliminary Zoning Review Worksheet

City of Santa Fe Land Use Department

To Be Completed By Applicant	Site Address:
Date Submitted: January 13, 2020	113 Washington Ave
Property Owner of Record: Rosewood Inns of the Anasazi	Proposed Construction Description: Rooftop event space, bar & swimming pool
Applicant/Agent Name: Martinez Architecture Studio	
Contact Person Phone Number: 505 989-4958	TOTAL ROOF AREA: 13,640

Zoning District: BCD-MAR

Overlay: ☐ Escarpment ☐ Flood Zone* ☐ Other: N/A

Submittals Reviewed with PZR:
☒ Legal Lot of Record ☐ Development Plan ☒ Building Plans
☒ Existing Site Plan ☒ Proposed Site Plan ☒ Elevations

Supplemental Zoning Submittals Required for Building Permit:
☐ Zero Lot Line Affidavit

Access and Visibility: ☐ Arterial or Collector** ☐ Visibility Triangle Required

Use of Structure: ☐ Residential ☒ Commercial Type of Use: Hotel

Terrain: ☐ 30% slope*

* Requires additional review conducted by the Urban Forester Division
** Requires additional review conducted by the Public Engineering Division

Lot Coverage: 78.6 %
☐ Open Space Required: ____

Setbacks:
Proposed Front: 2'-9" Minimum: 2'-9"
2nd Front? –
Proposed Rear: 0'-6" Minimum: 0
Proposed Sides: L: 2'-1" R: 1'-6" Minimum: 0

Height: Proposed 56'
Maximum Height: 42' or
☒ Regulated by Historic Districts Ordinance
☐ Regulated by Escarpment District

Parking Spaces:
Proposed 49 Accessible 0
Minimum: –

Bicycle Parking:**
Proposed: 0 Minimum: 0
** Commercial Requirements

THIS REVIEW DOES NOT GRANT ZONING APPROVAL FOR BUILDING PERMIT. FINAL ZONING REVIEW WILL BE PERFORMED AT THE TIME OF BUILDING PERMIT APPLICATION.

Richard Martinez (PRINT NAME) ☐ OWNER ☐ APPLICANT ☒ AGENT)

hereby certifies that the information provided for preliminary zoning review is accurate and will not be modified without consulting Land Use Department staff prior to submittal for Historic Districts Review Board review.

Richard Martinez — 1-13-20
SIGNATURE — DATE

To Be Completed By City Staff:

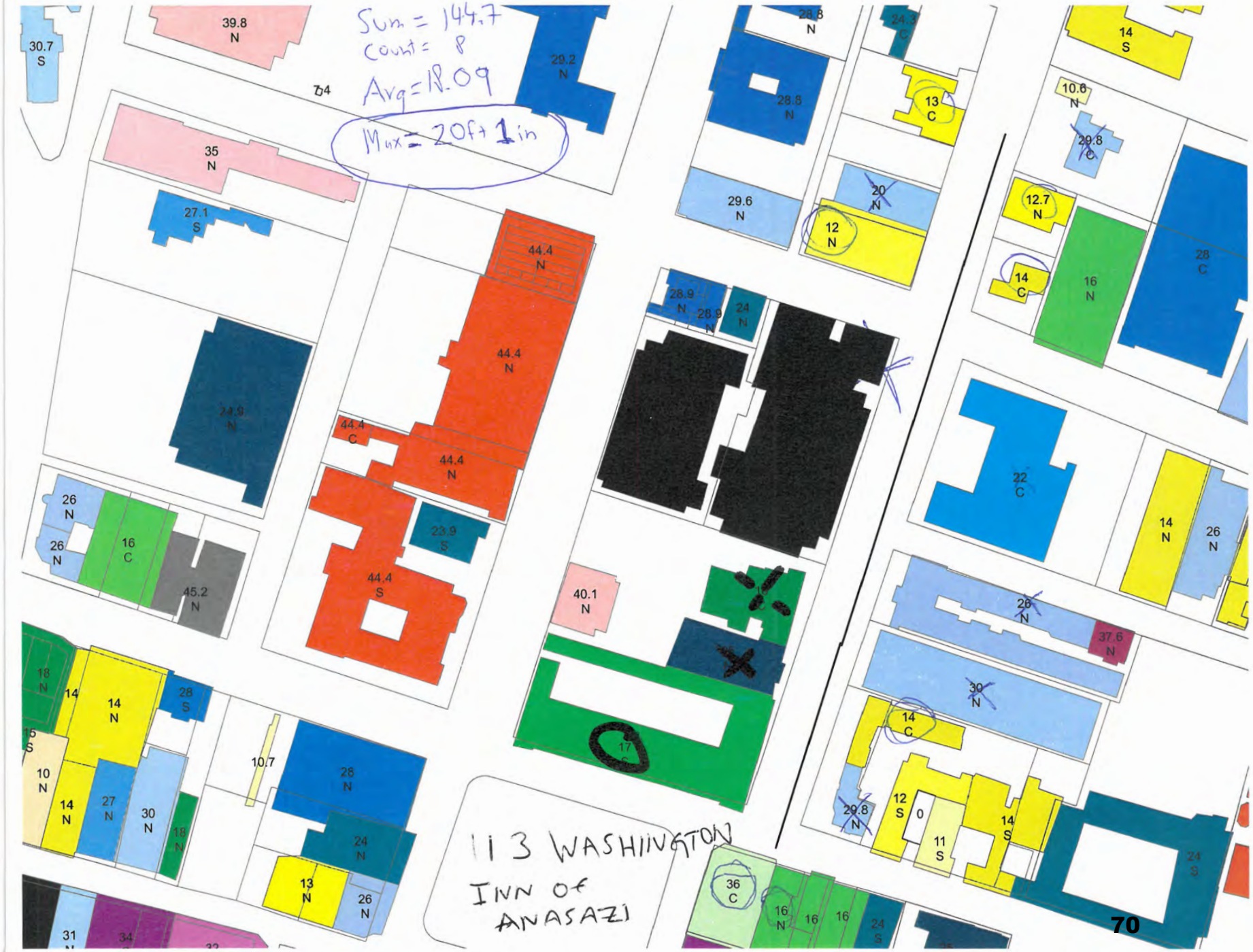
Additional Agency Review if Applicable:
☐ Escarpment Approval by _____ Date: __/__/__
☐ Flood Plain Approval by _____ Date: __/__/__
☐ Traffic Engineering Approval by _____ Date: __/__/__
Notes: _____

Zoning Approval:
☒ Preliminary Approval ☒ with conditions ☐ Rejected
Comments/Conditions: Building exceeds BCD max zoning Height of 42'. The applicant shall apply for a variance before the Board of Adjustment prior to submitting a building permit.

REVIEWER: _____ DATE: 1/13/20

Original color form must be submitted with Historic Districts Review Board (HDRB) application packet.

Revised


Sum = 144.7
Count = 8
Avg = 18.09
Max = 20 ft 1 in
113 WASHINGTON
INN OF
ANASAZI

ARCHITECTURE
MARTINEZ STUDIO PC

TEL (505) 989-4958 MAIL: P O BOX 925 SANTA FE NM 87504
1524 PASEO DE PERALTA —— STUDIO@MARTINEZARCH.COM

PROPOSAL TO ADD ROOFTOP PROJECT
THE ROSEWOOD INN OF THE ANASAZI – 113 WASHINGTON AVE.

Downtown/Eastside Historic District – Non-Contributing

January 13, 2020

EXISTING CONDITIONS:

The Inn of the Anasazi was built in 1990. It incorporated the structural system of the office building that previously occupied the site. The Owner's of the hotel wish to give their guests the experience of staying in a building that reflects the beauty of Santa Fe. The rooftop project is not intended to feel like an addition, but rather an intregal part of the hotel. The hotel has a restaurant and a bar now and the Owner's wish to add a pool and an event space. Current hotel trends have shown that guests want these options when choosing where to stay.

PROPOSED CONSTRUCTION:

The changes asked for are on the roof and for the most part involve elements not seen by the public. There will be no changes to the existing facades which give this building its character. The roof is now unused, valuable space in the downtown area (see attached letter photos "A").

We will extend the existing elevators and exit stairs to access a new floor on the roof of the building which will consist of a deck 6'-0" above the existing roof deck in order to accommodate the pool and the structure to support that pool that will be required.

In the middle of the roof will be an enclosed lounge space and bar with its required back of house spaces (kitchens, etc.) and restrooms.

Proposed bar, back of house, restrooms: 4,654 sq.ft.
Height of proposed bar, back of house, restrooms: 56'-0" (14'-0" from existing parapet)
Materials: stucco, wood windows to match existing

In the front of the space will be an open deck recessed 6'-0" from the street facade to accommodate special events and outdoor seating that would sometimes be partially covered by a canopy (see attached letter photos "B").

Proposed special event space: 3,078 sq.ft.
Height of proposed special event space: 5'-0" stuccoed walls, 12'-8" canopy
Materials: stucco, tile decking, stained wood beam, dark bronze tracks, tan canopy

The back third of the rooftop will be a pool and deck recessed from the exterior walls. The deck will have a fireplace, cabanas and chaise lounges, again with a canopy.

Proposed pool area: 3,716 sq.ft.
Height of proposed: 4'-0" stuccoed walls, 12'-8" canopy
Materials: stucco, tile decking, stained wood beam, dark bronze tracks, tan canopy

The stucco, stained wood and trim colors will match the existing building. The exisiting fireplaces in the rooms below which have flues on the current roof, will be raised with stuccoed chimneys. There will be appurtenances and skylights on the roof of the addition which will not be publicly visible.

Richard Martinez

Inn of Anasazi Applicant's responses to the applicable Exception Criteria:

(i) Do not damage the character of the streetscape;

On this block of Washington Ave (on both sides of the street), tall institutional and commercial buildings define the streetscape. The hotel adjacent and to the north of the Inn of the Anasazi is about the same height, and the buildings across Washington Avenue are taller than the Inn of the Anasazi. Typically, the buildings rise from the sidewalk up several stories without setting back. This character – tall institution and commercial buildings adjacent to the sidewalks – is unique in many ways to this area of the downtown area. The proposed addition will be set back from the edge of the existing parapet. It will not be visible from the east side of the street and will hardly be noticeable from the west side of the street. As a result, the addition will fit into the existing character of the streetscape, rather than do damage to it. The human scale enjoyed today on this section of the streetscape will not be adversely affected or damaged.

(i) Prevent a hardship to the applicant or an injury to the public welfare;

The hardship to the applicant results from the fact that Inn of the Anasazi sits a lot that already occupies 100% of the lot, and there is no additional area to provide the amenities that are being proposed in the addition. It is in the interest of the public welfare (and the Inn of the Anasazi) for this property to remain economically viable and competitive in the hospitality industry in downtown; the Inn of the Anasazi must be at least as attractive to visitors as other luxury hotels in the downtown area. All of the Inn of the Anasazi's major competitors – La Fonda, the Drury, and the Eldorado Hotel – all provide swimming facilities (all of which are on the roof tops), and opportunities for outdoor and indoor dinning, socializing and event-staging on their rooftops. In order to compete and remain relevant and to avoid eventual obsolescence – and thereby avoid a hardship and harm to the public welfare of the City of Santa Fe -- the Inn of the Anasazi must invest in the facilities with the propose addition, but has nowhere to add them except on top of the existing hotel.

(ii) Strengthen the unique heterogeneous character of the city by providing a full range of design options to ensure that residents can continue to reside within the historic districts;

This criterion really addresses residential uses in the historic district and a "full range of design options to ensure that residents can continue to reside" and has no applicability to addition of a commercial building. However, the proposed addition will strengthen commercial character of the downtown by adding amenities to a downtown hotel that will allow visitors and patrons a greater range of possibilities to enjoy the unique culture of Santa Fe.

(iii) Are due to special conditions and circumstances which are peculiar to the land or structure involved and which are not applicable to other lands or structures in the related streetscape ;

The exception is requested purely due to the small size of the lot, as discussed above, and the fact that it is completely covered with the existing hotel. Most other lots within the applicable streetscape are not tall hotel properties and have the ability to add height without an exception.

(iv) Are due to special conditions and circumstances which are not a result of the actions of the applicant ; and

Inn of the Anasazi sits on a lot that has for decades been occupied by a tall building covering the entire lot, and the applicant did not divide the property to create a lot with a small area of land. Rather, the small lot was created many, many decades ago. The condition of the lot is not result of the action of the owner.

(v) Provide the least negative impact with respect to the purpose of this section as set forth in Subsection 14-5.2(A)(1).

The proposed addition and amenities will not have any negative impact on the streetscape or the historic character of the downtown area. The addition will be set back from the edge of the existing parapet so it will reduce its visibility as discussed above and will not add or cast a shadow on to the streets below. In short, it will not exacerbate any of the effects that tall building may have on a streetscape – "canyon effect," shadows, disproportionate scale or massing. So, any potentially negative impacts have been mitigated by the design.



LOOKING EAST



LOOKING WEST

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INN OF THE ANASAZI
113 WASHINGTON AVENUE
SANTA FE, NEW MEXICO

JANUARY 13, 2020
LETTER PHOTO "A"







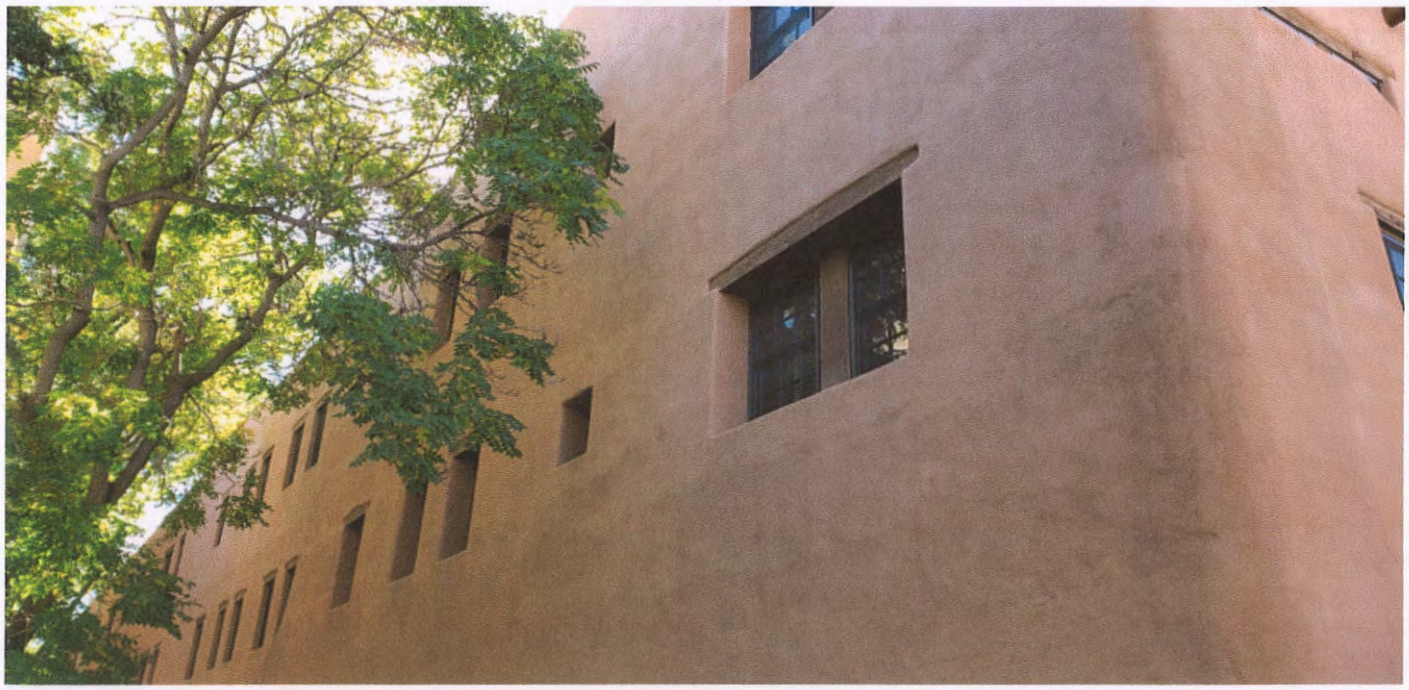
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INN OF THE ANASAZI
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SANTA FE, NEW MEXICO

JANUARY 13, 2020
LETTER PHOTO "B"



NORTH ELEVATION



NORTH ELEVATION

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INN OF THE ANASAZI
113 WASHINGTON AVENUE
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JANUARY 13, 2020



NORTH ELEVATION

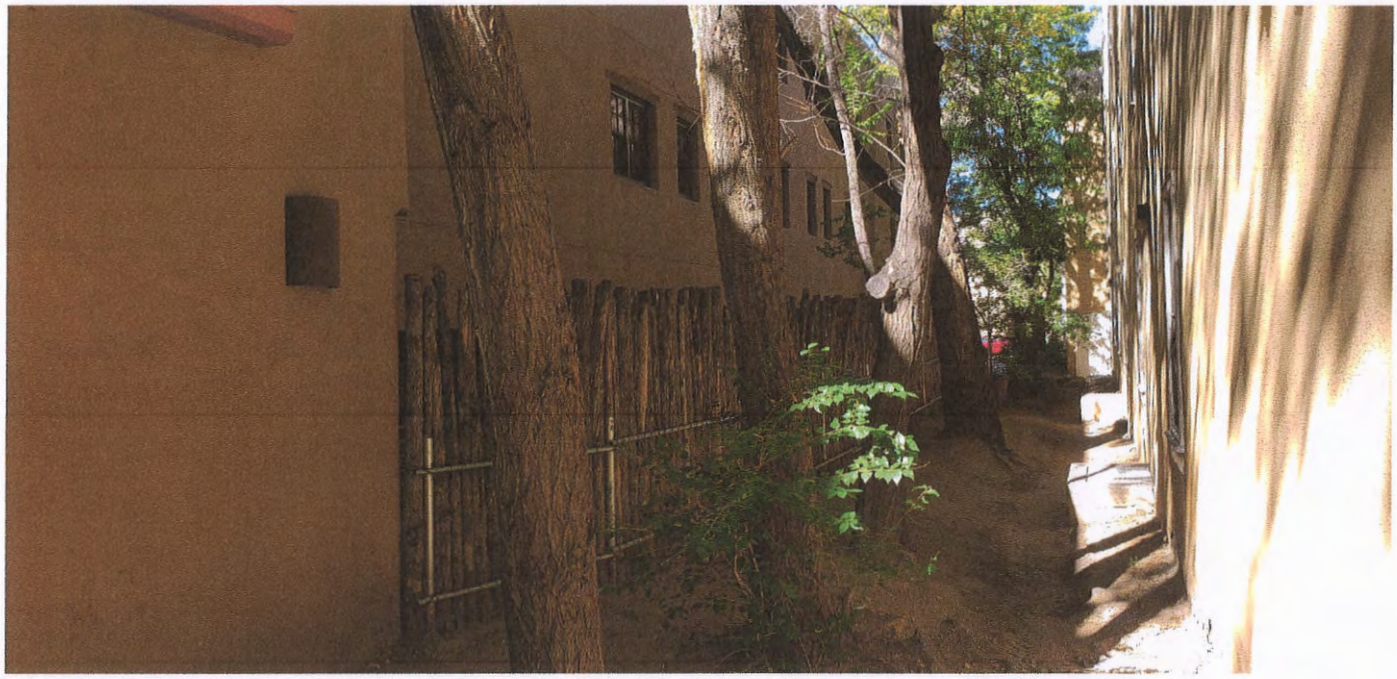


NORTH ELEVATION

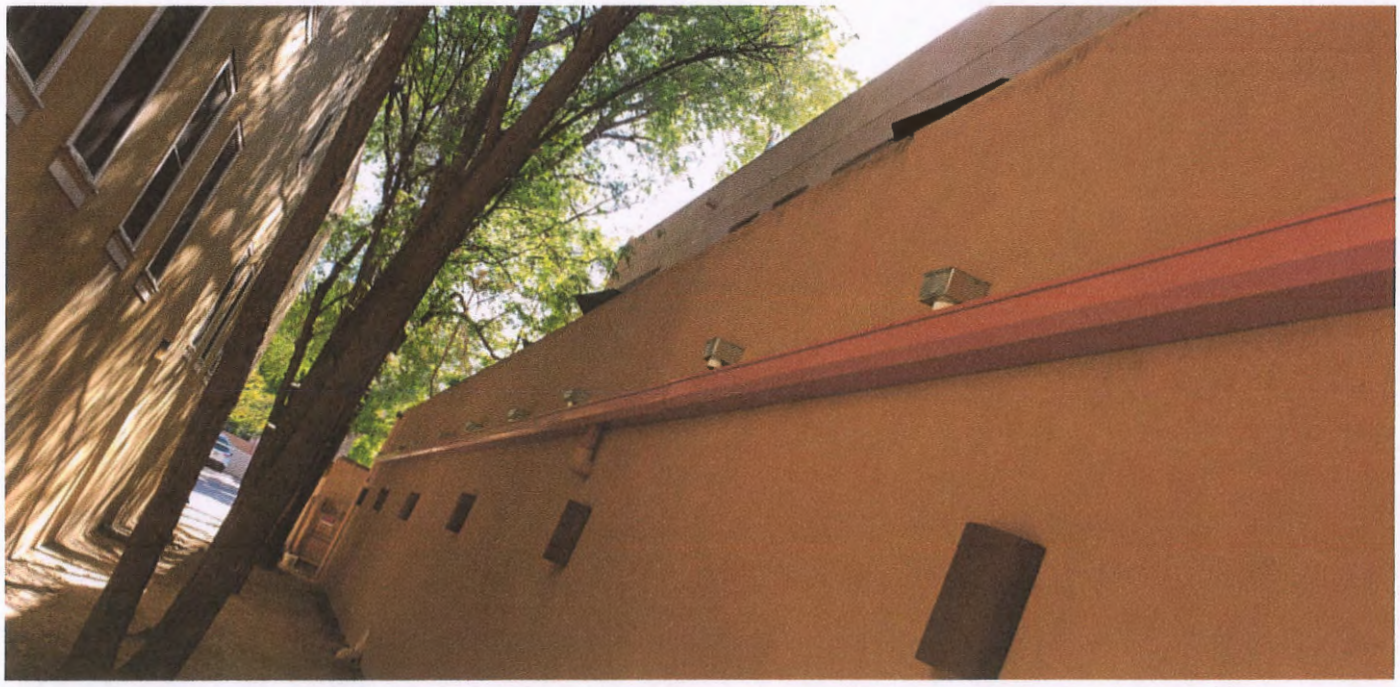
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INN OF THE ANASAZI
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JANUARY 13, 2020



NORTH ELEVATION



NORTH ELEVATION

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JANUARY 13, 2020



EAST ELEVATION



EAST ELEVATION

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INN OF THE ANASAZI
113 WASHINGTON AVENUE
SANTA FE, NEW MEXICO

JANUARY 13, 2020



SOUTH ELEVATION



SOUTH ELEVATION

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INN OF THE ANASAZI
113 WASHINGTON AVENUE
SANTA FE, NEW MEXICO

JANUARY 13, 2020



SOUTH ELEVATION



SOUTH ELEVATION

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INN OF THE ANASAZI
113 WASHINGTON AVENUE
SANTA FE, NEW MEXICO

JANUARY 13, 2020



WEST ELEVATION



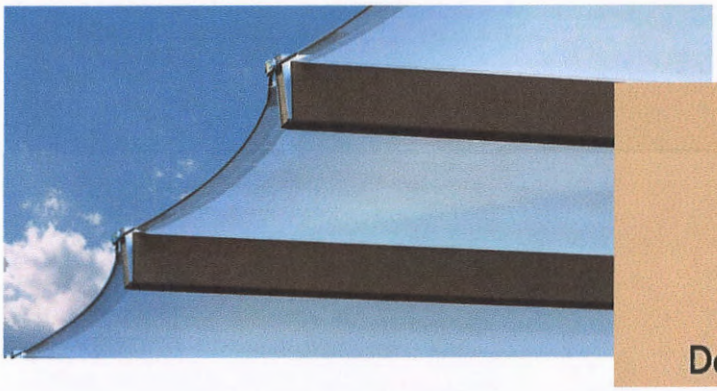
WEST ELEVATION

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INN OF THE ANASAZI
113 WASHINGTON AVENUE
SANTA FE, NEW MEXICO

JANUARY 13, 2020

Inn of the Anasazi Exterior Finish Selections



Dark Bronze Anodized Finish



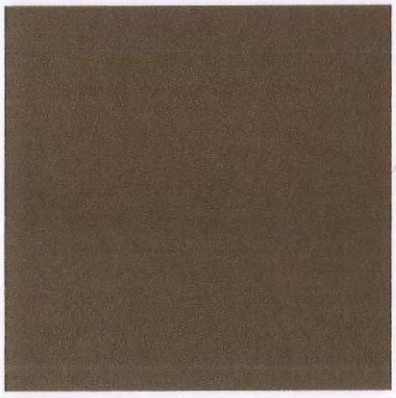
Tan T40 Fabric utilized with the Future Shade Structure



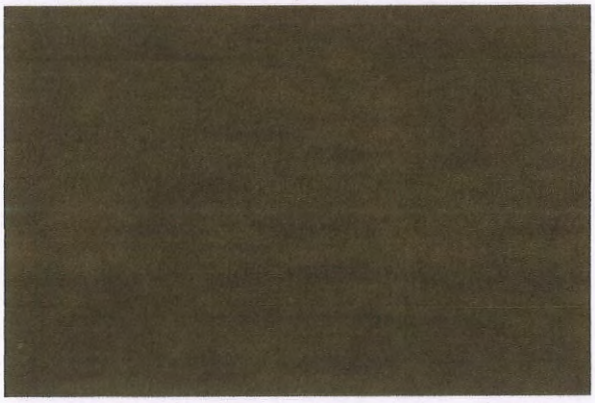
Porcelain Tile with Texture for Pool Deck and Outdoor Patio Area | Comes with Pool Cooping | Aequa Castor 12X48, Arizona Tile

Adobe #116 Stucco Color from El Rey to Match Existing Stucco Finish





Lodge Brown SW3007 Woodscapes Solid Color Stain To Match Existing Wood Stain for the Vigas, Doors and Exposed Lintels



Hawthorne SW3518 Stain Color for the Future Window to Match Existing Windows

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PROPOSAL TO ADD ROOFTOP PROJECT
THE ROSEWOOD INN OF THE ANASAZI – 113 WASHINGTON AVE.

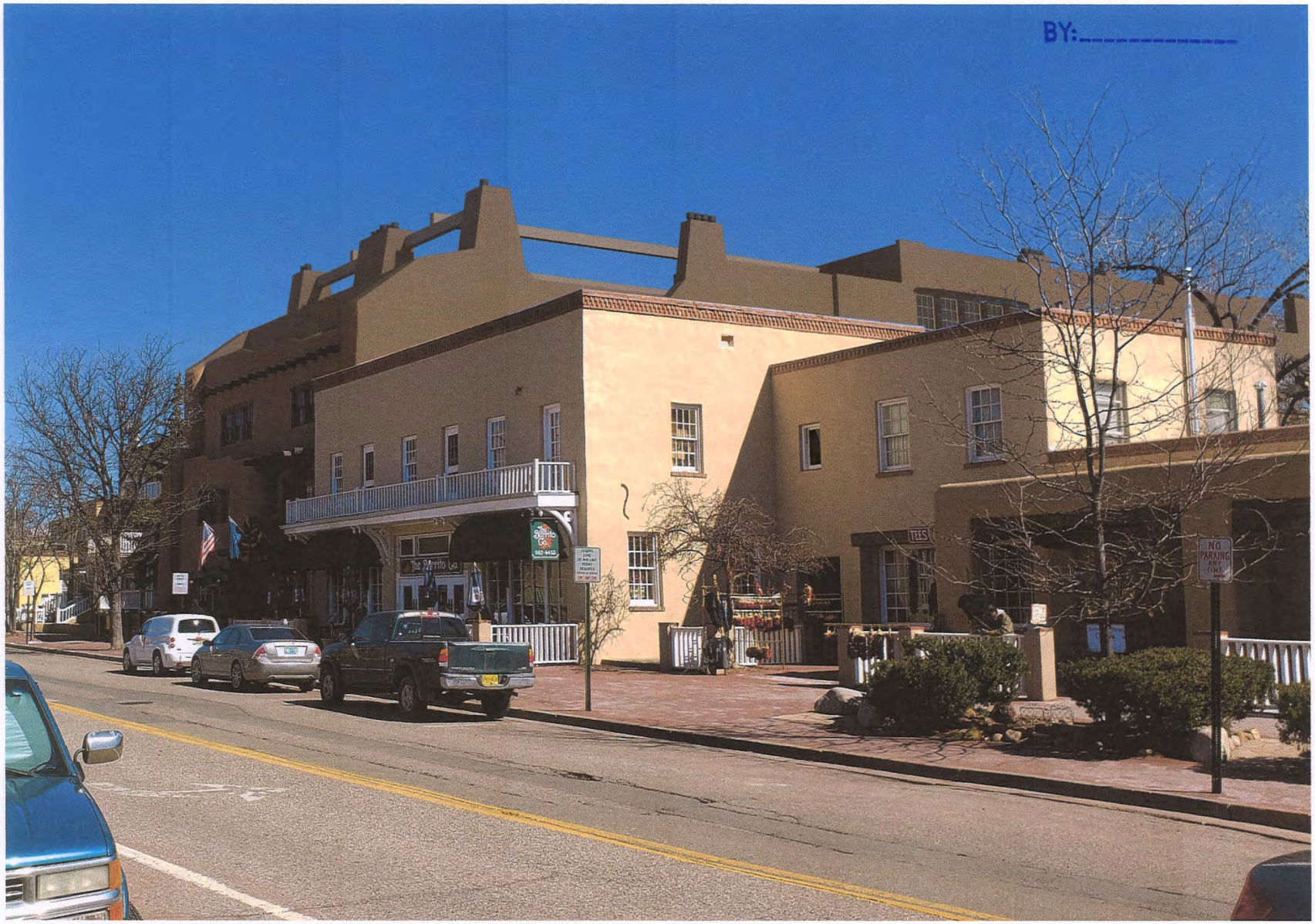
Downtown/Eastside Historic District – Non-Contributing
March 4, 2020

We have appeared before the board on this case and have revised the design based on some comments and concerns of the members of the board. The design has changed in the following ways.

- The center chimney has been pushed back from the front fascade and made wider to appear more like a buttress than a tall skinny chimney. This has reduced the size of the event space by 75 square feet. The height of this chimney is shown by poles on the roof of the Inn of the Anasazi.
- The supports for the retractable awning have been incorporated into the chimneys at the sides of the building to look more like buttresses than chimneys.
- The chimneys at the back of the building have been moved closer together and incorporated into fewer larger masses rather than being multiple smaller chimneys.
- The cabanas have been changed to freestanding fabric structures.

Richard Martinez

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MAR - 2 2020
BY:_____

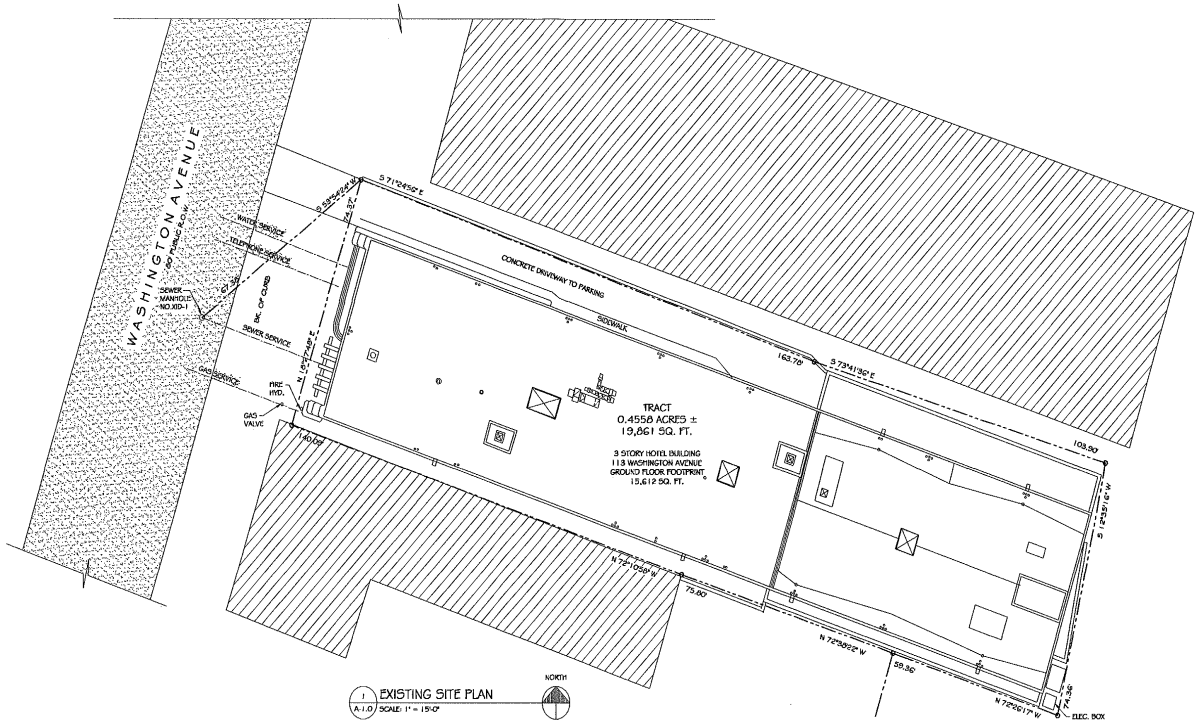


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MAR - 2 2020
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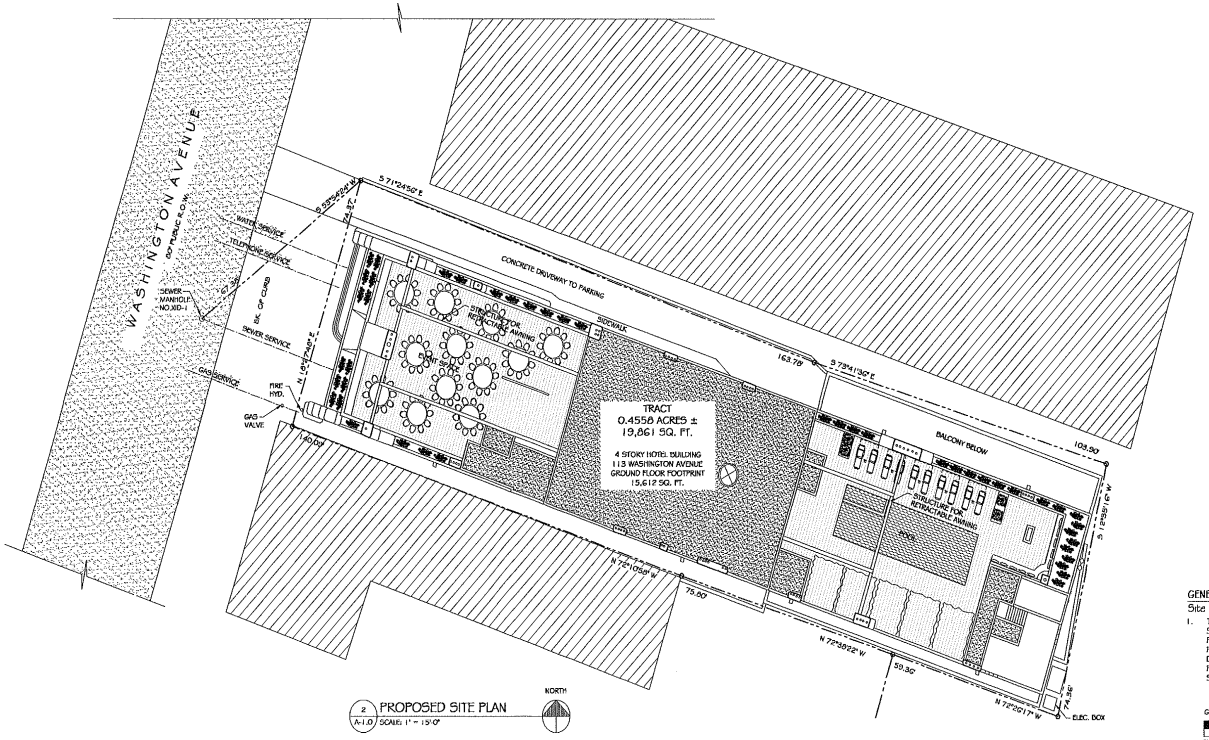
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RECEIVED
MAR - 2 2020
BY:



1 EXISTING SITE PLAN
A-1.0 SCALE: 1" = 15'-0"

NORTH



2 PROPOSED SITE PLAN
A-1.0 SCALE: 1" = 15'-0"

NORTH

GENERAL NOTES:
Site Plan
1. THE SITE SURVEY INFORMATION ON THIS SITE PLAN WAS TAKEN FROM A PLAT PREPARED JULY 18, 2005 BY: PHILIP B. WEGO, N.M.P.S. #9756 DELINEO SURVEYS, INC. PO BOX 22773 SANTA FE, NEW MEXICO 87505

GRAPHIC SCALE: 1" = 15'-0"
0 15' 30' 45'

MARTINEZ ARCHITECTURE STUDIO PC
1924 PASEO DE PERALTA, SUITE F
505.989.4998 studio@martinezarch.com

INN OF THE ANASAZI
113 WASHINGTON AVENUE
SANTA FE, NEW MEXICO

MARCH 2, 2020

EXISTING & PROPOSED SITE PLANS

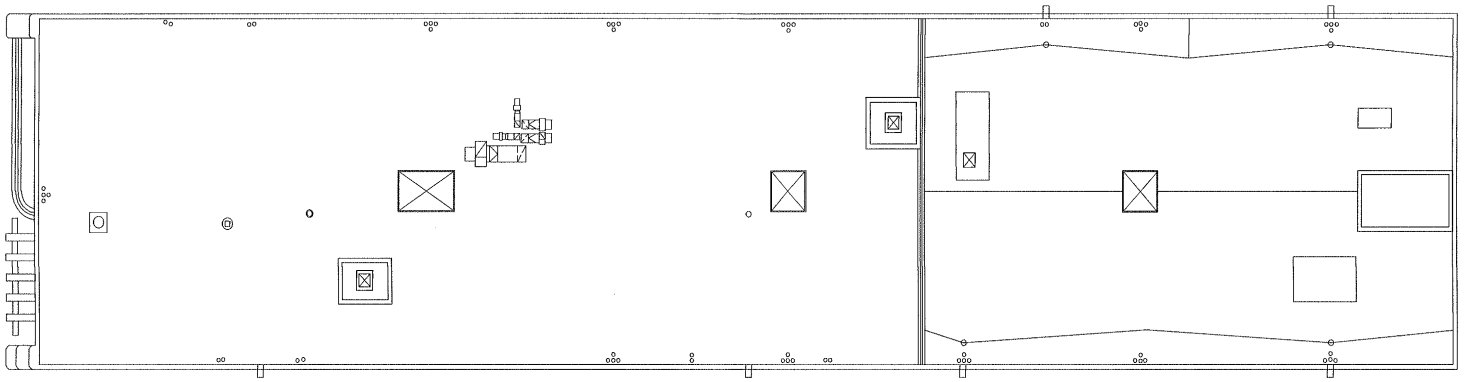
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SET #

1904 - ANASAZI

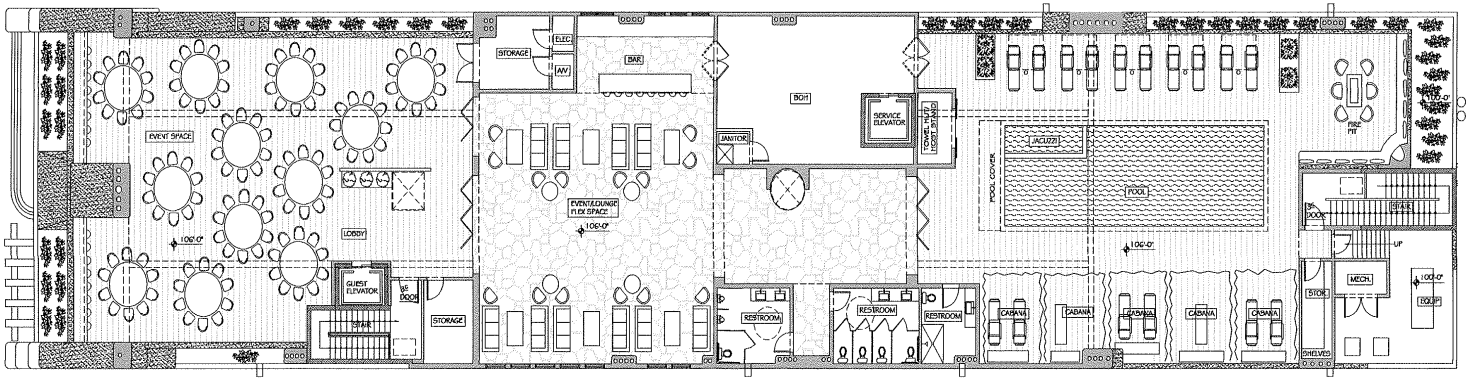
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RECEIVED
MAR - 2 2020
BY:



1 EXISTING ROOF PLAN
A-2.0 SCALE: 1/8" = 1'-0"

NORTH



1 PROPOSED FLOOR PLAN
A-2.0 SCALE: 1/8" = 1'-0"

NORTH

GRAPHIC SCALE: 1/8" = 1'-0"
0' 4' 8' 16' 24'

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INN OF THE ANASAZI
113 WASHINGTON AVENUE
SANTA FE, NEW MEXICO

MARCH 2, 2020

EXISTING ROOF PLAN & PROPOSED FLOOR PLAN

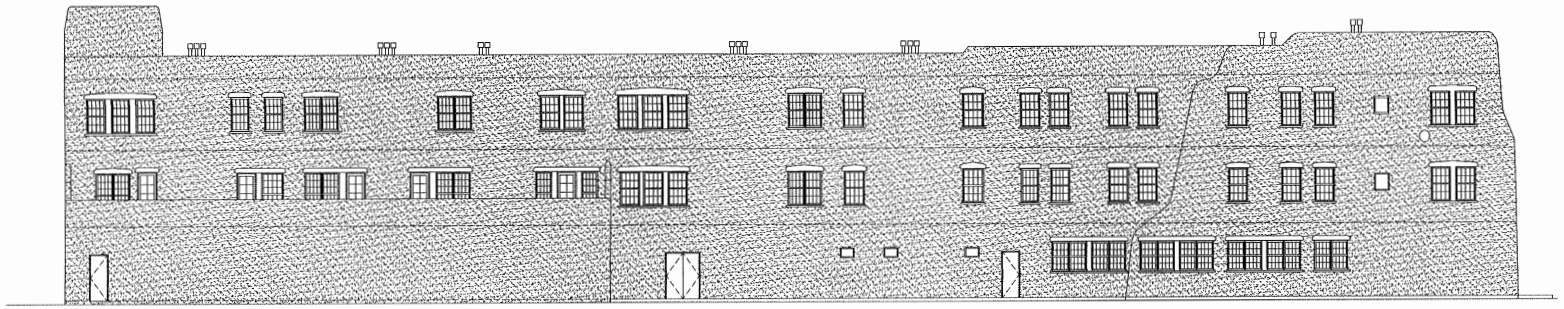
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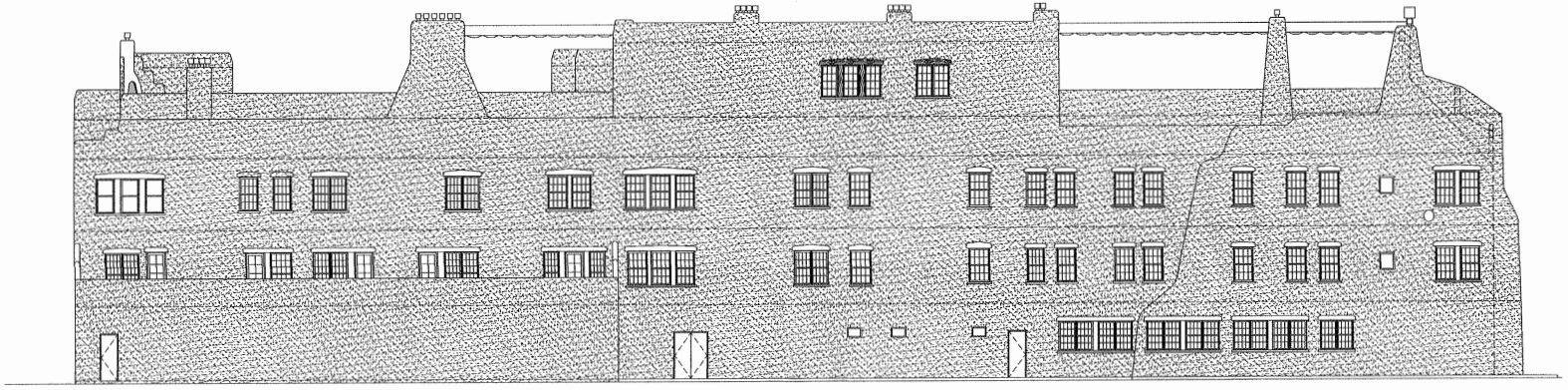
1904 - ANASAZI

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MAR - 2 2020
BY:



1 A-3.0 EXISTING NORTH ELEVATION
SCALE: 1/8" = 1'-0"



1 A-3.0 PROPOSED NORTH ELEVATION
SCALE: 1/8" = 1'-0"

GRAPHIC SCALE: 1/8" = 1'-0"
0' 4' 8' 16' 24'

MARTINEZ ARCHITECTURE STUDIO PC
1524 PASEO DE PERALTA SANTA FE
505-989-4888 studio@martinezarch.com

INN OF THE ANASAZI
113 WASHINGTON AVENUE
SANTA FE, NEW MEXICO

MARCH 2, 2020

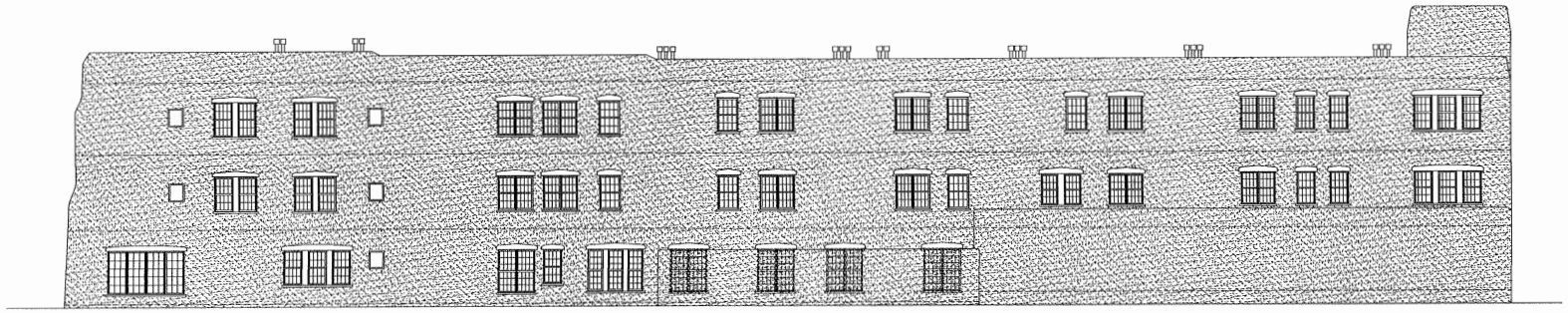
PROPOSED NORTH ELEVATION

A 3.0

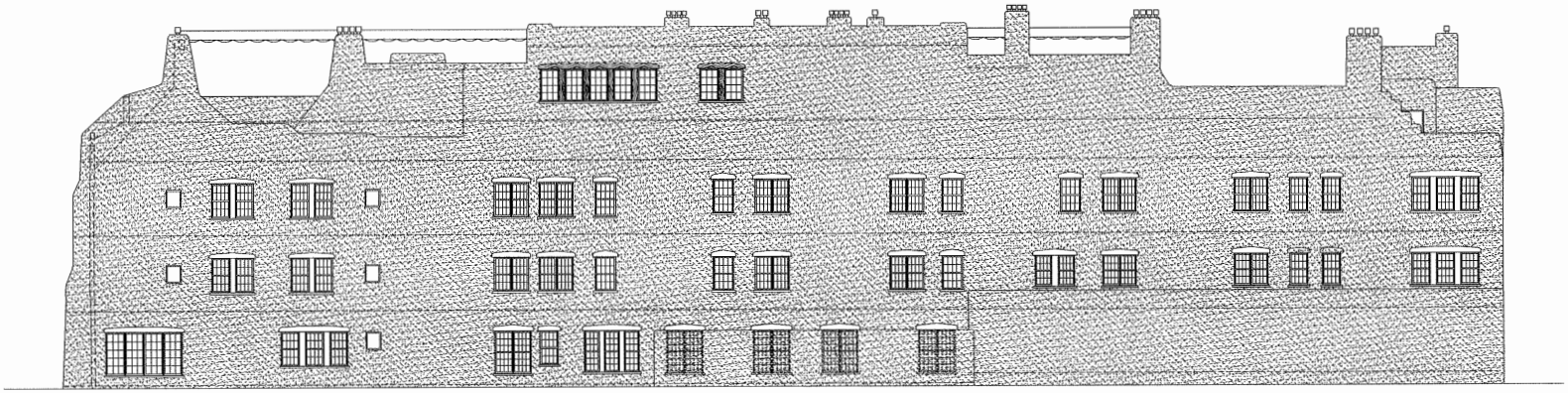
SET #

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1 A-3.2 EXISTING SOUTH ELEVATION
SCALE: 1/8" = 1'-0"



2 A-3.2 PROPOSED SOUTH ELEVATION
SCALE: 1/8" = 1'-0"

GRAPHIC SCALE: 1/8" = 1'-0"
0 4' 8' 16' 24'

RECEIVED
MAR - 2 2020
BY:

MARTINEZ ARCHITECTURE STUDIO PC
1824 PASEO DE PERALTA SANTA FE
505.989.4958 studio@martinezarch.com

INN OF THE ANASAZI
113 WASHINGTON AVENUE
SANTA FE, NEW MEXICO

MARCH 2, 2020

EXISTING & PROPOSED SOUTH ELEVATION

A 3.2

SET #

1904 - ANASAZI

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1 A-3.3 EXISTING WEST ELEVATION
SCALE: 1/4" = 1'-0"



2 A-3.3 PROPOSED WEST ELEVATION
SCALE: 1/4" = 1'-0"

GRAPHIC SCALE: 1/4" = 1'-0"
0' 2' 4' 8' 12'

MARTINEZ ARCHITECTURE STUDIO PC
1524 PASEO DE PERALTA SANTA FE, NM 87501
505.989.4958 studio@martinezarch.com

INN OF THE ANASAZI
113 WASHINGTON AVENUE
SANTA FE, NEW MEXICO

MARCH 2, 2020

PROPOSED WEST ELEVATION

A 3.3

SET #
1904 - ANASAZI

EXHIBIT F

City of Santa Fe

Agenda

HISTORIC DISTRICTS REVIEW BOARD FIELD TRIP

TUESDAY, February 11, 2020 at 12:00 NOON

HISTORIC PRESERVATION DIVISION, 1st FLOOR CITY HALL

HISTORIC DISTRICTS REVIEW BOARD HEARING

TUESDAY, February 11, 2020 at 5:30 P.M.

CITY COUNCIL CHAMBERS

*****SECOND AMENDED*****

CALL TO ORDER

A. ROLL CALL

B. APPROVAL OF AGENDA

C. APPROVAL OF MINUTES: January 28, 2020 (HDRB Hearing and HDRB Field Trip)

D. FINDINGS OF FACT & CONCLUSIONS OF LAW

Case #2019-001203-HDRB. 125 Romero Street.
Case #2019-001094-HDRB. 110 South Armio Lane.
Case #2019-001214-HDRB. 303 East Alameda Street.
Case #2019-001551-HDRB. 506 San Antonio Street.
Case #2019-001302-HDRB. 523 East Alameda Street.
Case #2019-001488-HDRB. 1404 Cerro Gordo Road Unit E.
Case #2019-001524-HDRB. 340 Delgado Street.
Case #2019-001091-HDRB. 110 South Armijo Lane.
Case #2019-001406-HDRB. 1598 Cerro Gordo Road.
Case #2019-001516-HDRB. 330 Otero Street.
Case #2019-001332-HDRB. 540 Garcia Street.

E. BUSINESS FROM THE FLOOR

F. COMMUNICATIONS

1. Nominations open for the 2020 Santa Fe Heritage Preservation Awards.

G. ACTION ITEMS

1. Case #2020-001601-HDRB. 100 East Water Street. Downtown & Eastside Historic District. Lloyd and Associates Architects, agent for the City of Santa Fe, owner, proposes to amend a previous application to demolish a non-contributing structure and construct a 1,400 sq. ft. structure to a height of 16'. (Lisa Roach, lxroach@santafenm.gov, 955-6657)

2. Case #2020-001581-HDRB. 534½ Hillside Avenue. Downtown & Eastside Historic District. Michael Sandrin, owner, requests a historic status review with primary elevation(s) designation, if applicable, of a non-contributing residential structure. (Daniel Schwab, dnschwab@santafenm.gov, 955-6660)

3. Case #2019-001552-HDRB. 534½ Hillside Avenue. Downtown & Eastside Historic District. Michael Sandrin, owner, proposes to replace windows and doors, reconstruct a portal, repair roofing, and stucco a non-contributing residential structure. (Daniel Schwab)

4. Case #2020-001603-HDRB. 807 Abeyta Street. Downtown & Eastside Historic District. Jay Jay Shapiro, owner, requests a historic status review with primary elevation(s) designation, if applicable, for a contributing residential structure. (Daniel Schwab)

5. Case #2020-001602-HDRB. 807 Abeyta Street. Downtown & Eastside Historic District. Jay Jay Shapiro, owner, proposes to replace windows and doors, infill a window, construct a chimney, and stucco a contributing residential structure. (Daniel Schwab)

6. Case #2020-001599-HDRB. 620 Martinez Lane Unit B. Downtown & Eastside Historic District. Antoine El-Khoury, agent for Andrew Eisman, owner, proposes to construct a carport and portal on a contributing residential structure. (Daniel Schwab)

7. **Case #2020-001615-HDRB. 650 Canyon Road. Downtown & Eastside Historic District. D. Maahs Construction, agent for Patrick Rayes, owner, requests primary elevation(s) designation for a contributing residential structure. (Lisa Roach)**

8. **Case #2020-001614-HDRB. 650 Canyon Road. Downtown & Eastside Historic District. D. Maahs Construction, agent for Patrick Rayes, owner, proposes to alter the roof line and replace the roof, construct a portal, remove chimneys, replace windows and doors including the stained glass window, install a gate, stucco, and hardscape a contributing residential property. (Lisa Roach)**

9. **Case #2020-001600-HDRB. 113 Washington Avenue. Downtown & Eastside Historic District. Martinez Architecture Studio, agent for Rosewood Inn of the Anasazi, owner, proposes to construct a 3,078 sq. ft. fourth floor addition to a height of 56'0" with a pool and dining area. An exception is requested to exceed the maximum allowable height of 20'1" (Section 14-5.2(D)(9)). (Lisa Roach)**

H. MATTERS FROM THE BOARD

I. ADJOURNMENT

Cases on this agenda may be postponed to a later date by the Historic Districts Review Board at the noticed meeting. Please contact the Historic Preservation Division at 955-6605 or check https://www.santafenm.gov/historic_districts_review_board for more information regarding cases on this agenda. Persons with disabilities in need of accommodations, contact the Historic Preservation Division office at (505) 955-6605 five (5) working days prior to the meeting date.

RECEIVED AT THE CITY CLERK'S OFFICE
DATE: February 5, 2020
TIME: 2:22 PM

MINUTES OF THE CITY OF SANTA FE
HISTORIC DISTRICTS REVIEW BOARD
FIELD TRIP

Date: 2/11/2020

Time: Approximately 12:00 noon

Place: Historic Districts within the City of Santa Fe

Members Present:

	Present	Absent
Cecelia Rios, Chair		✓
Frank Katz, Vice Chair	✓	
Jennifer Biedscheid	✓	
Anthony Guida		✓
Flynn G. Larson	✓	
Buddy Roybal		✓
(Vacant)	—	—

Business Conducted:

The Board conducted site visits for the property addresses listed on the agenda for this evening's public hearing, scheduled to begin at 5:30 p.m. The Board conducted the site visits for the sole purpose of making factual observations. The Board did not take any action or make any decisions, and no votes were taken.

Time Adjourned: 1:06 pm

Approved by:

Board Chair or Designee (Frank Katz)

Submitted by:

Historic Preservation Division Staff

SUMMARY INDEX
HISTORIC DISTRICTS REVIEW BOARD
February 11, 2020

ITEM	ACTION TAKEN	PAGE(S)
Call to Order	5:30 pm	1
A. Roll Call	Quorum Present	1
B. Approval of Agenda	Approved as Amended	1-2
C. Approval of Minutes		
January 28, 2020 Hearing	Approved as Amended	2
January 28, 2020 Field Trip	Approved	2
D. Findings of Fact & Conclusions of Law	Approved	2-3
E. Business from the Floor	Comments	3
F. Communications	Comments about Nominations for 2020 Historic Preservation Awards	3
G. Action Items		
1. Case #2020-001601-HDRB 100 East Water Street	Approved with Conditions	3-7
2. Case #2020-001581-HDRB 534½ Hillside Avenue.	Designate as Noncontributing Except for Stonewall	7-9
3. Case #2019-001552-HDRB 534½ Hillside Avenue.	Approved	10-12
4. Case #2020-001603-HDRB 807 Abeyta Street	Designated Facades 1 and 2	12-13
5. Case #2020-001602-HDRB 807 Abeyta Street.	Approved with Conditions	13-16
6. Case #2020-001599-HDRB 620 Martinez Lane Unit B	Approved	16-18

7. Case #2020-001615-HDRB 650 Canyon Road	Designated North and East Facades	19-21
8. Case #2020-001614-HDRB 650 Canyon Road.	Approved with Conditions	21-25
9. Case #2020-001600-HDRB 113 Washington Avenue	Postponed	25-31
H. Matters from the Board	None	31
I. Adjournment	Adjourned at 8:05 p.m.	31

MINUTES OF THE CITY OF SANTA FE
HISTORIC DISTRICTS REVIEW BOARD
FEBRUARY 11, 2020

CALL TO ORDER

A regular meeting of the City of Santa Fe Historic Districts Review Board was called to order by Frank Katz, Acting Chair, on the above date at approximately 5:30 p.m. in the City Council Chambers, 200 Lincoln Avenue, Santa Fe, New Mexico.

A. ROLL CALL

Roll Call indicated the presence of a quorum as follows:

MEMBERS PRESENT:
Mr. Frank Katz, Vice Chair
Ms. Jennifer Biedscheid
Mr. Anthony Guida
Ms. Flynn G. Larson

MEMBERS EXCUSED:
Ms. Cecilia Rios, Chairwoman
Mr. Buddy Roybal
One Vacancy

OTHERS PRESENT:
Ms. Lisa Roach, Planner Manager
Mr. Daniel Schwab
Mr, Gabe Smith, Assistant City Attorney
Ms. Melissa Byers, Stenographer

NOTE: **All items in the Committee packet for all agenda items are incorporated herewith by reference. The original Committee packet is on file in the Historic Preservation Office and available on the City of Santa Fe Website.**

B. APPROVAL OF AGENDA

Ms. Roach said on Item 3 it should be 2020, Item 4 will be a designation of primary facades, not a status review and on Item 6 the historic status is non-contributing, not contributing.

Member Guida accepted.

VOTE: The motion passed by unanimous (3-0) voice vote with Members Biedscheid, Guida and Larson voting in favor and none voting against.

Ms. Roach asked for clarification of the last condition. That the trim be white, and the stucco more closely match.

Member Biedscheid said that was correct.

9. **Case #2020-001600-HDRB. 113 Washington Avenue**. Downtown & Eastside Historic District. Martinez Architecture Studio, agent for Rosewood Inn of the Anasazi, owner, proposes to construct a 3,078 sq. ft. fourth floor addition to a height of 56'0" with a pool and dining area. An exception is requested to exceed the maximum allowable height of 20'1" (Section 14-5.2(D)(9)). (Lisa Roach)

Ms. Roach presented the staff report as follows:

STAFF REPORT

113 Washington Avenue is a commercial hotel structure that was constructed after 1945 in the Territorial Revival style, when it was known as the State Securities Building. The building was substantially remodeled in 1989 in the Spanish Pueblo Revival style and was adaptively reused as the Inn of the Anasazi. In 2014, the HDRB approved window replacement throughout the structure (Case H-14-025). The building is listed as non-contributing to the Downtown and Eastside.

Now, the applicant proposes to construct an addition to the rooftop level of the building, for which an exception is requested to exceed the maximum allowable height of 20'1". Exception criteria and responses are provided in the packet. The applicant proposes to build to a height of 56' in the central portion of the existing roof level, and this massing will rise a maximum of 14' above the existing parapet and will be set back from the street-facing façade by more than 70'. The proposed improvements to the rooftop level of the hotel include the following:

1) At the front (street-facing) third of the space will be an outdoor event space with tile decking, seating, an informal lobby area, elevator overrun, stairwell, and storage space. The seating area will be set back 6' from the front façade of the building. The seating area will feature a 12'8" high tan canopy situated on dark bronze tracks on which the canopy can be extended or retracted depending on weather. The space will be framed by 5' high stuccoed walls and chimney extensions.
2) The central third of the space will feature an enclosed lounge and bar with required back of the house spaces, including kitchen and restrooms. The stuccoed massing will match the Spanish-Pueblo Revival style of the hotel, and windows will match those that are featured elsewhere on the hotel. As stated above, the height of this massing will rise 14' above the

existing parapet, resulting in a total height of 56'. Any rooftop appurtenances and skylights placed on the roof of this addition will not be publicly visible.

3) At the rear third of the space will be a rectangular pool and tile deck, set back approximately 4 feet from the edge of the building. The perimeter of the pool deck will be framed by 4' high stuccoed walls, wood-framed cabana structures, and a retractable tan canopy with dark bronze rails to a height of 12'8" above the existing parapet. At the southeast corner of the pool deck, a stairwell, mechanical and storage spaces will be located, and the northwest corner of the pool deck will feature an outdoor fireplace and seating area.

STAFF RECOMMENDATION

Staff finds that the exception criteria have been met and recommends approval of the proposed project and finds that the application complies with Section 14-5.2(D) General Design Standards for all Historic Districts, and 14-5.2(E) Downtown and Eastside Design Standards.

QUESTIONS FOR STAFF

Chair Katz asked Ms. Roach if that's an elevator that would be used to get up to the roof level or if it is just the elevator overrun which is shown on the west end of the Washington Avenue end.

Ms. Roach said it's the top of the elevator. She referred to the westside of the floor plan, where there is a stairwell coming up and an elevator.

APPLICANT'S PRESENTATION

Karl Sommer, P.O. Box 2476, Santa Fe, NM, was sworn. He said he, Richard Martinez, the architect and Lutz Arnhold, general manager of the Inn of the Anasazi were present on behalf of the applicant, Rosewood Inn. This application represents an investment and the addition of amenities to help this facility maintain its standing with the other properties in the Downtown area that have similar amenities. It speaks to the success of the Downtown area in that there are property owners who want to continue to invest in Downtown Santa Fe and maintain it as a high-quality destination that people want to come and visit. The Inn of Anasazi is one of the premier properties in the Downtown area. This is an effort to keep it competitive and to keep it part of an important experience for people who come to Santa Fe from all over the world to be able to stay in a luxury hotel that has similar amenities that are shared by other properties in the Downtown. He said Mr. Martinez will go through the architectural elements of the application and Mr. Arnhold is available to answer questions as well.

Richard Martinez, 1524 Paseo de Peralta, was sworn. Mr. Martinez asked staff to project the plan on the screen. He said they plan to extend the two elevators that exist on the site, to the roof. One is the guest elevator and one is the service elevator. The elevator that will be used by the guests is toward the street façade, in the event area. That elevator is backed by an egress stairway that will also be extended to the roof. The other egress stairway, at the rear of the property, will also be extended up to the roof.

He said three areas will be added to the roof. The central part will be the bar and lounge area with back of the house spaces, including kitchen and restrooms. He referred to the north façade which reflects the three areas. The center part of the building will have the new enclosed area. On either side of it will be deck area, which is a setback from the existing parapets. On the Washington Avenue façade, will be an event area, which will be surrounded by a wall that in some places is 5' tall and some places 3½' tall. This will be covered by a canopy that is set back from the street façade of the building itself. In the rear will also be a deck area which will have the pool. This is set back from the edges and will be surrounded on two sides by a 3½' wall to create that deck area. There will be canales on the southside of the pool, those are going up 9' to the top of the roof, above the deck. It also has a canopy that covers about one third of the deck area and the pool area, again set back from the rear façade. All of this on the roof is intended to feel as if it's part of the hotel and has always been a part of the hotel. They are planning to match the stucco color, the window details, the finishes on the inside and thick walls.

There will be some equipment on the roof that will be placed on the southeast corner. There will also be some equipment on top of the roof of the addition, at the center of the building, that will be behind parapets, not visible to the public.

Mr. Martinez stood for questions.

PUBLIC HEARING.

Mr. Eddy, previously sworn, said he gets flabbergasted when a submission like this comes before the Board. He asked what the average height restriction is on this block, per City Code.

Ms. Roach said the calculated maximum allowable height is 20'1". The existing structure is 42' high. The way staff is instructed to calculate maximum allowable height, per the regulations, which were adopted in the early 1990s, is to average any structure that is noncontributing at 16' or lower. The way that the height regulations require staff to calculate height is based on a residential building pattern. It is not based on the Downtown building pattern. Almost any building in the Downtown is going to exceed the maximum allowable height. Any improvements or additions, especially vertical, to any building Downtown is going to require a height exception. That's a function of the City's height regulations.

Mr. Eddy said this building is already taller than most of the other buildings. On that block is the First Interstate building which is probably taller than this proposal. He thinks the Burrito Company looks about six feet lower than a parapet of the existing Anasazi. The adjacent building, which has the Low Rider bar, may be comparable in height. The buildings across the street, which are more historic in nature, the Palace of the Governors, which goes back to the founding of the city; the old library building; the Fray Angelico building as well, those buildings are much lower than the existing Anasazi Building. When impacting the streetscape is discussed, this project is egregious, if it were to be allowed. There's a term in the submission about the "canyon effect".

He also noticed in the submission that the primary façade of the building is only on the west and no other facades are primary.

Ms. Roach said this is a non-contributing building, none of the facades are primary.

Mr. Eddy said he noticed that on the first page, the west side is checked off, the north side is not.

Ms. Roach said that referred to public visibility.

Mr. Eddy said the north side of the building is publicly visible and that's where the "canyon effect" is seen. He's disturbed by the project and perplexed that staff recommended approval.

Chair Katz closed the public hearing.

BOARD DISCUSSION

Chair Katz said he felt conflicted. He applauded the goal of the hotel and if the Board can, he thinks the hotel needs to be provided with the amenity. Yet, he looks at the proposal, and his jaw drops when he sees how the proposal looks from Washington Avenue. The building is very visible, it's seen from the Plaza and by Cathedral Park.

He stated that staff is correct; the height ordinance is developed for residential not the Downtown commercial area. There are taller buildings in the area, but he didn't think they were relevant. There are a couple of buildings downtown, that many of them regret very much; one being the El Dorado Hotel, how tall it is and how it blocks the view west when standing on Palace Avenue, in front of Palace of the Governors. On the east side of Washington Avenue, this is already as tall as any other building and with an extra floor, it will be taller than anything else there. He would like to see some way of mitigating that, particularly from the Plaza view. He asked how the additional height can be moved off the Washington Avenue street front. He's not clear what the story is with those chimneys because that exacerbates things. He was curious to hear discussion from the Board and some of the strictures the architect is facing.

Member Larson said she's having trouble visualizing this because there were no story poles. She thought there would be something visual, like a model. It's difficult for her to make a judgement because the building already is very tall. On the field trip, they viewed the hotel from several angles. She wasn't sure that it would make a huge difference from the Plaza view and the streetscape. It's tough to visualize what the actual construction would look like.

Member Guida said it's a surprising project. He said there is a lot about the design that attempts to mitigate the effect how the building mass is detailed. He said as you go around the site, this building, as tall as it is, does largely disappear because it's obscured mostly by its

neighbors. He wished there were story poles. He knows this would be visible from elsewhere in the downtown district. The space would be an incredible addition to city.

Regarding the hardship criteria, he said the applicant's responses are quite thoughtful, particularly the economic hardship response. This is in the interest of this business and there's an argument being made that this business is in the interest of the city. He thinks that all businesses doing well is in the interest of the city. What is seen here is a substantial investment in terms of space. This is a noncontributing structure in the Downtown district. There are buildings much taller than this in the Downtown district. This is a case of how we grow intensity in Downtown Santa Fe in a way that doesn't significantly detract from its neighbors. In terms of the specifics of the project it could be discussed whether the covered open-air portion that faces Washington could be pulled back. The thing that bothers him the most is the chimney that's sticking up in the middle. He asked Mr. Martinez if it's the building right now.

Mr. Martinez said the chimneys that are sticking up, already exist.

Chair Katz asked why the chimneys have to be that high

Mr. Martinez said so they are above anything within 10 feet of them.

Chair Katz referred to the chimney in the lobby. He asked if the seating area was set back more than 10 feet, if the chimney would have to be that high

Mr. Martinez said the fireplace flu is already set back from the front façade, about 10 feet. He said the fireplace flue is in the deck, even though its set back from the front façade six feet.

Chair Katz was looking at floor plan and the roof. He said that front chimney is in the middle.

Mr. Martinez said that was correct.

Chair Katz asked if the seating area was set back 10 feet further east from that, could that chimney be lower.

Mr. Martinez said "no", because the flue is already set back from the front façade. The flue is not right on the front of the building.

Ms. Roach said Chair Katz is suggesting that the entire deck be moved back beyond the flue, by at least 10 feet to allow that chimney to remain low.

Chair Katz said the pool is fine, the interior space is fine, but the exterior space on the west side needs to not be entirely deck which would allow the flue not to stick up prominently, right on

the street. He's hopeful that the applicant can think about that. He suggested that the application be postponed for redesign of that front portion to minimize the impact and so the Board can see story poles. He was very leery of approving another too high building. He said he wants to be able to approve most of the project.

Member Biedscheid said she agrees with Chair Katz and Member Guida. In addition, she wants to bring it down a little bit, so it doesn't look like they're just putting stuff on the roof in that sensitive spot. She appreciates the way they've pushed things back but maybe a little bit more of that would be in order.

Mr. Sommer said he thinks what would be helpful is how this proposal would look like in poles so there is some visualization of what they are talking about. That would give less speculation of how it's going to look. In the interim, maybe they can talk about redesign. He appreciated the comments and recognition of the importance of this kind of investment in the town.

Member Guida said he would be open to looking at different solutions for that chimney. This discussion has yielded that visibility from the ground matters. He said an aerial view is not going to help because he's not typically in a helicopter in Downtown Santa Fe. He knows the Board cares about what it's going to look like, and story poles will help with that.

Mr. Martinez mentioned that he has stepped the chimney back from the front façade so it follows the buttresses on each side of the building; but he will look at other options as well.

Member Guida said it might have a different massing that could word too. In terms of the hotel and the drawings, pulling this off is an incredible slide of hand. This is a great start, and it's heading in the right direction.

Ms. Roach requested that if there's a requirement in the motion about the placement of story poles, that it state where the poles are to be placed. She asked if the request is being postponed for redesign and story poles.

Chair Katz said he would hope that they would think about redesign. He said the whole front thing needs to be quite a bit further back. In some ways it limits the size of the reception possible on the west side roof, but maybe that's what needs to be done to get approval for the rest of it. He hopes they think about that and do the story poles. He's hoping this can be done two meetings away.

MOTION: In Case #2020-001600-HDRB, 113 Washington Avenue, Member Guida moved to postpone the case for redesign and placement of story poles as follows: to describe the central volume of the proposal; at least the outboard piers for the canopy and cabana at the rear; the mechanical volume at the back; and the three western most chimneys. Member Biedscheid seconded the motion.

VOTE: The motion passed by unanimous (3-0) voice vote with Members Biedscheid, Guida and Larson voting in favor and none voting against.

Chair Katz asked when this is postponed too.

Ms. Roach said the Board would only need to postpone to a date certain, if it's two weeks from the decision. If there is going to be a redesign, they would need new drawings submitted for the March 10, 2020 meeting.

Mr. Martinez said he could come back to the next meeting with new sketches.

Ms. Roach said that meeting agenda is already full. But if they want to be placed on the March 10th agenda, they could do that.

H. MATTERS FROM THE BOARD

None

I. ADJOURNMENT

Chair Rios adjourned the meeting at 8:05 p.m.

Approved by:

Frank Katz, Vice-Chair

Submitted by:

Melissa D. Byers, Stenographer
For Byers Organizational Support Services

EXHIBIT G

CITY OF SANTA FE, NEW MEXICO

PROJECT DESCRIPTION: Martinez Architecture Studio, agent for Rosewood Inn of the Anasazi, owner, proposes to construct a 3,078 sq. ft. fourth floor addition to a height of 56'0" with a pool and dining area. An exception is requested to exceed the maximum allowable height of 20'1" (Section 14-5.2(D)(9)).

Case number: **2019-001600-HDRB**
Project Type: HDRB

PROJECT LOCATION (S): **113 Washington Avenue**

OW – Rosewood Inn of the Anasazi	113 Washington Avenue	Santa Fe, NM 87501
AP – Martinez Architecture Studio PC	P.O. Box 925	Santa Fe, NM 87504

PROJECT DATA:

HISTORIC DISTRICT

Don Gaspar Area ☐ Downtown and Eastside ☑ Historic Review ☐ Transition ☐ Westside-Guadalupe ☐

HISTORIC BUILDING STATUS

Non-Statused ☐ Non-Contributing ☑ Contributing ☐ Significant ☐ Landmark ☐ N/A ☐

PRIMARY ELEVATIONS: North ☐ South ☐ West ☐ East ☐ N/A ☑

PUBLICLY VISIBLE FACADE-EAST Yes ☐ No ☐

PUBLICLY VISIBLE FACADE-NORTH Yes ☐ No ☐

PUBLICLY VISIBLE FACADE-SOUTH Yes ☐ No ☐

PUBLICLY VISIBLE FACADE-WEST Yes ☑ No ☐

HISTORIC DISTRICT INVENTORY NUMBER H3537

YEAR OF CONSTRUCTION _____

PROJECT TYPE

Status ☐ Primary Elevations ☐ Remodel ☑ Demolition ☐ New ☐ Other _____

USE, EXISTING Residential ☐ Non-Residential ☑ Vacant ☐

USE, PROPOSED Residential ☐ Non-Residential ☑

HISTORIC BUILDING NAME _____

City of Santa Fe, New Mexico

memo

DATE: February 11, 2020

TO: Historic Districts Review Board Members

FROM: Lisa Roach, Historic Preservation Division Manager

Case # 2020-001600-HDRB

Address: 113 Washington Ave
Historic Status: Non-contributing
Historic District: Downtown and Eastside

REFERENCE ATTACHMENTS (Sequentially):

CITY SUBMITTALS

____ **District Standards & yard wall & fence standards.**

__x__ **Historic Inventory Form**

__x__ **Zoning Review Sheet**

__x__ **Other:** Height calculation – maximum allowable height calculated to be 20'1"

APPLICANT SUBMITTALS

__x__ **Proposal Letter**

__x__ **Site Plan/Floor Plan**

__x__ **Elevations**

__x__ **Photographs**

____ **Other:**

STAFF RECOMMENDATION:

Staff finds that the exception criteria have been met and recommends approval of the proposed project and finds that the application complies with Section 14-5.2(D) General Design Standards for all Historic Districts, and 14-5.2(E) Downtown and Eastside Design Standards.

BACKGROUND & SUMMARY:

113 Washington Avenue is a commercial hotel structure that was constructed after 1945 in the Territorial Revival style, when it was known as the State Securities Building. The building was substantially remodeled in 1989 in the Spanish Pueblo Revival style and was adaptively reused as the Inn of the Anasazi. In 2014, the HDRB approved window replacement throughout the structure (Case H-14-025). The building is listed as non-contributing to the Downtown and Eastside.

Now, the applicant proposes to construct an addition to the rooftop level of the building, for which an exception is requested to exceed the maximum allowable height of 20'1". Exception criteria and responses are provided below. The applicant proposes to build to a height of 56' in the central portion of the existing roof level, and this massing will rise a maximum of 14' above the existing parapet and will be set back from the street-facing façade by more than 70'. The proposed improvements to the rooftop level of the hotel include the following:

1) At the front (street-facing) third of the space will be an outdoor event space with tile decking, seating, an informal lobby area, elevator overrun, stairwell, and storage space. The seating area will be set back 6' from the front façade of the building. The seating area will feature a 12'8" high tan canopy situated on dark bronze tracks on which the canopy can be extended or retracted depending on weather. The space will be framed by 5' high stuccoed walls and chimney extensions.

2) The central third of the space will feature an enclosed lounge and bar with required back of the house spaces, including kitchen and restrooms. The stuccoed massing will match the Spanish-Pueblo Revival style of the hotel, and windows will match those that are featured elsewhere on the hotel. As stated above, the height of this massing will rise 14' above the existing parapet, resulting in a total height of 56'. Any rooftop appurtenances and skylights placed on the roof of this addition will not be publicly visible.

3) At the rear third of the space will be a rectangular pool and tile deck, set back approximately 4 feet from the edge of the building. The perimeter of the pool deck will be framed by 4' high stuccoed walls, wood-framed cabana structures, and a retractable tan canopy with dark bronze rails to a height of 12'8" above the existing parapet. At the southeast corner of the pool deck, a stairwell, mechanical and storage spaces will be located, and the northwest corner of the pool deck will feature an outdoor fireplace and seating area.

EXCEPTION CRITERIA AND RESPONSES

Exception to exceed the maximum allowable height, per Section 14-5.2(D)(9):

i) Do not damage the character of the streetscape;

Applicant Response: On this block of Washington Ave (on both sides of the street}, tall institutional and commercial buildings define the streetscape. The hotel adjacent and to the north of the Inn of the Anasazi is about the same height, and the buildings across Washington Avenue are taller than the Inn of the Anasazi. Typically, the buildings rise from the sidewalk up several stories without setting back. This character - tall institution and commercial buildings adjacent to the sidewalks - is unique in many ways to this area of the downtown area. The proposed addition will be set back from the edge of the existing parapet. It will not be visible from the east side of the street and will hardly be noticeable from the west side of the street. As a result, the addition will fit into the existing character of the streetscape, rather than do damage to it. The human scale enjoyed today on this section of the streetscape will not be adversely affected or damaged.

Staff Response: *Staff agrees with this response.*

(i) Prevent a hardship to the applicant or an injury to the public welfare;

Applicant Response: The hardship to the applicant results from the fact that Inn of the Anasazi sits on a lot that already occupies 100% of the lot, and there is no additional area to provide the amenities that are being proposed in the addition. It is in the interest of the public welfare (and the Inn of the Anasazi) for this property to remain economically viable and competitive in the hospitality industry in downtown; the Inn of the Anasazi must be at least as attractive to visitors as other luxury hotels in the downtown area. All of the Inn of the Anasazi's major competitors- La Fonda, the Drury, and the Eldorado Hotel - all provide swimming facilities (all of which are on the roof tops), and opportunities for outdoor and indoor dinning, socializing and event-staging on their rooftops. In order to compete and remain relevant and to avoid eventual obsolescence – and thereby avoid a hardship and harm to the public welfare of the City of Santa Fe – the Inn of the Anasazi must invest in the facilities with the propose addition, but has nowhere to add them except on top of the existing hotel.

Staff Response: *Staff agrees with this response.*

(iii) Strengthen the unique heterogeneous character of the city by providing a full range of design options to ensure that residents can continue to reside within the historic districts;

Applicant Response: This criterion really addresses residential uses in the historic district and a "full range of design options to ensure that residents can continue to reside" and has no applicability to addition of a commercial building. However, the proposed addition will strengthen commercial character of the downtown by adding amenities to a downtown hotel

that will allow visitors and patrons a greater range of possibilities to enjoy the unique culture of Santa Fe.

Staff Response: *Staff agrees with this response.*

(iv) Are due to special conditions and circumstances which are not a result of the actions of the applicant;

Applicant Response: Inn of the Anasazi sits on a lot that has for decades been occupied by a tall building covering the entire lot, and the applicant did not divide the property to create a lot with a small area of land. Rather, the small lot was created many, many decades ago. The condition of the lot is not the result of the action of the owner.

Staff Response: *Staff agrees with this response.*

(v) Provide the least negative impact with respect to the purpose of this section as set forth in Subsection 14-5.2(A)(1).

Applicant Response: The proposed addition and amenities will not have any negative impact on the streetscape or the historic character of the downtown area. The addition will be set back from the edge of the existing parapet so it will reduce its visibility as discussed above and will not add or cast a shadow on to the streets below. In short, it will not exacerbate any of the effects that tall building may have on a streetscape - "canyon effect," shadows, disproportionate scale or massing. So, any potentially negative impacts have been mitigated by the design.

Staff Response: *Staff agrees with this response.*

RELEVANT CODE CITATIONS:

14-5.2(A)(1) General Purpose

In order to promote the economic, cultural, and general welfare of the people of the city and to ensure the harmonious, orderly and efficient growth and development of the city, it is deemed essential by the governing body that the qualities relating to the history of Santa Fe, and a harmonious outward appearance, which preserve property values and attract tourists and residents alike, be preserved, some of these qualities being:

(a) The continued existence and preservation of historical areas and buildings;
(b) The continued construction of buildings in the historic styles; and
(c) A general harmony as to style, form, color, height, proportion, texture and material between buildings of historic design and those of more modern design.

14-5.2(E) Downtown and Eastside Design Standards

(1) Old Santa Fe Style

Old Santa Fe style, characterized by construction with adobe, is defined as including the so-called "pueblo" or "pueblo-Spanish" or "Spanish-Indian" and "territorial" styles and is more specifically described as follows:

(a) With rare exception, buildings are of one story, few have three stories, and the characteristic effect is that the buildings are long and low. Roofs are flat with a slight slope and surrounded on at least three sides by a firewall of the same color and material as the walls or of brick. Roofs are never carried out beyond the line of the walls except to cover an enclosed portal or porch formed by setting back a portion of the wall or to form an exterior portal, the outer edge of the roof being supported by wooden columns. Two-story construction is more common in the territorial than in other sub-styles, and is preferably accompanied by a balcony at the level of the floor of the second story. Façades are flat, varied by inset portales, exterior portales, projecting vigas or roof beams, canales or water-spouts, flanking buttresses and wooden lintels, architraves and cornices, which, as well as doors, are frequently carved and the carving may be picked out with bright colors. Arches are almost never used except for nonfunctional arches, often slightly ogive, over gateways in freestanding walls;
(b) All exterior walls of a building are painted alike. The colors range from a light earth color to a dark earth color. The exception to this rule is the protected space under portales, or in church-derived designs, inset panels in a wall under the roof, in which case the roof overhangs the panel. These spaces may be painted white or a contrasting color, or have mural decorations;
(c) Solid wall space is always greater in any façade than window and door space combined. Single panes of glass larger than thirty (30) inches in any dimension are not permissible except as otherwise provided in this section;
(d) The rule as to flat roofs shall not be construed to prevent the construction of skylights or installation of air conditioning devices, or any other necessary roof structures, but such structures other than chimneys, flues, vents and aerials, shall be so placed as to

be concealed by the firewall from the view of anyone standing in the street on which the building fronts;

(e) True old Santa Fe style buildings are made of adobe with mud plaster finish. Construction with masonry blocks, bricks, or other materials with which the adobe effect can be simulated is permissible; provided, that the exterior walls are not less than eight (8) inches thick and that geometrically straight façade lines are avoided. Mud plaster or hard plaster simulating adobe, laid on smoothly, is required; and

(2) Recent Santa Fe Style

Recent Santa Fe style intends to achieve harmony with historic buildings by retention of a similarity of materials, color, proportion, and general detail. The dominating effect is to be that of adobe construction, prescribed as follows:

(a) No building shall be over two stories in height in any façade unless the façade shall include projecting or recessed portales, setbacks or other design elements;

(b) The combined door and window area in any publicly visible façade shall not exceed forty percent of the total area of the façade except for doors or windows located under a portal. No door or window in a publicly visible façade shall be located nearer than three (3) feet from the corner of the façade;

(c) No cantilevers shall be permitted except over projecting vigas, beams, or wood corbels, or as part of the roof treatment described below;

(d) No less than eighty percent of the surface area of any publicly visible façade shall be adobe finish, or stucco simulating adobe finish. The balance of the publicly visible façade, except as above, may be of natural stone, wood, brick, tile, terra cotta, or other material, subject to approval as hereinafter provided for building permits;

(e) The publicly visible façade of any building and of any adjoining walls shall, except as otherwise provided, be of one color, which color shall simulate a light earth or dark earth color, matte or dull finish and of relatively smooth texture. Façade surfaces under portales may be of contrasting or complimentary colors. Windows, doors and portals on publicly visible portions of the building and walls shall be of one of the old Santa Fe styles; except that buildings with portals may have larger plate glass areas for windows under portals only. Deep window recesses are characteristic; and

(f) Flat roofs shall have not more than thirty (30) inches overhang.

Attachment B

NEW MEXICO HISTORIC BUILDING INVENTORY FORM

H3537

building threatened? yes	surveyed date 5/3/85 by HMW	county SANTA FE	ID no. 051610424
field map SFHD #1	number 424	UTM reference zone 12 13	easting northing

location description: 113 WASHINGTON

city/town: SANTA FE

land grant/reservation: ~~land grant/reservation~~

building name: STATE SECURITIES BLDG

legal description: tnsp ___ N S range ___ E W sec ___ ½ ___ ½

film roll by HMW no. SFHD 16	negative nos. 28	loc. of neg. HPB



plan shape

date of construction: P45 estimate _____ actual

source

use: present residential; other _____; historic residential; other _____

condition: ___excellent ___good ___fair ___deteriorating

wall material/surface

degree of remodeling: ___minor ___moderate ___major

describe:

architectural features

surroundings: COMMERCIAL

relationship to surroundings: ___similar _x_ not similar

district potential: ___yes ___no

significance: ___eligible ___of interest _x_ none

if eligible, why?

comments

remodeled 1989 H-89-132
as Spanish-Pueblo Revival
Inn of the Anasazi NR

associated buildings? ___yes

what type?

if inventoried, list ID nos.

see back? ___yes

Preliminary Zoning Review Worksheet

City of Santa Fe Land Use Department

To Be Completed By Applicant:

Date Submitted: January 13, 2020

Property Owner of Record: Rosewood Inn of the Anasazi

Applicant/Agent Name: Martinez Architecture Studio

Contact Person Phone Number: 505 989-4958

Site Address: 113 Washington Ave

Proposed Construction Description: Rooftop event space, bar & swimming pool

TOTAL ROOF AREA: 15,000

Zoning District: BCD-MAR

Overlay: NA
- □ Escarpment
- □ Flood Zone*
- □ Other:

Submittals Reviewed with PZR:
- ☒ Legal Lot of Record □ Development Plan ☒ Building Plans
- ☒ Existing Site Plan ☒ Proposed Site Plan ☒ Elevations

Supplemental Zoning Submittals Required for Building Permit:
- □ Zero Lot Line Affidavit

Access and Visibility: □ Arterial or Collector**
- □ Visibility Triangle Required

Use of Structure: □ Residential
- ☒ Commercial Type of Use: Hotel

Terrain: □ 30% slopes

* Requires an additional review conducted by Technical Review Division
** Requires an additional review conducted by the Traffic Engineering Division

Lot Coverage: 78.16 %
- □ Open Space Required:

Setbacks:
Proposed Front: 2'-9" Minimum: 2'-9"
2nd Front? –
Proposed Rear: 0'-6" Minimum: 0
Proposed Sides: L 1'-2" R 16" Minimum: 0

Height: Proposed 516'
Maximum Height: 42' or
- ☒ Regulated by Historic Districts Ordinance
- □ Regulated by Escarpment District

Parking Spaces:
Proposed 49 Accessible 0
Minimum: –

Bicycle Parking:**
Proposed: 0 Minimum: 0
** Commercial Requirement

THIS REVIEW DOES NOT GRANT ZONING APPROVAL FOR BUILDING PERMIT. FINAL ZONING REVIEW WILL BE PERFORMED AT THE TIME OF BUILDING PERMIT APPLICATION.

Richard Martinez [□OWNER □APPLICANT ☒AGENT]
PRINT NAME

hereby certifies that the information provided for preliminary zoning review is accurate and will not be modified without consulting Land Use Department staff prior to submittal for Historic Districts Review Board review.

Richard Martinez 1.13.20
SIGNATURE **DATE**

To Be Completed By City Staff:

Additional Agency Review if Applicable:
- □ Escarpment Approval by _____ Date: __/__/__
- □ Flood Plain Approval by _____ Date: __/__/__
- □ Traffic Engineering Approval by _____ Date: __/__/__

Notes: _____

Zoning Approval:

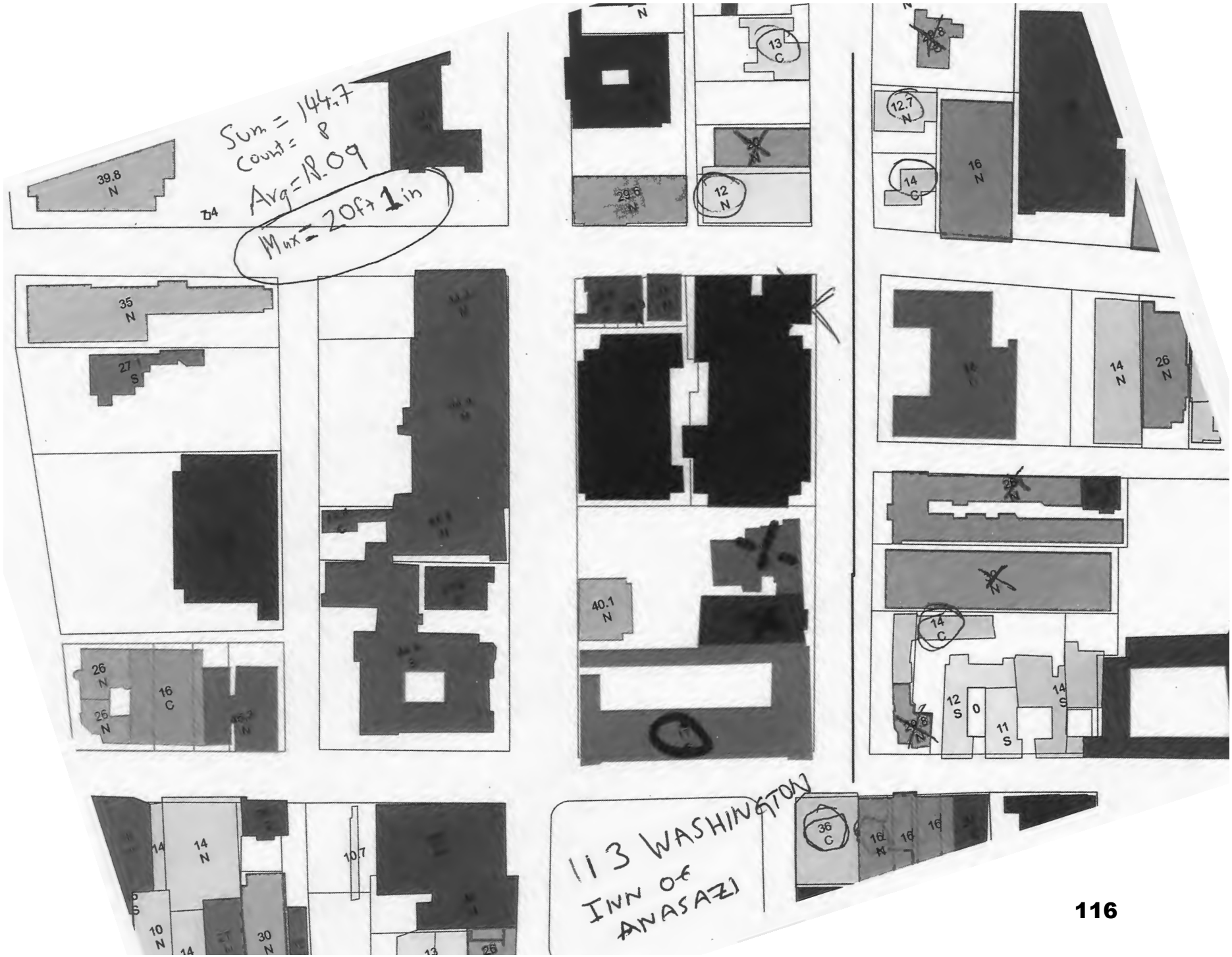
☒ **Preliminary Approval** ☒ **with conditions** □ **Rejected**

Comments/Conditions: Building exceeds BCD MAR zoning Height of 42'. The applicant shall apply for a variance before the Board of Adjustment prior to submitting a building permit.

REVIEWER: _____ **DATE:** 1/13/20

Original color form must be submitted with Historic Districts Review Board (HDRB) application packet.

Revised 11/13


Sum = 144.7
count = 8
Avg = 18.09
Max = 20ft 1in
113 WASHINGTON
INN OF
ANASAZI

MARTINEZ
ARCHITECTURE
STUDIO PC

TEL (505) 989-4958 MAIL: P O BOX 925 SANTA FE NM 87504
1524 PASEO DE PERALTA —— STUDIO@MARTINEZARCH.COM

PROPOSAL TO ADD ROOFTOP PROJECT
THE ROSEWOOD INN OF THE ANASAZI – 113 WASHINGTON AVE.

Downtown/Eastside Historic District – Non-Contributing

January 13, 2020

EXISTING CONDITIONS:

The Inn of the Anasazi was built in 1990. It incorporated the structural system of the office building that previously occupied the site. The Owner's of the hotel wish to give their guests the experience of staying in a building that reflects the beauty of Santa Fe. The rooftop project is not intended to feel like an addition, but rather an intregal part of the hotel. The hotel has a restaurant and a bar now and the Owner's wish to add a pool and an event space. Current hotel trends have shown that guests want these options when choosing where to stay.

PROPOSED CONSTRUCTION:

The changes asked for are on the roof and for the most part involve elements not seen by the public. There will be no changes to the existing facades which give this building its character. The roof is now unused, valuable space in the downtown area (see attached letter photos "A").

We will extend the existing elevators and exit stairs to access a new floor on the roof of the building which will consist of a deck 6'-0" above the existing roof deck in order to accommodate the pool and the structure to support that pool that will be required.

In the middle of the roof will be an enclosed lounge space and bar with its required back of house spaces (kitchens, etc.) and restrooms.

Proposed bar, back of house, restrooms: 4,654 sq.ft.
Height of proposed bar, back of house, restrooms: 56'-0" (14'-0" from existing parapet)
Materials: stucco, wood windows to match existing

In the front of the space will be an open deck recessed 6'-0" from the street facade to accommodate special events and outdoor seating that would sometimes be partially covered by a canopy (see attached letter photos "B").

Proposed special event space: 3,078 sq.ft.
Height of proposed special event space: 5'-0" stuccoed walls, 12'-8" canopy
Materials: stucco, tile decking, stained wood beam, dark bronze tracks, tan canopy

The back third of the rooftop will be a pool and deck recessed from the exterior walls. The deck will have a fireplace, cabanas and chaise lounges, again with a canopy.

Proposed pool area: 3,716 sq.ft.
Height of proposed: 4'-0" stuccoed walls, 12'-8" canopy
Materials: stucco, tile decking, stained wood beam, dark bronze tracks, tan canopy

The stucco, stained wood and trim colors will match the existing building. The exisiting fireplaces in the rooms below which have flues on the current roof, will be raised with stuccoed chimneys. There will be appurtenances and skylights on the roof of the addition which will not be publicly visible.

Richard Martinez

Inn of Anasazi Applicant's responses to the applicable Exception Criteria:

(i) Do not damage the character of the streetscape;

On this block of Washington Ave (on both sides of the street), tall institutional and commercial buildings define the streetscape. The hotel adjacent and to the north of the Inn of the Anasazi is about the same height, and the buildings across Washington Avenue are taller than the Inn of the Anasazi. Typically, the buildings rise from the sidewalk up several stories without setting back. This character – tall institution and commercial buildings adjacent to the sidewalks – is unique in many ways to this area of the downtown area. The proposed addition will be set back from the edge of the existing parapet. It will not be visible from the east side of the street and will hardly be noticeable from the west side of the street. As a result, the addition will fit into the existing character of the streetscape, rather than do damage to it. The human scale enjoyed today on this section of the streetscape will not be adversely affected or damaged.

(i) Prevent a hardship to the applicant or an injury to the public welfare;

The hardship to the applicant results from the fact that Inn of the Anasazi sits a lot that already occupies 100% of the lot, and there is no additional area to provide the amenities that are being proposed in the addition. It is in the interest of the public welfare (and the Inn of the Anasazi) for this property to remain economically viable and competitive in the hospitality industry in downtown; the Inn of the Anasazi must be at least as attractive to visitors as other luxury hotels in the downtown area. All of the Inn of the Anasazi's major competitors – La Fonda, the Drury, and the Eldorado Hotel – all provide swimming facilities (all of which are on the roof tops), and opportunities for outdoor and indoor dinning, socializing and event-staging on their rooftops. In order to compete and remain relevant and to avoid eventual obsolescence – and thereby avoid a hardship and harm to the public welfare of the City of Santa Fe -- the Inn of the Anasazi must invest in the facilities with the propose addition, but has nowhere to add them except on top of the existing hotel.

(ii) Strengthen the unique heterogeneous character of the city by providing a full range of design options to ensure that residents can continue to reside within the historic districts;

This criterion really addresses residential uses in the historic district and a "full range of design options to ensure that residents can continue to reside" and has no applicability to addition of a commercial building. However, the proposed addition will strengthen commercial character of the downtown by adding amenities to a downtown hotel that will allow visitors and patrons a greater range of possibilities to enjoy the unique culture of Santa Fe.

(iii) Are due to special conditions and circumstances which are peculiar to the land or structure involved and which are not applicable to other lands or structures in the related streetscape ;

The exception is requested purely due to the small size of the lot, as discussed above, and the fact that it is completely covered with the existing hotel. Most other lots within the applicable streetscape are not tall hotel properties and have the ability to add height without an exception.

(iv) Are due to special conditions and circumstances which are not a result of the actions of the applicant ; and

Inn of the Anasazi sits on a lot that has for decades been occupied by a tall building covering the entire lot, and the applicant did not divide the property to create a lot with a small area of land. Rather, the small lot was created many, many decades ago. The condition of the lot is not result of the action of the owner.

(v) Provide the least negative impact with respect to the purpose of this section as set forth in Subsection 14-5.2(A)(1).

The proposed addition and amenities will not have any negative impact on the streetscape or the historic character of the downtown area. The addition will be set back from the edge of the existing parapet so it will reduce its visibility as discussed above and will not add or cast a shadow on to the streets below. In short, it will not exacerbate any of the effects that tall building may have on a streetscape – "canyon effect," shadows, disproportionate scale or massing. So, any potentially negative impacts have been mitigated by the design.



LOOKING EAST



LOOKING WEST

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INN OF THE ANASAZI
113 WASHINGTON AVENUE
SANTA FE, NEW MEXICO

JANUARY 13, 2020
LETTER PHOTO "A"







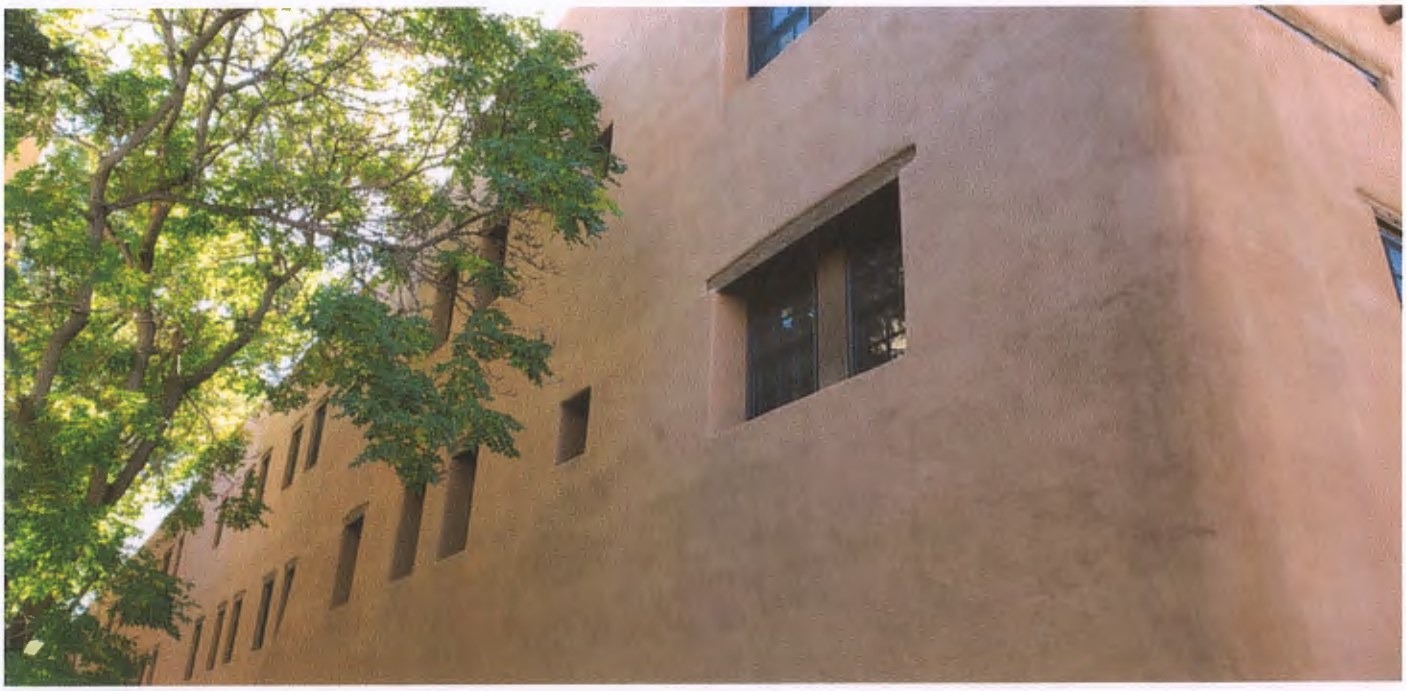
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INN OF THE ANASAZI
113 WASHINGTON AVENUE
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JANUARY 13, 2020
LETTER PHOTO "B"



NORTH ELEVATION



NORTH ELEVATION

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INN OF THE ANASAZI
113 WASHINGTON AVENUE
SANTA FE, NEW MEXICO

JANUARY 13, 2020



NORTH ELEVATION

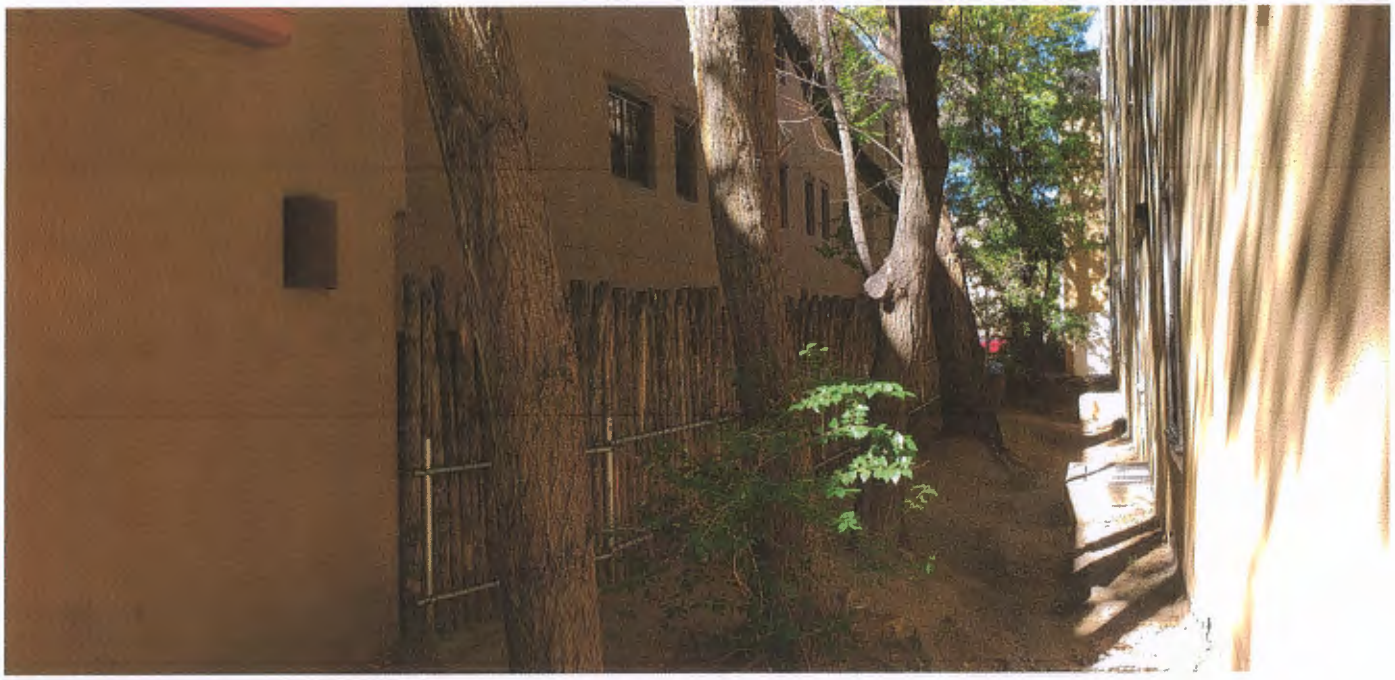


NORTH ELEVATION

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JANUARY 13, 2020



NORTH ELEVATION



NORTH ELEVATION

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INN OF THE ANASAZI
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JANUARY 13, 2020



EAST ELEVATION



EAST ELEVATION

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INN OF THE ANASAZI
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JANUARY 13, 2020



SOUTH ELEVATION



SOUTH ELEVATION

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INN OF THE ANASAZI
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JANUARY 13, 2020



SOUTH ELEVATION



SOUTH ELEVATION

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JANUARY 13, 2020



WEST ELEVATION



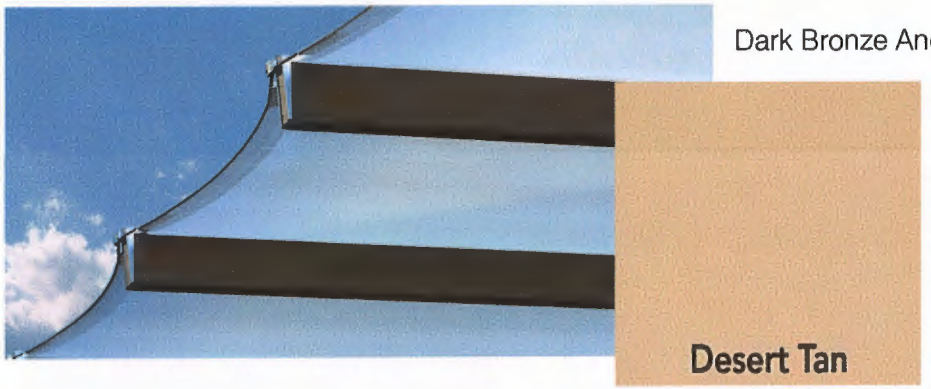
WEST ELEVATION

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INN OF THE ANASAZI
113 WASHINGTON AVENUE
SANTA FE, NEW MEXICO

JANUARY 13, 2020

Inn of the Anasazi Exterior Finish Selections



Dark Bronze Anodized Finish

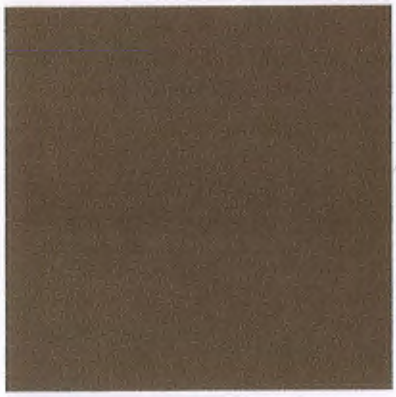
Tan T40 Fabric utilized with the Future Shade Structure



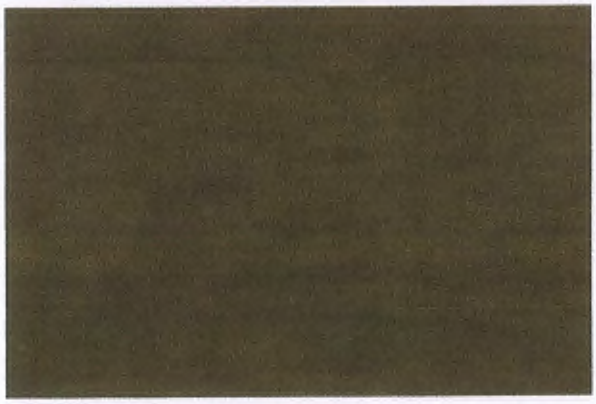
Porcelain Tile with Texture for Pool Deck and Outdoor Patio Area |Comes with Pool Cooping | Aequa Castor 12X48, Arizona Tile

Adobe #116 Stucco Color from El Rey to Match Existing Stucco Finish





Lodge Brown SW3007 Woodscapes Solid Color Stain To Match Existing Wood Stain for the Vigas, Doors and Exposed Lintels



Hawthorne SW3518 Stain Color for the Future Window to Match Existing Windows

INN OF THE ANASAZI ROOFTOP PROJECT

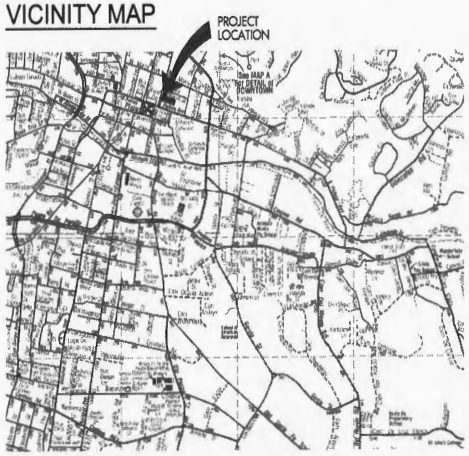
113 WASHINGTON AVENUE
SANTA FE NEW MEXICO 87505

MARTINEZ ARCHITECTURE STUDIO P.C.

1524 PASEO DE PERALTA

RECEIVED
JAN 15 2020
BY:

VICINITY MAP



DIRECTIONS TO SITE:

FROM 200 LINCOLN AVE. HEAD SOUTH ON LINCOLN AVE. TOWARD W. MARCY ST.
TURN LEFT ONTO W. MARCY ST. TURN RIGHT ONTO WASHINGTON AVE.
DESTINATION WILL BE ON THE LEFT @ 113 WASHINGTON AVE.

PROJECT DATA

SCOPE OF WORK: NEW ROOFTOP EVENT SPACE, BAR & SWIMMING POOL

BUILDING TYPE: HOTEL

CONSTRUCTION TYPE: V-B
(IBC SECTION 602)

NET AREAS (EXISTING):

SUB-BASEMENT	7,576 S.F.
BASEMENT	2,738 S.F.
LOWER LEVEL PARKING	7,576 S.F.
1ST FLOOR	15,612 S.F.
2ND FLOOR	15,640 S.F.
3RD FLOOR	14,300 S.F.
EXISTING ROOFED AREA	15,640 S.F.

NET AREAS (PROPOSED)

4TH FLOOR (HEATED)	4,654 S.F.
4TH FLOOR (UNHEATED)	7,368 S.F.

NO NEW ROOFED AREA PROPOSED

LOT AREA: 19,656 S.F.

LOT COVERAGE: EXISTING = 78.6%
PROPOSED = 78.6%

ZONING: BCD-MAR

HISTORIC DISTRICT: DOWNTOWN & EASTSIDE

HISTORIC STATUS: NON-CONTRIBUTING

DRAWING INDEX

A-0.1	COVER SHEET & PROJECT DATA
A-1.0	EXISTING & PROPOSED SITE PLAN
A-2.0	EXISTING ROOF PLAN & PROPOSED FLOOR PLAN
A-3.1	EXISTING & PROPOSED NORTH ELEVATION
A-3.1	EXISTING & PROPOSED EAST ELEVATIONS
A-3.2	EXISTING & PROPOSED SOUTH ELEVATION
A-3.3	EXISTING & PROPOSED WEST ELEVATION

GENERAL NOTES

1. THE CONTRACTOR SHALL CHECK AND VERIFY ALL DIMENSIONS AND REPORT DISCREPANCIES TO THE ARCHITECT BEFORE PROCEEDING WITH THE WORK.

2. UNLESS NOTED OTHERWISE, ALL WORK AND MATERIALS SHALL BE PROVIDED AND INSTALLED BY THE CONTRACTOR.

3. ALL CONSTRUCTION SHALL COMPLY WITH THE MOST RECENTLY ADOPTED APPLICABLE CODES: 2015 NM COMMERCIAL BUILDING CODE (IBC AS AMENDED), 2015 NM RESIDENTIAL CODE (IRC AS AMENDED), 2015 NM EXISTING BUILDING CODE (IEBC AS AMENDED), 2012 NM PLUMBING CODE (UPC AS AMENDED), 2012 NM MECHANICAL CODE (UMC AS AMENDED), 2017 NM ELECTRICAL CODE (NEC AS AMENDED), 2012 NM ELECTRICAL SAFETY CODE (NESC AS AMENDED), 2015 NM HISTORIC EARTHEN BUILDINGS CODE, 2015 NM EARTHEN BUILDING MATERIALS CODE, 2009 NM NON-LOAD BEARING BALED STRAW CONSTRUCTION BUILDING CODE, 2009 NM ENERGY CONSERVATION CODE (IECC AS AMENDED), 2012 NM SWIMMING POOL, SPA AND HOT TUB CODE PHASE III (USPSHTC AS AMENDED), 2012 NM SOLAR ENERGY CODE (USEC AS AMENDED), 2009 INTERNATIONAL FIRE CODE AND CITY OF SANTA FE IFC AMENDMENTS. CODE COMPLIANCE SHALL BE THE RESPONSIBILITY OF THE GENERAL CONTRACTOR.

4. ALL DRAWINGS ARE THE PROPERTY OF MARTINEZ ARCHITECTURE STUDIO P.C. AND MUST BE RETURNED AT THE COMPLETION OF WORK. THEY SHALL NOT BE REPRODUCED, MODIFIED OR REVISED IN ANY WAY WITHOUT THE WRITTEN CONSENT FROM, AND PROPER COMPENSATION TO THE ARCHITECT. THE ARCHITECT SHALL PROTECT HIS RIGHT AND BE REIMBURSED FOR ALL LEGAL AND COURT COST ETC., FOR ANY NECESSARY PROTECTION OF THE DRAWINGS. SUBMISSION OF THESE DRAWINGS TO ANY PUBLIC BODY FOR ANY USE DOES NOT RELEASE IN ANY WAY THE COPYRIGHT AND OWNERSHIP OF DRAWINGS/SPECIFICATIONS PROVISIONS LISTED HEREIN.

DESIGN PROFESSIONALS

ARCHITECT
Richard Martinez
MARTINEZ ARCHITECTURE STUDIO P.C.
P.O. Box 925 Santa Fe, NM 87504
(505) 989-4956, Fax (505) 989-8933

MARTINEZ ARCHITECTURE STUDIO PC
1524 PASEO DE PERALTA SANTA FE
505-989-4956 studio@martinezarch.com

INN OF THE ANASAZI
113 WASHINGTON AVENUE
SANTA FE, NEW MEXICO

JANUARY 13, 2020

1-13-20

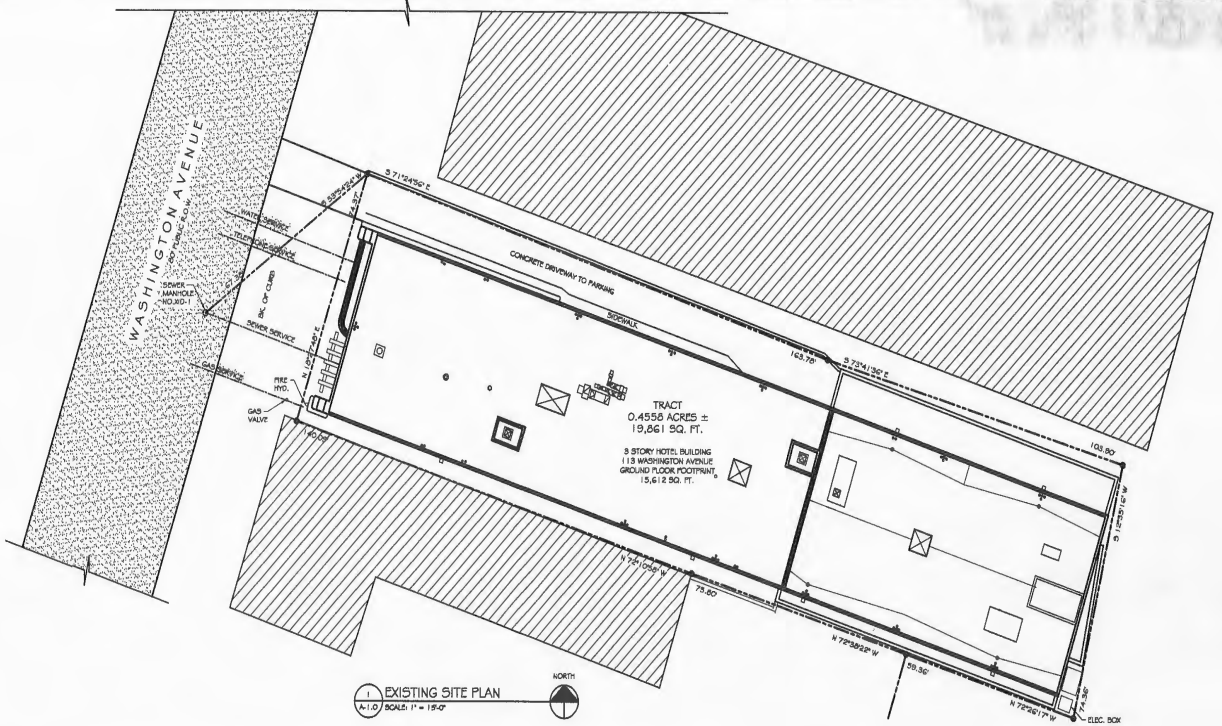
COVER SHEET & PROJECT DATA

A 0.1

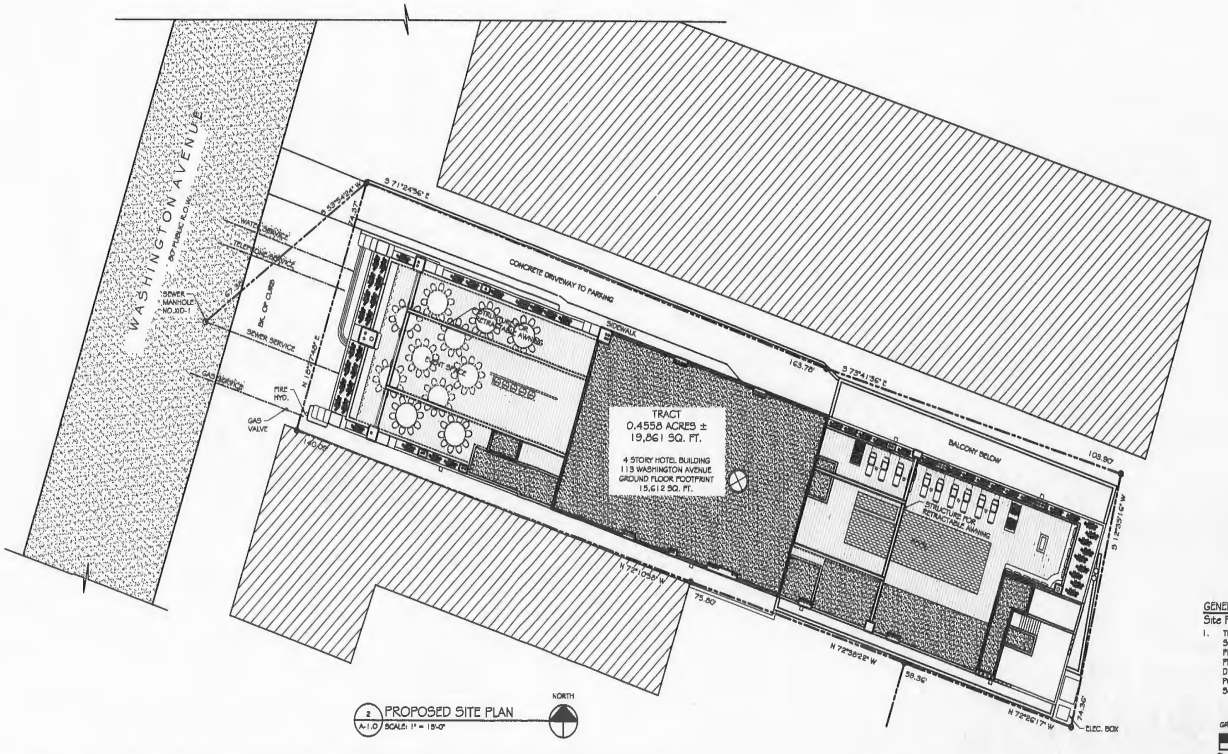
SET #

1904 - ANASAZI

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JAN 15 2020
BY:



1 EXISTING SITE PLAN
A-1.0 SCALE: 1" = 15'-0"



2 PROPOSED SITE PLAN
A-1.0 SCALE: 1" = 15'-0"

GENERAL NOTES:
Site Plan

1. THE SITE SURVEY INFORMATION ON THIS SITE PLAN WAS TAKEN FROM A PLAT PREPARED JULY 18, 2005 BY: PHILLIP B. WIGGS, N.M.P.S. #9756 DEL RIO SURVEYS, INC. PO BOX 22775 SANTA FE, NEW MEXICO 87505

GRAPHIC SCALE: 1" = 15'-0"
0 15' 30' 45'

MARTINEZ ARCHITECTURE STUDIO PC
1524-A PASEO DE PERALTA SANTA FE
505-989-4956 studio@martinezarch.com

INN OF THE ANASAZI
113 WASHINGTON AVENUE
SANTA FE, NEW MEXICO

JANUARY 13, 2020

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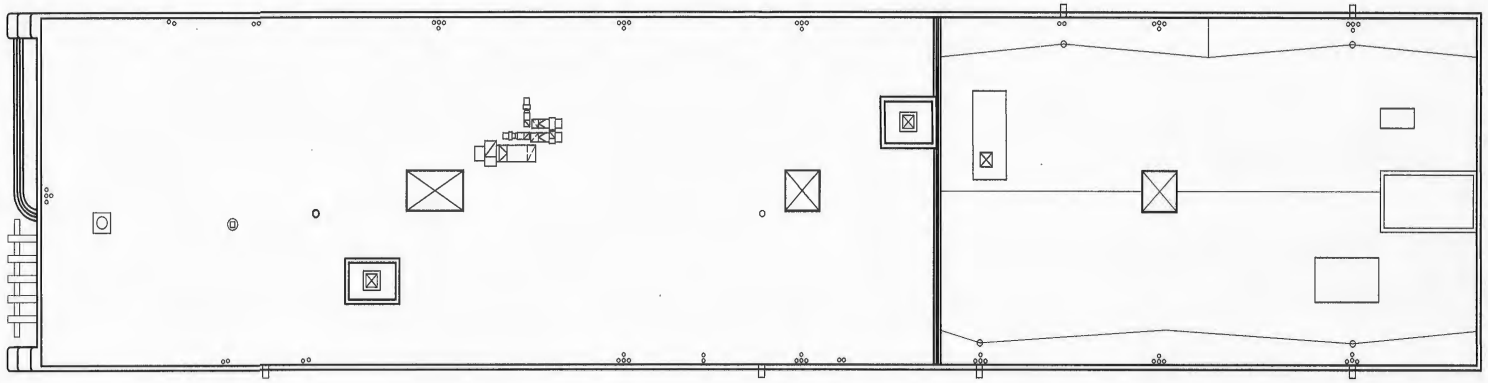
EXISTING & PROPOSED SITE PLANS

A 1.0

SET #

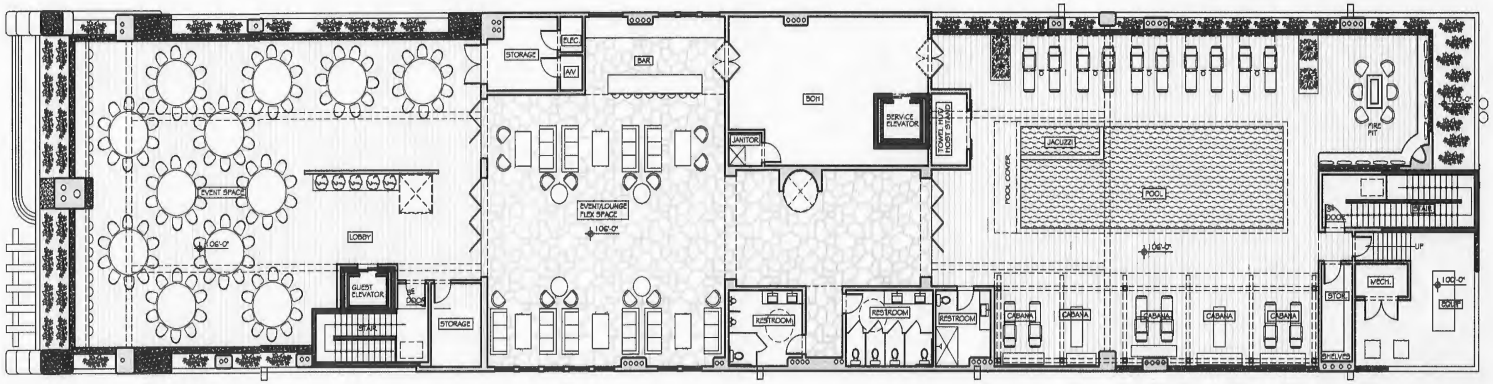
1904 - ANASAZI

RECEIVED
JAN 15 2020
BY:



1 EXISTING ROOF PLAN
A-2.0 SCALE: 1/8" = 1'-0"

NORTH



1 PROPOSED FLOOR PLAN
A-2.0 SCALE: 1/8" = 1'-0"

NORTH

GRAPHIC SCALE: 1/8" = 1'-0"
0 4' 8' 16' 24'

MARTINEZ ARCHITECTURE STUDIO PC
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505-989-4958 studio@martinezarch.com

INN OF THE ANASAZI
113 WASHINGTON AVENUE
SANTA FE, NEW MEXICO

JANUARY 13, 2020

1-13-20

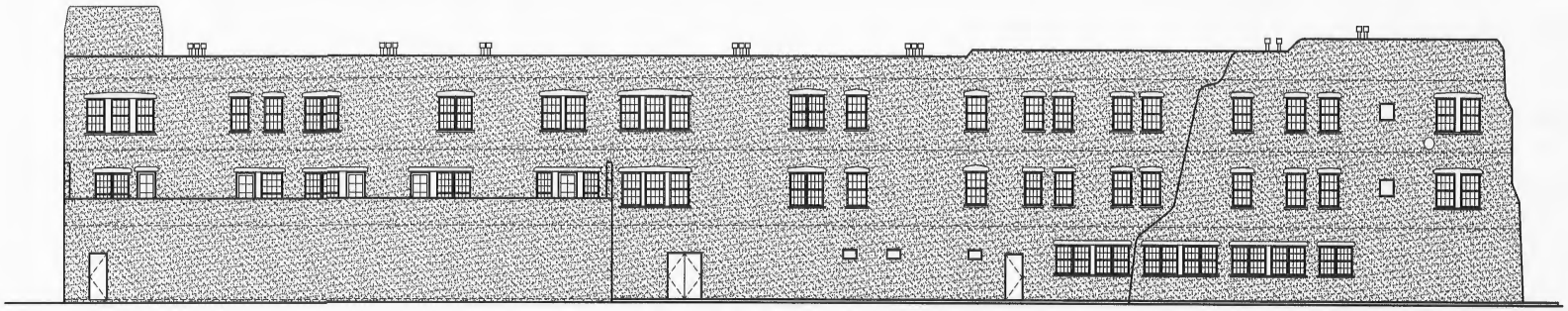
EXISTING ROOF PLAN & PROPOSED FLOOR PLAN

A 2.0

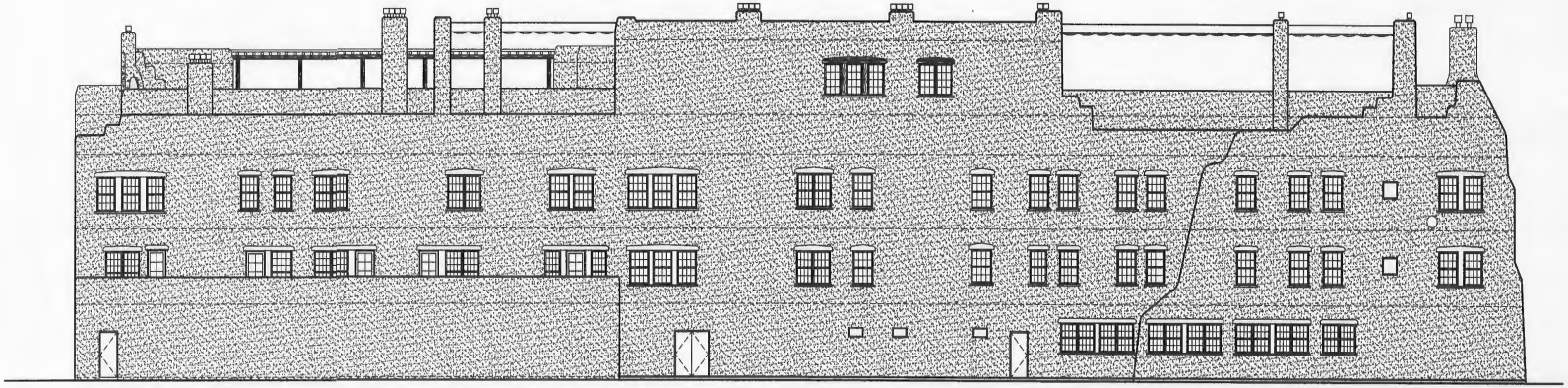
SET #

1904 - ANASAZI

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BY:



1 A-3.0 EXISTING NORTH ELEVATION
SCALE: 1/8" = 1'-0"



1 A-3.0 PROPOSED NORTH ELEVATION
SCALE: 1/8" = 1'-0"

GRAPHIC SCALE: 1/8" = 1'-0"
0 4' 8' 16' 24'

MARTINEZ ARCHITECTURE STUDIO PC
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113 WASHINGTON AVENUE
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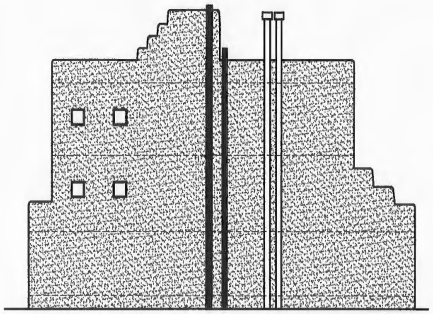
EXISTING & PROPOSED NORTH ELEVATION

A 3.0

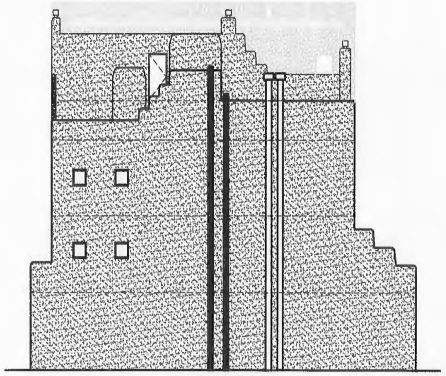
SET # 133

1904 - ANASAZI

RECEIVED
JAN 15 2020
BY:



1 A-3.1 EXISTING EAST ELEVATION
SCALE: 1/8" = 1'-0"



2 A-3.1 PROPOSED EAST ELEVATION
SCALE: 1/8" = 1'-0"

GRAPHIC SCALE: 1/8" = 1'-0"
0' 4' 8' 16' 24'

MARTINEZ ARCHITECTURE STUDIO PC
1524 PASEO DE PERALTA SANTA FE
505-989-4888 studio@martinezarch.com

INN OF THE ANASAZI
113 WASHINGTON AVENUE
SANTA FE, NEW MEXICO

JANUARY 13, 2020

1-13-20

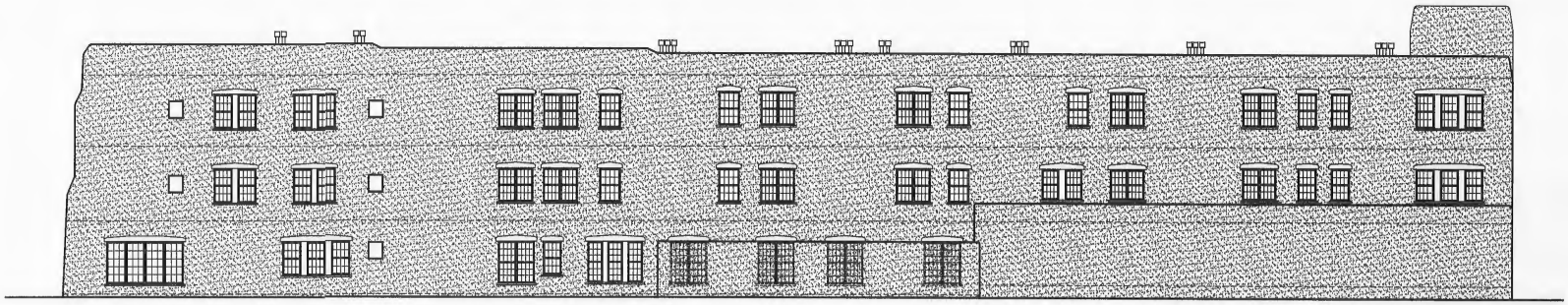
EXISTING & PROPOSED EAST ELEVATION

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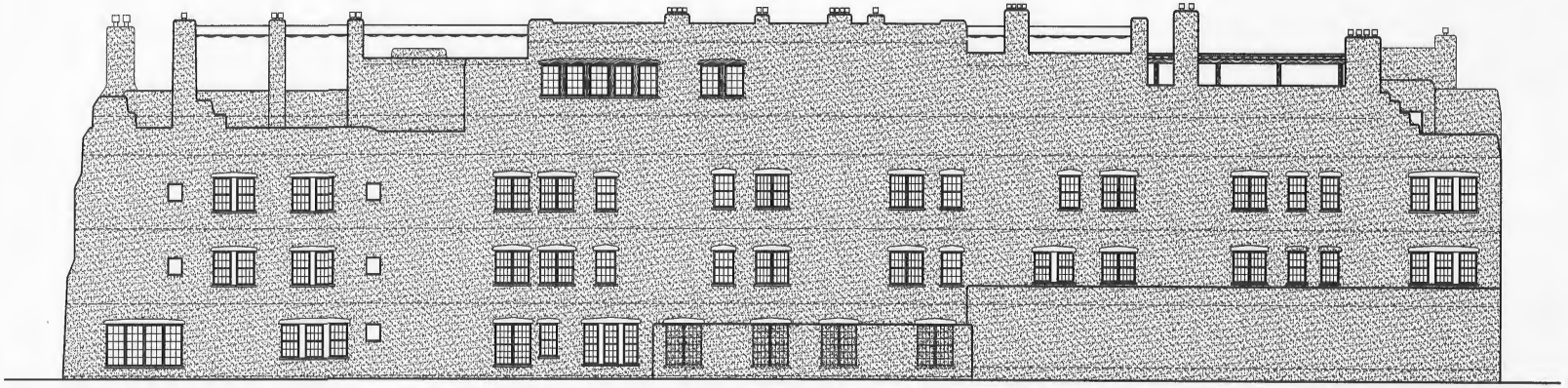
SET # 134

1904 - ANASAZI

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BY:



1 A-3.2 EXISTING SOUTH ELEVATION
SCALE: 1/8" = 1'-0"



2 A-3.2 PROPOSED SOUTH ELEVATION
SCALE: 1/8" = 1'-0"

GRAPHIC SCALE: 1/8" = 1'-0"
0 4' 8' 16' 24'

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505-988-4988 studio@martinezarch.com

INN OF THE ANASAZI
113 WASHINGTON AVENUE
SANTA FE, NEW MEXICO

JANUARY 13, 2020

1-13-20

EXISTING & PROPOSED SOUTH ELEVATION

A
3.2

SET #

1904 - ANASAZI

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JAN 15 2020
BY:



3 A-3.1 EXISTING WEST ELEVATION
SCALE: 1/8" = 1'-0"



4 A-3.1 PROPOSED WEST ELEVATION
SCALE: 1/8" = 1'-0"

GRAPHIC SCALE: 1/8" = 1'-0"
0' 4' 8' 16' 24'

MARTINEZ ARCHITECTURE STUDIO PC
1524 PASEO DE PERALTA, SANTA FE
505.982.4650 AMARCH@MARTINEZARCH.COM

INN OF THE ANASAZI
113 WASHINGTON AVENUE
SANTA FE, NEW MEXICO

JANUARY 13, 2020

1-13-20

EXISTING & PROPOSED WEST ELEVATIONS

A 3.3

SET #
1804 - ANASAZI

EXHIBIT H

HISTORIC DISTRICTS REVIEW BOARD APPLICATION

PROJECT LOCATION: 113 Washington

HISTORIC DISTRICT: (from attached map) Downtown & Eastside [ ] Don Gaspar Area [ ] Westside-Guadalupe [ ] Historic Transition [ ] Historic Review [ ] Landmark (outside of historic districts) [ ]

PROJECT PROPOSAL: Rooftop event space, bar and swimming pool

CONSTRUCTION COST: $ 4M

BASE FEE: $ 2000 + **EXCEPTION:** $ 350 + **POSTER:** $ 25 = **TOTAL:** $ 2375

(base fee = ½ of 1% of construction cost, not to exceed $2,000 and not less than $250)

(each exception has an additional fee of $350) **($25 per poster with one (1) poster per street frontage)**

OWNER: Rosewood Inn of the Anasazi **PHONE #:**

OWNER MAILING ADDRESS: 113 Washington Avenue

CITY, STATE, ZIP CODE: Santa Fe, NM 87501

EMAIL:

AGENT: Martinez Architecture Studio PC **PHONE #:** 505 989 4958

MAILING ADDRESS: PO Box 925

CITY, STATE, ZIP CODE: Santa Fe, NM 87504

EMAIL: Studio @ martinezarch.com

PREAPPLICATION MEETING: Date: 12/10/2019 Case Planner: Lisa Roach

---

AFFIDAVIT TO AUTHORIZE SOLE AGENT

I am,/We are the owner(s) and record title holder(s) of the property located at: 113 Washington Ave

I/We authorize Martinez Architecture Studio to act as my/our agent to execute this application.

Signed: [signature] Date: 1/15/20

Printed Name: Lutz Arnhold

I/We shall act as my/our own agent to execute this application.

Signed: _____ Date: _____

Printed Name: _____

AFFIDAVIT TO AUTHORIZE SOLE AGENT must be signed to be accepted.

Original form must be submitted with Historic Districts Review Board Application packet.

All documents submitted to the Historic Preservation Division are public record. HPD does not return documents.

Rosewood – Inn of the Anasazi

I. Witness List

a. Richard Martinez. Project Architect. Mr. Martinez will address the design process undertaken, modifications made to the plans at the request of the Historic District Board, the reasons for the modifications and the design solutions. Mr. Martinez will address the general aspects of the design and how the project meets the standards for the Downtown & Eastside Historic District requirement.

b. Karl H. Sommer. Project Attorney. Mr. Sommer will address the legal issues related to the appeal. Namely, Mr. Sommer will address the criteria for the exceptions, how they were met, and the bases for the appeal. More specifically, Mr. Sommer will address the impermissible design activity of the Board in relation to the proposal.

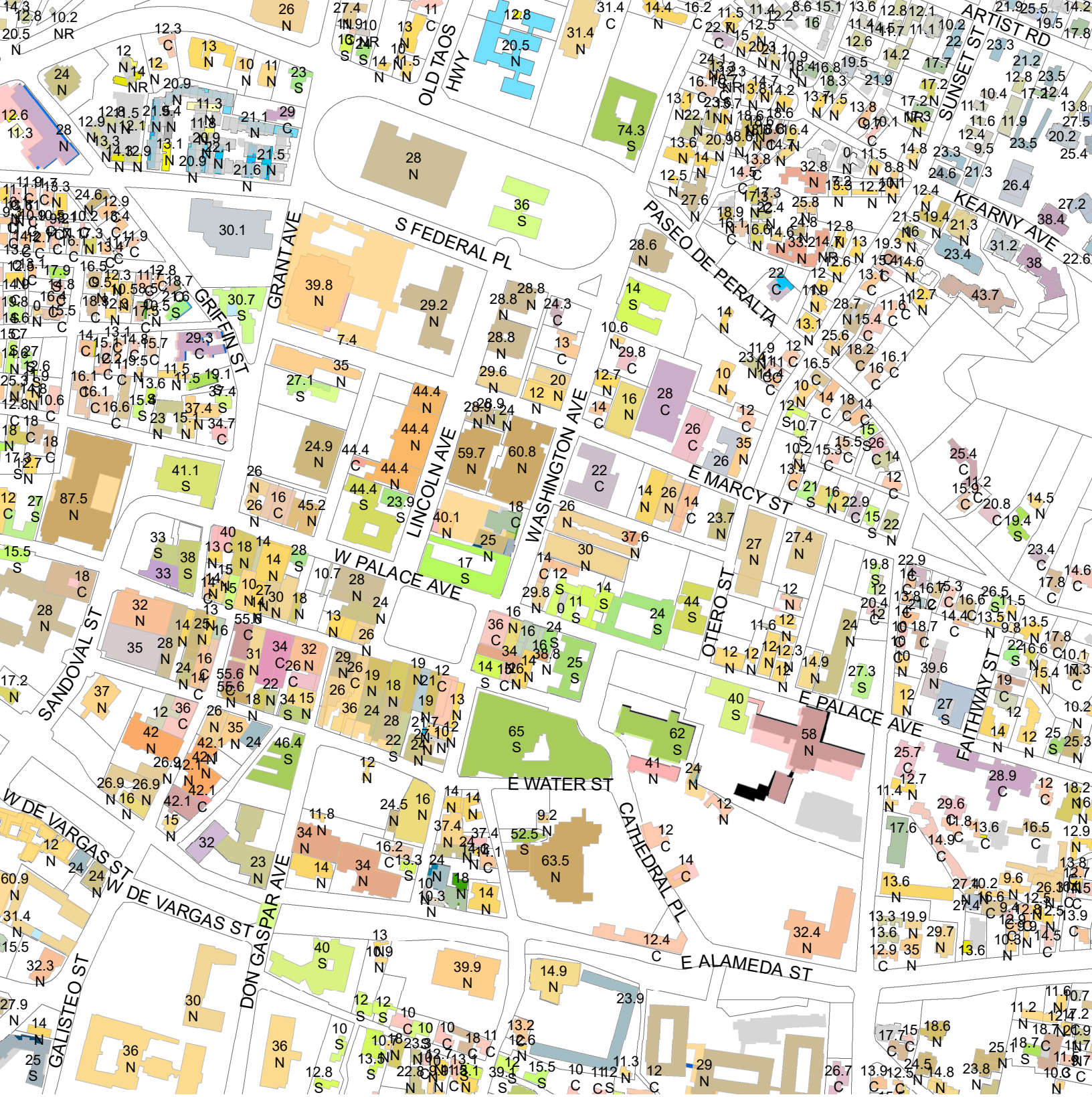
c. Lutz Aarnhold. Mr. Aarnhold is the General Manager of the Inn of the Anasazi. He will address the general nature of the project, the reasons for the project, and the nature of the investment in the Inn of the Anasazi and the downtown by the ownership.

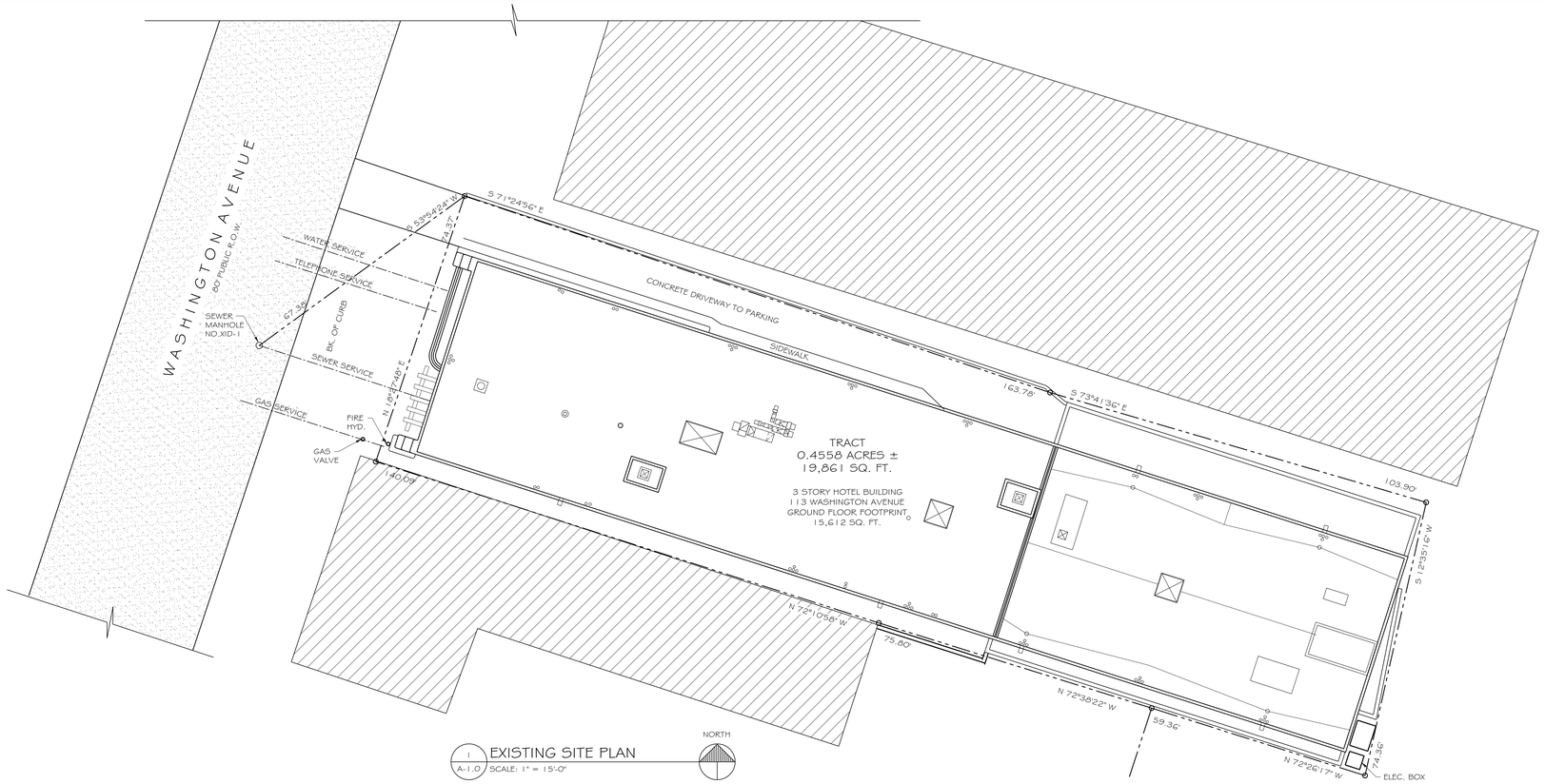
II. Exhibits – Attached.

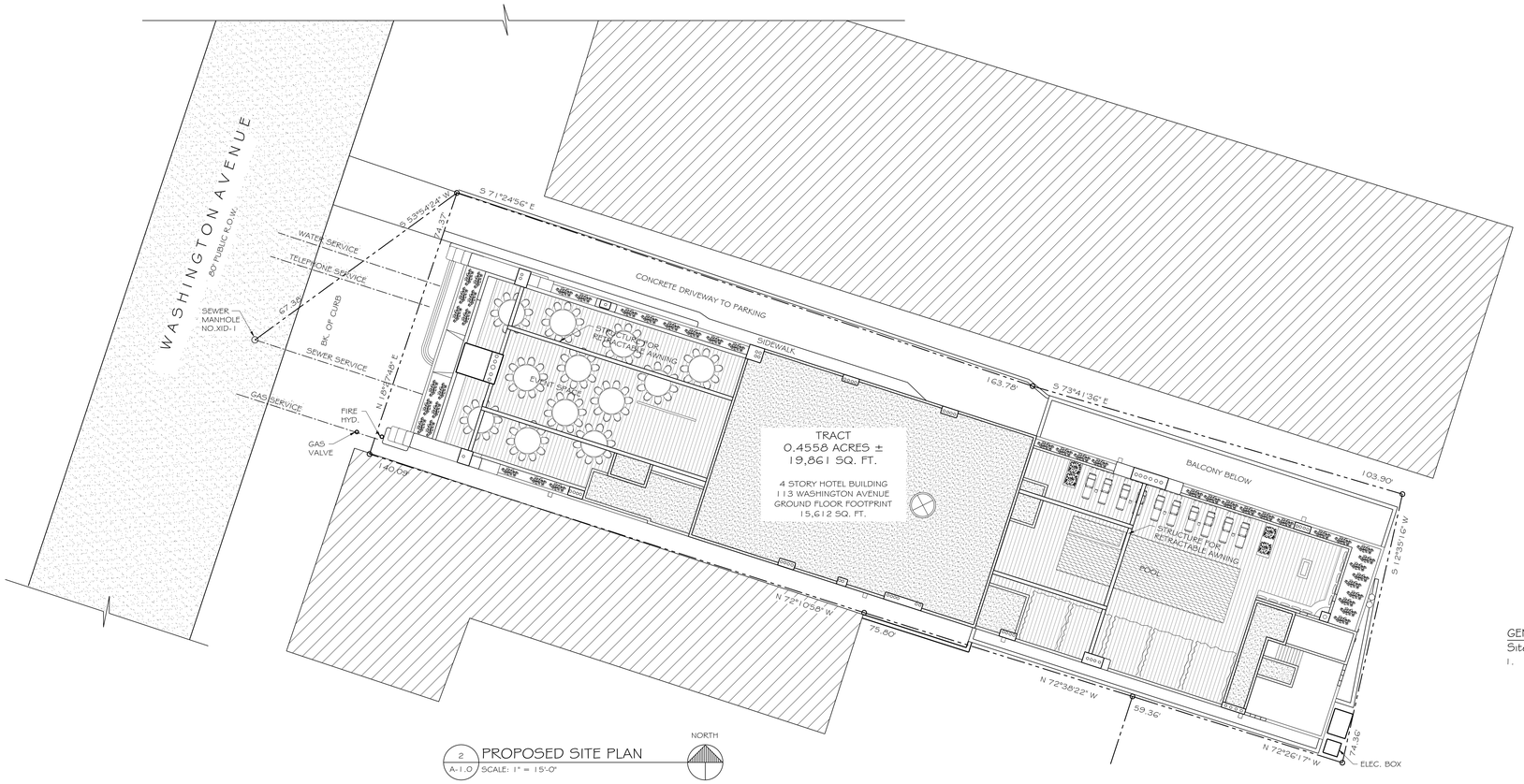
a. Map of Downtown Heights

b. Plans of the Project

c. Photos of Project and Streetscape.


OLD TAOS HWY
S FEDERAL PL
GRANT AVE
GRIFFIN ST
LINCOLN AVE
WASHINGTON AVE
PASEO DE PERALTA
KEARNY AVE
SUNSET ST
ARTIST RD
E MARCY ST
W PALACE AVE
E PALACE AVE
OTERO ST
FAITHWAY ST
SANDOVAL ST
E WATER ST
CATHEDRAL PL
W DE VARGAS ST
DON GASPAR AVE
E ALAMEDA ST
GALISTEO ST





GENERAL NOTES:

Site Plan

1. THE SITE SURVEY INFORMATION ON THIS SITE PLAN WAS TAKEN FROM A PLAT PREPARED JULY 18, 2005 BY:
PHILLIP B. WIEGEL N.M.P.S. #9758
DEL RIO SURVEYS, INC.
PO BOX 22773
SANTA FE, NEW MEXICO 87505

GRAPHIC SCALE: 1" = 15'-0"

0' 15' 30' 45'

MARTINEZ
ARCHITECTURE
STUDIO PC
1624 PASEO DE PERALTA SANTA FE
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INN OF THE ANASAZI
113 WASHINGTON AVENUE
SANTA FE, NEW MEXICO

MARCH 2, 2020

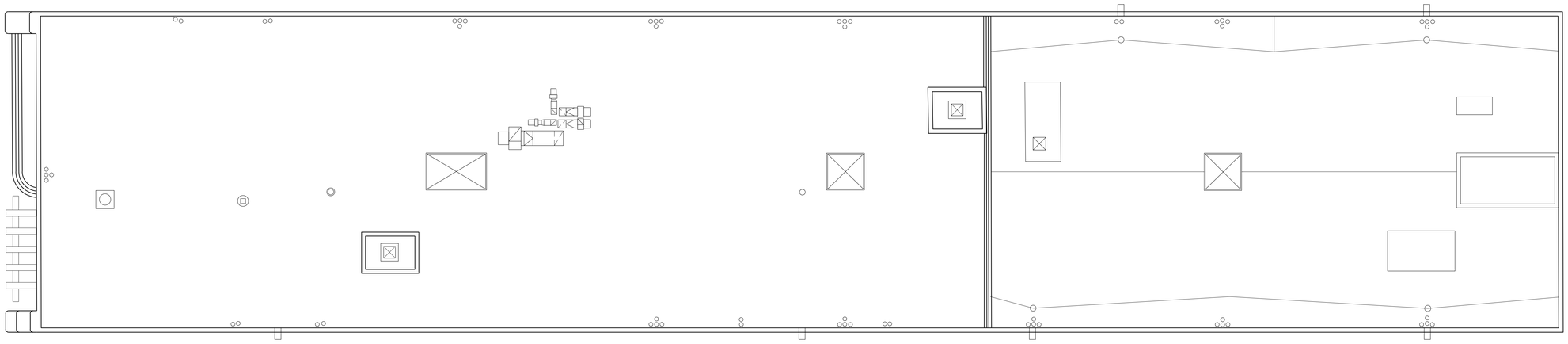
EXISTING & PROPOSED SITE PLANS

A
1.0

SET #

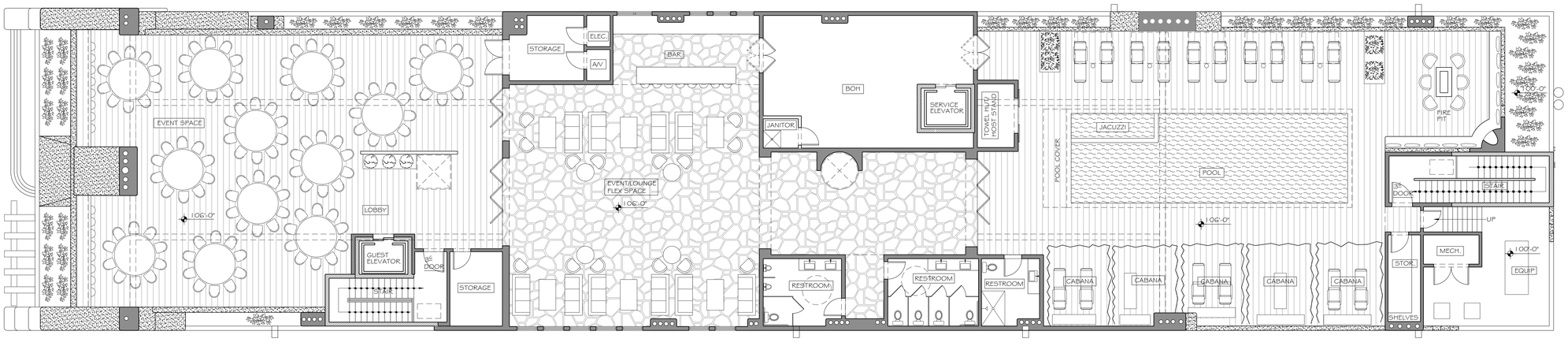
1904 - ANASAZI

Z:\1904-Inn of the Anasazi\Current Drawings\1904 - Inn of the Anasazi_Base_200302.dwg, 3/4/2020 9:45:51 AM, DWG To PDF.pc3



1 A-2.0 EXISTING ROOF PLAN
SCALE: 1/8" = 1'-0"

NORTH



1 A-2.0 PROPOSED FLOOR PLAN
SCALE: 1/8" = 1'-0"

NORTH

GRAPHIC SCALE: 1/8" = 1'-0"
0' 4' 8' 16' 24'

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INN OF THE ANASAZI
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SANTA FE, NEW MEXICO

MARCH 2, 2020

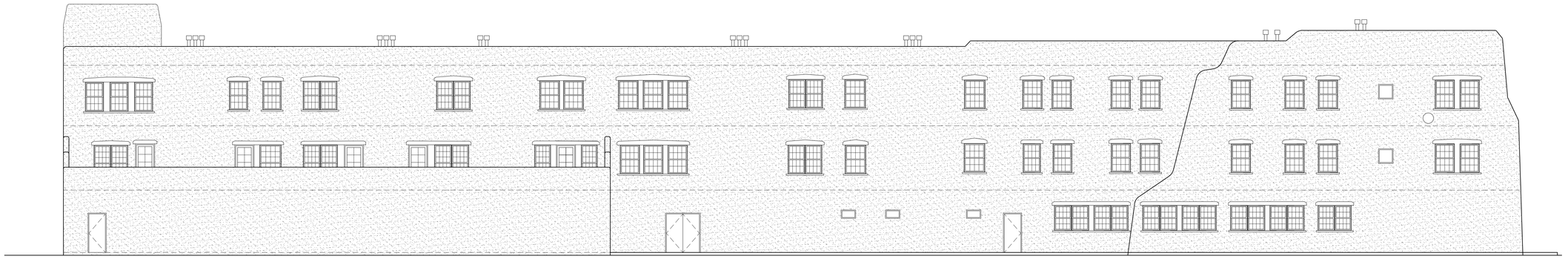
EXISTING ROOF PLAN & PROPOSED FLOOR PLAN

A 2.0

SET #

1904 - ANASAZI

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1 A-3.0 EXISTING NORTH ELEVATION
SCALE: 1/8" = 1'-0"



1 A-3.0 PROPOSED NORTH ELEVATION
SCALE: 1/8" = 1'-0"

GRAPHIC SCALE: 1/8" = 1'-0"
0' 4' 8' 16' 24'

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INN OF THE ANASAZI
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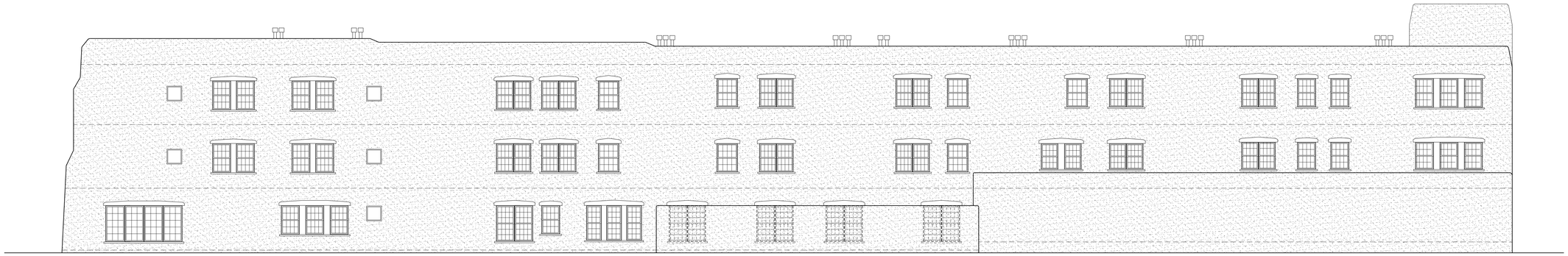
MARCH 2, 2020

PROPOSED NORTH ELEVATION

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SET #
1904 - ANASAZI

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1 A-3.2 EXISTING SOUTH ELEVATION
SCALE: 1/8" = 1'-0"



2 A-3.2 PROPOSED SOUTH ELEVATION
SCALE: 1/8" = 1'-0"

GRAPHIC SCALE: 1/8" = 1'-0"
0' 4' 8' 16' 24'

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INN OF THE ANASAZI
113 WASHINGTON AVENUE
SANTA FE, NEW MEXICO

MARCH 2, 2020

EXISTING & PROPOSED SOUTH ELEVATION

A
3.2

SET #
1904 - ANASAZI

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1 A-3.3 EXISTING WEST ELEVATION
SCALE: 1/4" = 1'-0"



2 A-3.3 PROPOSED WEST ELEVATION
SCALE: 1/4" = 1'-0"

GRAPHIC SCALE: 1/4" = 1'-0"
0' 2' 4' 8' 12'

MARTINEZ
ARCHITECTURE
STUDIO PC
1624 PASEO DE PERALTA SANTA FE
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INN OF THE ANASAZI
113 WASHINGTON AVENUE
SANTA FE, NEW MEXICO

MARCH 2, 2020

PROPOSED WEST ELEVATION

A
3.3

SET #

1904 - ANASAZI

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Mountain Mist
The Water Man
473-2047
NO PARKING ANY TIME




The Burrito Co.
982-4453
TEES
NO PARKING ANY TIME


ANASAZI
INN OF THE ANA
NOTICE

DATE:	**May 20, 2020**
TO:	**EDAC, Finance Committee and City Council**
VIA:	**Rich Brown, Director, Office of Economic Development** RB
FROM:	**Fabian Trujillo, Manager, Office for Business Growth**
RE:	**Descartes Labs, Inc. – PPA and PPLA - Contract Munis #3201914 & Munis Project # ED21219K**

Background:

Descartes Labs, Inc. a spinoff from LANL, is a software development company that creates proprietary software utilized in satellite imaging and analysis. The software is developed for a cloud-based supercomputing platform to assist with research and development to predict changes in natural resources such as U.S. corn yields. Basically, their software teaches computers to "see." Computers can identify objects around the world, such as corn fields and solar farms, with incredible precision utilizing Descartes's proprietary technology.

In January 10, 2018, the City Council approved Project Ordinance 2018-2 to investment public monies of $800,000 for Descartes Labs to build world headquarters located at 100 North Guadalupe. The public investment included $700,000 from the state and $100,000 in matching funds from the city. The investment would be for tenant improvements, facility infrastructure and lease abatement. The public benefit was for Descartes to create 50-70 new high paying jobs and a minimum capital investment of $4.2 million with 10 years.

As of January 31, 2020, Descartes Labs was on track to meet their economic development goals. The City reimbursed $540,000 in public monies to Descartes Labs. They used a capital investment of $3.1 million to renovate the building located at 100 North Guadalupe in a world-class, state of the art corporate headquarters building. This building was utilized to attract high skilled talent to Santa Fe. They had an employee base of 75 employees with an average annual wage of over $120,000. Descartes was on track to qualify for the bonus monies ahead of the job creation schedule in their project participation agreement. Then Covid 19 created an economic crash in magnitude similar to the Great Depression. Covid 19 forced Descartes to lay off employees and reduce employee salaries to prevent closure.

Item and Issue:

Descartes Labs requests $750,000 from the State of New Mexico for a zero interest loan. The monies will be utilized for lease payments for two years. The city will be the fiscal agent for the project, administer the disbursement of the monies, and monitor the economic goals in accordance with the Project Participation Loan Agreement (PPLA). In return for the loan, Descartes Labs will maintain a minimum employee base of fifty-six people and a monthly minimum payroll of $630,000. The loan will be repaid in two years from the approval of the Project Participation Agreement. If Descartes Labs payroll falls to 80% of the monthly-required payroll, then the loan will escalate to 6%. If the payrolls falls to 70% of the monthly-required payroll, then the loan will become due. The monies will be secured by a second lien on fixed assets of the company.

Next, Descartes Labs requests that the current PPA be amended to delay meeting the required economic goals for two years, reducing the average annual wage from $140,000 to $110,000 and that the reimbursement of monies in original PPA for two years. This will allow Descartes Labs to get on track to create the required 50 new jobs and the additional bonus jobs. If Descartes Labs employment base or headcount is 90 people and are retained for six months, then Descartes Labs will be reimbursed the remaining $260,000 of the initial public investment approved on January 10, 2018. They will also have to complete the capital investment in the project of $4.2 million (Projected to invest $2.4 million for a total investment of $5.5 million instead of $4.2 million). The monies for the original investment will continue to be securitized by a Letter of Credit. The city will not fully release the security instrument until the economic development goals are met and the project is closed.

Over the next ten years, Descartes' total fiscal impact to the State, City, County, SF Community College and Public Schools is estimated to generate approximately $55,802,249 in net benefits. Of the net benefits, Descartes Labs is estimated to generate $19,341,579 of this fiscal impact.

Action:

This amended project will stymie the impacts of the Covid 19 pandemic in the high tech sector and lead to recovery for an anchor business in this industry sector. Second, the project outcomes will continue to align with the objectives and goals of the Economic Development Implementation Strategy adopted by the City Council in 2008. The project will create high-wage career path employment, diversity Santa Fe's economy and bolster Santa Fe's innovative entrepreneurial ecosystem.

Staff recommends approval of both project participation agreements, intergovernmental agreements, budget adjustment request and supporting documents for $750,000 in loan monies from the State of NM LEDA Fund. Once the project participation and intergovernmental agreements are approved and executed, the NM Economic Development Department will transfer $750,000 to the City of Santa Fe's LEDA fund for the loan and $200,000 in FY 2023-2024 for the bonus jobs. The Munis Org Number is 2122800.510400 for this project.

CITY OF SANTA FE, NEW M2EXICO

BILL NO. 2020-11

INTRODUCED BY:

Mayor Alan Webber

Councilor Jamie Cassutt-Sanchez

AN ORDINANCE

RELATING TO THE CITY OF SANTA FE ECONOMIC DEVELOPMENT PLAN ORDINANCE, ARTICLE 11-11 SFCC 1987; APPROVING AND ADOPTING AN AMENDED LOCAL ECONOMIC DEVELOPMENT PROJECT PARTICIPATION AGREEMENT BETWEEN THE CITY OF SANTA FE AND DESCARTES LABS, INC. FOR DESIGN, DEVELOPMENT, AND CONSTRUCTION OF TENANT IMPROVEMENTS; AND LEASE PAYMENTS FOR EXPANSION OF A NEW WORLD HEADQUARTERS FACILITY, A LOCAL ECONOMIC DEVELOPMENT PROJECT.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SANTA FE:

Section 1. Short Title. This Ordinance shall be known as the "Amended Descartes Local Economic Development Project Ordinance."

Section 2. Recitals.

A. The Local Economic Development Act, NMSA 1978, Sections 5-10-1 *et seq*. ("LEDA") explicitly permits municipalities to assist qualifying entities with economic development projects through the use of public resources; and

B. The City of Santa Fe has complied with the requirements of the Local Economic Development Act by adopting an Economic Development Fund Ordinance (11-14 SFCC (1987)), incorporating within that ordinance its community economic development plan and its economic development strategy for implementation dated May 21, 2008; and

C. Descartes, Labs, Inc. ("Qualifying Entity") is a software development facility that serves the public by stimulating and catalyzing the growth of a high-technology industry cluster in Santa Fe under the Economic Development Ordinance. The Qualifying Entity creates economic base jobs as a software development facility by creating software that for cloud-based super-computing platforms that predicts changes in natural resources to better understand the planet.

D. The State of New Mexico has appropriated seven hundred thousand dollars ($700,000.00) from the New Mexico LEDA Fund and the City of Santa Fe has provided one hundred thousand dollars ($100,000.00) from the Local Economic Development Fund to the project to build out the infrastructure and tenant improvements in the facility and to contribute to lease payments with any remainder from the infrastructure and tenant improvement expenses. The project is located at 100 North Guadalupe Street in Santa Fe, New Mexico. The loan will finance construction costs, materials associated with the interior renovation of the facility, and improvements or construction of HVAC, telecommunications, broad band connectivity and other infrastructure necessary to improve service to the facility. This project identified as the "Project" is a world headquarters that will expand the tax base and generate more taxes, fees, and other revenues for the State of New Mexico and City of Santa Fe.

E. The new facility will be used to develop software, which causes it to fall into the definition of a "manufacturer" under LEDA.

F. As of December 31, 2019, Descartes Labs employed seventy-five (75) people with an average annual salary of over one hundred and twenty thousand dollars ($120,000.00), which was compliant with PPA 2018-0057 approved on January 10, 2018, by the Governing Body. Descartes

Labs was on track to earn its bonus monies of ten thousand dollars ($10,000) per job by hiring twenty (20) additional people.

G. Since January 31, 2019, the COVID-19 pandemic forced Descartes Labs to layoff nineteen (19) employees for a current employee base of sixty-three (63) people. The pandemic has delayed the company's growth plans by two (2) years.

H. The project participation agreement will be amended to require Descartes Labs to meet its job creation schedule of seventy (70) people by June 30, 2022, and provide Descartes Labs an opportunity to earn the bonus LEDA monies if Descartes Labs hires an additional twenty (20) employees for a total base of ninety (90) employees by January 1, 2024, and retains the employees for six (6) months. The PPA will also amend the average annual wage of one hundred and forty thousand dollars ($140,000.00) to one hundred and ten thousand dollars ($110,000.00).

Section 3. Findings. The Governing Body hereby finds:

A. The City of Santa Fe has determined that it is in the interest of the welfare of the citizens of Santa Fe to enter into an Economic Development Project Participation Agreement for the purposes of effectuating the City's Economic Development Plan and the Project.

B. In compliance with the City's Economic Development Fund Ordinance, 11-14 SFCC (1987), this Project Participation Agreement between Qualifying Entity and the City clearly states the following:

(1) Descartes Labs, Inc. is a qualifying entity;

(2) The contributions of the City and Qualifying Entity;

(3) The specific measurable objectives upon which the performance review will be based;

(4) A schedule for Project development and goal attainment;

(5) The security being offered for the City's investment;

(6) The procedures by which the Project may be terminated and the City's

investment recovered;

(7) The time period for which the City shall retain an interest in the Project; and

(8) The economic development goals of the project; and

(9) A "sunset" clause after which the City shall relinquish interest in and oversight of the project.

Section 4. Approval and Adoption of the Project Participation Agreement. The go verning body hereby approves the 2020 PPA (attached as **Exhibit A**) whereby the City will continue to be the Fiscal Agent for the State Legislative appropriation of seven hundred thousand dollars ($700,000.00) and for the one hundred thousand dollars ($100,000.00) in City Funds. The City will pass through the State Legislative appropriation of seven hundred thousand dollars ($700,000.00) and the City funds of one hundred thousand dollars ($100,000.00) to Qualifying Entity and the funds will be used for construction of tenant improvements and infrastructure in and to the facility and for lease payments with any remainder from the infrastructure and tenant improvement expenses and thus will continue to expand the tax base and generate more taxes, fees, and other revenues for the State of New Mexico and City of Santa Fe.

Section 5. Severability Clause. If any section, paragraph, clause, or provision of this ordinance, or any section, paragraph, clause, or provision of any regulation promulgated hereunder shall for any reason be held to be invalid, unlawful, or unenforceable, the invalidity, illegality, or unenforceability of such section, paragraph, clause, or provision shall not affect the validity of the remaining portions of this ordinance or the regulation so challenged.

Section 6. Effective Date. This ordinance shall become effective immediately upon adoption.

PASSED, APPROVED, and ADOPTED this _____ day of _____, 2020.

ALAN WEBBER, MAYOR

ATTEST:

YOLANDA Y. VIGIL, CITY CLERK

APPROVED AS TO FORM:

ERIN K. McSHERRY, CITY ATTORNEY

Legislation/2020/Bills/2020-11 Descartes Labs LEDA PPA Amendment

CITY OF SANTA FE
ECONOMIC DEVELOPMENT
PROJECT PARTICIPATION AGREEMENT

THIS AMENDED PROJECT PARTICIPATION AGREEMENT ("Agreement") is made and entered into this ____day of _____, 2020, by and between the City of Santa Fe, a municipal corporation (hereinafter referred to as the "City") and Descartes Labs, In c. a Delaware Corporation registered as a foreign profit corporation in the State of New Mexico (hereinafter referred to as the "Qualifying Entity" or "Q/E").

WHEREAS, the State of New Mexico has deemed it in the best interest of the citizens of New Mexico to enact the Local Economic Development Act ("LEDA") (NMSA 1978, §§ 5-10-1 *et seq.*);

WHEREAS, LE DA explicitly permits municipalities to assist qualifying entities with economic development projects through the use of public resources;

WHEREAS, the City has complied with LEDA requirements by adopting an economic development plan ordinance incorporating within that ordinance its community economic development plan (11-11 SFCC (1987)), called the Community Economic Development Plan and Economic Development Strategy for Implementation dated May 21, 2008;

WHEREAS, Descartes Labs, Inc. is a "qualifying entit y" under LEDA and the Economic Development Ordinance in that it is a software developer, which fall under the definition of a "manufacturer" in a primary industry that creates economic base jobs and which exports fifty percent (50%) or more of their services or goods outside of New Mexico (§ 11-11.4 (A) SFCC (1987)); (NMSA 1978, § 5-10-3 (J);

WHEREAS, all requirements under the Economic Development Ordinance have been fulfilled;

WHEREAS, the Q/E has submitted an application ("Application") to the City for assistance under the Economic Development Plan Ordinance (11-11 SFCC (1987)) and for the City to act as fiscal agent for the grant monies ("Grant Monies") granted b y the City through its Office of Economic Development and through the New Mexico Economic Development Department;

WHEREAS, in the Application, the Q/E proposed an "economic development project" compliant with LEDA, in that it will use the Grant Monies for lease payments, construction costs and materials associated with the interior renovation of its facilities and to improve or construct infrastructure, including HVAC, telecommunications, broadband connectivity, and other infrastructure necessary to provide or improve service to the facility (the "Project") located at 100 North Guadalupe, Santa Fe, New Mexico, 87501;

WHEREAS, the City has determined that it is in the interest of the welfare of the citizens of the City to enter into this Agreement for the purposes of effectuating its economic development plan;

WHEREAS, the City's total maximum contribution to the Project is One Hundred Thousand Dollars and No Cents ($100,000.00); the State of New Mexico's contribution to the Project will not exceed Seven Hundred Thousand Dollars and No Cents ($700,000.00) from the New Mexico LEDA Fund ("NM LEDA Fund") pursuant to an intergovernmental agreement between the Cit y and the State to be executed soon after the execution of this Agreement; and the Q/E shall contribute at least Four Million Two Hundred Nine Thousand Dollars ($4,209,000) to the Project; and

WHEREAS, the Project addresses the following objectives from the Santa Fe Economic Development Implementation Strategy as adopted by City Resolution 2008-42: "Diversify the Santa Fe Economy with an emphasis on high wage jobs and career paths;" "Pursue overall affordability where local wages can support living in Santa Fe (reduce leakage);" and "Bolster Santa Fe's leadership position and/or potential in innovation."

WHEREAS, this Agreement clearl y provides the following as required b y LEDA and the Economic Development Plan Ordinance: (1) the economic development goals of the Project; (2) the contributions of the City, State, and the Q/E; (3) the specific measurable objectives upon which the performance review will be based; (4) a schedule for project development and goal attainment; (5) the security being offered for the City's and State's investment; (6) the procedures by which the project may be terminated and the City's investment recovered; (7) the time period for which the City shall retain an interest in the Project; (8) a "sunset" clause after which the City shall relinquish interest in and oversight of the Project; and (9) that the Qualifying Entity is a qualifying entity.

NOW THEREFORE, in consideration of the foregoing, the following and other good and valuable consideration, the receipt of which is hereby acknowledged the undersigned parties hereb y agree as follows.

1. CONTRIBUTIONS OF THE CITY, THE STATE AND THE Q/E

A. Contributions of the State and the City. The maximum grant monies that may be disbursed under this Agreement shall be $800,000 as described below:

(1) City Contribution. This Agreement governs the City's contribution to the Project. The City shall reimburse the Q/E in the amount of up to One Hundred Thousand Dollars and No Cents ($100,000.00) for lease payments, infrastructure to improve the interior of the building and site, design, development, installation of infrastructure and construction of tenant improvements to the facility.

(2) State Contribution: This Agreement governs the State's contribution of up to Seven Hundred Thousand Dollars and No Cents ($700,000.00) from the NM LEDA Fund by way of the New Mexico Economic Development Department. The City will serve as fiscal agent

pursuant to the Intergovernmental Agreement between the City and State, which was executed in 2018 and is in substantial form as **Attachment "E"**, the terms of which are incorporated into this Agreement. The State monies will be available for disbursement in the following tranches upon completion of the disbursement milestones:

(a) $400,000 by June 30, 2018, upon the creation of 19 new jobs with a payroll of $2.66 million or more and the completion of Phase I and II of the Construction Schedule in **Attachment "B",** which has alread y been complete b y the Effective Date of this Amendment;
(b) $90,000 by June 30, 2019 upon the creation of 17 new jobs for a total of 36 new with a payroll of $5.04 million, which has alread y been complete b y the Effective Date of this Amendment;
(c) $10,000 by June 30, 2023, for a total of 50 new jobs and retention of previous jobs for a total of 70 jobs and upon the completion of the final performance audit and close-out.
(d) A bonus will be disbursed at a rate of $10,000 per job for a maximum of $200,000, for each job created and retained for six months by June 30, 2024, in excess of the 70 new jobs requirement, in accordance with **Attachment A**.

(3) Disbursement of Grant Monies: Dispersal of the NM LEDA Funds b y t he State and the City's economic development funds are contingent upon the following:

(a) The Cit y and the New Mexico Economic Development Department shall execute an intergovernmental agreement for the State to grant up to $700,000.00 to the City as fiscal agent for the Project; and

(b) The Q/E shall submit to the City for review, a cover letter, invoice, proof of payment, and supporting documentation of the completion of performance milestones at each project phase necessary for disbursement as referenced in the Job Creation Commitment and Schedule in **Attachment A**. Disbursement shall be made on a reimbursement basis of eligible costs under the LEDA, as further limited below:

(i) Lease Payments;
(ii) Design, development and construction of building, infrastructure and tenant improvements for the building and site;

It is expressly understood that any costs eligible for reimbursement must be incurred after this Agreement is in effect.

(c) The City shall disburse to the Q/E One Hundred Thousand Dollars ($100,000) in City Grant Monies. The City monies will be available for disbursement in the following tranches:

i. $20,000 by the end of June 30, 2018, after the completion of Phase I and II of the Construction Schedule in **Attachment "B"**, which

has alread y been complete by the Effective Date of this Amendment;

ii. $30,000 by the end of June 30, 2019, after the creation of 36 new jobs as referenced in Job Creation Commitment and Schedule in **Attachment "A"**, which has already been complete by the Effective Date of this Amendment; and

iii. $50,000 by the end of June 30, 2022, after the creation of 50 new jobs as referenced in the Job Creation Commitment and Schedule in **Attachment "A"**; and

(4) If Grant Monies from the City and State do not fully fund the Project; the Q/E shall contribute an y additional funds necessary to fund the remainder of the Project.

B. Contributions of the Q/E.

(1) Financial Investment: The Q/E shall contribute Four Million Two-Hundred Nine Thousand Dollars ($4,209,000) or more in matching funds to complete the Project.

(2) Project Management: Unless otherwise specified in this Agreement, the Q/E shall be responsible for managing all parts of the Project.

(3) Direct Economic Output:

The Project is anticipated to generate $106,147,218 in direct salaries for existing and expanded operations over ten ye ars. The total estimated direct economic output for the expansion of the facility is $96,624,751 over ten years, as is further described in the Economic Impact Report (See page 4 of **Attachment "C"**).

(4) Expanded Tax Base: As a result of the completion of the Project, the Q/E will generate contributions to the City's tax base, as enumerated in the Economic Impact Report. Net benefits for the Cit y generated b y this Project (including propert y tax es, gross receipts taxes, utility fees, utility franchise fees, lodger's taxes and other use taxes) are estimated $651,983 over ten years. (See pp. 10 of Economic Impact Report of **Attachment "C"**.)

(5) Proportional Investment: The Q/E at its discretion may decide to not accept the entire $800,000 in grant monies for the Project. If the Q/E does not accept the entire granted monies, then the capital investment and job creation requirements would then decrease proportionally to the level of grant monies accepted. The Q/E shall notify the City 30 days prior to its decision.

2. PERFORMANCE REVIEW AND CRITERIA – ECONOMIC DEVELOPMENT GOALS

A. Economic Development Goals. The following Project and Economic Development Goals shall be fulfilled by the Q/E:

(1) By June 30, 2019, the Q/E shall employ at least thirty-six (36) new full-time equivalent emplo yees in the City of Santa Fe, while retaining the prior employment, and in accordance with the minimum average wage in the Job Creation Commitment and Schedule. See **Attachment "A"**.

(2) By June 30, 2023, the Q/E shall employ no fewer than fifty (50) new full-time equivalent employees in the City of Santa Fe, while retaining the prior employment figures, in accordance with the minimum average wage data points in **Attachment A**.

(3) If the Q/E emplo ys more than 50 new full-time equivalent jobs with a headcount between 71 and 90 employees by June 30, 2024 and retains them for six months, then the Q/E shall be entitled to a bonus of Ten Thousand Dollars and No Cents ($10,000.00) per job for up to 20 jobs for maximum amount of Two Hundred Thousand Dollars and No Cents ($200,000.00), in accordance with **Attachment A**.

(4) The Q/E's contribution as set forth in Paragraph 1.B herein is incorporated into the Economic and Development Goals.

B. Reports; Certifications; Review.

(1) Quarterl y Reports. During the term of this Agreement, the Q/E shall provide to the Office of Economic Development staff quarterly reports in the months of January, April, July, and October of each year. The Q/E's quarterly reports shall clearly indicate how the Q/E has met the job creation requirements in **Attachment A**, and the taxes generated and other indices contained in the Economic Impact Report (see Attachment D for recommended form) Quarterl y reports shall be in the form of an affidavit signed by an officer of the Q/E. Quarterly reports shall include a copy of FORM ES-903 provided by the Q/E to the City, which the Q/E filed with the New Mexico Department of Workforce Solutions, to demonstrate compliance with this Agreement at each review cycle. In the quarterl y report, the Q/E shall include number of new jobs, the average wage of the new employees, cumulative emplo yment, retention of existing employees and total payroll. The City's review of the quarterl y reports shall determine whether the Q/E is in compliance with this Agreement and is substantially achieving the goals and objectives herein.

(2) Annual Reports. The City may require the Q/E to provide annual reports or a presentation to the City's governing body and the Economic Development Advisory Committee (EDAC). The City will give the Q/E a minimum of 30 days' notice if a report or presentation to the governing bod y or EDAC is required. City staff shall review these reports to ensure the Q/E's compliance with this Agreement in accordance with the Job Creation Commitment and Schedule.

(3) Expanded Tax Base Report: Within a reasonable time after completion of the construction of the facilities, but in any event by the next quarterl y report, the Q/E shall provide to the City a written report on the construction jobs and wages created and the economic impacts thereof.

(4) Certification of Non- Interest. The Q/E shall certify to the City that no member, officer, or employee of the Cit y or its designees or agents, no member of the governing body of the locality of which the program is situated, and no other public official that exercises any functions or responsibilities with respect to the Project during his/her tenure, or for one year thereafter, has an y interest, direct or indirect, in the Q/E or an y contract or subcontract, or the process thereof, for work to be performed in connection with the Project that is the subject of this Agreement. The Q/E shall certify that such a provision shall be included in all contracts and subcontracts in connection with the Project.

D. Documentation of Completion of Construction Phases: Within a reasonable time after completion of each phase listed in Paragraph 1.A (3) (b) and (c) herein, the Q/E shall provide documentation of its completion to the City's Office of Economic Development. The Q/E shall provide documentation to the City that construction of the facilities was completed by June 30, 2018. See Construction Schedule, attached as **Attachment "B"**.

3. RECAPTURE PROVISIONS FOR PUBLIC MONIES

A. If an y Economic Development Goal set forth in Paragraph 2.A is not met and documented in a manner deemed satisfactory by the City, the Q/E shall be deemed in default ("Default") and within 60 days of the City receiving the quarterly report with the information of such Default, the City shall send a written Notice of Default to the Q/E informing the Q/E how many days it has to cure the Default or repay the Grant Monies disbursed in proportion to the Economic Development Goals not yet achieved.

B. If the Q/E remains noncompliant after any applicable cure period, then the City may elect to pursue an y and all remedies available in law or equity, including but not limited to initiating foreclosure of the security interest or demanding timely repayment by the Q/E of the Grant Monies in proportion to the unmet goals, as the City in its sole discretion may determine subject to reasonable calculations.

C. In the event the Q/E ceases operations and closes its facility before the end of year three of this amended Agreement, the Q/E shall be deemed in Default and the Q/E shall reimburse 100% of all Grant Monies disbursed to the Q/E to the City of Santa Fe Economic Development Fund as identified in 11-14 SFCC (1987).

4. Q/E BUYOUT

A. The Q/E may, at its election, buyout and thereby terminate this Agreement by repaying in full to the City all Grant Monies. Such repayment by the Q/E shall be without penalty until and unless the City initiates claw back of the Grant Monies, at which point costs, expenses (including City staff time) and attorney's fees will accrue to the repayment amount.

B. The Q/E must send prior written notice to the City of the Q/E's intent to repay in full the Grant Monies at least 45 days prior to the Q/E's repayment. The City's receipt of the Q/E's repayment of all disbursed Grant Monies (including any costs, fees, and expenses resulting from

claw back proceedings) constitutes satisfaction of the Q/E under this Agreement, upon which the Q/E may request release of the securit y interest, and the City will release the securit y interest within a reasonable time after receiving the Q/E's written request.

C. Within 30 days of receiving such notice from the Q/E, the City will notify the New Mexico Economic Development Department of the Q/E's intent to exercise the buyout clause. The City will reimburse the New Mexico Economic Development Department its portion of the repaid Grant Monies within 60 days after the Cit y receives the repaid monies from the bu yout.

5. SECURITY FOR CITY'S INVESTMENT; CLAWBACK

This is a grant project only, with the City acting as fiscal agent. The Q/E has no loan obligations for repayment to the City or State, but is obligated to fulfill the Economic Development Goals of this Agreement, however if the Q/E is found by the City to be in default, then the City may elect to demand financial reimbursement by the Q/E.

A condition precedent to this PPA is securitization of the Grant Monies which may be clawed back if the Q/E fails to meet its performance goals under this PPA. As securit y for fulfilling the Economic Development Goals, before the City may disburse any appropriations to the Q/E, the amount of Public Monies to be reimbursed shall be securitized in a manner satisfactory to the City. The expected securitization method is an irrevocable stand-by letter of credit from an issuing financial institution, with the City as beneficiary, from which the City may immediately draw down upon the City's presentation of a demand for payment and evidence of Q/E's default ("Irrevocable Letter of Credit"). This Irrevocable Letter of Credit shall have automatic one- ye ar extensions terminable at the sole option and discretion of the City. At an y given time, the Irrevocable Letter of Credit must secure an amount, and the City shall be able to draw down an amount, at least equal to the amount of appropriations made to the Q/E for the Project, the maximum being $800,000. Funds from the Irrevocable Letter of Credit may be drawn in one drawing or from time-to-time in or one or more partial drawings on or before the expiration date. Attached hereto and incorporated herein is **Attachment A**, which sets forth the clawback terms.

During the term of this Agreement, the Q/E may request a full or partial release of the Irrevocable Letter of Credit by the substitution of collateral, repayment of the disbursed appropriation or proof that the Q/E has met the Contribution and Economic Development Goals, in part or in whole, under this Agreement. An y full or partial release of the Letter of Credit will be proportional to the value of the substitute collateral, repayment, or the portion of Economic Development Goals met which are no longer subject to clawback according to **Attachment A.** Acceptance of substitute collateral or proof of performance goals shall be within the City's sole and absolute discretion.

6. TERM; SUNSET

This Agreement shall remain in force for 10 ye ars from the execution date of the Agreement, or until conditions of the Agreement are performed in full or to the satisfaction of the City, whichever is earlier. In the event the Q/E performs or exceeds the required

performance levels contained in this Agreement, as may be determined b y t he City, this Agreement may be terminated at that time in writing by the City pursuant to Paragraph 7, below.

This Agreement will not be deemed terminated and this Agreement will remain in effect unless and until the City determines that the objectives under this Agreement have been fulfilled and a closure letter b y the City is provided to the Q/E.

7. **TERMINATION**

This Agreement may be terminated by the City upon written notice delivered to the Q/E at least 45 days prior to the intended date of termination in the event that the Q/E ceases to operate the Project in accordance with the terms of this Agreement. If the Q/E is found to not be in substantial compliance with the Agreement, the City reserves the right to terminate the Agreement and recall in full the Grant Monies.

The Q/E may terminate the Agreement by pre-paying in full to the City and without penalty any Grant Monies disbursed to the Q/E. The Q/E must send a written letter to the City giving notice of its intent to pre-pay the Grant Monies in full within 45 days prior to the Q/E's intent to repay in full the Grant Monies

8. **STATUS OF THE Q/E**

The Q/E, and its agents and employees are not employees of the City. The Q/E, and its agents and emplo ye es, shall not accrue leave, retirement, insurance, bonding, use of City vehicles or an y other benefits afforded to emplo ye es of the City as a result of this Agreement. The Q/E shall be solely responsible for payment of wages, salaries and benefits to any and all employees or subcontractors retained by Contractor in the performance of the services under this Agreement.

9. **ASSIGNMENT AND SUCCESSORS; BINDING EFFECT**

A. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors in interest by way of merger, acquisition, or otherwise and their permitted assigns.

B. The Q/E shall not assign or transfer an y of its rights, privileges, obligations or other interest under this Agreement, voluntarily or involuntarily, whether by merger, consolidation, dissolution, operation of law or any other matter, including any claims for money due or to become due under this Agreement, without the prior written approval of the City.

C. Any purported assignment of rights is a violation of subsection (B) and is void.

10. **INDEMNIFICATION; LIABILITY**

It is expressl y understood and agreed b y and between the Q/E and the City that the Q/E shall defend, indemnify and hold harmless the City for all losses, damages, claims or judgments

on account of any suit, judgment, execution, claims, actions or demands whatsoever resulting from the Q/E's actions or inactions as a result of this Agreement, as well as the actions or inactions of Q/E's employees, agents, representatives and subcontractors as a result of this agreement. The Q/E shall maintain adequate insurance in at least the aggregate maximum amounts which the City could be liable consistent with the provisions of the New Mexico Tort Claims Act. It is the sole responsibility of the Q/E to be in compliance with the law.

11. **INSURANCE**

A. The Q/E, at its own cost and expense, shall carry and maintain in full force and effect during the term of this Agreement, comprehensive general liability insurance covering bodily injury and property damage liability, in a form and with an insurance company acceptable to the City, with limits of coverage in the maximum amount which the City could be held liable under the New Mexico Tort Claims Act for each person injured and for each accident resulting in damage to propert y. Such insurance shall provide that the City is named as an additional insured and that the City shall be notified no less than 30 days in advance of cancellation for an y reason. The Q/E shall furnish the City with a copy of a "Certificate of Insurance" as a condition prior to performing under this Agreement.

B. The Q/E shall also obtain and maintain Workers' Compensation insurance, required b y law, to provide coverage for Q/E's employees throughout the term of this Agreement. The Q/E shall provide the City with evidence of its compliance with such requirement.

12. **NEW MEXICO TORT CLAIMS ACT**

Any liability incurred by the City of Santa Fe in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, Section 41-4-1*et seq.* NMSA 1978, as amended. The City and its "public employees" as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity, do not waive any defense and do not waive any limitation of liability pursuant to law. No provision in this Agreement modifies or waives any provision of the New Mexico Tort Claims Act.

13. **THIRD PARTY BENEFICIARIES**

By entering into this Agreement the parties do not intend to create any right, title or interest in or for the benefit of any person other than the City and the Q/E. No person shall claim any right, title or interest under this Agreement or seek to enforce this Agreement as a third party beneficiary of this Agreement.

14. **RECORDS AND AUDITS**

The Q/E shall maintain and keep in its possession throughout the term of this Agreement and for a period of six (6) ye ars thereafter, all related records, including but not limited to, all financial records, requests for proposals (RFPs), 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 hereunder, the purpose for which such funds were used, and other such records as the City or the State shall proscribe. The Q/E shall be strictly liable for receipts and disbursements related to the Project Grant Monies. These records shall be subject to inspection by the City, the New Mexico Economic Development Department, and the State Auditor upon notice within five (5) business days. The City shall have the right to audit billings both before and after payment; payments under this Agreement shall not foreclose the right of the City to recover excessive illegal payments.

15. **APPROPRIATIONS**

The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the City Governing Body and the New Mexico Economic Development Department on behalf of the Q/E to the City for the performance of this Agreement. If sufficient appropriations and authorization are not made by the City Governing Bod y and the New Mexico Economic Development Department on behalf of the Q/E to the City, this Agreement shall terminate upon written notice being given by the City to the Q/E.

16. **RELEASE**

The Q/E, upon final fulfillment of this Agreement, releases the City, its officers and employees, from all liabilities, claims, and obligations whatsoever arising from or under this Agreement. The Q/E agrees not to purport to bind the City to any obligation not assumed herein by the City unless the Q/E has express written authority to do so, and then only within the strict limits of that authority.

17. **CONFIDENTIALITY**

Any confidential information provided to or developed by the Q/E in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by the Q/E without the prior written approval of the Cit y.

18. **CONFLICT OF INTEREST**

The Q/E warrants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under this Agreement. The Q/E further agrees that in the performance of this Agreement no persons having an y such interests shall be employed.

19. **APPLICABLE LAW; CHOICE OF LAW; VENUE**

The Q/E shall abide b y al l applicable federal and state laws and regulations, and all ordinances, rules, and regulations of the City of Santa Fe. In an y action, suit or legal dispute arising from this Agreement, the Q/E agrees that the laws of the State of New Mexico shall govern. The Parties agree that any action or suit arising from this Agreement shall be commenced in a federal or state court of competent jurisdiction in New Mexico. Any action or

suit commenced in the courts of the State of New Mexico shall be brought in the First Judicial District Court.

20. **AMENDMENT**

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

21. **SCOPE OF AGREEMENT**

This Agreement incorporates all the agreements, covenants, and understanding between the parties hereto concerning the subject matter hereof, and all such covenants, agreements, and understandings have been merged into this written Agreement. This Agreement expresses the entire Agreement and understanding between the parties with respect to said performance. No prior agreement or understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in the Agreement.

22. **REPRESENTATIONS AND WARRANTIES**

A. The Q/E hereby warrants the Q/E is and will remain in compliance with the Americans with Disabilities Act, 29 CFR 1630. The Q/E hereby agrees to defend, indemnify, and hold harmless the City from and against all claims, suits, damages, costs, losses and expenses in any manner arising out of or connected with the failure of the Q/E, its contractors and subcontractors, agents, successors, assigns, officers, or emplo yees to comply with provisions of the ADA or the rules and regulations promulgated there under the Americans with Disabilities Act, 29 CFR 1630.

B. The Q/E agrees to comply with the applicable provisions of local, state, and federal equal emplo ym ent opportunity statutes and regulations.

C. The Q/E shall comply with City of Santa Fe Minimum Wage, Article 28-1-SFCC 1987, as well as any subsequent changes to such article throughout the term of this Agreement.

23. **APPLICABLE LAW**

This Agreement shall be governed by the ordinances of the City of Santa Fe and the laws of the State of New Mexico.

24. **NON-DISCRIMINATION**

During the term of this Agreement, the Q/E shall not discriminate against any employee or applicant for an employment position to be used in the performance by the Q/E hereunder, on the basis of ethnicity, race, age, religion, creed, color, national origin, ancestry, sex, gender, sexual orientation, physical, or mental disability, medical condition, or citizenship status.

25. **SEVERABILITY**

In case an y one or more of the provisions contained in this Agreement or any application thereof shall be invalid, illegal or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions contained herein and any other application thereof shall not in any way be affected or impaired thereby.

26. **NOTICES**

Any notices required to be given under this Agreement shall be in writing and served by personal delivery or by mail, postage prepaid, to the parties at the following addresses:

If to the CITY OF SANTA FE:
City of Santa Fe
Attn: Office of Economic Development Director
P.O. Box 909
Santa Fe, NM 87504

If to QUALIFYING ENTITY:
Attn: Chief Executive Officer
Descartes Labs, Inc.
100 North Guadalupe Street
Santa Fe, NM 87501

27. **HEADINGS**

The section headings contained in this Agreement are for reference purposes only and shall not affect the meaning or interpretation of this Agreement.

28. **ATTACHMENTS**

All attachments are fully incorporated herein and made a part of this Agreement.

29. **COUNTERPARTS**

This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

30. **REPRESENTATION ON AUTHORITY OF SIGNATORIES**

The signatory for the Q/E represents and warrants that he or she is duly authorized and has legal capacit y to execute and deliver this Agreement. The Q/E represents and warrants that the execution and delivery of the Agreement and the performance of the Q/E's obligations hereunder have been duly authorized and that the Agreement is a valid and legal agreement binding on such party and enforceable in accordance with its terms.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

CITY OF SANTA FE:

_____
Alan Webber, Mayor

ATTEST:

_____
Yolanda Y. Vigil, City Clerk

APPROVED AS TO FORM:

/s/ Andréa Salazar for
Erin K. McSherry, City Attorney

APPROVED:

_____
Mary T. McCoy, Finance Director

2122800.510400
Munis Org Number

QUALIFYING ENTITY:
Descartes Labs, Inc.

Phil Fraher
CEO and President

By: _____

Employer ID Number: _____
City of Santa Fe Business ID Number: 03-326950-00

STATE OF NEW MEXICO)
) ss.
COUNTY OF SANTA FE)

Notarized Affidavit

The foregoing instrument was acknowledged before me on this ____ day of _____, 2020, by PHIL FRAHER, the Chief Executive Officer and President of Descartes Labs, Inc., a foreign profit corporation, on its behalf.

_____
Notary Public

My commission expires:

Attachment A

Job Creation Commitment and Schedule (Net New Jobs) ❖*

Year	*Net New Jobs Hiring Target*	*Jobs Retained From Prior Years*	*Payroll*	*Job Determination Period*		*Clawback % on Job Creation Shortfall^^^*
1	20 + 19 = 39	20 (starting headcount)	$2.66 million	01-Jul 2017	30 Jun 2018	100%
2	39 + 17=56	39	$5.04 million	01 Jul 2018	30 Jun 2019	100%
3	56 + 14 = 70	56	$7.0 million	01 Jul 2019	06 Jun 2022	100%
4	-	70		01 Jul 2022	30 Jun 2023	75%
5	-			01 Jul 2023	30 Jun 2024	50%
Note	71-90 (Bonus)			-	01 Jan 2024	
Total	*50*		*$14.7 million*			
		Addt'l Notes: All 70 new jobs and the 20 baseline jobs must be retained until June 30, 2024 for compliance. Any bonus tier job shall be achieved prior to June 30, 2024, and must be retained for six months for the bonus.				

Starting Headcount (JTIP Eligible):	20	*As of:*	June 30, 2017

^^^ Clawback percentage is calculated on job creation shortfall at expiration or termination of the PPA, whichever is earlier. Clawback formula = (Job Creation % Shortfall) x (Cumulative Grant Monies Distributed), where Job Creation % Shortfall is (1 - (actual jobs / cumulative hiring target))*100%.

❖ Each job must have a minimum average salary of $110,000, not including additional benefits. Wages of jobs retained from prior years must equal to or exceed the wage requirements for those jobs as described herein. Only New Mexico based employees count towards job creation.

Attachment B

Descartes Labs, Inc.

Construction Schedule

Estimated Completion Date	Description
March 31, 2018	Phase I: Tenant Improvements - Start of Construction.
June 30, 2018	Phase II: Tenant Improvements – Receipt of Certificate of Occupancy, after completing upgrades to design, building, interior, office and workspace upgrades, and installation of infrastructure to building facilit y which may include, HVAC, broadband connectivity, utilities, security, electrical, and an y infrastructure necessary for operations.