

AGENDA

REGULAR MEETING OF
THE PUBLIC WORKS AND
UTILITIES COMMITTEE
JULY 27, 2020
ATTEND VIRTUALLY

1. **CALL TO ORDER**
2. **ROLL CALL**
3. **APPROVAL OF AGENDA**
4. **APPROVAL OF CONSENT AGENDA**
5. **APPROVAL OF MINUTES FROM JULY 06, 2020 PUBLIC WORKS & UTILITIES COMMITTEE MEETING**
 - a. July 06, Public Works & Utilities Committee Meeting Minutes
6. **PUBLIC COMMENT (Emily Pisula, Fiscal Administrator, Public Works, ekpisula@santafenm.gov, 955-6979 or Jamie-Rae Diaz, Administrative Manager, Public Utilities, jldiaz@santafenm.gov, 955-4233)**
7. **CONSENT AGENDA**
 - a. Approval of the Annual Report for the Santa Fe River Target Flows: Target Year Activity from April 2019 Through April 2020 and Anticipated Activity for the Santa Fe River Target Flow Year of April 2020 through April 2021 (Zoe Isaacson, River and Watershed Project Administrator, zisaacson@santafenm.gov 955-6853)

COMMITTEE REVIEW

Quality of Life Committee (Scheduled)	08/05/2020
Governing Body (Scheduled)	08/12/2020
 - b. **CONSIDERATION OF RESOLUTION NO. 2020-____.** (Councilor Vigil Coppler and Councilor Cassut Sanchez)
A Resolution Requiring that the City Manager Seek Governing Body Approval Before Extending the Term of the Exclusive Negotiation Agreement with KDC Cienda SF Investments One LP (“KDC/Cienda”) Beyond its Initial One-Year Term; and Requiring that the 30-Day Progress Reports from the Midtown Development Team be Submitted to the Governing Body. (Marcos Martinez, Senior Assistant City Attorney, mdmartinez@santafenm.gov, 955-6502)

AGENDA

REGULAR MEETING OF
THE PUBLIC WORKS AND
UTILITIES COMMITTEE
JULY 27, 2020
ATTEND VIRTUALLY

- c. Request for Approval of a Professional Services Agreement with HEI, Inc. for Booster Station 3 and Booster Station 4 VFD/RTU Replacements in the Amount of \$774,604 excluding NMGRT. (Jonathan Montoya, Source of Supply Manager, jmmontoya@santafenm.gov, 955-4373)

- Request for a Budget Adjustment Resolution (BAR) for the Professional Services Agreement with HEI, Inc. in the amount of \$774,604.00 plus NMGRT

COMMITTEE REVIEW

Finance Committee (Scheduled)	08/03/2020
Governing Body (Scheduled)	08/12/2020

- d. Consideration of Resolution 2020- Approval of a Resolution Creating a Community Health and Safety Task Force. (Councilors Renee Villareal and Chris Rivera) (Jeff Norris, Assistant to the Legislative Liaison, jtnorris@santafenm.gov, 955-6692)

COMMITTEE REVIEW

Governing Body (Scheduled)	07/29/2020
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- e. Request for Approval to Publish Notice of Public Hearing on August 29, 2020: BILL 2020-20. An Ordinance Relating to Creating Efficiencies, Enhancing Effectiveness, and Eliminating Silos by Reorganizing Certain City Departments, Organizing the Economic Development Division, Affordable Housing Office, Land Use Department, Tourism Santa Fe Department, Recreation Division, and the Arts and Culture Department as Divisions of a Community Development Department; Organizing the Community Services Department, Police Department, Fire Department, and Office of Emergency Management as Divisions of a Community Health and Safety Department; and Placing the Constituent and Council Relations Department into the City Clerk's Office; Amending 2.6-3; Replacing Section 2-8 SFCC 1987 with a New Section 2-8 SFCC that Establishes all City Departments; Reorganizing Existing Sections 2-8, 2-14, 2-15, 2-19, and 2-10 as Subsections of the New Section 2-9; Establishing in Ordinance the Existing Information Technology and Telecommunications Department and the Constituent and Council Services Department; and Repealing the Sections of Chapter 2 that Establish Departments that Are Either Becoming Divisions or No Longer Exist, Sections 2-9, 2-10, 2-11, 2-12, 2-13, 2-16, 2-19, 2-21, and 2-23 SFCC 1987; Amending Section 2-22 SFCC 1987 to Provide Contract Internal Audit Functions; and Amending Sections 26-1.6 and 26-3.5 Regarding the Office of Affordable Housing. (Jesse Guillen, Legislative Liaison jbguillen@santafenm.gov, 955-6518; Erin K. McSherry, City Attorney; ekmcsberry@santafenm.gov, 955-6512)

AGENDA

REGULAR MEETING OF
THE PUBLIC WORKS AND
UTILITIES COMMITTEE
JULY 27, 2020
ATTEND VIRTUALLY

COMMITTEE REVIEW

Governing Body (Request to Publish) 07/29/2020
Quality of Life Committee (Scheduled)
08/05/2020
Governing Body (Public Hearing) 08/26/2020

f.

Consideration of Resolution 2020- Approval of a Resolution Adopting the City of Santa Fe Fiscal Year 2021 Operating Budget and Organizational Chart. (Mayor Alan Webber) (Jeff Norris, Assistant to the Legislative Liaison, jtnorris@santafenm.gov, 955-6692)

COMMITTEE REVIEW

Governing Body (Scheduled) 07/29/2020

g.

Consideration of Resolution 2020- Changing Start Time Of Afternoon Sessions Of Governing Body Meetings To 4 pm and Evening Sessions of Governing Body Meetings to 6 pm Beginning with the August 12, 2020 Meeting and Continuing Through the December 9, 2020 Governing Body Meeting. (Councilor Renee Villarreal) (Jeff Norris, Assistant to the Legislative Liaison, jtnorris@santafenm.gov, 955-6692)

COMMITTEE REVIEW

Governing Body (Scheduled) 07/29/2020

h.

Consideration of Resolution 2020- Approval of a Resolution Permitting City Departments to Seek Retroactive Approval of Contracts for Fiscal Year 2021 (Councilor Roman Abeyta, Mayor Alan Webber) (Fran Dunaway, Chief Procurement Officer, fadunaway@santafenm.gov 955-6432) (Marcos Martinez , Assistant City Attorney, mdmartinez@santafenm.gov, 955-6502)

COMMITTEE REVIEW

Governing Body (Scheduled) 07/29/2020

8. **MATTERS FROM STAFF**

9. **MATTERS FROM THE COMMITTEE**

10. **MATTERS FROM THE CHAIR**

11. **NEXT MEETING: MONDAY, AUGUST 10, 2020**

AGENDA

REGULAR MEETING OF
THE PUBLIC WORKS AND
UTILITIES COMMITTEE
JULY 27, 2020
ATTEND VIRTUALLY

12. ADJOURN

SPECIAL PROCEDURES FOR PUBLIC WORKS & UTILITIES COMMITTEE 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 Public Works & Utilities Committee meeting will be conducted virtually. Viewing: Members of the public 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 meeting 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 meetings on-line at any time during normal business hours. Please call 955-6521 for assistance. Agenda: The agenda and packet for the meeting will be posted at santafe.primegov.com/portal/search.



Agenda

**PUBLIC WORKS & UTILITIES
COMMITTEE MEETING
ATTEND VIRTUALLY**

<https://www.youtube.com/user/cityofsantafe>

**MONDAY, JULY 06, 2020
5:00 P.M.**

1. CALL TO ORDER
2. ROLL CALL
3. APPROVAL OF AGENDA
4. APPROVAL OF CONSENT AGENDA
5. APPROVAL OF MINUTES FROM JUNE 22, 2020 PUBLIC WORKS & UTILITIES COMMITTEE MEETING
6. PUBLIC COMMENT (Emily Pisula, Fiscal Administrator, Public Works, ekpisula@santafenm.gov, 955-6979 or Jamie-Rae Diaz, Administrative Manager, Public Utilities, jldiaz@santafenm.gov, 955-4233)
7. CONSENT AGENDA
 - a) Requesting Approval for Amendment #2 to Professional Service Agreement with Cannon Cochran Management Services, Inc 12-0718 in the Amount of \$198,141 for Third Party Administrative and Adjusting Services for Our Workers Compensation and General Liability Claims. (Bradley Fluetsch, CFA, Planning and Investment Officer, bjfluetsch@santafenm.gov, 955-6885)

COMMITTEE REVIEW

Finance Committee (Scheduled)

07/20/2020

Governing Body (Scheduled)

07/29/2020

- b) Requesting Approval for Amendment #1 to Professional Service Agreement with Arthur J. Gallagher & Co. 12-0405 in the Amount of \$77,613.32 for Comprehensive Insurance Program Broker Services. (Bradley Fluetsch, CFA, Planning and Investment Officer, bjfluetsch@santafenm.gov, 955-6885)

COMMITTEE REVIEW

Finance Committee (Scheduled)

07/20/2020

Governing Body (Scheduled)

07/29/2020

- c) Request for Approval to Publish Notice of Public Hearing on August 12, 2020: Consideration of Bill No. 2020-17: An Ordinance Amending Section 14-11.4 of The Land Development Code to Adopt Civil Penalty Provisions, a Civil Fine Schedule, and Civil Citation Procedures for Land Use Code Enforcement Actions; and to Permit the Land Use Director to Order a One-Year Waiting Period for Application for Short-Term Rental Permit by a Person Who Has Violated the Short-Term Rental Ordinance, Section 14-6.2(A)(5) SFCC 1987. (Mayor Webber, Councilors Lindell, Romero-Wirth, Villarreal) (Eli Isaacson, Land Use Department Director, eaissaacson@santafenm.gov, 955-6830) (Sally Paez, Assistant City Attorney, sapaez@santafenm.gov, 955-6501)

COMMITTEE REVIEW

Planning Commission (Postponed)	06/18/2020
Quality of Life Committee (Approved)	07/01/2020
Governing Body (Request to Publish) (Scheduled)	07/08/2020
Finance Committee (Scheduled)	07/13/2020
Governing Body (Public Hearing) (Scheduled)	08/12/2020

- d) Bill No. 2020-__ ; An Ordinance Amending Section 10-9 SFCC 1987; Amending Section 10-9.2 To Align The Intent With The Purpose Of The Bill; Amending Section 10-9.3 To Amend And Add Definitions; Amending Section 10-9.4 To Make The Property Owner Responsible; Repealing And Readopting A New Section 10-9.5 To Establish A Process For A Nuisance Investigation And Abatement Process; Repealing And Readopting A New Section 10-9.6 To Establish Tenants Rights; Amending Section 10-9.7 To Establish Enforcement Provisions To Hold The Property Owner Accountable; Amending Section 10-9.8 Regarding Reseration Of Legal Options; Amending Section 10-9.9 Regarding Appeals; Amending Section 10-9.10 To Remove Extraneous Language; Repealing Section 10-9.11 Regarding Supplementary Remedies For Public Nuisances; And Amending Section 10-9.13 Regarding The Right Of Entry. (Councilors Lindell, Villarreal, Romero-Wirth, Vigil Coppler) (Michael Prinz, Assistant City Attorney, mnprinz@santafenm.gov, 955-6554; Jennifer Faubion, Council Liaison, jrfaubion@santafenm.gov, 699-6386)

COMMITTEE REVIEW

Quality of Life Committee (Approved)	07/01/2020
Governing Body (Request to Publish) (Scheduled)	07/08/2020
Finance Committee (Scheduled)	07/13/2020
Governing Body (Public Hearing) (Scheduled)	07/29/2020

- e) Request Approval of Amendment #1 to Legal Services Agreement Between the City and Gallagher and Kennedy to Extend the Term to June 30, 2022 (Marcos Martinez, Assistant City Attorney, mdmartinez@santafenm.gov, 955-6502)

COMMITTEE REVIEW

Governing Body (Scheduled)	07/08/2020
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8. MATTERS FROM STAFF
9. MATTERS FROM THE COMMITTEE
10. MATTERS FROM THE CHAIR
11. NEXT MEETING: **MONDAY, JULY 27, 2020**
12. ADJOURN

Persons with disabilities in need of accommodations, contact the City Clerk's office at 955-6520
five (5) working days prior to meeting / date

RECEIVED AT THE CITY CLERK'S OFFICE

DATE: July 1, 2020

TIME: 1:54 PM

**SUMMARY OF ACTION
PUBLIC WORKS AND UTILITIES
COMMITTEE MEETING
ATTENDED VIRTUALLY
MONDAY, JULY 6, 2020, 5:00 PM**

<u>ITEM</u>	<u>ACTION</u>	<u>PAGE</u>
CALL TO ORDER		1
ROLL CALL	QUORUM	1
APPROVAL OF AGENDA	APPROVED	1-2
APPROVAL OF CONSENT AGENDA	APPROVED	2
APPROVAL OF MINUTES	APPROVED	2
PUBLIC COMMENT	INFORMATION/DISCUSSION	2-3
<u>CONSENT AGENDA</u>		
REQUESTING APPROVAL FOR AMENDMENT #2 TO PROFESSIONAL SERVICE AGREEMENT WITH CANNON COCHRAN MANAGEMENT SERVICES, INC. 12-0718 IN THE AMOUNT OF \$198,141 FOR THIRD PARTY ADMINISTRATIVE ADJUSTING SERVICES FOR OUR WORKERS COMPENSATION AND GENERAL LIABILITY CLAIMS.	APPROVED	3-4
REQUESTING APPROVAL FOR AMENDMENT #1 TO PROFESSIONAL SERVICE AGREEMENT WITH ARTHUR J. GALLAGHER & CO. 12-0405 IN THE AMOUNT OF \$77,613.32 FOR COMPREHENSIVE INSURANCE PROGRAM BROKER SERVICE.	APPROVED	4-6
REQUEST FOR APPROVAL TO PUBLISH NOTICE OF PUBLIC HEARING ON AUGUST	APPROVED	6-9

12, 2020: CONSIDERATION OF BILL NO. 2020-17: AN ORDINANCE AMENDING SECTION 14-11.4 OF THE LAND DEVELOPMENT CODE ENFORCEMENT ACTIONS; AND TO PERMIT THE LAND USE DIRECTOR TO ORDER A ONE-YEAR WAITING PERIOD FOR APPLICATION FOR SHORT-TERM RENTAL PERMIT BY A PERSON WHO HAS VIOLATED THE SHORT-TERM RENTAL ORDINANCE, SECTION 14-6.2 (A)(5) SFCC 1987.

BILL NO. 2020 ____; AN ORDINANCE AMENDING SECTION 10-9 SFCC 1987; AMENDING SECTION 10-9.2 TO ALIGN THE INTENT WITH THE PURPOSE OF THE BILL; AMENDING SECTION 10-9.3 TO AMEND AND ADD DEFINITIONS; AMENDING SECTION 10-9.4 TO MAKE THE PROPERTY OWNER RESPONSIBLE, REPEALING AND READOPTING A NEW SECTION 10-9.5 TO ESTABLISH A PROCESS FOR A NUISANCE INVESTIGATION AND ABATEMENT PROCESS; REPEALING AND READOPTING A NEW SECTION 10-9.6 TO ESTABLISH TENANTS RIGHTS; AMENDING SECTION 10-9.7 TO ESTABLISH ENFORCEMENT PROVISIONS TO HOLD THE PROPERTY OWNER ACCOUNTABILITY; AMENDING SECTION 10-9.8 REGARDING RESERATION OF LEGAL OPTIONS; AMENDING SECTION 10-9.9 REGARDING APPEALS; AMENDING SECTION 10-9.10 TO REMOVE EXTRANEOUS LANGUAGE; REPEALING SECTION 10-9.11 REGARDING SUPPLEMENTARY REMEDIES FOR PUBLIC NUISANCES; AND AMENDING SECTION 10-9.13 REGARDING THE RIGHT OF ENTRY.

APPROVED

9-11

REQUEST APPROVAL OF AMENDMENT #1 TO LEGAL SERVICES AGREEMENT BETWEEN THE CITY AND GALLAGHER

11

**AND KENNEDY TO EXTEND THE TERM
TO JUNE 30, 2022.**

MATTERS FROM STAFF	NONE	11
MATTERS FROM THE COMMITTEE	INFORMATION/DISCUSSION	11
MATTERS FROM THE CHAIR	INFORMATION/DISCUSSION	11
NEXT MEETING	JULY 27, 2020	11
ADJOURN	ADJOURNED	11

**PUBLIC WORKS AND UTILITIES
COMMITTEE MEETING
ATTENDED VIRTUALLY
MONDAY, JULY 6, 2020, 5:00 PM**

1. CALL TO ORDER

The meeting of the Public Works and Utilities Committee was called to order by Councilor Christopher Rivera, Chair at 5:03 pm on Monday, July 6, 2020 and was attended virtually.

2. ROLL CALL

MEMBERS PRESENT

Councilor Christopher Rivera, Chair
Councilor Roman Abeyta
Councilor Signe Lindell
Councilor JoAnne Vigil Coppler
Councilor Michael Garcia

OTHERS PRESENT

John Romero, Acting Director, Public Works
Shannon Jones, Director, Public Utilities
Joe Abeyta, City of Santa Fe
Jamie-Rae Diaz, Public Utilities Department
Emily Pisula, Public Works
Marcos Martinez, City Attorney's Office
Jennifer Faubion, Councilor Liaison
Nasreen Kopecky, Anthony J. Gallagher & Co.
Eli Isaacson, Director, Land Use Department
Sally Paez, City Attorney's Office
Mike Prinz, City Attorney's Office
Bradley Fluetsch, Finance Department
Marc Choyt
Elizabeth Martin, Stenographer

3. APPROVAL OF AGENDA

MOTION A motion was made by Councilor Abeyta, seconded by Councilor Vigil Coppler, to approve the agenda as presented.

VOTE The motion passed unanimously by roll call vote as follows:

Chair Rivera, yes; Councilor Abeyta, yes; Councilor Lindell, yes; Councilor Vigil Coppler, yes; Councilor Garcia, yes.

4. APPROVAL OF CONSENT AGENDA

Councilor Vigil Coppler pulled items A, C and D for discussion.

Councilor Lindell pulled item B for discussion.

Councilor Garcia pulled item C for discussion.

MOTION A motion was made by Councilor Vigil Coppler, seconded by Councilor Lindell, to approve the consent agenda as amended.

VOTE The motion passed unanimously by roll call vote as follows:

Chair Rivera, yes; Councilor Abeyta, yes; Councilor Lindell, yes; Councilor Vigil Coppler, yes; Councilor Garcia, yes.

5. APPROVAL OF MINUTES

MOTION A motion was made by Councilor Garcia, seconded by Councilor Vigil Coppler, to approve the minutes as presented.

VOTE The motion passed unanimously by roll call vote as follows:

Chair Rivera, yes; Councilor Abeyta, yes; Councilor Lindell, yes; Councilor Vigil Coppler, yes; Councilor Garcia, yes.

6. PUBLIC COMMENT

Marc Choyt asked to make a public comment.

Chair Rivera stated that Mr. Choyt would be allowed two minutes for public comment.

Mr. Choyt stated that his address was 1709 Artistic Lane, Santa Fe.

Mr. Choyt thanked the Chair and the Committee for the opportunity to provide public comment on the upcoming agenda item regarding Airbnb. There was no public notice given that these items would be discussed. He was never notified as an owner of a short term rental. Land Use has no economic analysis or data so they don't know

how many owners are trying to pay their mortgages and how many are property owners or rental managers. He wants to make an appeal that an analysis be made with the data. Why is there such a rush. Why not make your priority to identify the 1,500 people who are not doing this the right way. You are working with assumptions, not facts. There needs to be an economic analysis.

Chair Rivera stated that the two minutes were up.

Councilor Garcia asked that Mr. Choyt send his statement to all the Committee members.

Chair Rivera asked Mr. Choyt to send his statement to Ms. Pisula and she will forward it to the Committee.

7. CONSENT AGENDA

A. REQUESTING APPROVAL FOR AMENDMENT #2 TO PROFESSIONAL SERVICE AGREEMENT WITH CANNON COCHRAN MANAGEMENT SERVICES, INC. 12-0718 IN THE AMOUNT OF \$198,141 FOR THIRD PARTY ADMINISTRATIVE ADJUSTING SERVICES FOR OUR WORKERS COMPENSATION AND GENERAL LIABILITY CLAIMS.

Councilor Vigil Coppler said the documents and the order and layout of the packet information and the lack of a cover memo make it hard to understand. It is a request for \$199,000, but judging by the attachments she does not know what that means to the entire contract.

Mr. Fluetsch said the cover memo for this item is the same as the cover memo for item B. He does not know why it is not attached to this item as well. This is a request for a one year extension. We did not have time to do an RFP. We will do an RFP in 2022 for a four year contract.

Councilor Vigil Coppler asked if the term of the contract expired on June 30th.

Mr. Fluetsch said yes. It was an eight year contract.

Councilor Vigil Coppler asked what was the original amount.

Mr. Fluetsch said it was \$155,737 per year.

Councilor Vigil Coppler asked so we are doubling it.

Mr. Fluetsch said no, it is \$43,000 more from what it was in 2012. It was \$155,727 for the first year of the contract in 2012 and accelerated from there. The total

amount of the eight year contract was \$1,067,482.

Councilor Vigil Coppler said that is why a cover memo is necessary.

Mr. Fluetsch said we are asking for a one year extension.

Councilor Vigil Coppler asked to do what.

Mr. Fluetsch said it is for a third party administrator since we are self insured. They adjudicate claim cases.

Councilor Vigil Coppler said she understands that, but she does not want to see this kind of work again. We need to know the history and what you want in a cover memo.

Chair Rivera said an eight year contract was mentioned. He thought we could only do four years at a time.

Mr. Fluetsch said in 2012 we were able to do eight year contracts.

Chair Rivera said it was said that you did not have time to do an RFP. Does the contract allow for an extension.

Mr. Fluetsch said we ran this all through the Procurement Office. When the Mayor called an emergency we were able to do that.

Chair Rivera said he would like to see the language that allows you to bypass the RFP process and other protocols. Please send that to him and the entire Committee.

MOTION A motion was made by Councilor Lindell, seconded by Councilor Abeyta, to approve the request.

VOTE The motion passed unanimously by roll call vote as follows:

Chair Rivera, yes; Councilor Abeyta, yes; Councilor Lindell, yes; Councilor Vigil Coppler, yes; Councilor Garcia, yes.

B. REQUESTING APPROVAL FOR AMENDMENT #1 TO PROFESSIONAL SERVICE AGREEMENT WITH ARTHUR J. GALLAGHER & CO. 12-0405 IN THE AMOUNT OF \$77,613.32 FOR COMPREHENSIVE INSURANCE PROGRAM BROKER SERVICE.

Councilor Lindell said regarding the PDF spreadsheet that was sent to us today,

she requested that we look at this.

The spreadsheet discussed is herewith attached to these minutes as Exhibit "1".

Councilor Lindell said she is looking at the percentage changes. They are not vast at all. She is looking at commercial automotive for one year. She would like to have a discussion on that.

Mr. Fluetsch introduced Nasreen Kopecky, with Arthur J. Gallagher & Co.

Ms. Kopecky reviewed the policy and the spreadsheet.

Councilor Lindell said there is a wide difference in the numbers per year. She needs to know why that is to feel comfortable with any of this. At what point do we start getting discounts on premiums in profitable years.

Ms. Kopecky said in the market in general automotive losses are on the rise. They are more expensive to repair and there is the offering of rental cars.

Councilor Lindell said she gets it, but our losses are 23% of our premium. Whose reserves are those.

Mr. Fluetsch said the third party administrator.

Ms. Kopecky said the reserve is set up when the claim begins.

Councilor Lindell asked why the reserve amount has been added to the payment.

Mr. Fluetsch said they believe these claims will be approved and we will have to pay. We have 16 claims that are still open.

Councilor Lindell said it seems in some of these years we have paid sizable premiums and have not paid out anywhere near those amounts. That is especially true in year 19/20. It seems there is a sizeable amount of profitability for the insurance company.

Councilor Vigil Coppler said looking at the claim experience, she would like to note that there are a lot of sewer back ups and stepping on manhole covers. Also a number of the claims are from employees. What have we learned from this. We have sewer back ups, manhole covers and employee injuries. Is there a connection to our Safety Officer to improve the situation and bring down our claims. Is there some kind of ongoing communication. What are we doing to be proactive.

Mr. Fluetsch said for claims of \$15,000 to \$100,000 there is a Claims Committee

that reviews them. It is made up of the City Manager, Public Works, Public Utilities, HR and the City Attorney's Office. For claims above \$100,000 Travelers comes in to work with us. Risk Management is in Finance and the Safety Officer is in HR due to the confidentiality of workers comp and safety. We are working together to use this data and for Safety to incorporate into their planning for training programs. We share the information with the Departments as well.

Councilor Vigil Coppler said so mainly it is claims review and not improvement. How can we lessen our claims and keep people safe. That is important. We need to have a proactive approach so this is not repeated.

Mr. Jones said he agreed with Councilor Vigil Coppler. We do use the data to target root treatments for sewers and back flow requirements. It is easy to assume that these are sewer manholes, but these can be for any use and not just sewer manholes. It is more broad than that. This data is integrated into our GPS for maintenance planning. We do use the data for decision making. He sits on the Claims Committee that makes those decisions and recommendations.

MOTION A motion was made by Councilor Abeyta, seconded by Councilor Vigil Coppler, to approve the request.

Councilor Lindell said she would like to see more information on the \$190,000.

Chair Rivera asked that it be sent to all the Committee members.

VOTE The motion passed unanimously by roll call vote as follows:

Chair Rivera, yes; Councilor Abeyta, yes; Councilor Lindell, yes; Councilor Vigil Coppler, yes; Councilor Garcia, yes.

C. REQUEST FOR APPROVAL TO PUBLISH NOTICE OF PUBLIC HEARING ON AUGUST 12, 2020: CONSIDERATION OF BILL NO. 2020-17: AN ORDINANCE AMENDING SECTION 14-11.4 OF THE LAND DEVELOPMENT CODE ENFORCEMENT ACTIONS; AND TO PERMIT THE LAND USE DIRECTOR TO ORDER A ONE-YEAR WAITING PERIOD FOR APPLICATION FOR SHORT-TERM RENTAL PERMIT BY A PERSON WHO HAS VIOLATED THE SHORT-TERM RENTAL ORDINANCE, SECTION 14-6.2 (A)(5) SFCC 1987.

Councilor Vigil Coppler said thank you for being here Eli. She and Eli have had a long conversation on these issues. She wanted to be sure we are working only on the civil fines and not the Short Term Rental Ordinance.

Councilor Vigil Coppler said the fines begin on page 4. She is wondering about the timing of all of these. Are these daily fines or per occurrence.

Mr. Isaacson said it is for each offence. It can be daily if they are operating without a permit or it can be per event. There is some desecration in that.

Ms. Perez said it is intended to be flexible so it can apply to violations that are not necessarily short term rentals. It is all outlined in the Ordinance.

Councilor Vigil Coppler said she is asking specifically about short term rentals. Lets say a rental is rented for five days. On the fifth day does someone knock on the door to inform them of the violation.

Ms. Perez said it is outlined in the Ordinance.

Ms. Perez read the appropriate portion of the Ordinance.

Ms. Perez said it depends on the circumstances. It is up to the Land Use Department to decide how to proceed. There is a certified contract with the owner. We would not go in and remove the renters.

Councilor Vigil Coppler asked how will we provide for fairness when different code enforcement officers are looking at this.

Mr. Isaacson said we will, within the Land Use Department, craft a list of policies. We have a good way of tracking these violations now and flagging habitual offenders. We are making efforts on refining the structure as well.

Councilor Vigil Coppler said she was happy to hear that he is crafting parameters around enforcement so everyone will be treated equally.

Councilor Vigil Coppler asked regarding hearing officers, are they appointed by the District Court or otherwise. Do we have a pool of hearing officers who are familiar with real estate on a list.

Ms. Paez said in the past we have talked about getting a better pool. We are putting ads in the Bar Bulletin for contract attorneys. The City Attorney is looking into how to create a better pool.

Councilor Vigil Coppler suggested that they advertise for people with familiarity with Land Use of some sort. It is different. It would behoove the City to have a cadre of people to rely on.

Councilor Garcia asked on page 3, line 3 it refers to imprisonment. For clarification, what potential imprisonment might come along with these penalties.

Ms. Perez said that information is included. We are allowed to impose up to a \$500 fine and up to six months imprisonment. It would be through Municipal Court and appealed to District Court.

Councilor Garcia asked is it at the discretion of the Land Use Director.

Ms. Perez said once it is in Municipal Court we have a prosecutor who has his own prosecutorial authority and discretion.

Councilor Garcia asked can you give an example of why we might propose someone go to jail.

Ms. Perez said she was not aware of any time that they have asked for prison. The criminal penalty is under the authority of the Judge.

Councilor Garcia said the person who gave public comment was not notified. Is it typical to contact existing permit holders as to proposed changes.

Mr. Isaacson said this item is going through the Committee process, which is a public process. Once it is finalized we will notify the permit holders. We have not finalized the amendments yet. Once adopted we will notify.

Councilor Garcia said at the Quality of Life Committee he proposed that this be implemented 30 days after passage. When we make changes that involve penalties it is prudent to have that delay. An enforcement process is not in place. That is the biggest challenge to this process. Does he need to submit a formal amendment to implement the 30 day implementation.

Ms. Perez suggested that he work with the Legislative Office to prepare an amendment sheet and take that through the process.

Councilor Garcia said thank you. He wants to ensure fairness for the public.

Councilor Garcia asked regarding the fine structure, how does it effect an individual going through the hearing process. How do we ensure that they are not building up fines until their hearing date.

Mr. Isaacson said there is a whole suite of policy and procedure discussions to be made. We will put together flexible, but concrete, policies and procedures.

Councilor Garcia said it is prudent to have policies in place before we start to fine people.

Councilor Vigil Coppler said it was said that you did not send notices to the permit holders because we are going through a public process. If we sent letters to

those with and without permits you would be more likely to get compliance. The more you notify and correct up front the better. She also agrees with delayed implementation.

Councilor Lindell said she finds it hard to believe that anyone operating a short term rental in Santa Fe does not know they are supposed to have a permit. They have cheated us out of revenues. That story is unbelievable. There has been article after article in the newspaper.

Councilor Lindell said there are people in this town who have had short term rentals for years and not paid us a penny. That is cheating us.

Councilor Vigil Coppler said she can sympathize with Councilor Lindell's comment. There are people all over this City who are working on their houses and do not know they are supposed to have permits to do the work.

Councilor Garcia said what the community does not know is that more fines are going to be implemented. We have not enforced the Ordinance in the past and are going to enforce it now. We are changing our rules and are going to enforce and fine. We need to inform them of that.

MOTION A motion was made by Councilor Lindell, seconded by Councilor Abeyta, to approve the request.

VOTE The motion passed unanimously by roll call vote as follows:

Chair Rivera, yes; Councilor Abeyta, yes; Councilor Lindell, yes; Councilor Vigil Coppler, yes; Councilor Garcia, yes.

- D. BILL NO. 2020 ____; AN ORDINANCE AMENDING SECTION 10-9 SFCC 1987; AMENDING SECTION 10-9.2 TO ALIGN THE INTENT WITH THE PURPOSE OF THE BILL; AMENDING SECTION 10-9.3 TO AMEND AND ADD DEFINITIONS; AMENDING SECTION 10-9.4 TO MAKE THE PROPERTY OWNER RESPONSIBLE, REPEALING AND READOPTING A NEW SECTION 10-9.5 TO ESTABLISH A PROCESS FOR A NUISANCE INVESTIGATION AND ABATEMENT PROCESS; REPEALING AND READOPTING A NEW SECTION 10-9.6 TO ESTABLISH TENANTS RIGHTS; AMENDING SECTION 10-9.7 TO ESTABLISH ENFORCEMENT PROVISIONS TO HOLD THE PROPERTY OWNER ACCOUNTABILITY; AMENDING SECTION 10-9.8 REGARDING RESERATION OF LEGAL OPTIONS; AMENDING SECTION 10-9.9 REGARDING APPEALS; AMENDING SECTION 10-9.10 TO REMOVE EXTRANEIOUS LANGUAGE; REPEALING SECTION**

10-9.11 REGARDING SUPPLEMENTARY REMEDIES FOR PUBLIC NUISANCES; AND AMENDING SECTION 10-9.13 REGARDING THE RIGHT OF ENTRY.

Councilor Vigil Coppler said she had questions about the practicality of the Nuisance Ordinance. It defines what a gathering is and says two or more people. There is an individual in District 2 who is causing a huge ruckus. This should apply to an individual as well. She is interested in working on a more broad definition. Also is it in here somewhere that vacant land used for other purposes can be a nuisance. What about people living in campers in established neighborhoods. Also where does the notification letter go.

Ms. Faubion said the single person making the ruckus would fall under our definition. It is in the brief in the first sector. Page 6, line 25. That is our catch all.

Councilor Vigil Coppler said she was not sure that is enough.

Mr. Prinz said he agrees with Ms. Faubion's assessment of the scope. With the single person case we could move ahead. We could impose a different statute. He does understand Councilor Vigil Coppler's point. He does not have concerns about pursuing an individual.

Councilor Vigil Coppler said in the case of the issue in District 2 the Police have come, but they say they can't do anything unless they can catch him in the act.

Ms. Faubion said the rewrite allows us to pull from constituent calls, Land Use violations and Police and Fire calls to flag that there is a nuisance.

Councilor Vigil Coppler asked who investigates.

Ms. Faubion said Constituent Services. We are discussing how this will work with the Director of Constituent Services now. If there have been six calls regarding one address we will look into it. We would not be visiting sites. That will be referred to the Police Department. They will go out and create a report.

Councilor Vigil Coppler said we have waited a long time for something like this with teeth. Hearing this it seems to be more of a bureaucracy still. There needs to be more immediate action.

MOTION A motion was made by Councilor Lindell, seconded by Councilor Garcia, to approve the request.

VOTE The motion passed unanimously by roll call vote as follows:

Chair Rivera, yes; Councilor Abeyta, yes; Councilor Lindell, yes; Councilor Vigil Coppler, yes; Councilor Garcia, yes.

E. REQUEST APPROVAL OF AMENDMENT #1 TO LEGAL SERVICES AGREEMENT BETWEEN THE CITY AND GALLAGHER AND KENNEDY TO EXTEND THE TERM TO JUNE 30, 2022.

Approved on consent.

8. MATTERS FROM STAFF

None.

9. MATTERS FROM THE COMMITTEE

Councilor Vigil Coppler said regarding the Veteran Banners, the flags are starting to break off. We are investigating better material to ensure that does not happen. The Police Department is picking up and accepting damaged flags and are storing them for us.

10. MATTERS FROM THE CHAIR

Chair Rivera said this was a great meeting. Thank you all for being here.

**11. NEXT MEETING
JULY 27, 2020**

12. ADJOURN

There being no further business before the Committee the meeting adjourned at 6:45 pm.

Councilor Christopher Rivera, Chair



Elizabeth Martin, Stenographer

City of Santa Fe, New Mexico

memo

DATE: July 6, 2020
TO: Public Works /Public Utilities Committee/City Council
VIA: John Romero
John J. Romero, PE, Acting Public Works Director
Melissa A. McDonald, RLA, River and Watershed Manager *MM*
FROM: Zoe R. Isaacson, River and Watershed Project Administrator *ZRI*
CC: Jesse D. Roach, PE, Water Division Director
Alan G. Hook, Water Resources Coordinator & SF Municipal Watershed Program Manager

ITEM: Approval of the Annual Report for the Santa Fe River Target Flows: Target year activity from April 2019 through April 2020 and anticipated activity for the Santa Fe River target flow year of April 2020 through April 2021.

Pursuant to the Santa Fe River Target Flow Ordinance (Ordinance #2012-10) and the Santa Fe River Target Flow Administrative Procedures (City Resolution #2012-28), staff is directed to provide the governing body with an annual report that describes target flow operations and flow volumes for the preceding year, plus the planned target flow hydrograph for the coming year.

Please note the target hydrograph is typically approved by the River Commission as per ordinance 2012-10; however, due to unprecedented circumstances caused by the COVID-19 pandemic, there was no mechanism in place to vote to approve the 2020-2021 target hydrograph. A variation of the ordinance has been administered, in compliance with standards set by the New Mexico Attorney General's Open Meeting Act; a question and answer period was provided prior Commissioners registering their support for the hydrograph with city staff. The group was unanimous in its decision to support the Living River Target Flow Hydrograph. The Commission will revisit this item, once in-person meetings are permitted or alternative meeting methods such as virtual meetings are approved, and an official vote will be conducted. Until that time, the River Commission will be kept abreast of any changes or alterations to the target flow hydrograph herein. Additionally, they will continue to monitor the target flow releases.

LAST YEAR'S REPORT: THE TARGET YEAR ENDING APRIL 14, 2019:

In 2019, the Santa Fe River target flow allocation began April 15, 2019 and concluded on April 14, 2020, in order to reach the targeted 1000- acre-feet of bypass flows for the 2019-2020 "Living River" year.

The river flows are administered under the terms of the City of Santa Fe's Administrative Procedures for the Santa Fe River Target Flows. The ordinance provides that up to 1,000 acre-provide feet to bypass flow to the Santa Fe River downstream of Nichols Reservoir. In years when the forecast for the runoff from mountain snows fall below 75% of the annual average, Santa Fe River target flows are scaled downward. This past target year, the April 1st forecast was 100% of the thirty-year average streamflow yield for the Santa Fe River. Therefore, the Santa Fe River target flows were projected to be 1000-acre-

feet, 100% of the total allowed annual river allocation as per the administrative procedures (see exhibit 2). Actual releases are shown in the 2019 – 2020 Santa Fe River Target Hydrograph (see exhibit 1).

It is important to note that the other determinant of Santa Fe River bypass flows administered through the Santa Fe River target flow program is the concept of the bypass constraint. The administrative procedures for the program define the bypass constraint as follows:

“Bypass constraint”: an operation principle that requires the rate at which water is passed through the outlet works of Nichols Reservoir dam is always equal or less than the stream inflow at the ‘above McClure’ gage.

In other words, at any given time, the volume of Nichols Reservoir outflow administered for the Santa Fe River target flows is not allowed to exceed the volume of inflow at the City’s upper reservoir, McClure Reservoir.

The purposes of the target flows are to help support the Santa Fe River's green corridor of trees, grasses, and other plants; to support healthy wildlife habitat; and to add to the beauty of free-flowing water to the parks and open spaces along the Santa Fe River. Other benefits of maintaining a vegetated, green river corridor include: shading and cooling of the urban environment, supporting plants that convert carbon dioxide into oxygen and controlling erosion. Additionally, the target flow hydrograph is administered to provide flows that support community and cultural events scheduled along the Santa Fe River.

This past year, city staff administered the planned 1000-acre-feet of target flow. There were spring and summer pulses (releases in mid-May and July, respectively), the annual Children’s Fishing Derby was held, as was the Blessing of San Ysidro and the summer flows were kept constant at 2 cubic feet per second (cfs). Flows were stepped down in October and very low flows were held (0.3 cfs) through the winter months and into early spring 2020. The flows were stopped at the end of March through April 14, 2020 due to construction improvements and repairs at the Ricardo Road pedestrian bridge (see exhibit 1).

THE CURRENT TARGET YEAR APRIL 15, 2020 THROUGH APRIL 14, 2021 (THE YEAR AHEAD):

The Natural Resources Conservation Service (NRCS) forecast for this year's streamflow runoff, as of April 1st (see exhibit 3), is that the upper Santa Fe River is 71% of the thirty-year average streamflow yield. Therefore, the Santa Fe River target flows are recommended to be administered in accordance with the hydrograph of 710 acre-feet for the 2020-2021 target year as per the administrative procedures (see exhibit 2).

A number of considerations will determine the nature of the Santa Fe River Target Flow Hydrograph (for both the timing and volume of the flows) that has been developed for this year's target flows. This year is predicted to be dryer than average, therefore, by recommendation of the River Commission, the most notable changes are the following:

- 1) Releases for cultural and community events are likely and will be coordinated with the River and Watershed Section and the River Commission. With this year’s snowpack and predicted storm flows, the river will be flowing for periods that coincide with the spring snowmelt and the spring pulse. Areas disturbed by recent construction to repair infrastructure, between Ricardo Street pedestrian bridge and the Calle Don Jose Loop, have been revegetated with cottonwood and willow. It was the

recommendation of the River and Watershed Section, as well as the River Commission, to time the cultural spring pulse for the San Isidro Blessing in a way that optimized benefit to the transplants. The annual Blessing occurred at the end of May; provided flows were 6.0 cfs for the blessing and the riparian vegetation. Due to COVID-19 restrictions, the annual Children's Fishing Derby did not occur. Providing there are enough flows, and COVID-19 protocols allow, there will be an additional release for the Jewish holiday, Tashlic, in mid-September.

2) In accordance with the goals and objectives of the Living River Ordinance, the River and Watershed Section and the River Commission recommended front-loading the spring and summer releases to maximize benefit for riparian plantings. Multiple spring pulses, averaging 6 cfs, were planned from late-April through early June to ensure proper channel saturation for vegetation. A summer pulse of 3.0 cfs is planned for mid-July. Summer baseflows will average 1.0 cfs from late June to mid-September and then will drop to 0.6 cfs until reaching baseflows of 0.3 cfs in November to carry out the rest of the water year. The pulse releases will be coordinated with any necessary reservoir and acequia releases, and are dependent on upon native Santa Fe River inflows above McClure Reservoir. The River and Watershed Section, working with the water division and operations staff, may increase or decrease the flow rates to meet the flow objectives, provided that the average is maintained and flows are not reduced below 0.3 cfs. The River Commission will be notified of any changes to the planned target hydrograph.

3) Additional repairs are anticipated to begin in November 2020 and last through March 2021. Construction activities are not expected to impact the target flow hydrograph.

Exhibit 1: 2019-2020 Actual Hydrograph of 1,000 acre-feet Santa Fe River Target Flows

Exhibit 2: 2020-2021 Planned Hydrograph of 710 acre-feet Santa Fe River Target Flows

Exhibit 3: Natural Resource Conservation Service, New Mexico Basin Outlook, Rio Grande Basin Forecast

Exhibit 4: Resolution 2012-28; Exhibit A_ Administrative Procedures for SF River Target Flows; Ordinance No 2012-10

Exhibit 1: 2019-2020 Hydrograph (Actuals)

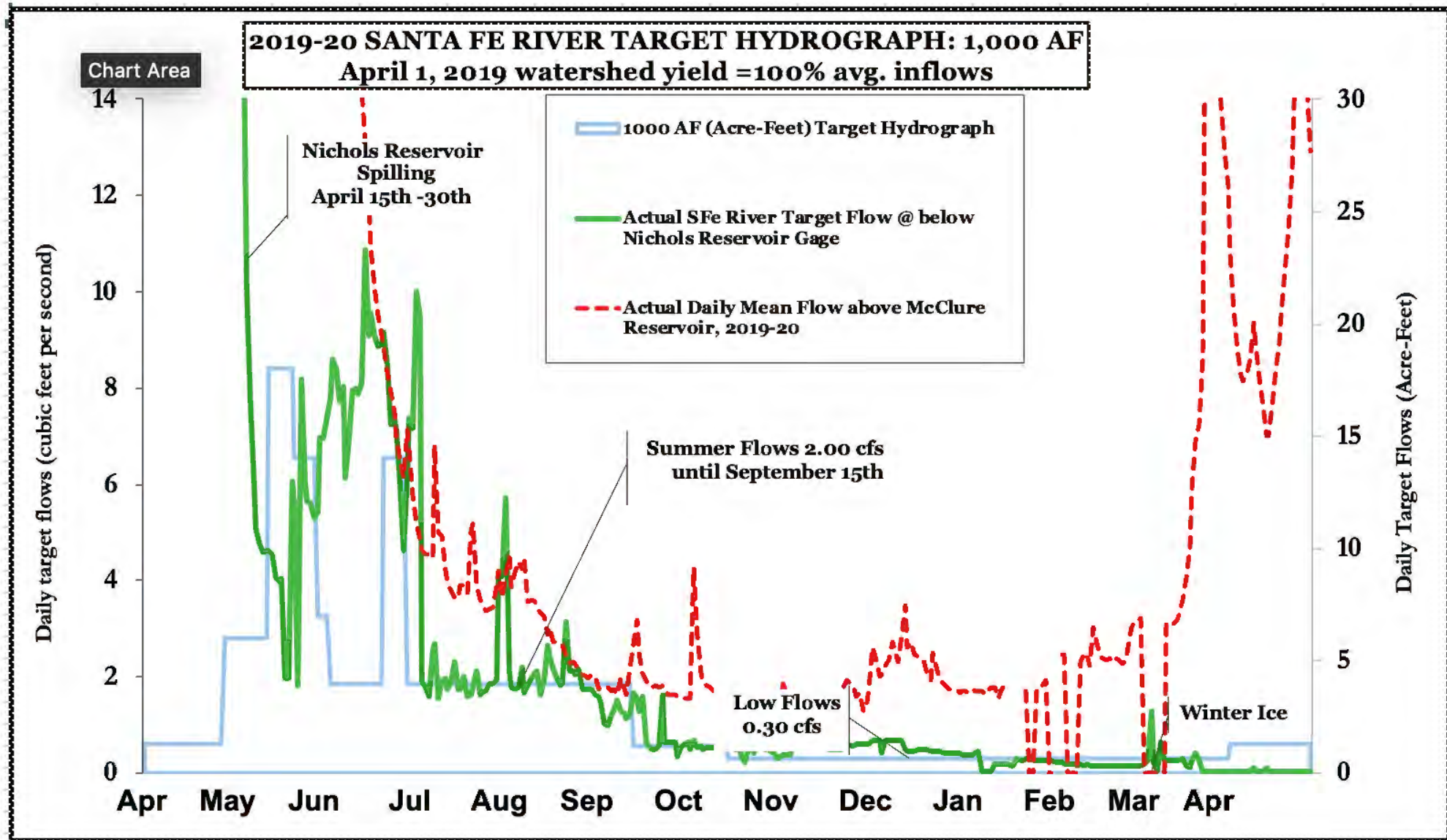


Exhibit 2: 2020-2021 Planned Target Flow Hydrograph

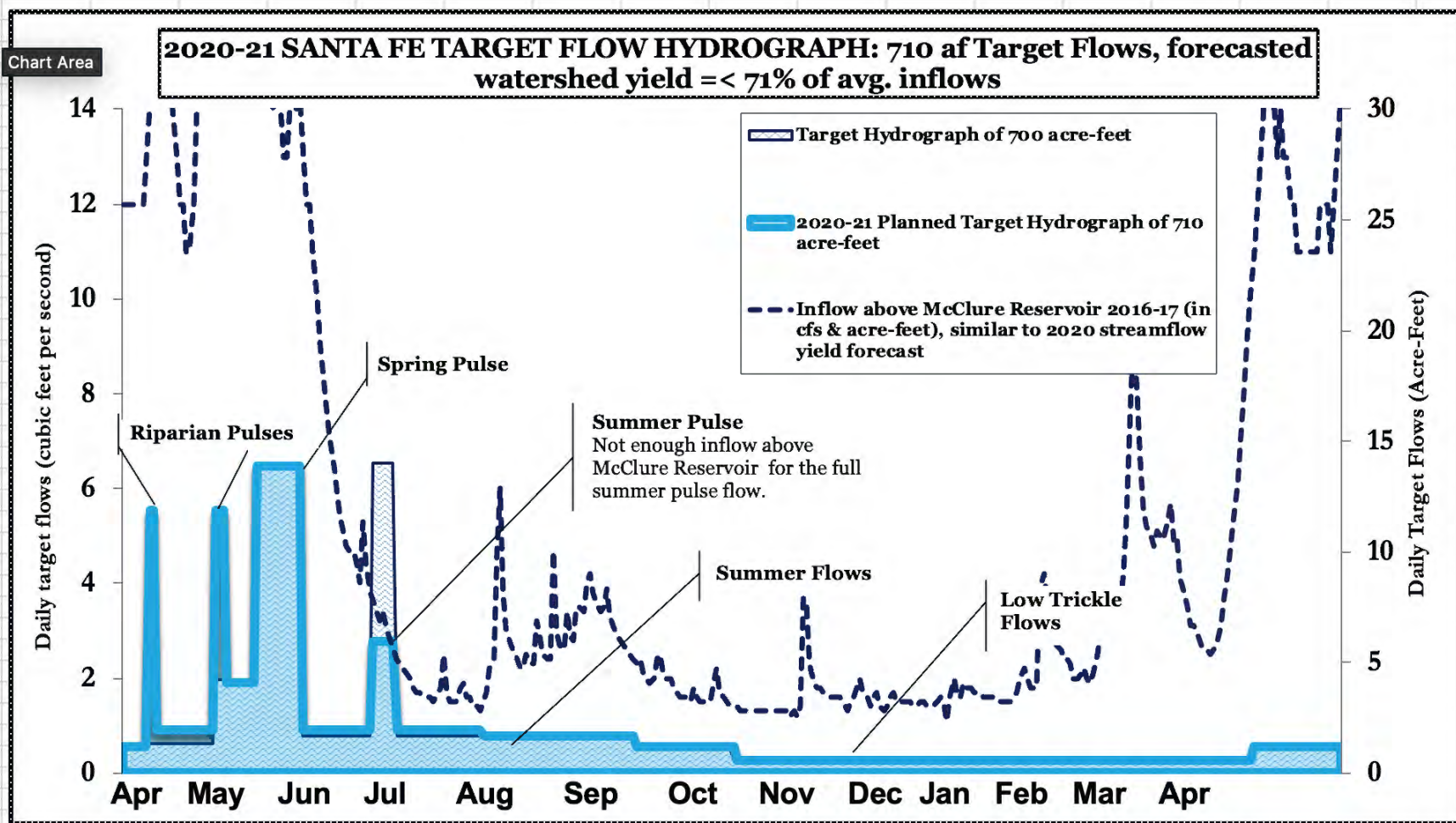


Exhibit 3

USDA NRCS National Water & Climate Center

* - DATA CURRENT AS OF: April 03, 2020 05:46:49 PM

- Based on April 01, 2020 forecast values

Northwestern Rio Grande in Colorado

30% Forecast (KAF)	70% Point (KAF)	min (KAF)	30-yr avg		period	50% (KAF)	% of avg	max (KAF)
Rio Grande at 93	70	54	113	Thirty Mile Bridge (2)	APR-JUL	81	72	113
110	79	60	129		APR-SEP	94	73	136
Rio Grande at 290	205	154	340	Wagon Wheel Gap (2)	APR-SEP	245	72	355
SF Rio Grande at 98	75	60	127	South Fork (2)	APR-SEP	86	68	116
Rio Grande nr 415	300	230	515	Del Norte (2)	APR-SEP	355	69	505
Saguache Ck nr 34	22	15.4	32	Saguache (2)	APR-SEP	28	88	44
Alamosa Ck ab 52	39	30	68	Terrace Reservoir	APR-SEP	45	66	62
La Jara Ck nr 5.9	3.3	1.92	8.2	Capulin	APR-JUL	4.5	55	8.2
Platoro Reservoir 45	36	29	56	Inflow (2)	APR-JUL	40	71	52
					APR-SEP	43	69	57
Conejos R nr 143	108	85	194	Mogote (2)	APR-SEP	125	64	172
San Antonio R at 8.3	5.4	3.6	15.6	Ortiz	APR-SEP	6.7	43	10.8
Los Pinos R nr 44	33	25	73	Ortiz	APR-SEP	38	52	53
Rio Grande nr 80	42	21	200	Lobatos Obs	APR-JUL	59	30	116

Northeastern Rio Grande in Colorado

30% Forecast (KAF)	70% Point (KAF)	min (KAF)	30-yr avg	period	50% (KAF)	% of avg	max (KAF)
-----				-----	-----	-----	-----

Ute Ck nr Fort Garland	APR-SEP	11.0	86	17.2
13.3 8.9 6.2 12.8				
Sangre de Cristo Ck (2)	APR-SEP	12.0	74	22
15.6 8.9 5.2 16.3				
Trinchera Ck ab Turners Ranch	APR-SEP	10.0	79	13.5
11.3 8.7 7.0 12.6				
Culebra Ck at San Luis (2)	APR-SEP	18.0	78	28
22 14.5 10.0 23				
Costilla Reservoir Inflow (2)	APR-JUL	8.0	78	13.1
9.9 6.3 4.1 10.3				
Costilla Ck nr Costilla (2)	APR-JUL	18.0	75	32
23 13.5 8.1 24				

Middle Sangre Mtns in New Mexico

30% Forecast Point (KAF)	70% (KAF)	min (KAF)	30-yr avg	period	50% (KAF)	% of avg	max (KAF)
-----	-----	-----	-----	-----	-----	-----	-----
Red R bl Fish Hatchery nr Questa	MAR-JUL	26	76	38			
30 22 16.6 34							
27 18.9 13.7 31	APR-JUL	23	74	35			
Rio Hondo nr Valdez	MAR-JUL	16.0	87	22			
18.4 13.8 10.9 18.4							
17.5 12.9 10.0 17.4	APR-JUL	15.1	87	21			
Rio Lucero nr Arroyo Seco	MAR-JUL	9.6	88	13.8			
11.2 8.1 6.1 10.9							
10.6 7.5 5.5 10.3	APR-JUL	9.0	87	13.2			
Rio Pueblo de Taos nr Taos	MAR-JUL	12.8	75	19.9			
15.4 10.4 7.4 17.0							
14.2 9.2 6.2 15.9	APR-JUL	11.6	73	18.7			
Rio Pueblo de Taos bl Los Cordovas	MAR-JUL	20	56	37			
26 14.8 8.8 36							
24 12.4 6.4 33	APR-JUL	17.7	54	35			
Embudo Ck at Dixon	MAR-JUL	30	63	55			
40 22 13.2 48							
37 19.6 10.4 44	APR-JUL	27	61	52			
Santa Cruz R at Cundiyo	MAR-JUL	13.2	72	21			
16.3 10.5 7.2 18.3							
14.8 9.0 5.7 16.7	APR-JUL	11.7	70	19.9			
Nambe Falls Reservoir Inflow (2)	MAR-JUL	5.0	77	7.7			

6.0	4.1	2.9	6.5
5.5	3.6	2.4	6.1
Tesuque Ck ab diversions			
1.55	0.95	0.63	1.34
1.27	0.67	0.35	1.19
Santa Fe R nr	Santa Fe (2)		
3.9	2.7	2.0	4.3
3.3	2.1	1.36	3.8

APR-JUL	4.5	74	7.2
MAR-JUL	1.23	92	2.1
APR-JUL	0.95	80	1.84
MAR-JUL	3.3	77	5.0
APR-JUL	2.7	71	4.4

El Vado, Jemez

30% Forecast (KAF)	70% Point (KAF)	min (KAF)	30-yr avg
-----	-----	-----	-----
El Vado Reservoir Inflow (2)			
147	106	80	225
140	99	73	205
Jemez R nr Jemez			
22	15.5	11.6	42
17.7	11.2	7.3	35
Jemez R bl Jemez Canyon Dam			
17.1	10.3	6.7	34
13.8	7.0	3.4	29

period	50% (KAF)	% of avg	max (KAF)
-----	-----	-----	-----
MAR-JUL	125	56	182
APR-JUL	118	58	175
MAR-JUL	18.5	44	27
APR-JUL	14.2	41	23
MAR-JUL	13.4	39	23
APR-JUL	10.1	35	20

Mainstem Routings

30% Forecast (KAF)	70% Point (KAF)	min (KAF)	30-yr avg
-----	-----	-----	-----
Rio Grande at Otowi Bridge (2)			
455	320	235	720
400	265	180	635
Rio Grande at San Marcial (2)			
275	104	-24	510
235	62	-66	440

period	50% (KAF)	% of avg	max (KAF)
-----	-----	-----	-----
MAR-JUL	385	53	580
APR-JUL	330	52	525
MAR-JUL	191	37	405
APR-JUL	149	34	365

Pecos

30% Forecast (KAF)	70% Point (KAF)	min (KAF)	30-yr avg	period	50% (KAF)	% of avg	max (KAF)
-----	-----	-----	-----	-----	-----	-----	-----
Pecos R nr Pecos				MAR-JUL	47	82	76
58	38	26	57	APR-JUL	43	81	72
54	34	22	53	MAR-JUL	46	73	92
Pecos R nr Anton Chico				APR-JUL	40	70	86
62	32	17.3	63	MAR-JUL	8.2	84	16.1
56	26	11.2	57	APR-JUL	7.4	86	15.3
Gallinas Ck nr Montezuma				MAR-JUL	37	66	78
11.0	5.8	3.1	9.8	APR-JUL	36	69	77
10.2	5.0	2.3	8.6				
Pecos R ab Santa Rosa Lk							
52	25	12.1	56				
51	24	10.6	52				

Ruidoso and Mimbres

30% Forecast (KAF)	70% Point (KAF)	min (KAF)	30-yr avg	period	50% (KAF)	% of avg	max (KAF)
-----	-----	-----	-----	-----	-----	-----	-----
Rio Ruidoso at Hollywood				MAR-JUN	5.0	75	7.3
5.8	4.3	3.5	6.7	APR-JUN	2.0	40	4.3
2.8	1.32	0.57	5.0	APR-MAY	1.58	145	3.3
Mimbres R at Mimbres (3)							
2.2	1.10	0.59	1.09				

Max (10%), 30%, 50%, 70% and Min (90%) chance that actual volume will exceed forecast.

Averages are for the 1981-2010 period.

All volumes are in thousands of acre-feet.

footnotes:

- 1) Max and Min are 5% and 95% chance that actual volume will exceed forecast
- 2) streamflow is adjusted for upstream storage
- 3) median value used in place of average

New Mexico Basin Outlook Report April 1, 2020



Snow in the Northern Mountains beginning to look a little thin at the mid elevations. Photo of Rio En Medio Snow Course –
Elevation 10,300ft MSL
Photo Courtesy Of: Logan Peterson, NRCS

Basin Outlook Reports and Federal - State - Private Cooperative Snow Surveys

For more water supply and resource management information, contact:

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Snow Survey Hydrologic Technician
Natural Resources Conservation Service
100 Sun Avenue NE, Suite 602
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Rick Strait
State Soil Scientist
Natural Resources Conservation Service
100 Sun Avenue NE, Suite 602
Albuquerque, NM 87109
(505) 761-4433

<http://www.nrcs.usda.gov/wps/portal/nrcs/main/nm/snow/>

How forecasts are made

Most of the annual streamflow in the western United States originates as snowfall that has accumulated in the mountains during the winter and early spring. As the snowpack accumulates, hydrologists estimate the runoff that will occur when it melts. Measurements of snow water equivalent at selected manual snow courses and automated SNOTEL sites, along with precipitation, antecedent streamflow, and indices of the El Niño / Southern Oscillation are used in computerized statistical and simulation models to prepare runoff forecasts. These forecasts are coordinated between hydrologists in the Natural Resources Conservation Service and the National Weather Service. Unless otherwise specified, all forecasts are for flows that would occur naturally without any upstream influences.

Forecasts of any kind, of course, are not perfect. Streamflow forecast uncertainty arises from three primary sources: (1) uncertain knowledge of future weather conditions, (2) uncertainty in the forecasting procedure, and (3) errors in the data. The forecast, therefore, must be interpreted not as a single value but rather as a range of values with specific probabilities of occurrence. The middle of the range is expressed by the 50% exceedance probability forecast, for which there is a 50% chance that the actual flow will be above, and a 50% chance that the actual flow will be below, this value. To describe the expected range around this 50% value, four other forecasts are provided, two smaller values (90% and 70% exceedance probability) and two larger values (30%, and 10% exceedance probability). For example, there is a 90% chance that the actual flow will be more than the 90% exceedance probability forecast. The others can be interpreted similarly.

The wider the spread among these values, the more uncertain the forecast. As the season progresses, forecasts become more accurate, primarily because a greater portion of the future weather conditions become known; this is reflected by a narrowing of the range around the 50% exceedance probability forecast. Users should take this uncertainty into consideration when making operational decisions by selecting forecasts corresponding to the level of risk they are willing to assume about the amount of water to be expected. If users anticipate receiving a lesser supply of water, or if they wish to increase their chances of having an adequate supply of water for their operations, they may want to base their decisions on the 90% or 70% exceedance probability forecasts, or something in between. On the other hand, if users are concerned about receiving too much water (for example, threat of flooding), they may want to base their decisions on the 30% or 10% exceedance probability forecasts, or something in between. Regardless of the forecast value users choose for operations, they should be prepared to deal with either more or less water. (Users should remember that even if the 90% exceedance probability forecast is used, there is still a 10% chance of receiving less than this amount.) By using the exceedance probability information, users can easily determine the chances of receiving more or less water.

The United States Department of Agriculture (USDA) prohibits discrimination in its programs on the basis of race, color, national origin, sex, religion, age, disability, political beliefs and marital or familial status. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD).

To file a complaint, write the Secretary of Agriculture, U.S. Department of Agriculture, Washington, D.C., 20250, or call 1-800-245-6340 (voice) or (202) 720-1127 (TDD). USDA is an equal employment opportunity employer.

Summary

Early March left the southeastern portion of New Mexico with much needed moisture with some areas experiencing upwards of 150 percent of the average monthly precipitation. This resulted in the expansion of D0 drought status across eastern New Mexico. The remainder of the month saw isolated precipitation in the four corners region as well as snow in the higher elevations but no major accumulations. Snow water equivalent values also took a major hit state-wide as temperatures began to rise with some basins such as the Gila reporting as low as 29 percent of average. Overall a below average month for New Mexico when looking at the state as a whole. On average statewide streamflow forecasts are average to below average with the higher values in the southern half of the state as a result of melt out and timely precipitation. Melt out is occurring in the mid to low elevation basins with hopes that temperatures will remain cold enough in the northern mountains to retain the higher elevation snowpack until later in the spring. Water users and managers a. continue to monitor conditions to see how the forecasts develop as we progress into the water year.

Snowpack

The April 1st snowpack values continue to drop as winter snows slowed in the southern half of the state and began to taper off in the north. Statewide temperatures were also on the rise for much of March causing early winter snows to begin their transition to lower elevations as water. With the exception of the Canadian basin, all northern basins are just are below the average for April 1st while New Mexico's southern basins saw big drops in snowpack and received moisture as rain. Ranging from a high of 107 percent of median in the Canadian River Basin to a low of bare ground in the Mimbres Basin there remains a significant water supply difference between the northern and southern portions of the state. Statewide snowpack average is currently at 78 percent of the median as compared to 112 percent at this time last year.

NEW MEXICO STATEWIDE SNOWPACK	Percent of Median	Last Year Percent of Median
CANADIAN RIVER BASIN	107	133
PECOS RIVER BASIN	86	104
RIO GRANDE BASIN	80	121
MIMBRES RIVER BASIN	0	0
SAN FRANCISCO-UPPER GILA RIVER BASIN	31	13
ZUNI-BLUEWATER BASINS	0	0
SAN JUAN RIVER BASIN	97	151
CHUSKA MOUNTAINS	0	0
RIO HONDO BASIN	7	5
Statewide Snowpack Total	78	112
# of sites	21	21

Precipitation

Water year precipitation starting October 1 through February is currently at 96 percent of average. March saw mixed values throughout the state with isolated storms and localized weather making impacts throughout the month. Most northern areas in New Mexico saw below average monthly precipitation values. However, the southern half of the state received large amounts of isolated precipitation. The Mimbres received 139 percent of the average rain for the month along with the San Francisco and Upper Gila accumulating 114 percent of the average. The Rio Hondo received 214 percent of the average during the month due to major storm tracking directly over the region! Water users and managers should continue to monitor the evolution of the forecast to help determine their water supply needs as the water-year progresses.

Reservoirs

Reservoir storage across New Mexico currently remains significantly improved over last year at this time. Elephant Butte is currently at 552,900 acre-feet as compared to last year's 219,600. Navajo Reservoir is holding 1,292,500 acre-feet in comparison to 955,500 last year. Statewide reservoir storage is currently at 66 percent of the average as compared to 46 percent last year at this time. Total reservoir storage is 2,419,400 acre-feet as compared to 1,697,800 acre-feet last year. This equates to 44 percent of the average capacity and 29 percent of the actual capacity. Water-users should continue to monitor weather conditions to evaluate their water needs as the water-year progresses.

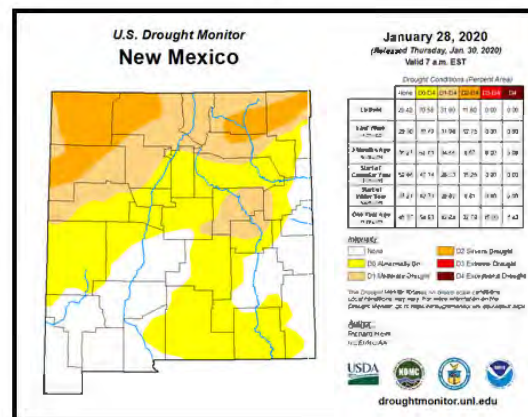
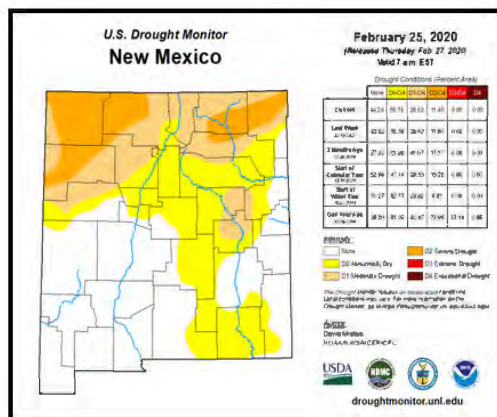
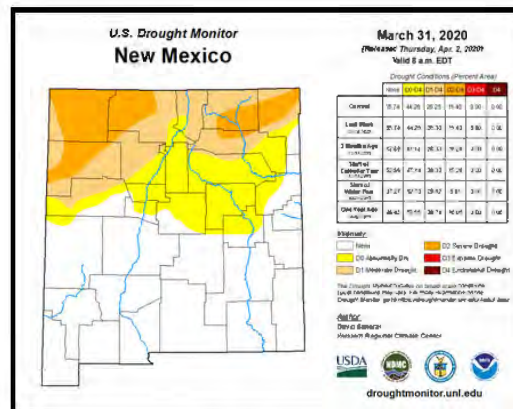
NEW MEXICO STATEWIDE	Current (KAF)	Last Year (KAF)	Average (KAF)	Capacity (KAF)	Current % Capacity	Last Year % Capacity	Average % Capacity	Current % Average	Last Year % Average
Abiquiu Reservoir	89.9	63.3	153.9	1192.8	8%	5%	13%	58%	41%
Bluewater Lake	7.2	11.6	9.7	38.5	19%	30%	25%	75%	119%
Brantley Lake nr Carlsbad	41.1	29.8	30.1	1008.2	4%	3%	3%	137%	99%
Caballo Reservoir	78.8	31.1	84.6	332.0	24%	9%	25%	93%	37%
Cochiti Lake	45.2	45.6	58.0	491.0	9%	9%	12%	78%	79%
Conchas Lake	72.1	128.1	202.7	254.2	28%	50%	80%	36%	63%
Costilla Reservoir		4.3	7.3	16.0		27%	46%		58%
Eagle Nest Lake nr Eagle Nest, NM	47.4	36.6	55.6	79.0	60%	46%	70%	85%	66%
El Vado Reservoir	27.0	25.7	113.0	190.3	14%	14%	59%	24%	23%
Elephant Butte Reservoir	552.9	219.6	1283.0	2195.0	25%	10%	58%	43%	17%
Heron Reservoir	108.4	59.2	287.7	400.0	27%	15%	72%	38%	21%
Lake Avalon	3.4	1.3	1.6	4.0	85%	33%	39%	218%	83%
Lake Sumner	25.7	32.9	29.7	102.0	25%	32%	29%	87%	111%
Navajo Reservoir	1292.5	955.5	1310.0	1696.0	76%	56%	77%	99%	73%
Santa Rosa Reservoir	27.8	57.5	52.4	438.3	6%	13%	12%	53%	110%
Basin-wide Total	2419.4	1697.8	3672.0	8421.3	29%	20%	44%	66%	46%
# of reservoirs	14	14	14	14	14	14	14	14	14

* Costilla stream gauge is currently inoperative

Streamflow

Forecasts across the state have dropped noticeably for most basins following a somewhat dry March. Isolated storms coupled with snow melt due to temperatures in the south has resulted in marginal increases in forecast values in the Mimbres, Gila, and Rio Hondo River Basins. Water users and managers should continue to watch the forecasts as water supply conditions evolve across the state.

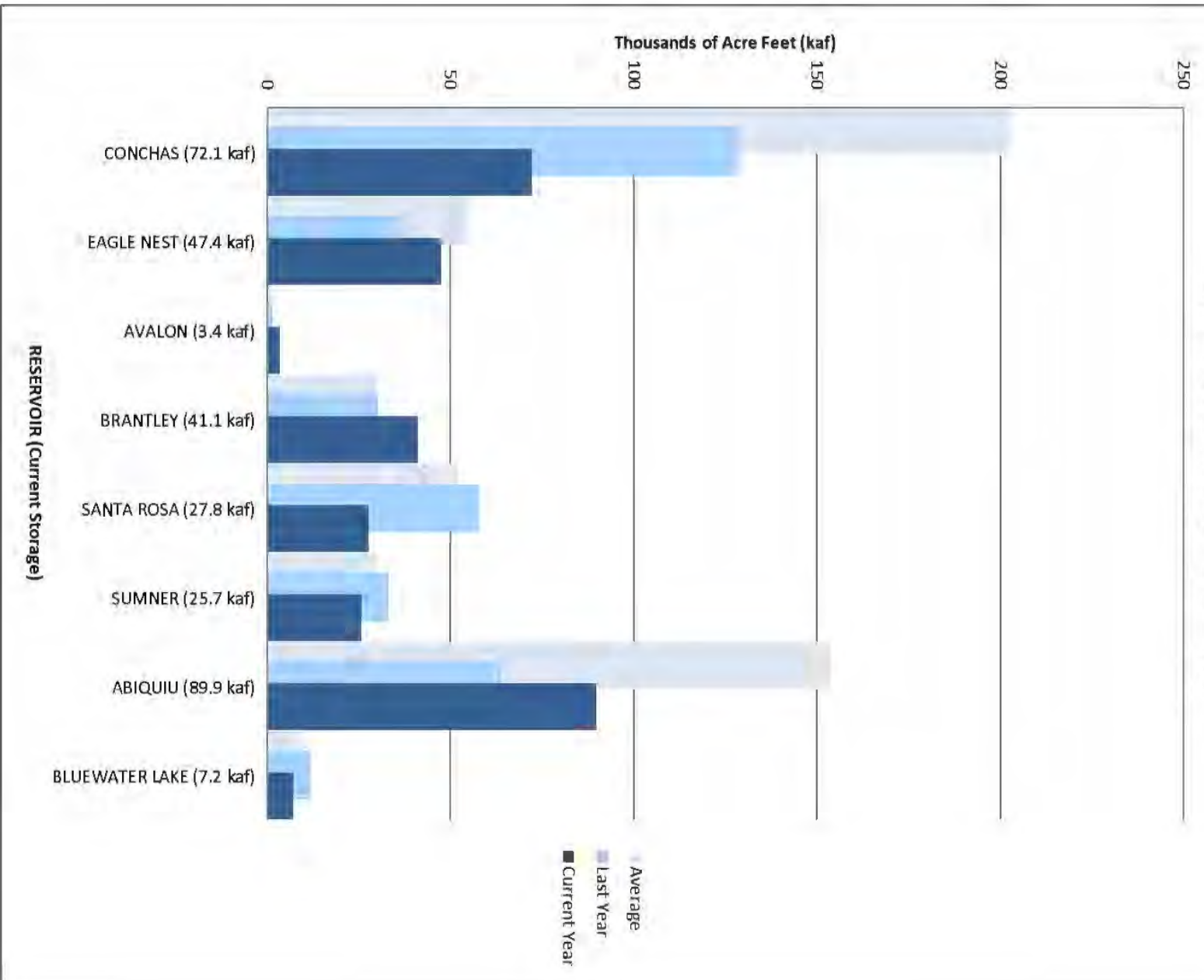
New Mexico Drought Monitor, real versus perceived conditions?



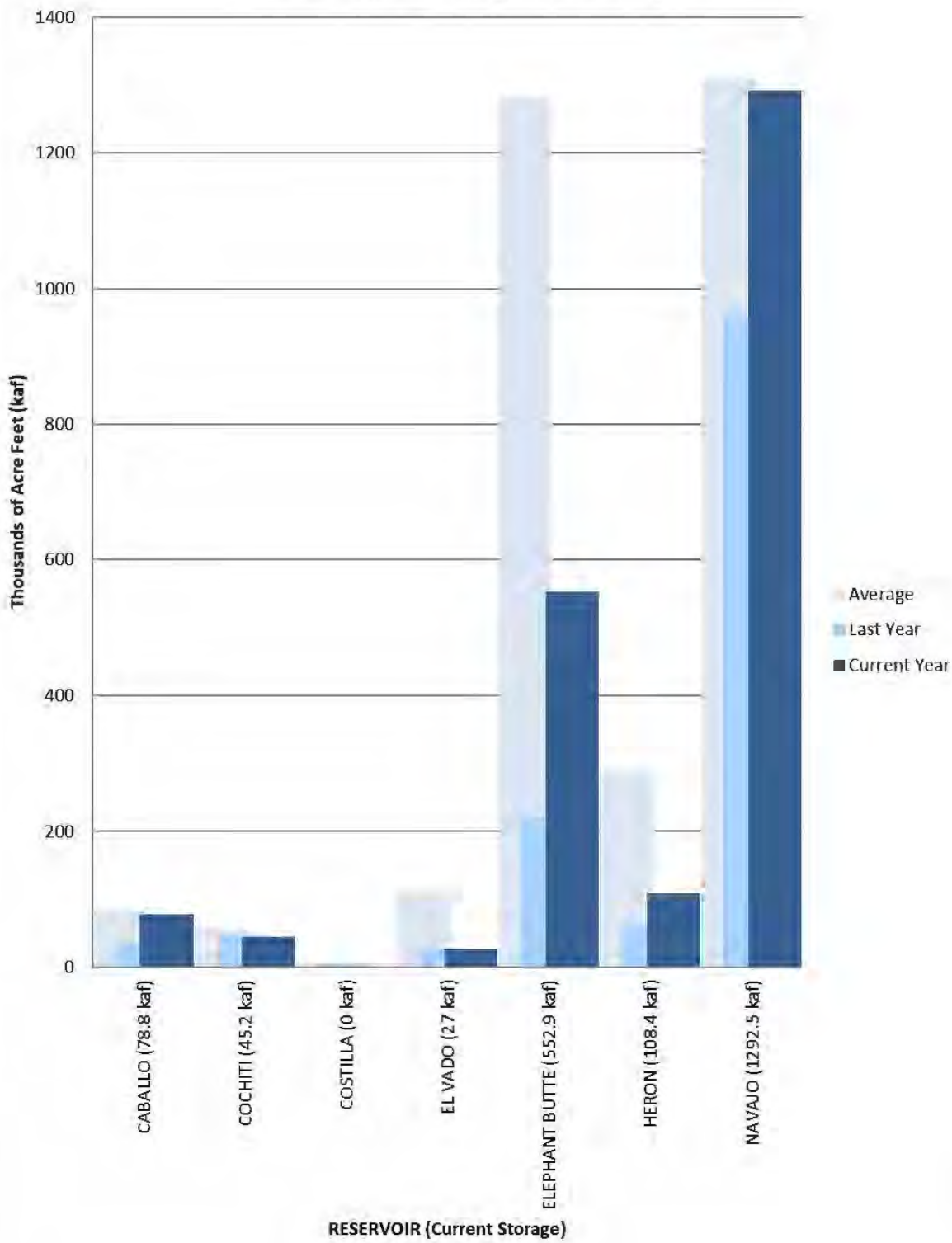
Every week, The U.S. Drought Monitor is produced in partnership between the National Drought Mitigation Center at the University of Nebraska-Lincoln, the United States Department of Agriculture, and the National Oceanic and Atmospheric Administration. This useful tool uses multiple inputs, including precipitation received, to give an indication of the extent and severity of drought conditions nationwide.

Drought remains firmly in place over the northern one-third of New Mexico due to a combination of a below normal 2019 monsoon season and a near to below normal winter 2019-2020. Temperatures for March remained significantly above normal, especially over the upper Rio Grande Valley and the Eastern Plains. When combined with the lack of precipitation and normal springtime winds, this has led to above normal evapotranspiration demands over northeastern New Mexico, helping to further impact already dry rangeland. Precipitation during March was mainly focused on the southern two-thirds of the state with the lower Rio Grande and Pecos Valleys seeing much of the precipitation. Higher elevations in the Chuska Mountains did well, however much of the lowland areas of the Four Corners didn't receive much of the needed precipitation to begin to improve conditions in that region. Finally, precipitation in the upper Rio Grande Valley and the Northeast Plains remained well below normal during March, continuing the moderate to severe drought in those areas.

Statewide Reservoir Storage



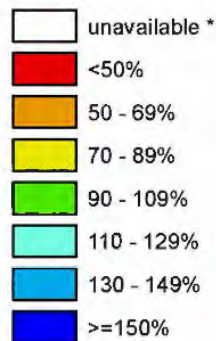
Statewide Reservoir Storage



New Mexico SNOTEL Current Snow Water Equivalent (SWE) % of Normal

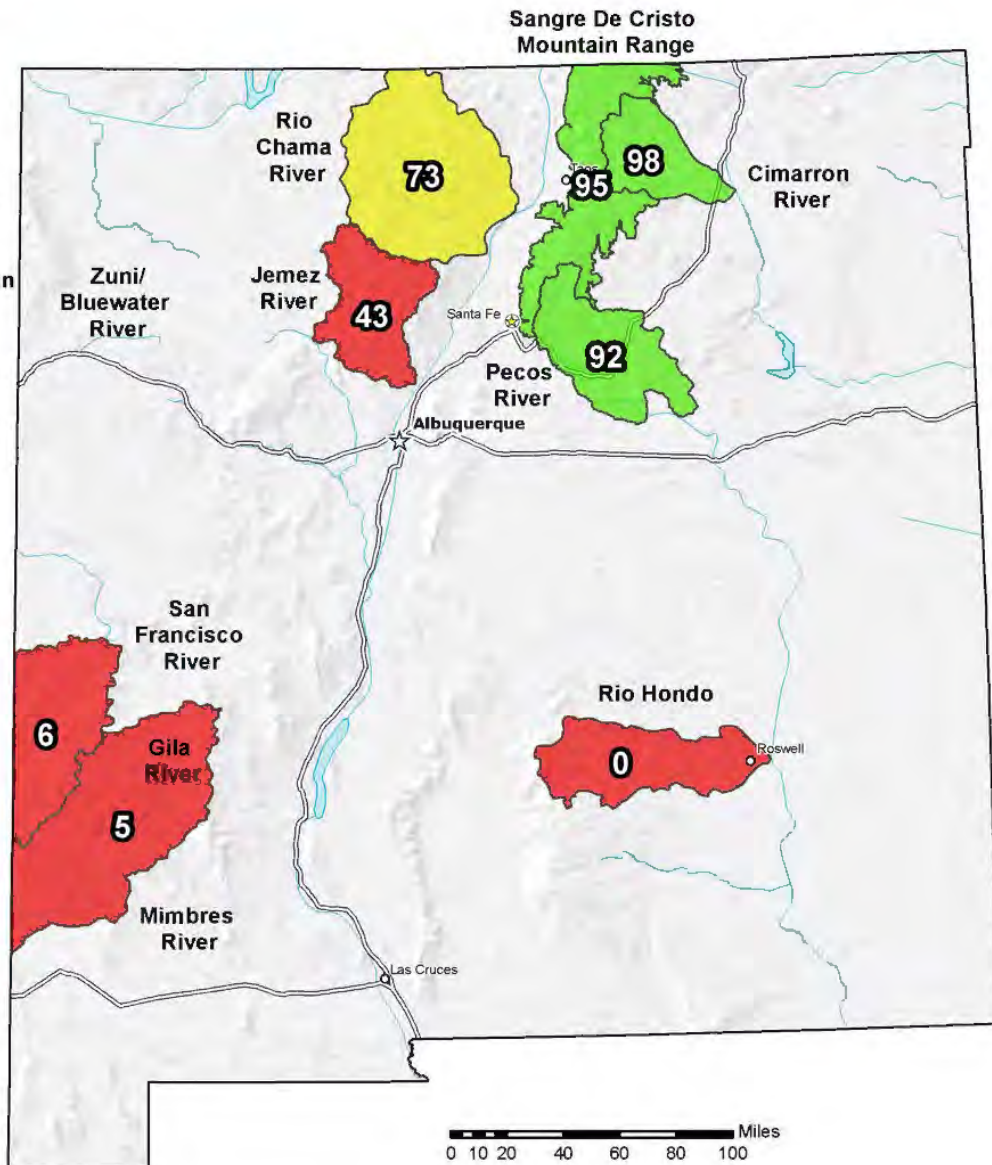
Apr 06, 2020

Current Snow Water
Equivalent (SWE)
Basin-wide Percent
% of 1981-2010 Median



* Data unavailable at time
of posting or measurement
is not representative at this
time of year

**Provisional Data
Subject to Revision**



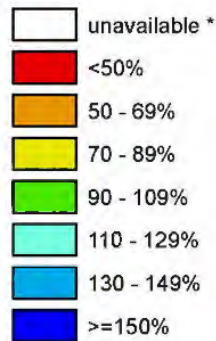
The snow water equivalent percent of normal represents the current snow water equivalent found at selected SNOTEL sites in or near the basin compared to the average value for those sites on this day. Data based on the first reading of the day (typically 00:00).

Prepared by:
USDA/NRCS National Water and Climate Center
Portland, Oregon
<http://www.wcc.nrcs.usda.gov>

New Mexico SNOTEL Water Year (Oct 1) to Date Precipitation % of Normal

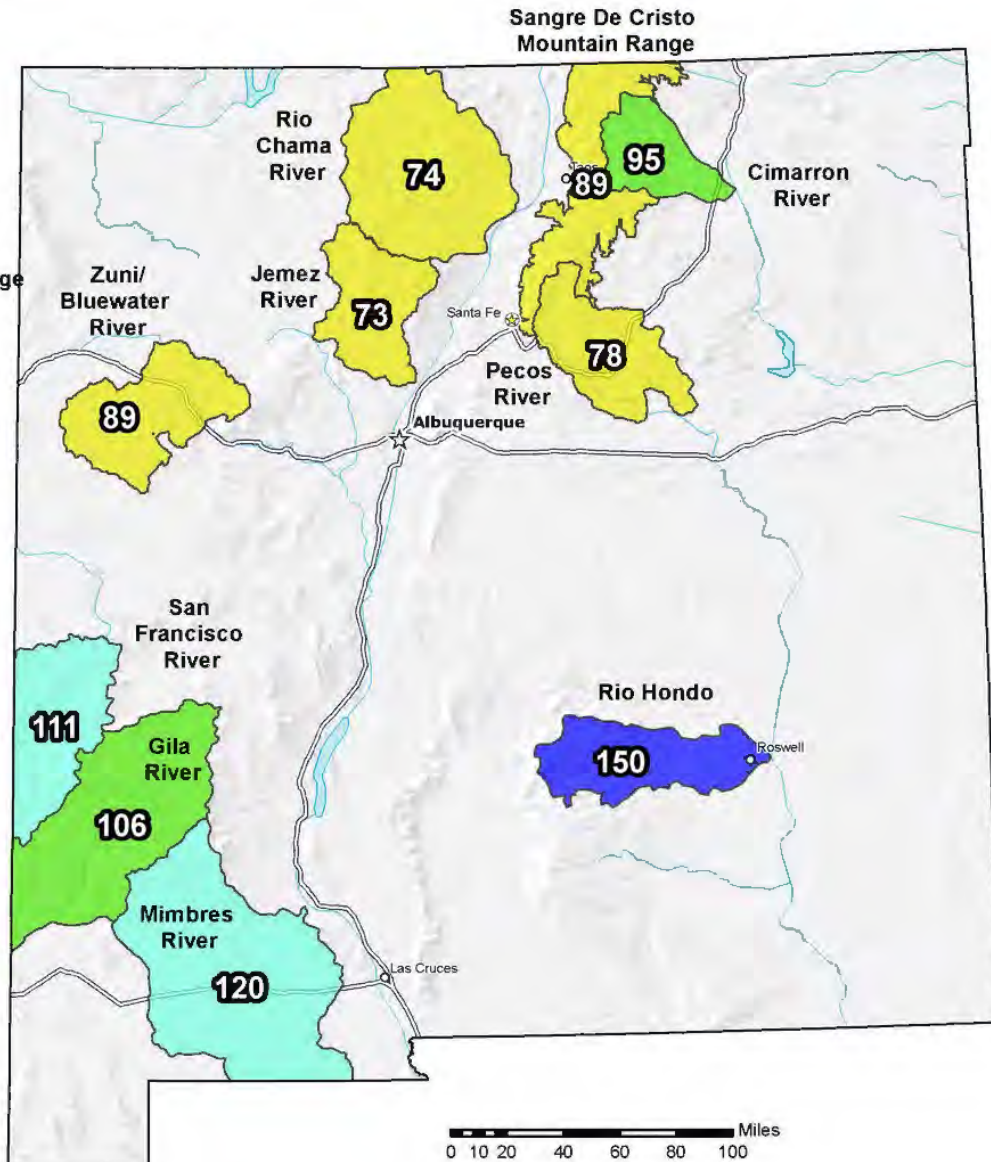
Apr 06, 2020

Water Year (Oct 1)
to Date Precipitation
Basin-wide Percent
% of 1981-2010 Average



* Data unavailable at time
of posting or measurement
is not representative at this
time of year

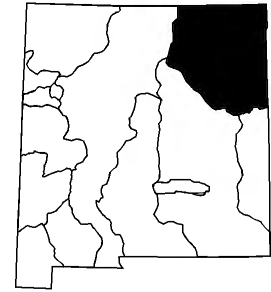
**Provisional Data
Subject to Revision**



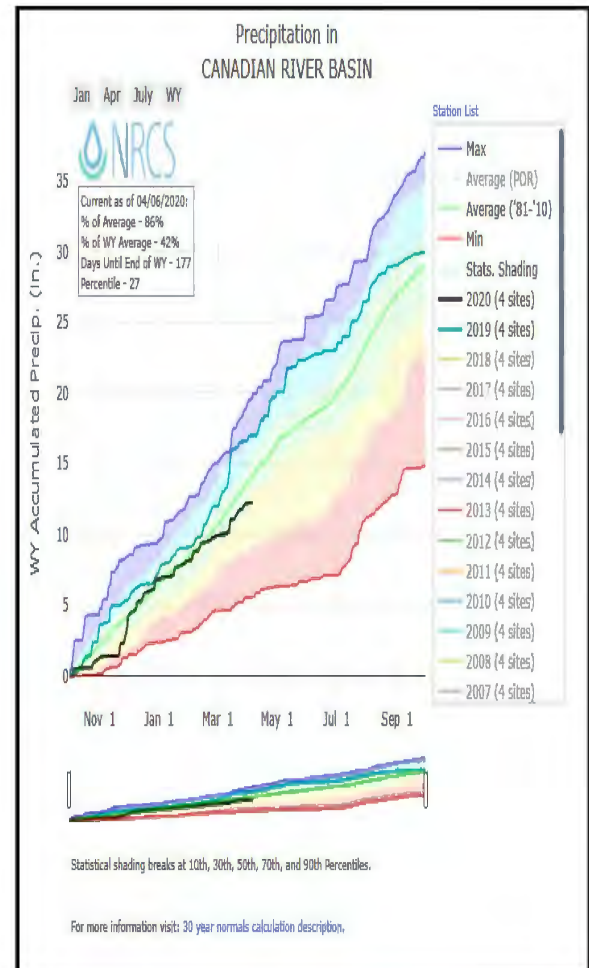
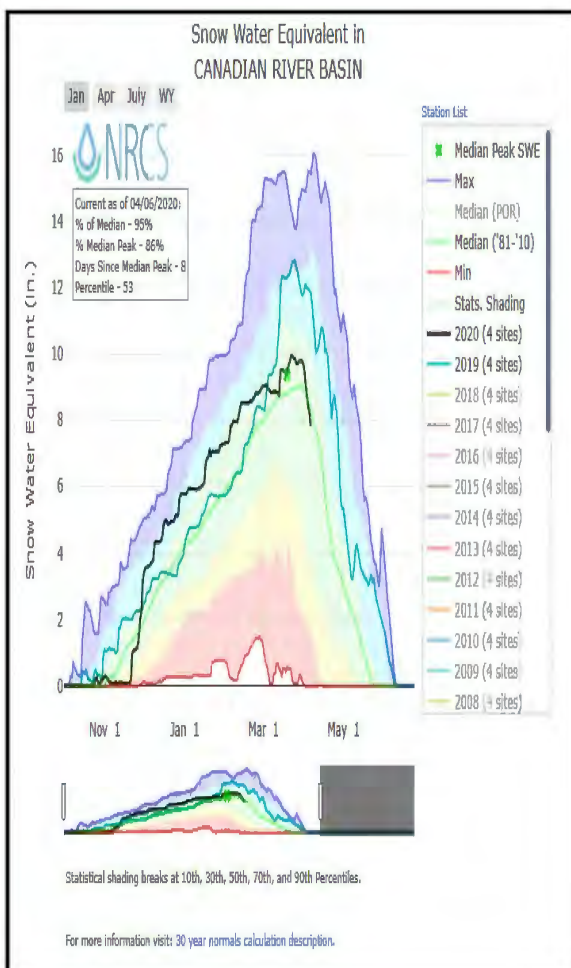
The water year to date precipitation percent of normal represents the accumulated precipitation found at selected SNOTEL sites in or near the basin compared to the average value for those sites on this day. Data based on the first reading of the day (typically 00:00).

Prepared by:
USDA/NRCS National Water and Climate Center
Portland, Oregon
<http://www.wcc.nrcs.usda.gov>

Canadian River Basin Water Supply Outlook Report as of April 1, 2020



The month of March received 71 percent of the average amount of precipitation for the month. This puts the water year-to-date average amount of precipitation at 89 percent as compared to 122 percent last year at this time. Snowpack in the basin is at 107 percent of the median. The April to June Forecasts are all well below the average with the highest being 81 percent of average at Rayado Creek near Cimarron. Reservoirs are currently holding 119,500 acre-feet of storage, which is a decrease of 45,200 acre-feet from last year at this time. This equates to 46 percent of the average stored water, as compared to 64 percent for the basin at the end of March last year.



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Canadian River Basin Streamflow Forecasts - April 1, 2020

Forecast Exceedance Probabilities for Risk Assessment
Chance that actual volume will exceed forecast

CANADIAN RIVER BASIN	Forecast Period	90% (KAF)	70% (KAF)	50% (KAF)	% Avg	30% (KAF)	10% (KAF)	30yr Avg (KAF)
Vermejo R nr Dawson	MAR-JUN	2.5	4.1	5.5	71%	7.2	10.4	7.8
	APR-JUN	2.1	3.7	5.1	71%	6.8	10	7.2
Eagle Nest Reservoir Inflow	MAR-JUN	3.2	5.6	7.8	70%	10.5	15.4	11.2
	APR-JUN	1.67	3.8	6	67%	8.9	14.7	8.9
Cimarron R nr Cimarron ²	MAR-JUN	0.5	5.8	11	70%	16.2	24	15.8
	APR-JUN	0	3.7	8.7	66%	13.7	21	13.2
Ponil Ck nr Cimarron	MAR-JUN	2.3	3.8	5	69%	6.5	9.1	7.2
	APR-JUN	2.2	3.6	4.9	73%	6.4	9.2	6.7
Rayado Ck nr Cimarron	MAR-JUN	2.1	4.1	5.9	84%	8.2	12.6	7
	APR-JUN	1.5	3.3	5.2	81%	7.6	12.5	6.4
Conchas Reservoir Inflow ³	MAR-JUN	3.6	11.6	21	70%	34	63	30
	APR-JUN	2.9	10.3	19.5	81%	33	62	24

1) 90% and 10% exceedance probabilities are actually 95% and 5%

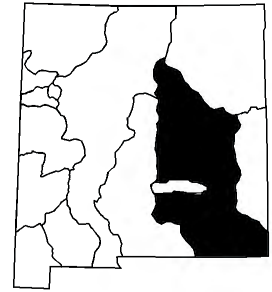
2) Forecasts are for unimpaired flows. Actual flow will be dependent on management of upstream reservoirs and diversions

3) Median value used in place of average

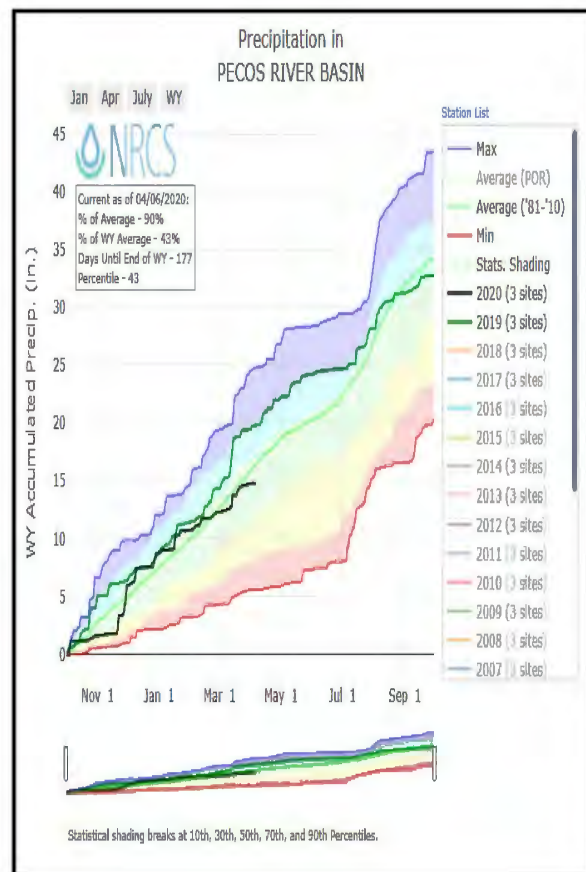
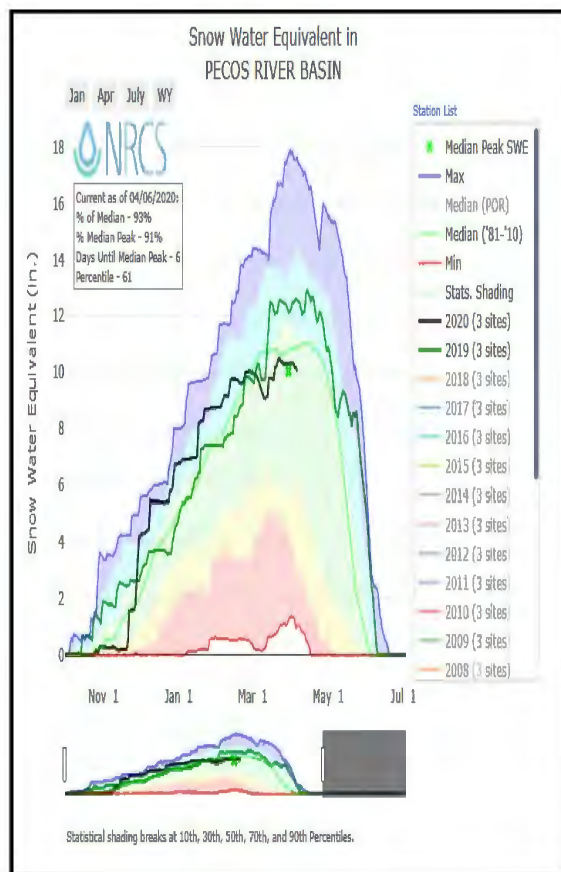
Reservoir Storage End of March, 2020	Current (KAF)	Last Year (KAF)	Average (KAF)	Capacity (KAF)
Conchas Lake	72.1	128.1	202.7	254.4
Eagle Nest Lake nr Eagle Nest, NM	47.4	36.6	55.6	79.0
Basin-wide Total	119.5	164.7	258.3	333.4
# of reservoirs	2	2	2	2

Watershed Snowpack Analysis April 1, 2020	# of Sites	% Median	Last Year % Median
CANADIAN RIVER BASIN	4	107%	133%

Pecos River Basin Water Supply Outlook Report as of April 1, 2020



March received just 74 percent of the average precipitation for the month, putting the basin at 94 percent of average for the water year-to-date. Snowpack in the Pecos River Basin is at 86 percent of the median. Last year at this time the basin had 104 percent of the median snowpack. Forecasts in the Pecos Basin are all slightly below average ranging from 70 to 86 percent of average for the April to July time frame. As of April 1st, reservoir storage in the basin is at 98,000 acre-feet. This is 86 percent of the average stored water. Last year at this time reservoir storage was 107 percent of the average.



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Pecos River Basin Streamflow Forecasts - April 1, 2020

Forecast Exceedance Probabilities for Risk Assessment
Chance that actual volume will exceed forecast

PECOS RIVER BASIN	Forecast Period	90% (KAF)	70% (KAF)	50% (KAF)	% Avg	30% (KAF)	10% (KAF)	30yr Avg (KAF)
Pecos R nr Pecos	MAR-JUL	26	38	47	82%	58	76	57
	APR-JUL	22	34	43	81%	54	72	53
Pecos R nr Anton Chico	MAR-JUL	17.3	32	46	73%	62	92	63
	APR-JUL	11.2	26	40	70%	56	86	57
Gallinas Ck nr Montezuma	MAR-JUL	3.1	5.8	8.2	84%	11	16.1	9.8
	APR-JUL	2.3	5	7.4	86%	10.2	15.3	8.6
Pecos R ab Santa Rosa Lk	MAR-JUL	12.1	25	37	66%	52	78	56
	APR-JUL	10.6	24	36	69%	51	77	52

1) 90% and 10% exceedance probabilities are actually 95% and 5%

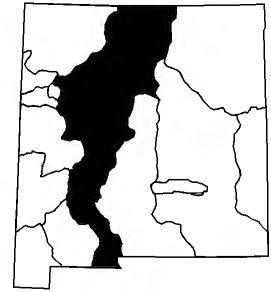
2) Forecasts are for unimpaired flows. Actual flow will be dependent on management of upstream reservoirs and diversions

3) Median value used in place of average

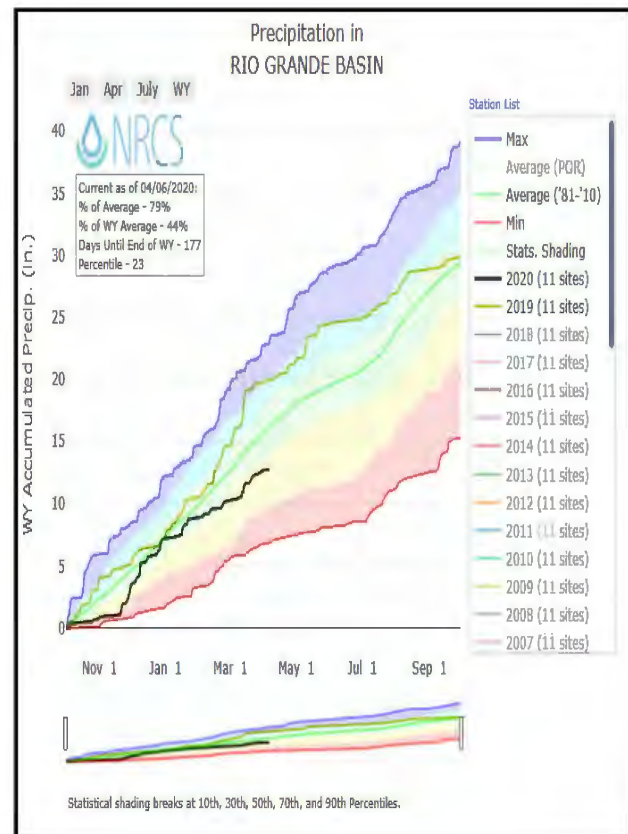
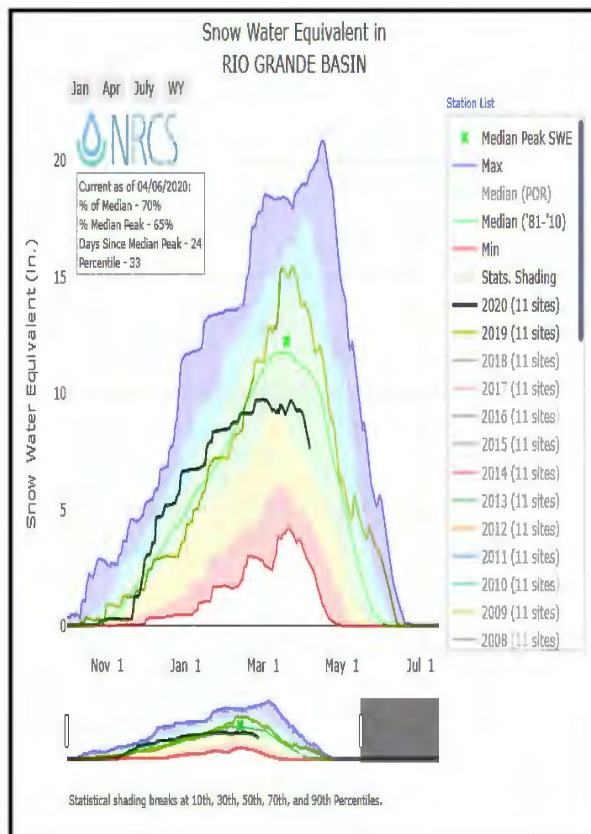
Reservoir Storage End of March, 2020	Current (KAF)	Last Year (KAF)	Average (KAF)	Capacity (KAF)
Lake Avalon	3.4	1.3	1.6	4.0
Brantley Lake nr Carlsbad	41.1	29.8	30.1	1008.2
Santa Rosa Reservoir	27.8	57.5	52.4	432.2
Lake Sumner	25.7	32.9	29.7	102.0
Basin-wide Total	98.0	121.5	113.8	1546.4
# of reservoirs	4	4	4	4

Watershed Snowpack Analysis April 1, 2020	# of Sites	% Median	Last Year % Median
PECOS RIVER BASIN	4	86%	104%

Rio Grande Basin Water Supply Outlook Report as of April 1, 2020



March was another below average month for precipitation in the basin accumulating just 81 percent of the average leaving the water year-to-date precipitation at 82 percent of the average. Snowpack in the basin is also below the median at 80 percent. This is 41 percent below last year's median. Snowpack in southern Colorado near the headwaters of the Rio Grande is at 100 percent of the median as compared to 147 percent last year at this time. Forecasts for the Rio Grande Basin have continued to drop and currently range from 30 to 72 percent of average. Current reservoir storage in the basin remains well above last year's values. Current storage in the basin is 909,400 acre-feet as compared to 456,100 acre-feet from this time last year! This is 46 percent of the average stored water for the basin.



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Rio Grande Basin Streamflow Forecasts - April 1, 2020

Forecast Exceedance Probabilities for Risk Assessment
Chance that actual volume will exceed forecast

RIO GRANDE BASIN	Forecast Period	90% (KAF)	70% (KAF)	50% (KAF)	% Avg	30% (KAF)	10% (KAF)	30yr Avg (KAF)
Rio Grande nr Del Norte ²	APR-SEP	230	300	355	69%	415	505	515
Platoro Reservoir Inflow	APR-JUL	29	36	40	71%	45	52	56
	APR-SEP	31	38	43	69%	49	57	62
Conejos R nr Mogote ²	APR-SEP	85	108	125	64%	143	172	194
Costilla Reservoir Inflow	APR-JUL	4.1	6.3	8	78%	9.9	13.1	10.3
Costilla Ck nr Costilla ²	APR-JUL	8.1	13.5	18	75%	23	32	24
Red R bl Fish Hatchery nr Questa	MAR-JUL	16.6	22	26	76%	30	38	34
	APR-JUL	13.7	18.9	23	74%	27	35	31
Rio Hondo nr Valdez	MAR-JUL	10.9	13.8	16	87%	18.4	22	18.4
	APR-JUL	10	12.9	15.1	87%	17.5	21	17.4
Rio Pueblo de Taos nr Taos	MAR-JUL	7.4	10.4	12.8	75%	15.4	19.9	17
	APR-JUL	6.2	9.2	11.6	73%	14.2	18.7	15.9
Rio Lucero nr Arroyo Seco	MAR-JUL	6.1	8.1	9.6	88%	11.2	13.8	10.9
	APR-JUL	5.5	7.5	9	87%	10.6	13.2	10.3
Rio Pueblo de Taos bl Los Cordovas	MAR-JUL	8.8	14.8	20	56%	26	37	36
	APR-JUL	6.4	12.4	17.7	54%	24	35	33
Embudo Ck at Dixon	MAR-JUL	13.2	22	30	63%	40	55	48
	APR-JUL	10.4	19.6	27	61%	37	52	44
El Vado Reservoir Inflow ²	MAR-JUL	80	108	125	56%	147	182	225
	APR-JUL	73	99	118	58%	140	175	205
Santa Cruz R at Cundiyo	MAR-JUL	7.2	10.5	13.2	72%	16.3	21	18.3
	APR-JUL	5.7	9	11.7	70%	14.8	19.9	16.7
Nambe Falls Reservoir Inflow	MAR-JUL	2.9	4.1	5	77%	6	7.7	6.5
	APR-JUL	2.4	3.6	4.5	74%	5.5	7.2	6.1
Tesuque Ck ab diversions	MAR-JUL	0.63	0.95	1.23	92%	1.55	2.1	1.34
	APR-JUL	0.35	0.67	0.95	80%	1.27	1.84	1.19
Rio Grande at Otowi Bridge ²	MAR-JUL	235	320	385	53%	455	580	720
	APR-JUL	180	265	330	52%	400	525	635
Santa Fe R nr Santa Fe ²	MAR-JUL	2	2.7	3.3	77%	3.9	5	4.3
	APR-JUL	1.36	2.1	2.7	71%	3.3	4.4	3.8
Jemez R nr Jemez	MAR-JUL	11.6	15.5	18.5	44%	22	27	42
	APR-JUL	7.3	11.2	14.2	41%	17.7	23	35
Jemez R bl Jemez Canyon Dam	MAR-JUL	6.7	10.3	13.4	39%	17.1	23	34
	APR-JUL	3.4	7	10.1	35%	13.8	20	29
Rio Grande at San Marcial ²	MAR-JUL	-24	104	191	37%	275	405	510
	APR-JUL	-66	62	149	34%	235	365	440

1) 90% and 10% exceedance probabilities are actually 95% and 5%.

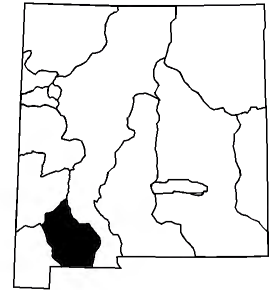
2) Forecasts are for unimpaired flows. Actual flow will be dependent on management of upstream reservoirs and diversions.

3) Median value used in place of average.

Reservoir Storage End of March, 2020	Current (KAF)	Last Year (KAF)	Average (KAF)	Capacity (KAF)
Abiquiu Reservoir	89.9	63.3	153.9	1198.5
Bluewater Lake	7.2	11.6	9.7	38.5
Caballo Reservoir	78.8	31.1	84.6	332.0
Cochiti Lake	45.2	45.6	58.0	491.0
Costilla Reservoir		4.3	7.3	16.0
El Vado Reservoir	27.0	25.7	113.0	184.8
Elephant Butte Reservoir	552.9	219.6	1283.0	2195.0
Heron Reservoir	108.4	59.2	287.7	400.0
Basin-wide Total	909.4	456.1	1989.9	4839.8
# of reservoirs	7	7	7	7

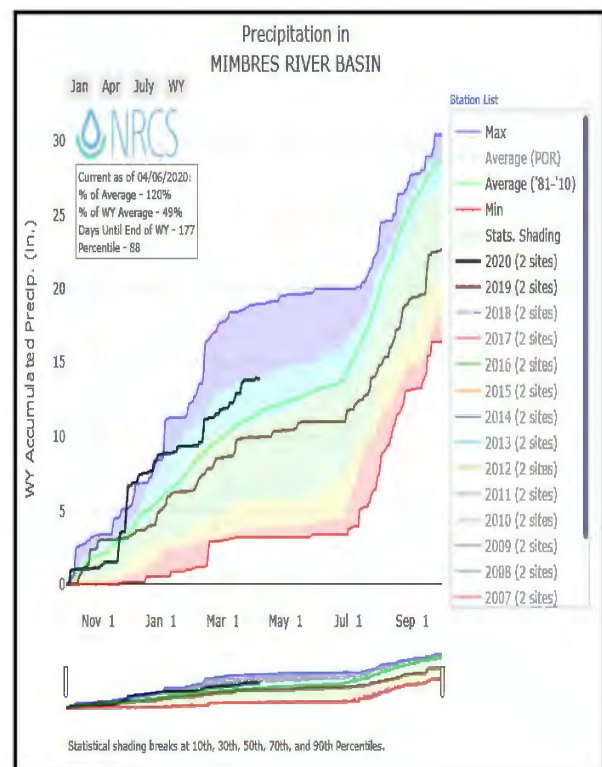
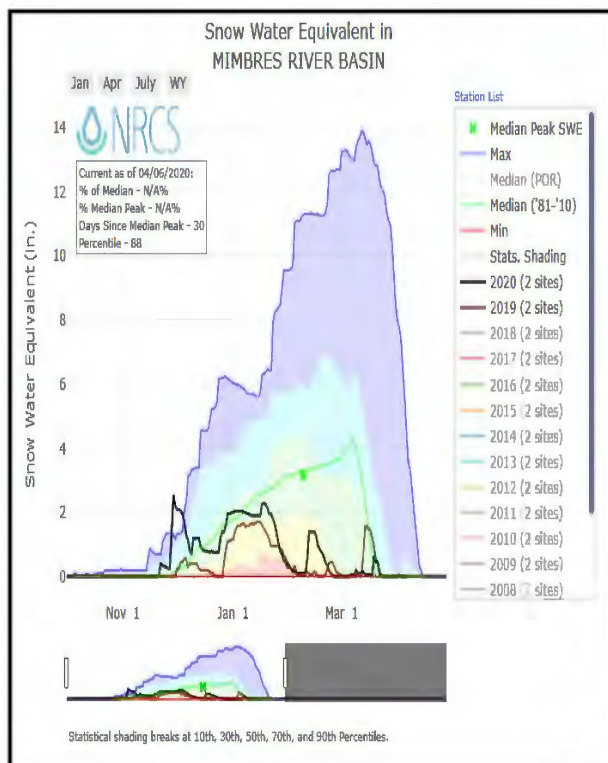
Watershed Snowpack Analysis April 1, 2020	# of Sites	% Median	Last Year % Median
RIO GRANDE BASIN	12	80%	121%

Mimbres River Basin Water Supply Outlook Report as of April 1, 2020



March was a wet month for the basin receiving 139 percent of the average monthly precipitation which now brings the water year-to-date total up to 122 percent of the average. As of April 1st, snowpack in the basin has melted out. Forecasts for the Mimbres River have increased significantly due to snow melt and recent precipitation are now at 145 percent of the average.

Users of NRCS Snow Survey data should be aware, due to reduced budget allocations; the manual snow courses at McKnight Cabin and Emory Pass #2 have been discontinued. Data is still being recorded at the automated SNOTEL sites in the basin.



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**Mimbres River Basin
Streamflow Forecasts - April 1, 2020**

Forecast Exceedance Probabilities for Risk Assessment
Chance that actual volume will exceed forecast

MIMBRES RIVER BASIN	Forecast Period	90% (KAF)	70% (KAF)	50% (KAF)	% Avg	30% (KAF)	10% (KAF)	30yr Avg (KAF)
Mimbres R at Mimbres ³	APR-MAY	0.59	1.1	1.58	145%	2.2	3.3	1.09

1) 90% and 10% exceedance probabilities are actually 95% and 5%

2) Forecasts are for unimpaired flows. Actual flow will be dependent on management of upstream reservoirs and diversions

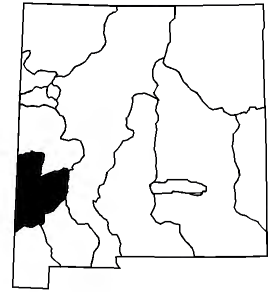
3) Median value used in place of average

Watershed Snowpack Analysis April 1, 2020	# of Sites	% Median	Last Year % Median
MIMBRES RIVER BASIN	2		

San Francisco / Upper Gila River Basin

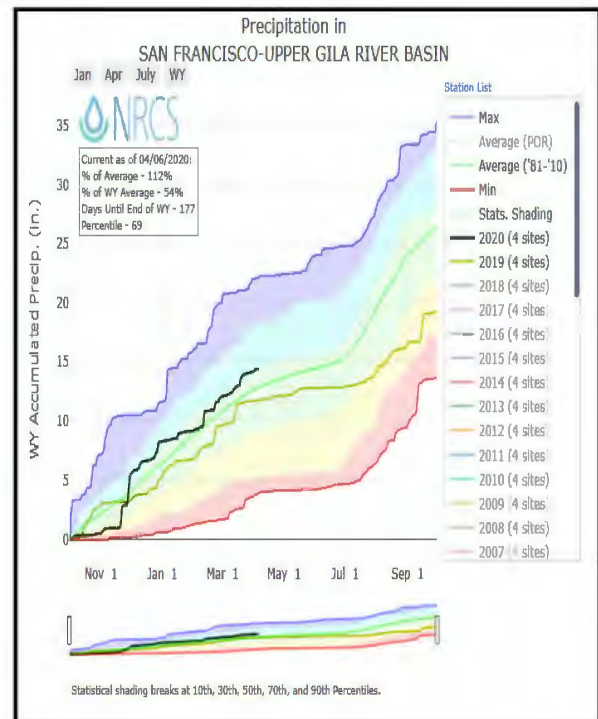
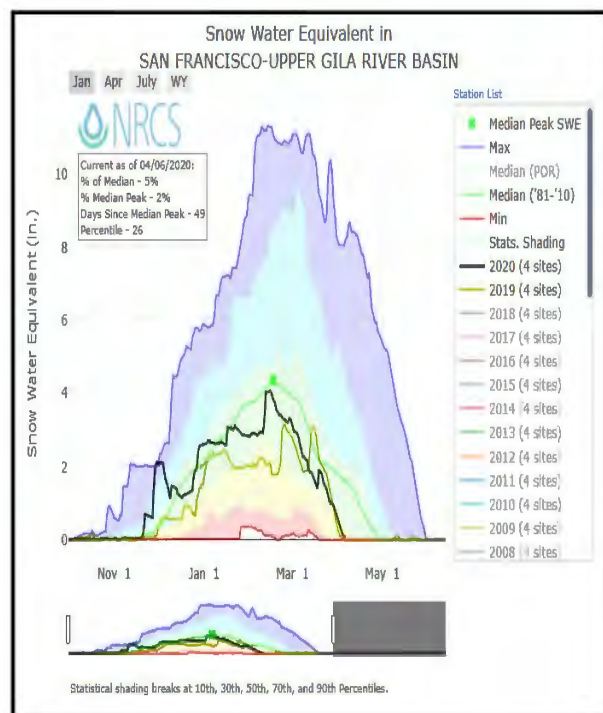
Water Supply Outlook Report

as of April 1, 2020



Water year-to-date precipitation is now at 113 percent of the average after receiving 114 percent of the average monthly precipitation! Snowpack in the basin is currently at 31 percent of the median as compared to 13 percent at this time last year. Forecasts for the basin currently range from 95 to 118 percent of the average.

Due to budget and contracting issues, the aerial markers at Hummingbird Saddle and Whitewater Baldy are not currently being measured. Plans are in effect to automate these sites with depth sensors which will transmit out data daily as soon as possible.



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San Francisco-Upper Gila River Basin Streamflow Forecasts - April 1, 2020

Forecast Exceedance Probabilities for Risk Assessment
Chance that actual volume will exceed forecast

SAN FRANCISCO-UPPER GILA RIVER BASIN	Forecast Period	90% (KAF)	70% (KAF)	50% (KAF)	% Avg	30% (KAF)	10% (KAF)	30yr Avg (KAF)
Gila R at Gila ³	APR-MAY	9.4	13.1	16.1	98%	19.6	25	16.5
Gila R bl Blue Ck nr Virden ³	APR-MAY	8	14.6	20	95%	27	38	21
San Francisco R at Glenwood ³	APR-MAY	4	6.4	8.6	118%	11.1	15.8	7.3
San Francisco R at Clifton ³	APR-MAY	8	13.7	18.5	107%	24	33	17.3

1) 90% and 10% exceedance probabilities are actually 95% and 5%

2) Forecasts are for unimpaired flows. Actual flow will be dependent on management of upstream reservoirs and diversions

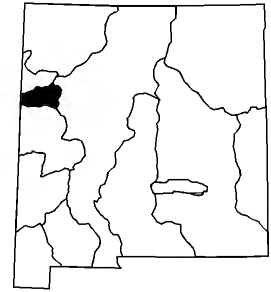
3) Median value used in place of average

Watershed Snowpack Analysis April 1, 2020	# of Sites	% Median	Last Year % Median
SAN FRANCISCO-UPPER GILA RIVER BASIN	4	31%	13%

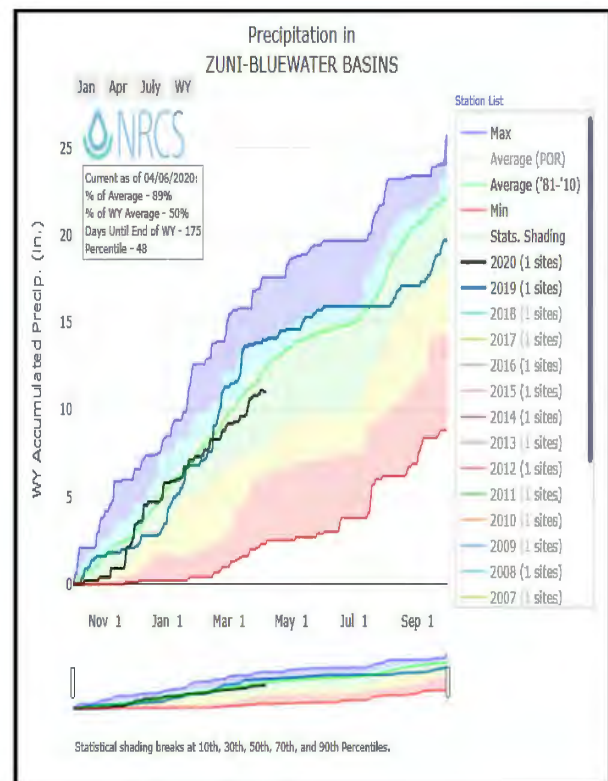
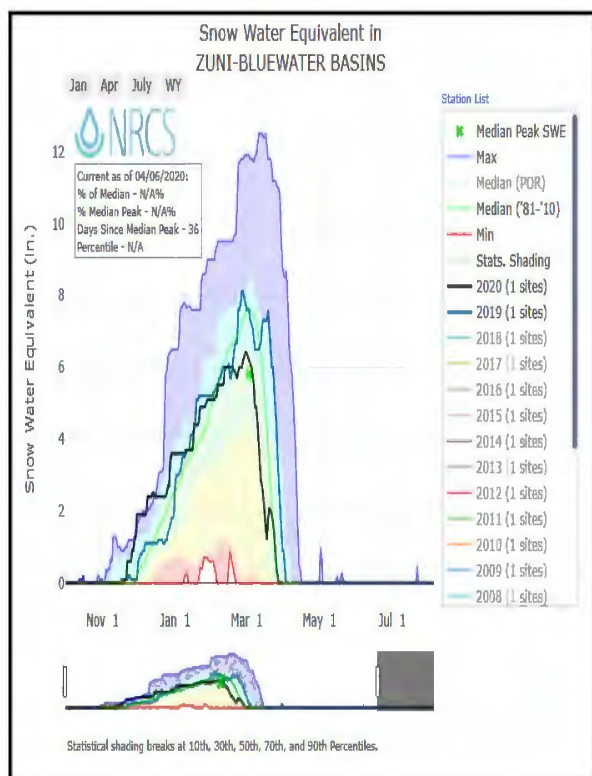
Zuni / Bluewater Basins

Water Supply Outlook Report

as of April 1, 2020



Snowpack in the basin has melted out at this time. February received 95 percent of the average monthly precipitation. This puts the water year-to-date total at 94 percent of the average. Forecasts for the Rio Nutriah and Zuni River are average ranging from 70 to 100 percent. Bluewater Lake is currently at 7,200 acre-feet of water versus 11,600 acre-feet at this time last year.



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Zuni-Bluewater Basins Streamflow Forecasts - April 1, 2020

Forecast Exceedance Probabilities for Risk Assessment
Chance that actual volume will exceed forecast

ZUNI-BLUEWATER BASINS	Forecast Period	90% (KAF)	70% (KAF)	50% (KAF)	% Avg	30% (KAF)	10% (KAF)	30yr Avg (KAF)
Rio Nutria nr Ramah ³	APR-MAY	0	0.07	0.19	100%	0.41	0.98	0.19
Zuni R ab Black Rock Reservoir ³	APR-MAY	0	0	0.07	70%	0.41	1.2	0.1

1) 90% and 10% exceedance probabilities are actually 95% and 5%

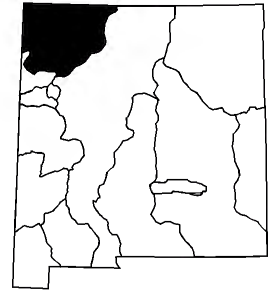
2) Forecasts are for unimpaired flows. Actual flow will be dependent on management of upstream reservoirs and diversions

3) Median value used in place of average

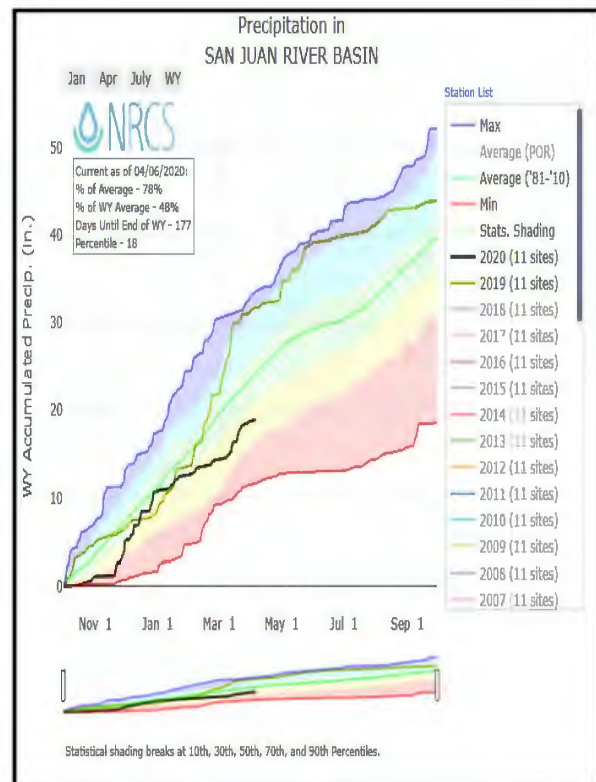
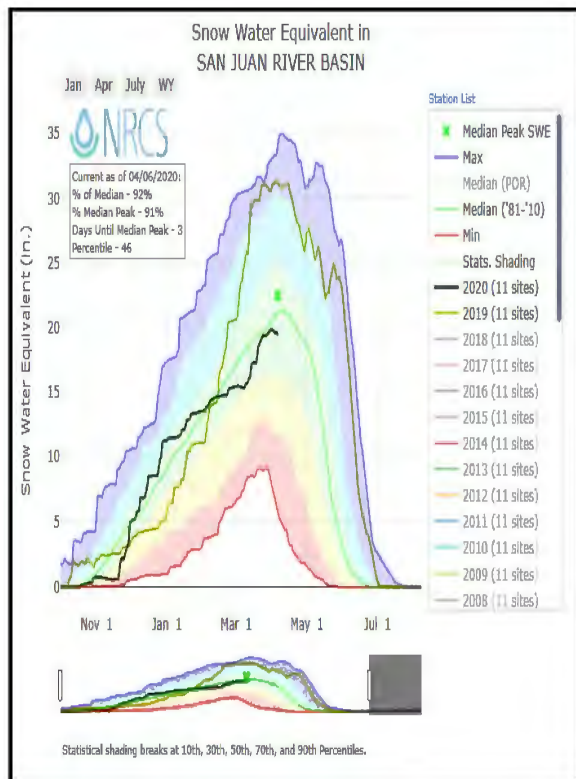
Reservoir Storage End of March, 2020	Current (KAF)	Last Year (KAF)	Average (KAF)	Capacity (KAF)
Bluewater Lake	7.2	11.6	9.7	38.5
Basin-wide Total	7.2	11.6	9.7	38.5
# of reservoirs	1	1	1	1

Watershed Snowpack Analysis April 1, 2020	# of Sites	% Median	Last Year % Median
ZUNI-BLUEWATER BASINS	1		

San Juan River Basin Water Supply Outlook Report as of April 1, 2020



March received 106 percent of the average monthly precipitation bringing the water year-to-date total to 80 percent of the average. Snowpack is just below the median at 97 percent, which is well below the 147 percent at this time last year! Forecasts for the San Juan Basin are all below average ranging from 61 to 80 percent of average. Navajo reservoir storage contains 1,292,500 acre-feet or 99 percent of the average water stored at the end of March!



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San Juan River Basin Streamflow Forecasts - April 1, 2020

Forecast Exceedance Probabilities for Risk Assessment
Chance that actual volume will exceed forecast

SAN JUAN RIVER BASIN	Forecast Period	90% (KAF)	70% (KAF)	50% (KAF)	% Avg	30% (KAF)	10% (KAF)	30yr Avg (KAF)
Rio Blanco at Blanco Diversion ²	APR-JUL	23	30	35	65%	40	49	54
Navajo R at Oso Diversion ²	APR-JUL	27	34	40	62%	46	56	65
Navajo Reservoir Inflow ²	APR-JUL	295	385	450	61%	525	640	735
Animas R at Durango	APR-JUL	240	290	330	80%	370	435	415
La Plata R at Hesperus	APR-JUL	13.2	16	18	78%	20	24	23

1) 90% and 10% exceedance probabilities are actually 95% and 5%

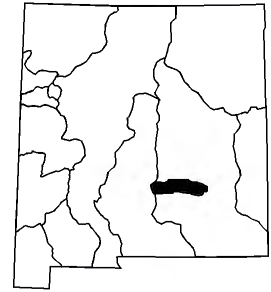
2) Forecasts are for unimpaired flows. Actual flow will be dependent on management of upstream reservoirs and diversions

3) Median value used in place of average

Reservoir Storage End of March, 2020	Current (KAF)	Last Year (KAF)	Average (KAF)	Capacity (KAF)
Navajo Reservoir	1292.5	955.5	1310.0	1696.0
Basin-wide Total	1292.5	955.5	1310.0	1696.0
# of reservoirs	1	1	1	1

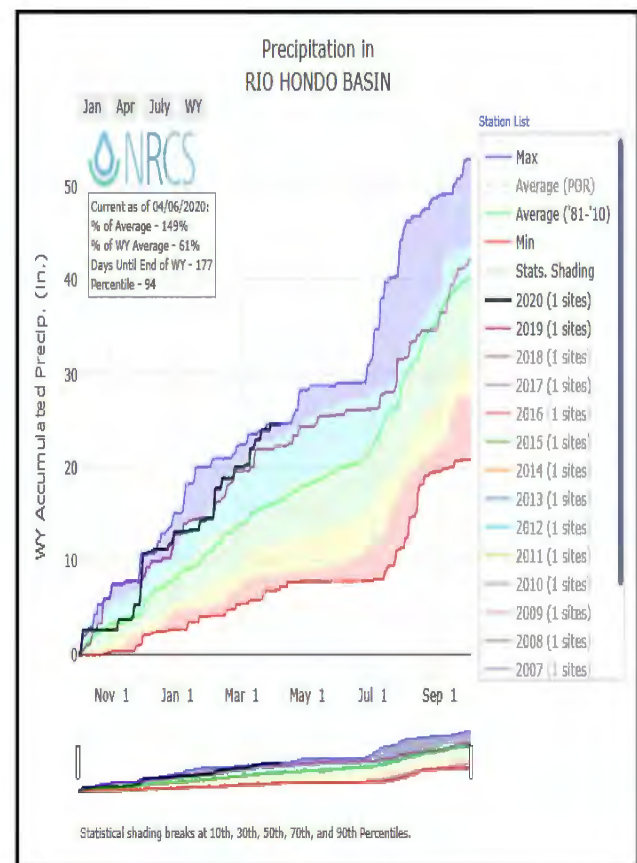
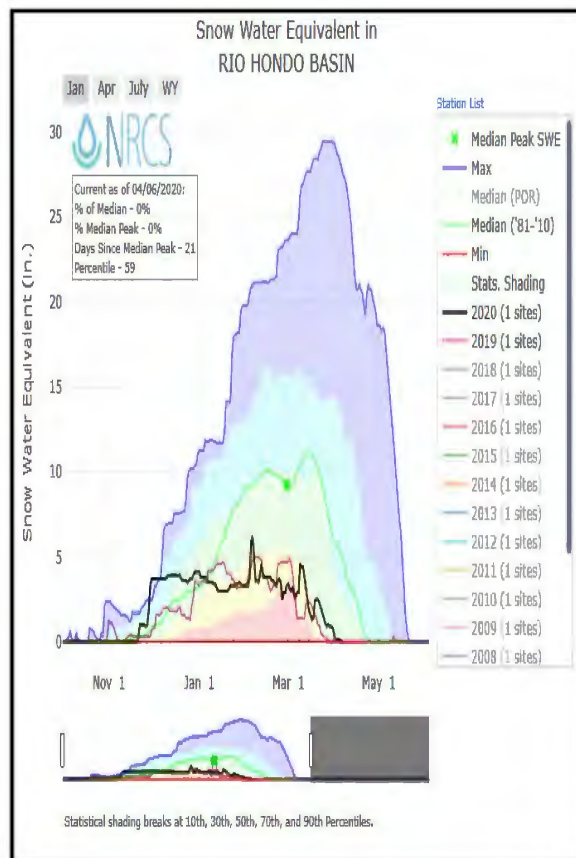
Watershed Snowpack Analysis April 1, 2020	# of Sites	% Median	Last Year % Median
SAN JUAN RIVER BASIN	11	97%	151%

Rio Hondo Basin Water Supply Outlook Report as of April 1, 2020



March was a very good month for the Rio Hondo having received 214 percent of the average monthly precipitation! This now puts the water year-to-date total at 154 percent of the average. Snowpack in the basin is currently at 7 percent of the median which is on par with values at this time last year. The forecast for the Rio Ruidoso at Hollywood well below the average at 40 percent for the April to July time frame. This measurement however should be used with caution as the Sierra Blanca SNOTEL site was impacted by the Little Bear Fire five years ago.

It should be noted that the switch to using median snowpack values four years ago has had a significant influence on the “average” calculations for the Rio Hondo Basin. Using the old system of computing averages based on the 1971-2000 period, 6.7 inches of SWE was considered normal for January 1. Using the new median calculations based on the 1981-2010 period, 3.2 inches of SWE is now normal. For this reason, comparisons of “percent of average” from year to year will be limited in this basin to minimize confusion.



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**Rio Hondo Basin
Streamflow Forecasts - April 1, 2020**

Forecast Exceedance Probabilities for Risk Assessment
Chance that actual volume will exceed forecast

RIO HONDO BASIN	Forecast Period	90% (KAF)	70% (KAF)	50% (KAF)	% Avg	30% (KAF)	10% (KAF)	30yr Avg (KAF)
Rio Ruidoso at Hollywood	MAR-JUN	3.5	4.3	5	75%	5.8	7.3	6.7
	APR-JUN	0.57	1.32	2	40%	2.8	4.3	5

1) 90% and 10% exceedance probabilities are actually 95% and 5%

2) Forecasts are for unimpaired flows. Actual flow will be dependent on management of upstream reservoirs and diversions

3) Median value used in place of average

Watershed Snowpack Analysis April 1, 2020	# of Sites	% Median	Last Year % Median
RIO HONDO BASIN	1	7%	5%

NEW MEXICO STATEWIDE	Network	Elevation (ft)	Depth (in)	SWE (in)	Median (in)	% Median	Last Year SWE (in)	Last Year % Median
Alamitos	SC	9320			5.2			
Aztec #2	SC	9880			4.3		6.8	158%
Bateman	SNOTEL	9300	31	11.9	12.2	98%	16.0	131%
Boon	SC	8140			0.8		0.0	0%
Bowl Canyon	SC	8980			7.8		13.5	173%
Chamita	SNOTEL	8400	15	6.1	7.9	77%	13.4	170%
Dan Valley	SC	7640			0.1		0.0	0%
Elk Cabin	SNOTEL	8210	0	0.0	0.6	0%	0.3	50%
Frisco Divide	SNOTEL	8000	0	0.0	0.0		0.0	
Gallegos Peak	SNOTEL	9800	19	7.5	10.4	72%	12.6	121%
Hemalite Park	SC	9500			3.6		9.8	272%
Hidden Valley	SC	8480					11.7	
Hopewell	SNOTEL	10000	49	14.9	19.5	76%	21.5	110%
Lookout Mountain	SNOTEL	8500	0	0.0	0.0		0.0	
Mogaffey	SC	8120			0.0		0.0	
Mcknight Cabin	SNOTEL	9240	0	0.0	0.0		0.0	
Missionary Spring	SC	7940			0.0		0.0	
Navajo Whiskey Ck	SNOTEL	9050	0	0.0			15.1	
North Costilla	SNOTEL	10600	19	7.1	4.8	148%	9.8	204%
Ojo Redondo	SC	8200			0.2		0.0	0%
Palo	SNOTEL	9350	0	0.0			7.0	
Palo	SC	9300			7.4		10.7	145%
PanchueLa	SC	8400					0.2	
Quemazon	SNOTEL	9500	0	0.0	7.0	0%	4.5	64%
Red River Pass #2	SNOTEL	9850	22	7.5	7.4	101%	10.4	141%
Rice Park	SNOTEL	8460	0	0.0	0.0		0.9	
Rio En Medio	SC	10300	15	5.0	9.1	55%	6.6	73%
Rio Santa Barbara	SNOTEL	10664	40	12.5			18.5	
San Antonio Sink	SNOTEL	9100	10	4.9			10.7	
San Antonio Sink	SC	9200			7.5		11.2	149%
Santa Fe	SNOTEL	11445	50	16.2	15.9	102%	19.2	121%
Senorita Divide #2	SNOTEL	8600	11	4.5	8.5	53%	7.9	93%
Shuree	SNOTEL	10100	6	2.8			9.4	
Shuree	SC	10097			2.6		9.3	358%
Sierra Blanca	SNOTEL	10280	1	0.4	5.9	7%	0.3	5%
Signal Peak	SNOTEL	8360	0	0.0	0.0		0.0	
Silver Creek Divide	SNOTEL	9000	5	2.2	7.0	31%	0.9	13%
State Line	SC	8000			0.0		0.0	
Taos Canyon	SC	9100			4.4		5.2	118%
Taos Powderhorn	SNOTEL	11057	67	21.7			24.5	
Taos Powderhorn	SC	11250			25.8		27.4	106%
Tolby	SNOTEL	10180	24	9.0	7.6	118%	10.1	133%
Tres Ritos	SNOTEL	8600	0	0.0			0.0	
Tres Ritos	SC	8600			4.4		4.5	102%
Vacas Locas	SNOTEL	9306	20	8.9	8.1	110%	13.5	167%
Wesner Springs	SNOTEL	11120	43	14.7	16.0	92%	17.3	106%
Whiskey Creek	SC	9050			8.7		17.7	203%
Basin Index						78%		112%
# of sites						21		21

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New Mexico
Basin Outlook Report
Natural Resources Conservation Service
Albuquerque, New Mexico



CITY OF SANTA FE

**ADMINISTRATIVE PROCEDURES FOR
SANTA FE RIVER TARGET FLOWS**

Adopted by:	Resolution No. 2012-28 February 29, 2012
Amended by:	Resolution No. 2012-52 May 9, 2012

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Article I: Introduction

These administrative procedures describe how City staff will implement Section 25-13 SFCC 1987 to provide 1,000 AFY in target flows to the Santa Fe River.

As the City of Santa Fe has worked in recent years to further diversify its water supply portfolio, it has also worked on a range of initiatives to make substantial improvements along the Santa Fe River and within the river's broader watershed. These improvements have included forest management practices in the upper watershed; riparian rehabilitation projects along the entire river corridor; a variety of erosion control and storm water management projects; construction of significant new reaches of the Santa Fe River Trail; and enhancements within the City's parklands along the river's banks. Consistent with these efforts to protect the City's water supply, improve the drainage and hydrologic functions of the river system, support greenery, shade and wildlife habitat, and to beautify the corridor with aesthetic enhancements, the City also seeks to increase water flows in the river below the City's reservoirs.

A commitment to manage water resources in ways that allow for a programmatic approach to provide for water flows in the Santa Fe River is consistent with the City's Long Range Water Supply Plan (LRWSP). The LRWSP states that, "The City will provide water to maintain a living Santa Fe River, except under drought or emergency conditions." Further, the Plan states, "After the BDD (the Buckman Direct Diversion facility) is online in 2011 and barring legal restrictions, the City will, in accordance with public input, initially release approximately 1,000 AFY [acre feet per year] of water from the Santa Fe River canyon reservoirs to the Santa Fe River, except under drought or emergency conditions."

Following successful river flow programs that were implemented during 2009, 2010 and 2011, the City now seeks to formalize its commitment to provide for river flows in the Santa Fe River in future years. These Administrative Procedures, along with enabling legislation (City ordinance and resolution), establish an approach to codify and give guidance for the City's river flow commitment.

Prior year flows administered for the Santa Fe River yielded valuable information regarding the management of flow regimes; resulted in positive impacts within the riparian corridor; and were extremely popular with people who visited the river, experienced water flowing through the City, and sat or played along the river's banks. These Administrative Procedures address issues such as ideal and contingent flow scenarios; flow volume accounting procedures; adjustments to flow scenarios due to water surpluses or shortages; and other operational details.

Article II: Title, Authority, Applicability, Purpose & Interpretation

- 2.1 **Title.** Administrative Procedures for Target Flows in the Santa Fe River shall be cited and referred to herein as the "Administrative Procedures."
- 2.2 **Authority.** Administrative Procedures for Target Flows in the Santa Fe River are adopted pursuant to the Santa Fe River Target Flow Ordinance, Article 25-13 SFCC 1987 and Resolution No. 2012-_____.
- 2.3 **Applicability.** Pursuant to the Santa Fe River Target Flow Ordinance, these Administrative Procedures apply to target flows on or after February 29, 2012, the date of adoption of the Santa Fe River Target Flow Ordinance.

2.4 **Purpose.**

Ord. No. 2012-10 directs the City of Santa Fe to bypass flow to the Santa Fe River downstream of Nichols Reservoir. These administrative procedures describe the means and methods by which the flows will be administered, monitored, measured, adapted to variable conditions and reported in order to ensure that the objectives for the flows are met to the greatest extent possible.

2.5 **Interpretation.**

These Administrative Procedures shall be liberally interpreted to accomplish the purposes set forth in Article 25-13. To the extent of ambiguity, omission or clear error in these Administrative Procedures, City staff and the flow manager shall have authority to interpret and clarify any such matter during implementation of these regulations and procedure so as to effectuate the intent of Article 25-13.

Article III - Definitions of Terms and Phrases

Defined Terms and Phrases. The following defined terms and phrases shall apply to the Administrative Procedures.

1. **"above McClure gage"**: the stream gaging station 08315480 (or 08315479 for low flows) located above McClure Reservoir; this is the measuring point for flows entering McClure Reservoir.
2. **"acre-foot (af)"**: a quantity or unit of water that is equal to the amount of water required to fill an area of 1 acre with 12 inches (i.e., 1 foot) of water; one acre-foot is equal to 325,851 gallons.
3. **"actual daily flow"**: the daily rate of stream flow at the below Nichols gage as recorded by the flow operator.
4. **"annual target"**: the quantity of water in af to be bypassed to the river based upon anticipated watershed yield, within the target year.
5. **"anticipated watershed yield"**: the expected annual yield of water to the Santa Fe River and the municipal reservoirs within the Santa Fe River upper watershed, expressed as the percentage of the historical average; the anticipated watershed yield is estimated as of April 15th using the best available information including the amount of snow, both as depth (in inches) and snow-to water equivalent (in inches) at the weather stations in the upper watershed (Santa Fe and Elk Cabin); the Santa Fe Basin forecast predictions from Natural Resource Conservation Service (NRCS); weather forecast from the National Weather Service and NOAA; and any other pertinent appropriate weather-related information.
6. **"below Nichols gage"**: the stream gaging station 08316505 located below Nichols Reservoir, or at a comparable location of measurement at or below the outlet from Nichols Dam; this is the measuring point for target flows administration under these Administrative Procedures.
7. **"Buckman Direct Diversion Project (BDD)"**: a water supply project that provides water supply to the region using the San Juan Chama Project water and Rio Grande surface waters; the project began producing water in January of 2011 and is expected to be fully operational by July of 2011.
8. **"bypass constraint"**: an operating principle that requires the rate at which water is passed through the outlet works of Nichols Reservoir dam is always equal or less than the stream inflow at the 'above McClure' gage.
9. **"bypass flows"**: generally, water that flows past a diversion or storage facility. In these Administrative Procedures, it refers to water that the City chooses not to store in the municipal reservoirs and thus allows to flow to the Santa Fe River below Nichols Reservoir.

provided that the rate at which the bypass flow is passed through the outlet works of Nichols Reservoir dam is always equal to or less than the stream inflow at the ‘above McClure’ gage.

10. **“critical-dry year”**: a year in which the anticipated watershed yield is less than 30% of the historical average watershed yield.
11. **“critical-dry year hydrograph”**: the graphical representation of the desired target flows in critically dry years in which the annual discharge is 300 afy.
12. **“cubic feet per second (cfs)”**: a *rate* of water flow; one cubic feet per second equals two acre-feet per day and 0.65 million gallons per day
13. **“daily target flow”**: the desired daily stream flow at the below Nichols gage.
14. **“dry year”**: a year in which the anticipated watershed yield is between 30% and 75% of the historical average watershed yield.
15. **“dry year hydrograph”**: the graphical representation of the desired target flows in dry years in which annual discharge is scaled down from 1000afy (to between 300 and 700 afy) based on decreased, anticipated watershed yield.
16. **“flow manager”**: a member of City of Santa Fe staff responsible for managing releases of water to the River, record-keeping, reporting, and determining changes to daily target flows as prudent under adaptive management; the flow manager is the River and Watershed Coordinator, unless otherwise designated by the City Manager.
17. **“flow operator”**: a water Division staff member responsible for making water utility system adjustments to meet the daily target flow and for measuring and recording the actual stream flow.
18. **“historical average watershed yield”**: the average of annual yield of stream flow in the Santa Fe River within the Santa Fe River upper watershed as determined by stream flow measurements at USGS gage 08316000 (Santa Fe near Santa Fe) and USGS gage 08315479 and 08315480 (18-inch and 8-foot above McClure Reservoir, respectively); between 1914 to 2007 the average annual yield measured at Santa Fe near Santa Fe gage was 4,909 af.
19. **“hydrograph”**: a graphic representation of the variation in stream discharge, in cubic feet per second, plotted against time.
20. **“municipal reservoirs”**: the reservoirs on the Santa Fe River in the upper watershed - Nichols and McClure with 684 and 3,256 acre-feet of capacity, respectively.
21. **“natural hydrograph”**: the graphical representation of stream flow as it varies over time in response to climatic (snow melt, precipitation) and man-made (storage, urban storm flow runoff) conditions. The natural hydrograph herein refers to the condition prior to the addition of the target flows governed by these Administrative Procedures, as measured on the Santa Fe River at the existing stream gage locations.
22. **“public process”**: the public engagement and community outreach process through which the objectives for river flows were developed. From December 2010 through February 2011 input was gathered through conversations with over thirty stakeholders (including many River Commissioners) and two community meetings with over ninety, culturally and generationally diverse participants.
23. **“river”**: The Santa Fe River reach that begins below Nichols Reservoir
24. **“release flows”**: the flows from the outlet works of Nichols Reservoir that are discharged from Nichols dam in order to manage flood or potential flood flows.
25. **“spills”**: flows from Nichols Reservoir that are discharged over the Nichols dam spillway when the reservoir is full.
26. **“target flows”**: the daily, seasonal or annual amount of water (as a volume or a rate) desired in the river as measured at the below Nichols stream gage. The quantity is variably identified in various sections of the Administrative Procedures depending upon the anticipated watershed yield.
27. **“target hydrograph”**: means the graphical representation of the daily target flow

necessary to provide up to 1,000 acre-feet of water in the Santa Fe River as measured at the below Nichols gage. The quantity of water is variably identified in several sections of the Administrative Procedures for Target Flows in the Santa Fe River depending upon anticipated watershed yield.

28. **“target year”**: the period beginning April 15th and continuing through April 14th the following year; this definition allows the flow manager to adjust the target flows as necessary according to anticipated watershed yield from the mountain snow pack.
29. **“upper river”**: the reach in the river for which target flows are maintained year-round to support all aspects of a healthy riverine and riparian ecosystem; at a minimum as far as Two-Mile Pond, and ideally, as far as the head gate for the Acequia Madre.
30. **“water service”**: water provided to a customer through the municipal water utility system.
31. **“water service emergency”**: a situation that would cause an interruption in the Water Division’s ability to provide water service or that threatens public health and safety.
32. **“water system”**: the water utility system owned and operated by the City, and includes without limitation all the physical plant, wells, pumps, transmission and distribution facilities, water treatment facilities, storage facilities and all water rights and rights to water owned by the City for use in its water utility.

Article IV – Administrative Procedures

4.1 Objectives

4.1.1 Target Flow Objectives

- a) Create an ecologically healthy vegetative corridor
- b) Benefit the entire community with flows (e.g., equity)
- c) Nurture a beautiful, natural urban greenspace with water in an arid environment
- d) Provide an educational resource for schools and steward the resource for the community

4.1.2 Adaptive Management to Address Objectives and Purpose

The hydrographs presented in these Administrative Procedures provide guidance, or examples, for the administration of flows in a manner that meets the objectives and purpose of the target flows. Actual flows may be adjusted in response to watershed yield forecasts, evolving seasonal conditions and/or feedback from monitoring. When changes to daily target flows are necessary or merited (i.e., adaptive management), the flow manager and/or flow operator shall take into consideration the objectives identified above and the purpose identified for the various components of the hydrographs.

4.2 Target Hydrograph and Target Flow Seasons

4.2.1 Target Hydrograph and Target Flows

The target hydrograph (Figure 1) contains stream flow targets in cfs and af and a schedule for increasing and decreasing flows. The total volume of the target hydrograph is 1,000 afy. The target hydrograph will be adjusted in dry and critical-dry years to conform with the dry year hydrographs and critical-dry year hydrograph as described in Section 3. The schedule is approximate and subject to modification under the guidelines in the Article 4.11: Adaptive Management.

The target hydrograph includes the following aspirational goals:

- **Low Flows for the Upper River.** Flows are 0.3 cfs during the colder season from mid-

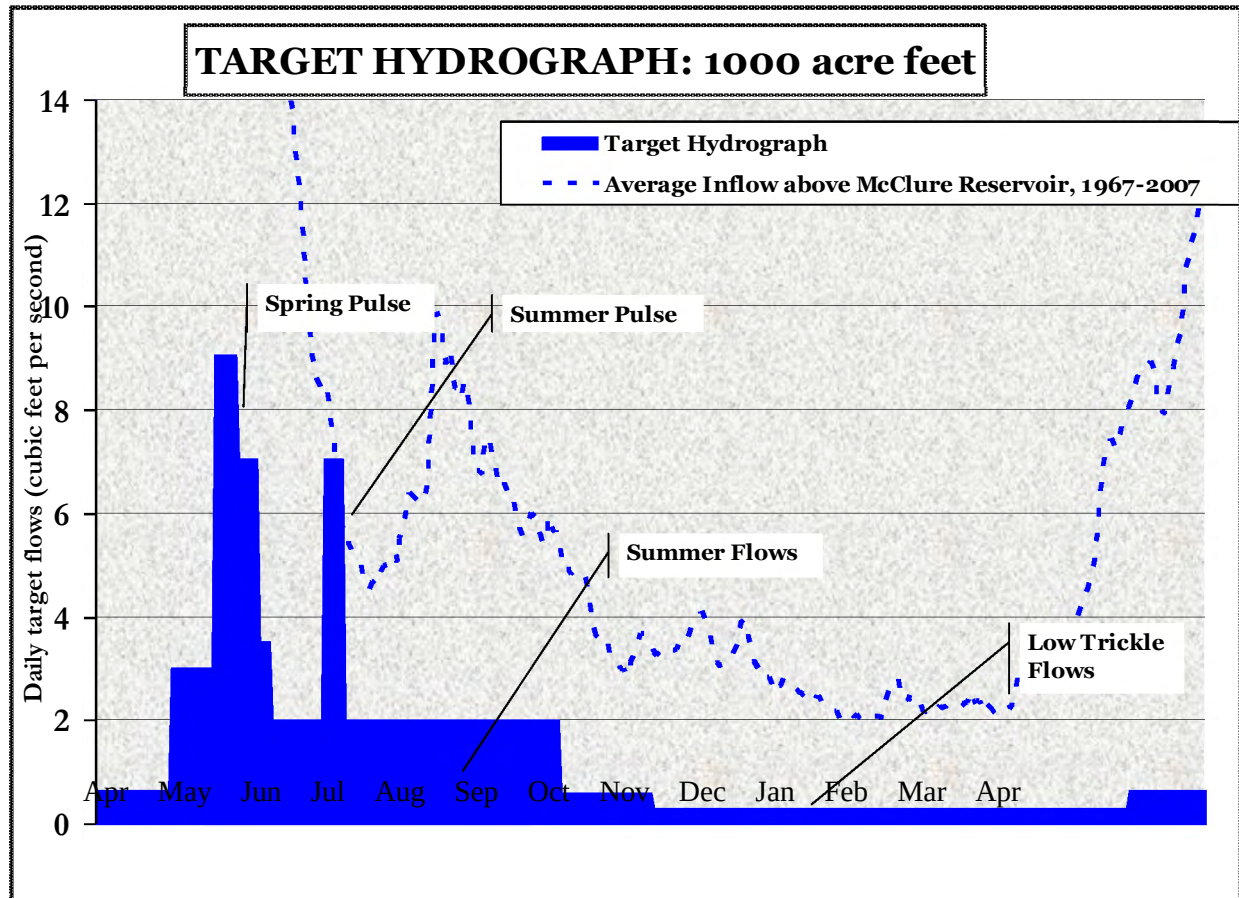
October to mid-March when vegetation is dormant. Flows increase to 0.6 cfs from mid-March to early May and from mid-September to mid-October. The purpose of the mid-September to early May flows is to provide for flows in the upper river to:

- support plant life with irrigation and maximize riverine and riparian ecological health;
 - recharge ground water, subsurface flows and bank storage during periods of plant dormancy to increase availability of water in the warmer months;
 - maintain a wet environment to support the life cycles of macroinvertebrates;
 - recharge local groundwater and sub-surface flows;
 - ensure a wetted river bed so that spring and summer flows will travel farther and more efficiently along the river course.
- **Spring Pulse.** Flows are 3 cfs for two weeks beginning in early May, then increase to 9 cfs for a week following, and then drop to 7 cfs for a week in early June. The purpose of the spring pulse is to provide as much water to the river reach (including San Ysidro crossing and the intersection with Route 599) as feasible. The timing and magnitude of the spring pulse is designed to provide necessary flows through downtown for the Fishing Derby and River Festival and for the blessing of the river in the village of Agua Fria around the day of San Ysidro, patron of the crops. The purpose of the spring pulse is to:
 - mimic natural spring runoff that is provided by the melting of accumulated winter snows;
 - irrigate the trees and other vegetation along the river corridor to support the typical spring time activities within tree/plant (and faunal) annual life cycles as plants are beginning to draw water, beginning to produce buds and leaves;
 - extend surface water flows as far as possible with the objective of reaching beyond the San Ysidro crossing down to the City's Waste Water Treatment Plant;
 - recharge local groundwater and sub-surface flows;
 - continue the process of ground water recharge that will benefit plant life into the summer months.
 - **Summer Flows.** Flows are an average of 2 cfs from mid-June to mid-September. The flow manager may increase or decrease the flow rates to meet flow objectives, with particular regard for major events in Santa Fe, provided that the average is maintained and flows are not reduced below .3 cfs.

The purpose of the summer flows is to:

- provide flows through downtown, and the Santa Fe River Park, for aesthetic and social benefit;
 - supply irrigation to enhance the river's function as an appealing urban greenbelt;
 - recharge local groundwater and sub-surface flows;
 - maintain the wetted river bed so that flows from rainfall events will travel downstream farther and more efficiently.
- **Summer Pulse.** Flows are 7 cfs for one week in early July. The purpose of the summer pulse is to:
 - push flows once again downstream to San Ysidro Crossing and the river's intersection with Route 599 during the hot and dry periods in advance of the summer monsoon rains;
 - sustain vegetation during the hottest time of year, with moisture for new/germinating seedlings, and ultimately enhancing the river corridor as an appealing urban greenbelt;
 - provide flows for river bank irrigation and wetting of the river bed in the period between spring runoff and the likely arrival of monsoon rainfall.

Figure 1



4.3 Dry and Critical-Dry Year Target Flow Reductions

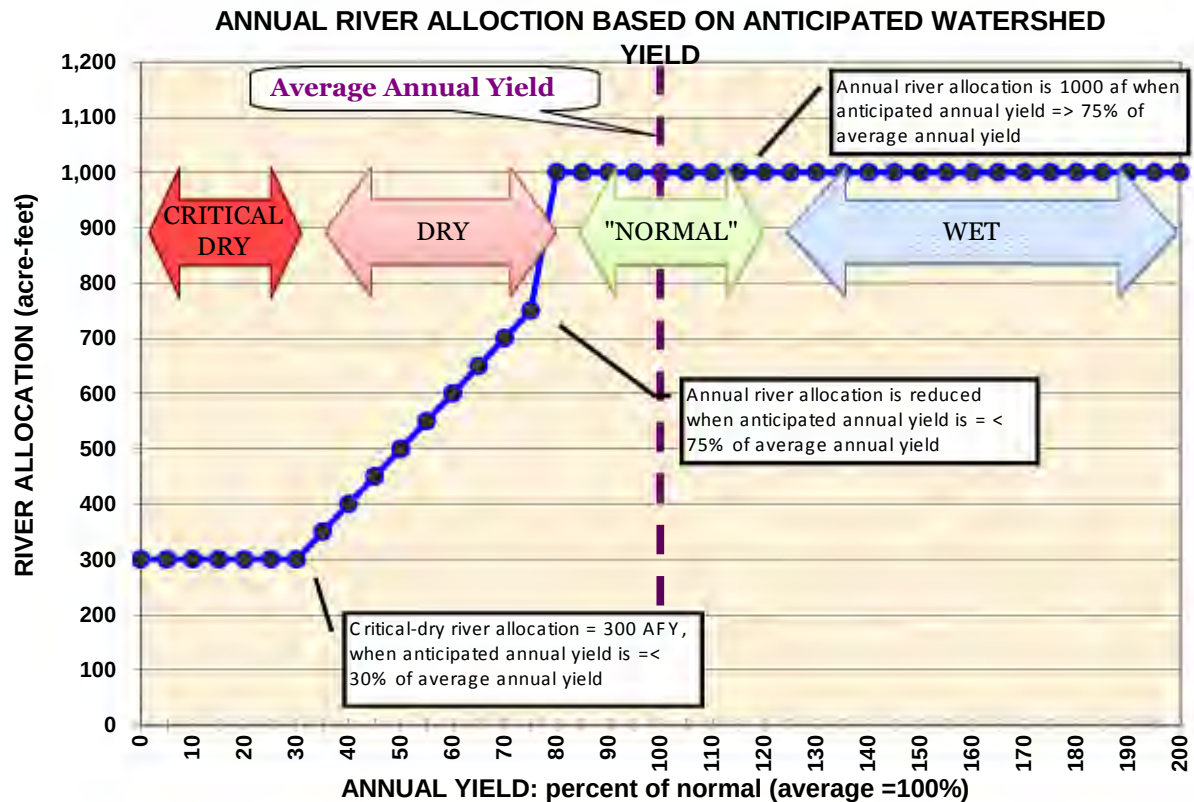
4.3.1 Reduction of Target Flows in Dry and Critically Dry Years

A dry year is defined as a year in which the anticipated watershed yield is equal to or less than 75% but greater than 30% of historical average. A critical-dry year is a year in which the anticipated watershed yield is equal or less than 30% of the historical average. In dry and critical-dry years, the total volume of the target hydrograph (1,000 af) will be reduced, by multiplying 1,000 by the percentage of the anticipated watershed yield:

$$\text{TargetHydrograph} \times \text{AnticipatedWatershedYield}_{\text{yearX}} = \text{target flows}_{\text{yearX}}$$

For example, in a year where the anticipated watershed yield is 65% of average, the target flow for the target year is calculated by $1,000 \text{ af} \times 65\% = 650 \text{ af}$. The reduction calculation is depicted graphically in Figure 2.

Figure 2



4.3.2 Dry Year Hydrographs

In dry years, the flow manager will allot the timing and magnitude of the daily target flows in a manner consistent with the following guidelines:

- (a) reduction in summer flows,
- (b) scaling-down – but not eliminating – the spring pulse and,
- (c) reduction in low flows from 0.30 cfs to 0.15 cfs.

The timing and magnitude of dry year target flows for 700 af, 600 af, 500 af, and 400 af are described in the Dry Year Hydrographs in Appendix A.

While scaling back the quantity of the annual target flow in dry years, the priority is to provide for spring and summer pulses to fulfill the purposes of the pulses as outlined for the 1000 af target flow in section 4.2.1 above.

4.3.3 Critical-Dry Year Hydrograph

In critical-dry years, in which the total target flows equal 300 af per target year, the daily target flows will be managed in a manner consistent with the following guidelines and as illustrated by Figure 3:

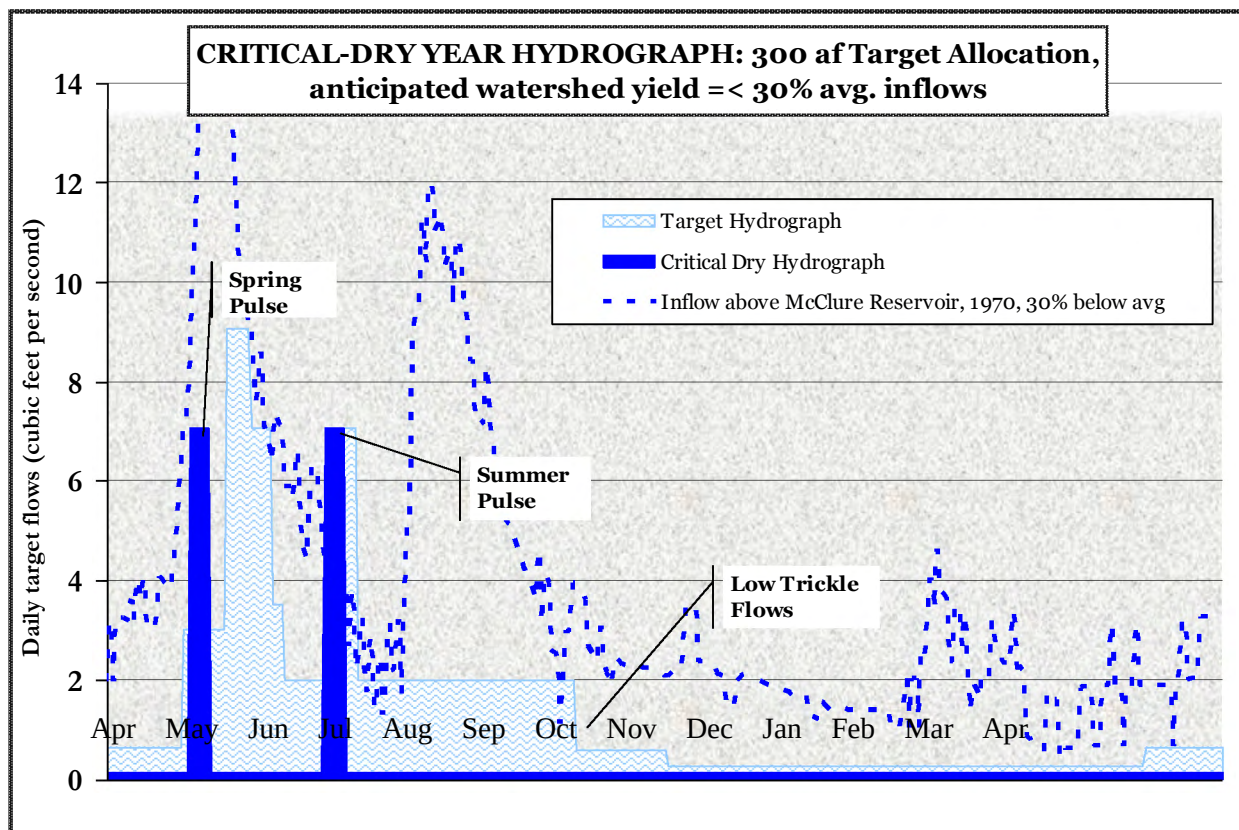
- a) sustained low flows of 0.15 cfs,
- (b) one spring and one summer pulse, each of approximately 100 af.

The schedule of the pulses shall generally follow the timing of the pulses in the target

hydrograph. The magnitude of the pulses shall be approximately 7 cfs, provided that the daily target flows are within the bypass constraint. The river shall retain flows of at least 300 afy barring an emergency or unforeseen infrastructure constraint (e.g., failure of Nichols's Reservoir outfall structure). The purpose of the critically dry year hydrograph is to maintain a wet corridor in the upper river for riverine and riparian ecological benefit while providing two downstream pulses for the purposes of the pulses as outlined for the 1000 afy target flow in section 4.2.1 above.

In critical-dry years, since the daily target flows for the Fishing Derby cannot be reliably met, the Fishing Derby will be suspended.

Figure 3



4.4 Wet Year Flows

During wet years, defined as when the anticipated watershed yield is greater than the historical average, the river will be allocated water according to the target hydrograph (e.g., 1,000 afy) in the target year. In wet years, the actual daily flows will likely be greater because of flow contributions from reservoir flood management, and because of greater flows within the urban watershed. These greater daily flows will meet many of the objectives described in Article 4.1. Furthermore, the irrigation needs of the river corridor will be supplemented by the above-average spring precipitation. By not increasing the target hydrograph in a wet year, in wet years the City may be able to put the full amount of the City's Santa Fe River water rights under License 1677 to beneficial use and thus rest the City's well fields and use of local groundwater resources.

4.5 Management and Accounting of Releases and Spills

4.5.1 Management of Municipal Reservoir Flood Flows

The City manages the municipal reservoirs in part, in a way that protects the river and the urban watershed from floods. Flood management includes both the capture of peak inflows from the upper watershed and the management of release flows and spills from Nichols and McClure Reservoirs.

Pursuant to Article 25-13 SFCC 1987, the flow manager and flow operator are directed to manage, as much as possible, the release of flows and spills in a manner consistent with the target hydrograph and the objectives herein. This includes:

- a) matching the timing and magnitude of the flows,
- b) scaling the additional release flows in a manner which increases the magnitude of the spring pulse
- c) discharging the release flows in a manner to augment the magnitude of the low flow.

4.5.2 Accounting of Releases and Spills vis-à-vis the Target Hydrograph

Water that is released and/or spilled for flood management will count toward the daily target flows and target hydrograph, when the flows are within the daily target flows of the target hydrograph. If water greater than the daily target flows is released or spilled into the river, the quantity of water that exceeds the daily target flow will not be counted toward the 1,000 afy of the target year. For example, if the total planned target flow for a period of May 20 to June 3 is 300 af, but necessary reservoir management results in actual flow of 1,000 af, then 300 af shall be counted toward the planned commitment and 700 af shall not be counted, provided that the 300 af met the daily flow targets desired under the target hydrograph.

The purpose of allowing water spilled or released to count toward the 1,000 af target hydrograph is so that the municipal water utility can store excess water in wet years for water supply to compensate for the additional use of groundwater required in critically dry years. The water released or spilled in excess of the target hydrograph and daily target flows cannot be stored and released for the river later in the season because of the water right and storage limitation discussed in the next section.

- 4.5.3 Except as described above in section 4.5.2, the 1000 acre-feet volume of water shall not include water released for any other purpose at the time of release.

4.6 Water Rights

4.6.1 Use of the City's Santa Fe River Water and Storage Rights

The City is not using any of the water rights under License 1677 and Declaration No. 01278 to comply with Article 25-13 SFCC 1987. The City will continue to periodically put all the water rights under License 1677 and Declaration No. 01278 to beneficial use.

4.6.2 Bypass Constraint

In order to assure that the administration of Ord. No. xxxx does not adversely interfere with the storage, diversion and use of water under License 1677 and Declaration No. 01278, the flow manager and flow operator will manage the daily target flows in a manner such that the target flows will not come out of water stored under License 1677 and Declaration No. 01278 in the municipal reservoirs. This means that the City will not discharge water to the river that it has stored. To accommodate this constraint, the flow operator will regulate the daily target flow in a

manner such that discharges from Nichols Reservoir to the river shall not be greater than the daily inflow into McClure Reservoir; hence the flow operator will only bypass water for daily target flows.

4.6.3 Recognition of Other Surface Water Right Users

The City recognizes that there are other surface water right holders of Santa Fe River surface water, including those with partially adjudicated rights. Nothing in these Administrative Procedures should be construed to define, manage or be in conflict with the valid rights of other surface water right holders.

4.7 Management and Operational Procedures

Management and administration of daily target flows to the river require participation by the flow manager, flow operator, the Water Division director, other Water Division staff, and the River Commission Chair to ensure that flows are released in a timely manner according to the target hydrograph, dry year hydrographs, or the critically dry year hydrograph.

4.7.1 Flow Management

The flow manager, in consultation with the Water Division staff, shall be responsible for determining the quantity of water allocated to the target year based on the anticipated watershed yield. The flow manager will also determine the daily target flows of the target hydrograph, or deviations therefrom based on the anticipated watershed yield, by fitting the annual target and associated hydrographs to the upcoming target year. The flow manager will annually present the hydrograph for the upcoming target year to the River Commission at its April meeting for review. The flow manager will provide a copy of the target year hydrograph to the Water Division Director, the Water Division source of supply manager and the Level Four operators at the Canyon Road Water Treatment Plant for implementation.

When necessary, the flow manager may alter the daily flow targets in a manner consistent with the adaptive management objectives described in Section 11. These alterations may incorporate consultation with the River Commission Chair or designee, the flow operator, and the Water Division director. The flow manager will be the city's river and watershed coordinator or another member of city staff designated by the city manager. All adjustments to the daily target flow shall be made via email to the Water Division Director, the Source of Supply Manager, the Canyon Road Water Treatment Plant Level 4 Operators. The River Commission Chair shall be copied (cc:) on all communications directing the adjustment of daily target flows.

4.7.2 Flow Operations

The flow operator shall be the Water Division Source of Supply staff person on duty and responsible for controlling the daily release rates. The flow operator will adjust the discharge water from Nichols Reservoir in accordance to the daily target flow, and record the actual daily flow at the below Nichols gage. The flow operator may reduce the daily flow target to match daily inflow at the McClure reservoir, should the daily flow target exceed the daily inflow.

4.7.3 Flow Adjustment Infrastructure

The flow operator adjusts the daily target flows for the river by regulating the “splitter box” valve at the Canyon Road Water Treatment Plant control panel, and then sending a system operator to the below Nichols gage to see what effect the adjustment had on the actual instantaneous flow. Because of the cumbersome nature of this procedure, the daily flow targets in these Administrative Procedures are adjusted no more than weekly. Should, in the future, the outlet works be reengineered to be more nimble, and the below Nichols gage provide real time data, the daily target flows may be managed and adjusted more frequently, in particular in response to

climatic conditions.

4.8 Emergencies and Flow Adjustment

To help prevent an interruption in water service and to protect public health and safety, target flows to the river may be adjusted during a water emergency. Upon implementation of a Water Emergency Management Plan, target flows to the Santa Fe River will be adjusted pursuant to Chapter 25-5.6 and Exhibits C (Water Warning Orange) and D (Water Emergency – Red) SFCC 1987.

4.8.1 Water Emergency Implementation Stages

If the operational water system supply as determined by the water division director's sole discretion, equals between eighty percent (80%) and ninety-nine percent (99%) of operational water system demand, the city manager may declare a "Water Warning - Orange" water emergency implementation stage. If the operational water system supply as determined by the water division director's sole discretion, is less than eighty percent (80%) of operational water system demand, the city manager may declare a "Water Emergency - Red" water emergency implementation stage.

Chapter 25-5, Exhibit C (Amended: November 30, 2011 by Ord. No. 2011-38) states that under "Water Warning – Orange" water emergency implementation stage, target flows to the Santa Fe River may be suspended.

Chapter 25-5, Exhibit D (Amended: November 30, 2011 by Ord. No. 2011-38) states that under "Water Emergency – Red" water emergency implementation stage, target flows to the Santa Fe River shall be suspended.

4.9 Monitoring

The City shall monitor the impacts of providing daily target flows to the river, to determine whether the objectives identified in Section 4.1 are being met. Monitoring will provide the feedback necessary for the flow manager to institute adaptive management as identified in Article 4.11; and/or to amend these Administrative Procedures to ensure that the objectives and purposes of the target flows are being met to the fullest extent possible. City staff will coordinate and collaborate with community volunteers, local non-governmental organizations and other agencies to implement a monitoring program.

4.9.1 Stream flow

The City will continue to monitor stream flow (in cfs) at 15 minute increments at the below Nichols gage and the above St. Francis gage. Each of these gages will be calibrated periodically to assure high quality data.

4.9.2 Wetted Distance

The City, in conjunction with community volunteers and cooperating agencies, shall develop a methodology by which the distance the daily target flows have traveled can be measured.

4.9.3 Future Monitoring

The City shall consider additional river monitoring that will assist in adaptive management and in determining appropriate daily target flows in the future. Potential parameters include:

Soil moisture: to understand the water available for riparian vegetation under varying daily target flows, hydrographs, and climatic conditions;

Ecological health indicators: the presence, location, and characteristic of flora and fauna in the river corridor;

Storm flow peak: to understand if or the how the target flows have altered the timing and magnitude of urban storm runoff;

Water quality: to understand if or the how the target flows have altered the water quality in the river;

Surface water infiltration: to understand the temporal and spatial distribution of stream flow loss;

Surface/ groundwater interaction: to understand the fate of stream flow infiltration, and the contribution, if any, of groundwater to surface water.

4.10 Accounting and Reporting

4.10.1 Flow Accounting

The flow manager, with data provided by the Water Division and flow operator, shall account quarterly for the volume of water released per target year at the below Nichols gage using the assumption that all water passing the gage has either been discharged pursuant to Article 25-13 SFCC 1987, spilled or released. The flow manager shall make adjustments as necessary to manage the target year water allocation. The basis of the volumetric accounting will be the official below Nichols gage record, and shall identify the periods of time during which flow estimates were estimated (missing stream flow data results from frozen equipment, battery failure, equipment vandalism, etc). Interim estimates can be made using the actual daily flow as recorded by the flow operator and reported on the daily water report. Released or spilled water shall be accounted as described in Section 5.

4.10.2 Reporting

The City shall endeavor to keep elected officials, the River Commission, the city manager, the Water Division director and the public informed regarding the activities associated with Article 25-13 SFCC 1987. The reports outlined below identify specific reporting recommendations.

Report on Annual Target and Hydrograph for Upcoming Year

After April 15th, the flow manager will report by email to the River Commission, the Water Division director, Public Utilities Committee and the city manager the target year hydrograph based on the anticipated watershed yield. The report shall include the relevant information on which the anticipated watershed yield was based (e.g., NRCS basin forecasts, snow-to-water equivalent from SNOTEL sites in the upper watershed, climate predictions for the National Weather Service and NOAA). The target year hydrograph will be posted on the City's website.

Annual report

At the end of each year, the flow manager shall prepare reports which describe the previous year's activity relevant to Article 25-13 SFCC 1987. For the previous target year the report shall include the daily actual stream flow data (daily mean and cumulative), the annual volume released, and annual flow, a summary of routine or special activities along the river (e.g., Fishing Derby, River Festival) a description and explanation of deviations from the target hydrograph, observations or recommendations related to adaptive management, and an estimate of the amount of groundwater pumped to accommodate the daily target flows. For the current target year, the

report shall include the annual target quantity and the target hydrograph. The flow manager will submit the report to the River Commission, the Public Utilities Committee, the City Council, and post the report to the City's website.

Periodic Actual Stream Flow Report

The flow operator and Water Division staff will record and track actual daily flow at the below Nichols gage in an Excel-compatible spreadsheet. The flow operator shall send the electronic spreadsheet to the flow manager approximately monthly.

Daily Water Report

The flow operator and Water Division staff will report actual daily flow at the below Nichols gage on the Daily Water Report, which is emailed to any interested party and posted on the City's website.

4.11 Adaptive Management

4.11.1 Adaptive Management Goals

The goal of Article 25-13 SFCC 1987 is to provide for flows in the river, while providing the City with flexibility in managing both the water supply system and river flows. The target hydrograph, dry year hydrographs and critically dry year hydrograph are designed to match Article 25-13. \, and these Administrative Procedures, that the flows to the river be managed in a manner to optimize the benefits of the flows to meet the objectives. Hence, these procedures allow for and encourage adaptive management, provided that the annual target is not impacted.

4.11.2 Adaptive Management Conditions and Considerations

The following conditions and considerations may influence or provide cause for adaptive management:

- a. High flows or flood risk
- b. Timing, intensity and/or scale of monsoon events
- c. Periods of exceptionally dry weather
- d. Scheduled community events
- e. Maintenance/improvement work within the river channel or on water supply infrastructure
- f. Maintaining daily target flows equal or below inflow into McClure Reservoir
- g. Feedback from monitoring data
- h. Change in snowpack or watershed yield conditions (e.g., late snowfall) after the beginning of the flow year

5. Annual Fishing Derby

The City of Santa Fe's Annual Fishing Derby takes place each year on the first Saturday in June. The Fishing Derby provides opportunities for children and families to join with neighbors to experience a fun and engaging day by the river, to learn about the Santa Fe River and riparian ecology, and to learn fishing skills.

In dry years when the anticipated watershed yield is less than 50%, or, if for other climatic or hydrologic reasons daily target flows adequate for the Fishing Derby cannot be met, the date of the Fishing Derby may be changed or the Fishing Derby will be suspended.

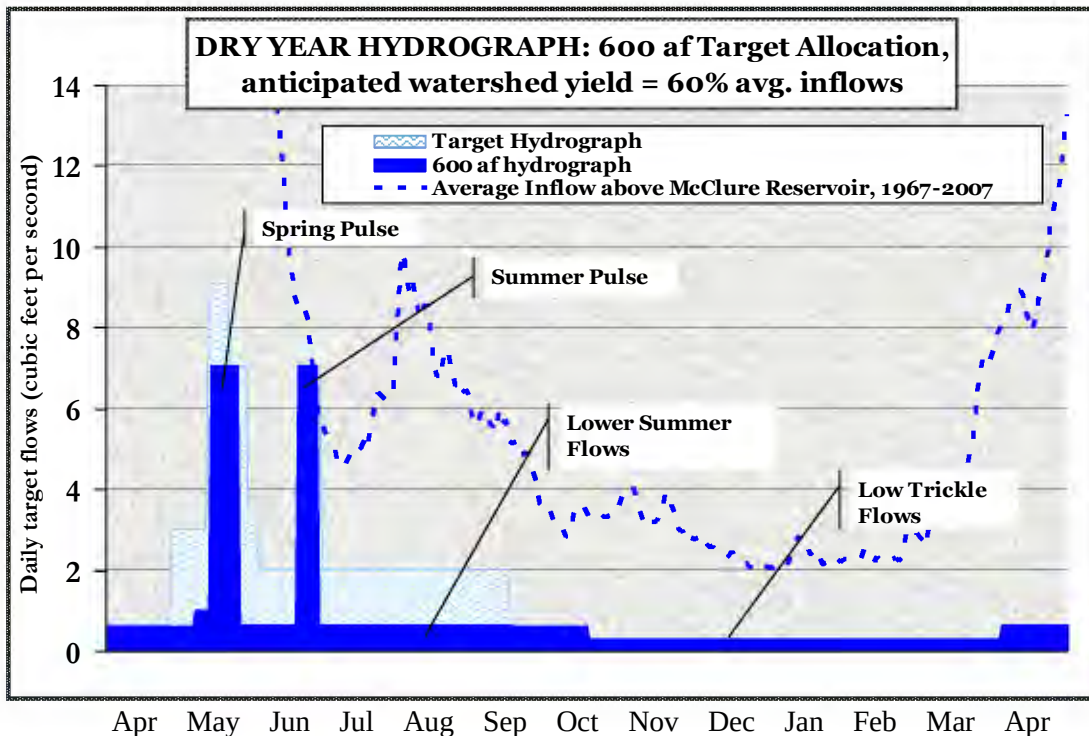
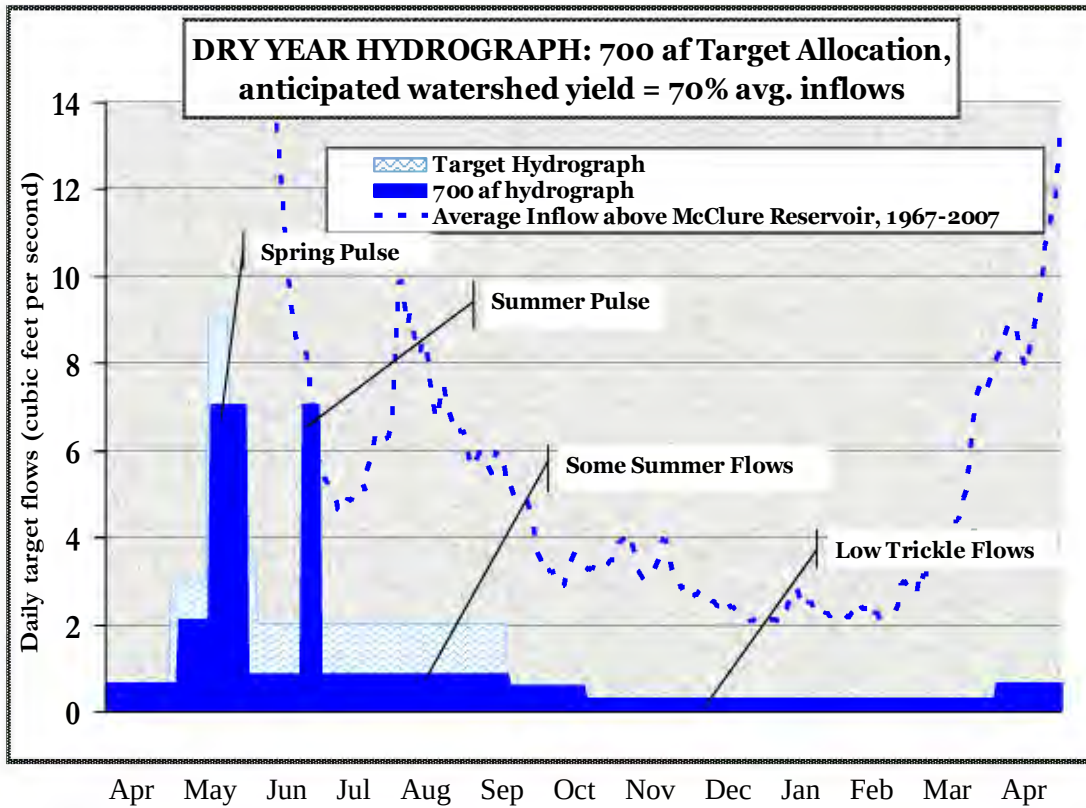
(Resolution No. 2012-52)

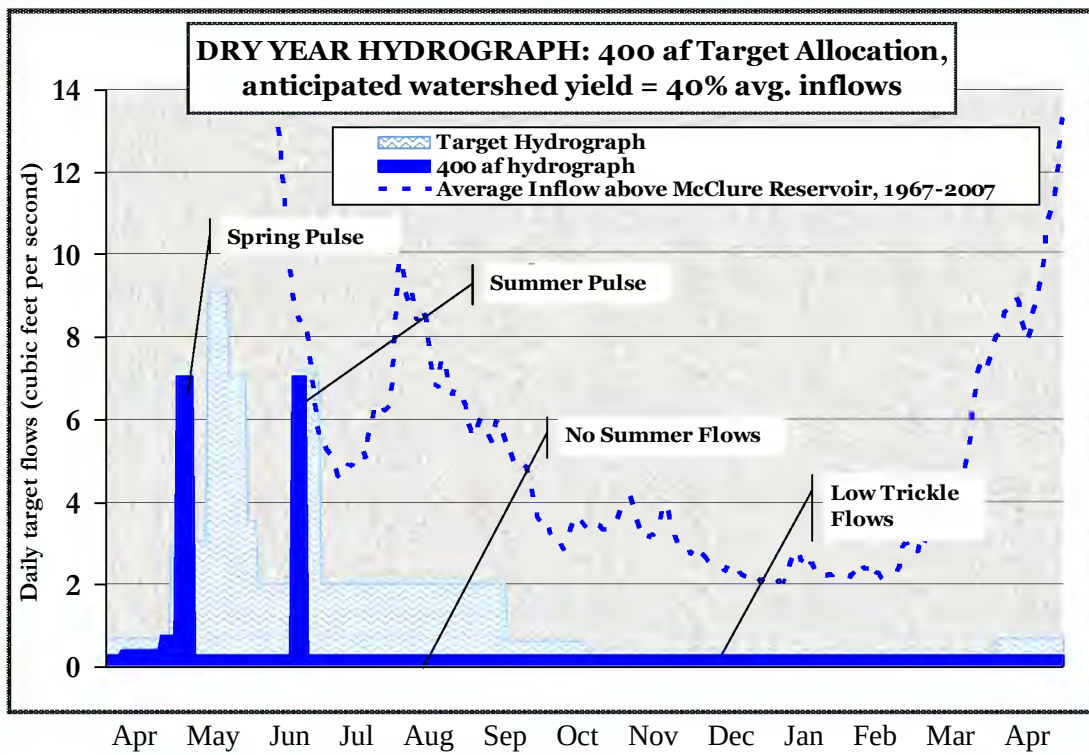
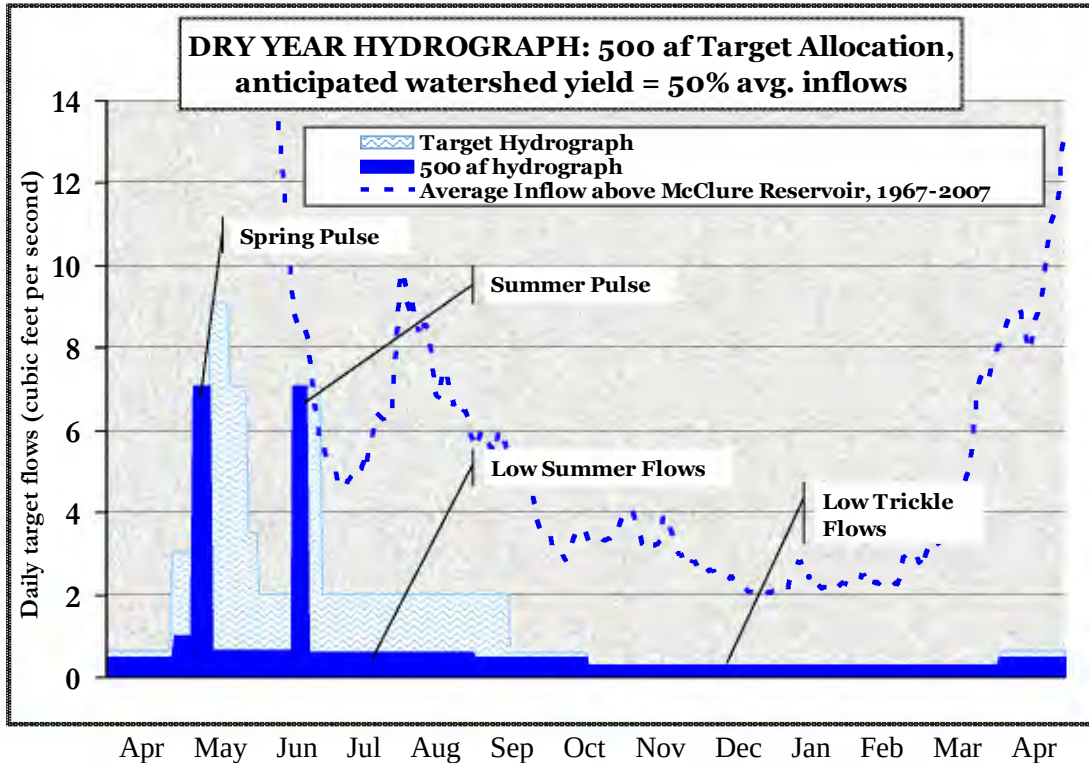
6. Miscellaneous Provisions

- 6.1 **Amendments.** These Administrative Procedures may only be amended pursuant to a duly adopted resolution of the Governing Body.
- 6.2 **Severability.** In the event that a court of competent jurisdiction shall determine that any provision these Procedures are invalid, unlawful or unenforceable, the remainder of these Administrative Procedures shall remain in full force and effect.

Appendix A

Dry Year Hydrographs





City of Santa Fe, New Mexico

LEGISLATIVE SUMMARY

Resolution No. 2020-__ Midtown ENA Oversight

SPONSOR(S): Councilor Vigil Coppler

SUMMARY: The proposed Resolution requires that the City Manager seek approval from the Governing Body to extend the term of the Exclusive Negotiation Agreement with KDC/Cienda Partners. Additionally, the Resolution would require regular 30-day progress reports to the City to be submitted to the Governing Body.

PREPARED BY: Jesse Guillen, Legislative Liaison

FISCAL IMPACT: None

DATE: July 2, 2020

ATTACHMENTS: Resolution
Fiscal Impact Report

1 **CITY OF SANTA FE, NEW MEXICO**

2 **RESOLUTION NO. 2020-__**

3 **INTRODUCED BY:**

4
5 Councilor JoAnne Vigil Coppler
6
7
8
9

10 **A RESOLUTION**

11 **REQUIRING THAT THE CITY MANAGER SEEK GOVERNING BODY APPROVAL**
12 **BEFORE EXTENDING THE TERM OF THE EXCLUSIVE NEGOTIATION**
13 **AGREEMENT WITH KDC CIENDA SF INVESTMENTS ONE LP (“KDC/CIENDA”)**
14 **BEYOND ITS INITIAL ONE-YEAR TERM; AND REQUIRING THAT THE 30-DAY**
15 **PROGRESS REPORTS FROM THE MIDTOWN DEVELOPMENT TEAM BE**
16 **SUBMITTED TO THE GOVERNING BODY.**
17

18 **WHEREAS**, the Governing Body entered into an Exclusive Negotiation Agreement
19 (“ENA”) with KDC/Cienda on May 4th, 2020; and

20 **WHEREAS**, the initial term of the ENA is twelve months from the effective date, May
21 4th, 2020, plus the number of days delay due to COVID -19 restrictions; and

22 **WHEREAS**, in the event that the City of Santa Fe (“City”) and KDC/Cienda have not
23 finally executed and delivered a DDA during the initial term, either party may extend the initial
24 term of the ENA for an additional four months; and

25 **WHEREAS**, the ENA provides that the City Manager, acting on behalf of the City, shall

1 have the right to extend the initial term; and

2 **WHEREAS**, the Governing Body wants to be involved in the extension of the initial
3 term of the ENA; and

4 **WHEREAS**, Section 5.3.1 of the ENA requires that the development team submit
5 regular progress reports to the City's Midtown Project Manager and the Executive Decision-
6 Makers no less than once every thirty days, including a summary of the activities it has completed
7 related to the project during the prior thirty days; and

8 **WHEREAS**, the Governing Body wants to receive the progress reports for review.

9 **NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE**
10 **CITY OF SANTA FE** that the City Manager or her designee shall seek Governing Body
11 approval before extending the term of the Exclusive Negotiation Agreement with KDC Cienda
12 SF Investments One LP.

13 **BE IT FURTHER RESOLVED** that the City Manager or her designee shall submit the
14 development team's thirty-day regular progress reports to the Governing Body as soon as they are
15 available, as is feasible.

16 PASSED, APPROVED, and ADOPTED this _____ day of _____, 2020.

17
18
19 _____
20 ALAN WEBBER, MAYOR

21 ATTEST:

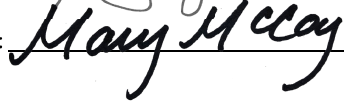
22
23 _____
24 YOLANDA Y. VIGIL, CITY CLERK
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APPROVED AS TO FORM:



ERIN K. McSHERRY, CITY ATTORNEY

FISCAL IMPACT REPORT**General Information:**(Check) Bill: _____ Resolution: X Short Title(s): Midtown ENA OversightSponsor(s): Councilor Vigil CopplerReviewing Department(s): Legislative ServicesStaff Completing FIR: Jeff Norris Date: 7/1/20 Phone: 995-6692Reviewed by City Attorney:  Date: Jul 6, 2020Reviewed by Finance Director:  Date: Jul 15, 2020**Summary:**

The proposed Resolution requires that the City Manager seek approval from the Governing Body to extend the term of the Exclusive Negotiation Agreement ("ENA") with KDC/Cienda Partners. Additionally, it requires that the regular 30-day progress reports to the City will also be submitted to the Governing Body for review.

Departments Affected:City Manager, Economic Development, City Attorney's Office.**Consequences of Not Enacting Legislation:**

The City Manager would not be required to consult with the Governing Body before extending the initial term of the ENA and regular progress reports would not have to be submitted to the Governing Body.

Conflict, Duplication, Companionship, or Relationship to Other Legislation:

This Resolution relates to the ENA between the City and KDC/Cienda Partners that as approved by the Governing Body on May 4, 2020.

Performance and Administrative Implications:

Extension of the ENA will require additional steps and planning if Governing Body approval is required.

Fiscal Implications:None.**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
<u>Personnel and Benefits*</u>	\$ ____	\$ ____	\$ ____	____	____	____	____
<u>Capital Outlay</u>	\$ ____	\$ ____	\$ ____	____	____	____	____
<u>Contractual/</u>	\$ ____	\$ ____	\$ ____	____	____	____	____
<u>Professional Services</u>							
<u>Operating</u>	\$ ____	\$ ____	\$ ____	____	____	____	\$ ____
<u>Total:</u>	\$ ____	\$ ____	\$ ____				\$ ____

* 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:

Midtown ENA Oversight (LS)

Final Audit Report

2020-07-15

Created:	2020-07-05
By:	Jesse Guillen (jbguillen@ci.santa-fe.nm.us)
Status:	Signed
Transaction ID:	CBJCHBCAABAADeYDI Lhuq46uak7kDMiS0ae_ve1fSntV

"Midtown ENA Oversight (LS)" History

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-  Document emailed to Mary McCoy (mtmccoy@santafenm.gov) for signature
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CITY OF SANTA FE, NEW MEXICO
PROPOSED AMENDMENT(S) TO RESOLUTION NO. 2020-__
Midtown ENA Oversight

Mayor and Members of the City Council:

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

1. On page 2, line 10 *strike* "her"
2. On page 2, line 13 *strike* "her"

Respectfully submitted,

Chris Rivera, Councilor

Approved as to Form:



Erin K. McSherry, City Attorney

ADOPTED: _____

NOT ADOPTED: _____

DATE: _____

Yolanda Y. Vigil, City Clerk

Midtown ENA Oversight (Rivera Amend)

Final Audit Report

2020-07-16

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2020-07-16 - 4:09:20 PM GMT

City of Santa Fe, New Mexico

memo

DATE: July 9, 2020

TO: PUC/PW Committee/Finance Committee/City Council

VIA: Shannon Jones, Public Utilities Director 
Jesse Roach Water Division Director 
Jonathan Montoya, Source of Supply Manager 

FROM: Alex Gamino, Automation and Security System Administrator 

RE: Booster Station 3 & Booster Station 4 VFD/RTU Replacements, WTR#1950519

ITEM:

Request approval for Professional Services Agreement with HEI, Inc.

Request approval for Budget Adjustment/Increase in the amount of \$774,604 plus NMGR.

BACKGROUND AND SUMMARY

Booster Station 3 and Booster Station 4 are a critical part of pumping water from both Buckman Direct Diversion and Buckman Wells 1-13 to meet the demands of water consumption. Both stations have (2) Variable Frequency Drive which were installed in 2003 and are now showing signs of failure. The VFDs are used to protect motor and control pumping speeds. These units have exceeded their life expectancy and replacement parts are no longer available. The replacement and upgrades at these sites are critical to avoid any disruption to water transmission and production.

JUSTIFICATION

In the event of an equipment failure the ability to make a quick repair would be impossible as spare parts for the aged units are no longer available. This would greatly reduce or possibly completely prohibit the ability convey water from the Buckman well field and/or BDD. The Water Div. has acquired an electrical construction proposal based on engineered drawings and through the Statewide Price Agreement procurement guidelines. HEI, Inc. was acquired through a (3) quote process per SWPA as the low bidder. HEI, Inc. has a current contract through SWPA#70-000-17-00063 to perform electrical services as requested.

RECOMMENDED ACTION

- Please approve Budget Adjustment/Increase in the amount of \$774,604 plus NMGR to BU/LI 5050395.572970.
- Please approve a Professional Service Agreement for \$774,604 plus NMGR.
- Project Ledger #: WTR1950519

Log # {Finance use <u>only</u> }:	
Batch # {Finance use <u>only</u> }:	

City of Santa Fe, New Mexico

BUDGET AMENDMENT RESOLUTION (BAR)

DEPARTMENT / DIVISION NAME PUD/Water/CIP	DATE 7/16/2020
---	-------------------

ITEM DESCRIPTION	ORG	OBJECT	PROJECT	INCREASE	DECREASE
<u>EXPENDITURES</u>				{enter as <u>positive</u> #}	{enter as <u>negative</u> #}
Water CIP	5050395	572970	WTR1950519	839,962	
<u>REVENUES</u>				{enter as <u>negative</u> #}	{enter as <u>positive</u> #}

JUSTIFICATION: (use additional page if needed) –Attach supporting documentation/memo	\$ 839,962	\$ -
--	------------	------

Budget Increase from Cash Balance in Water Enterprise Fund for contract amendment with HEI Inc. for Booster Station 3 & Booster Station 4 VFD/RTU Replacements	{Complete section below if BAR results in a net change to ANY Fund}												
	<table border="1" style="width: 100%;"> <tr> <th style="width: 60%;">Fund(s) Affected</th><th style="width: 40%;">Fund Balance Increase/(Decrease)</th></tr> <tr> <td>505</td><td>(839,962)</td></tr> <tr><td> </td><td></td></tr> <tr><td> </td><td></td></tr> <tr><td> </td><td></td></tr> <tr> <td>TOTAL:</td><td>(839,962)</td></tr> </table>	Fund(s) Affected	Fund Balance Increase/(Decrease)	505	(839,962)							TOTAL:	(839,962)
Fund(s) Affected	Fund Balance Increase/(Decrease)												
505	(839,962)												
TOTAL:	(839,962)												

Maya Martinez Prepared By {print name}	7/16/2020 Date	{Use this form for Finance Committee/ City Council agenda items ONLY}	Andy Hopkins Budget Officer
 Division Director Signature {optional}	Date	CITY COUNCIL APPROVAL City Council Approval Date	Finance Director {≤ \$5,000}
 Department Director Signature	Date	Agenda Item #:	City Manager {≤ \$60,000}

Shannon Jones (Jul 20, 2020 08:37 MDT)

Created:	2020-07-20
By:	Maya Martinez (mfmartinez@ci.santa-fe.nm.us)
Status:	Signed
Transaction ID:	CBJCHBCAABAAf56f7h9_3KIPslU2B5oylotF3EmGLZ-A

"BAR HEI" History

-  Document created by Maya Martinez (mfmartinez@ci.santa-fe.nm.us)
2020-07-20 - 5:08:08 PM GMT - IP address: 63.232.20.2
-  Document emailed to Andy Hopkins (ajhopkins@santafenm.gov) for signature
2020-07-20 - 5:08:39 PM GMT
-  Email viewed by Andy Hopkins (ajhopkins@santafenm.gov)
2020-07-20 - 6:37:55 PM GMT - IP address: 23.103.201.254
-  Document e-signed by Andy Hopkins (ajhopkins@santafenm.gov)
Signature Date: 2020-07-20 - 6:38:53 PM GMT - Time Source: server- IP address: 63.232.20.2
-  Signed document emailed to Maya Martinez (mfmartinez@ci.santa-fe.nm.us) and Andy Hopkins (ajhopkins@santafenm.gov)
2020-07-20 - 6:38:53 PM GMT

Item# _____
Munis Contract# _____

City of Santa Fe Contract
Electrical Services Agreement

THIS AGREEMENT is made and entered into by and between the City of Santa Fe, herein after referred to as the "City", and **HEI, Inc.** 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.

C. "You" and "your" refers to **HEI, Inc.** "We," "us" or "our" refers to the City and whose accounts are created under this Agreement.

2. **Scope of Work**

A. The Contractor shall provide the services for the City of Santa Fe Water Division: install Booster Station 3 & Booster Station 4 VFD/RTU Replacements as described in Exhibit "A" attached hereto.

3. **Compensation**

The City shall pay to the Contractor based upon fixed prices as described in Exhibit "A", The total compensation under this Agreement shall not exceed seven hundred seventy four thousand six hundred and four dollars (\$774,604) 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, 2021. 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**

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 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**

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 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 as 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. **Impracticability 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:

Water Division Director

801 W. San Mateo

Santa Fe, NM 87504

To the Contractor:

HEI Inc.

P.O. Box 31310

Albuquerque, NM 87190

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:

HEI Inc.

P.O. Box 31310

Albuquerque, NM 87190

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:

CONTRACTOR:

HEI Inc.

ALAN WEBBER, MAYOR

Will Humbard

NAME



DATE: _____

President

TITLE

DATE: 7/17/2020

CRS 02-360388-007

Registration # 225955

ATTEST:

YOLANDA Y. VIGIL, CITY CLERK

CITY ATTORNEY'S OFFICE:

Marcos Martinez

Marcos Martinez (Jul 16, 2020 13:46 MDT)

SENIOR ASSISTANT CITY ATTORNEY

APPROVED:

MARY MCCOY, FINANCE DIRECTOR

5050395.572970

Org.Name/Org.#

Project Ledger #: WTR1950519

PROJECT NO.: 20006

[illegible]



MECHANICAL & ELECTRICAL ENGINEERING, INC.

1222 LUISA ST., SUITE B
SANTA FE, NM 87505
PH# 505-983-2389

MEMO

DATE: June 3, 2020

TO: All Plan Holders

Pages including this cover sheet: 6

**CITY OF SANTA FE
BUCKMAN BOOSTER STATIONS #3 AND #4
VFD REPLACEMENT
ADDENDUM #2**

The following items shall be incorporated into the Contract Documents.

Specifications

List of Attendants at Pre-Bid Meeting May 27, 2020 - Attached

Bid Proposal Form – Pages 01 and 02 - Revised

Includes Cash Contingency Allowance - \$550,000.

Costs for the following items will be taken from this allowance:

VFDs	Not to Exceed	\$270,000.
Instrumentation	Not to Exceed	\$70,000.
Automation	Not to Exceed	\$20,000.
4 – 400 HP Motors (Supply Only)	Not to Exceed	\$160,000.
2 – HVAC Units	Do Not include in CCA.	
Unforeseen Conditions	Balance of Allowance	

SKE – 1 Provide labor and Materials to install 4 - 400 HP Motors – 2 at each Booster Station, to be included in Base Bid.

SKE – 2 Supply and Install 2 – Heating and Cooling Units to be included in the Base Bid.

Existing VFDs and 400 HP Motors that are removed are to be delivered to the City of Santa Fe Storage Location on Fairly and Airport Road, Santa Fe, New Mexico

Latitude: 35° 37' 55.15" N
Longitude: 106° 2' 44.62" W

All other provisions of the Contract Documents shall remain unchanged. This addendum is hereby made part of the Contract Documents to the same extent as though it were originally included therein. Each bidder shall acknowledge receipt of this addendum on the Bid Proposal Form in the space provided.

End of Addendum

SCOPE OF WORK - BOOSTER PUMP MOTOR REPLACEMENT

1. CONTRACTOR SHALL INCLUDE IN THE BASE BID REQUIRED LABOR AND MATERIALS TO REMOVE AND REPLACE TWO EXISTING 400 HORSEPOWER BOOSTER PUMP MOTORS.
2. PURCHASE OF THE MOTORS AND DELIVERY TO THE SHALL BE BY CASH ALLOWANCE. THE REQUIRED CASH ALLOWANCE AMOUNT FOR PURCHASE AND DELIVERY OF THE PUMP MOTORS SHALL BE PROVIDED TO ALL BIDDERS AND SHALL BE INCLUDED IN EACH CONTRACTOR'S BID.
3. CASH ALLOWANCE SHALL INCLUDE ONLY THE PURCHASE AND DELIVERY OF THE PUMP MOTORS.
4. BASE BID WORK SHALL INCLUDE THE FOLLOWING:
 - A. REMOVAL OF EXISTING PUMP MOTORS AND DELIVERY TO OWNER STORAGE YARD IN SANTA FE.
 - B. FURNISH AND INSTALL NEW PUMP MOTORS AS PROVIDED UNDER CASH ALLOWANCE.
 - C. ELECTRICAL DISCONNECT AND RECONNECT OF MOTOR POWER AND CONTROLS.
 - D. START UP, TESTING, AND COMMISSIONING OF NEW PUMP MOTORS AND VFD'S.

TITLE SHEET

BUCKMAN BOOSTER STATION VFD REPLACEMENT

PEAK POWER ENGINEERING

1309 AGUA FRIA SANTA FE, NM 87505 TF (505) 982-7071 EMAIL:powereng@earthlink.net

E3-0 AND E4-0

NO SCALE

5/30/20

20018

SKE-1

UNDER BASE BID, CONTRACTOR SHALL FURNISH AND INSTALL HEATING AND COOLING EQUIPMENT AS SCHEDULED BELOW. BASE BID WORK SHALL INCLUDE REMOVAL OF EXISTING, PATCH AND REPAIR, INSTALLATION OF NEW UNIT INCLUDING ELECTRICAL AND PIPING. BASE BID WORK SHALL ALSO INCLUDE TESTING AND COMMISSIONING OF SYSTEM.

HEATING AND COOLING EQUIPMENT SCHEDULE							
DESCRIPTION	MANUFACTURER	MODEL NUMBER	VOLTS	PHASE	MINIMUM CKT AMPS	MAX OCP	COMMENTS
HVAC INDOOR UNIT	CARRIER	40MAQB36B-3	240	1	2		COOLING ONLY
HVAC OUTDOOR UNIT	CARRIER	38MAQB36R-3	240	1	25	35	COOLING ONLY
UNIT HEATER	QMARK	MUH-102	240	1	42	60	24 VACTSTAT
WALL MOUNTING BRACKET	QMARK	MMB10					
EXHAUST FAN	MATCH EXISTING		240	1	15	20	

ELECTRICAL PLAN - NEW WORK

BUCKMAN BOOSTER STATION VFD REPLACEMENT

PEAK POWER ENGINEERING

1309 AGUA FRIA SANTA FE, NM 87505 TF (505) 982-7071 EMAIL:powereng@earthlink.net

E3-2 AND E4-2

NO SCALE

5/30/20

20018

SKE-2

Bid Proposal Form

PROJECT IDENTIFICATION: Buckman Booster Stations #3 and #4
VFD Replacement

THIS BID IS SUBMITTED TO: City of Santa Fe
Public Utilities Administration

- 1.01 The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an agreement with the OWNER in the form included in the Bidding Documents to perform and furnish all Work as specified or indicated in the Bidding Documents for the prices and within the times indicated in this Bid and in accordance with the other terms and conditions of the Bidding Documents.
- 2.01 This Bid will remain subject to acceptance until 60 days after the day of Bid opening, or for such longer period of time that the Bidder may agree to in writing upon request of OWNER.
- 3.01 In submitting this Bid, Bidder represents, as more fully set forth in the Agreement, that:
- A. The Bidder has examined copies of all the Bidding Documents and of the following Addenda (receipt of all of which is hereby acknowledged):

No. <u>1</u>	Title: <u>VFD Replacement Addendum #1</u>	Date: <u>May 20, 2020</u>
No. <u>2</u>	Title: <u>VFD Replacement Addendum #2</u>	Date: <u>June 3, 2020</u>
 - B. Bidder has visited the site and become familiar with and is satisfied as to the general, local and site conditions that may affect cost, progress, and performance of the Work;
 - C. Bidder is familiar with and is satisfied as to all federal, state and local Laws and Regulations that may affect cost, progress, and performance of the Work.
 - D. Bidder is aware of the general nature of work to be performed by OWNER and others at the Site that relates to the Work as indicated in the Bidding Documents.
 - E. Bidder has correlated the information known to Bidder, information and observations obtained from visits to the site and drawings identified in the Bidding Documents and all additional examinations, investigations, explorations, tests, studies and data with the Bidding Documents.
 - F. Bidder has given ENGINEER written notice of all conflicts, errors, ambiguities or discrepancies that Bidder has discovered in the Bidding Documents and the written resolution thereof by ENGINEER is acceptable to Bidder.
 - G. The Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performance of the Work for which this Bid is submitted.

- 4.01 Bidder will complete the Work in accordance with the Contract Documents for the following price(s):

BASE BID Seven Hundred Seventy Four Thousand Six Hundred Four dollars \$ 774,604.00

New Mexico Gross Receipts Tax 7.125 % rate, estimate \$ 55,190.54

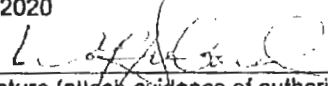
Gross Receipt Taxes are excluded from the above base bid prices and will be billed as a separate added amount at the time of each pay request, and at the rate applicable at the time of billing. The Proposer acknowledges that the following Cash Contingency Allowance (\$550,000.00) is included in the Base Bid.

CASH CONTINGENCY ALLOWANCE (\$550,000.00).

- A. Include in the Base Bid, a stipulated amount of \$550,000 (five hundred, fifty thousand dollars).
- B. Costs for the following items will be taken from this allowance:
- | | |
|-------------------------------|--------------------------|
| VFDs | Not to Exceed \$270,000. |
| Instrumentation | Not to Exceed \$70,000. |
| Automation | Not to Exceed \$20,000. |
| 4-400 HP Motors (Supply Only) | Not to Exceed \$160,000. |
| 2 - HVAC Units | Do not include in CCA |
| Unforeseen Conditions | Balance of Allowance |
- C. Contractor to include insurance, taxes, bonding, overhead and profit in Base Bid.
- D. Contractor's costs for Products, delivery, installation, labor, insurance, payroll, bonding, equipment rental, overhead and profit will be included in authorized expenditure of funds from the Contingency.
- E. New Mexico Gross Receipts Tax is not included in amount.
- F. Funds will be drawn from Cash Contingency Allowance only at Engineers's authorization.
- G. Any unused funds will be deleted from the project by change order.
- 5.01 Bidder agrees that the Work will be substantially complete within 180 calendar days after the date when the Contract Times commence to run and completed and ready for final within 210 calendar days after the date when the Contract Times commence to run.
- 6.01 The Undersigned understands that the Owner reserves the right to reject any or all Proposals or to waive any formality or technicality in any Proposal in the interest of the Owner.

SUBMITTED ON: June 10, 2020

SUBMITTED BY:


signature (attach evidence of authority to sign for partnerships or corporation)

Will Humbard - President

name and title

Firm Name: HEI, Inc.

Firm Address: 3800 Vassar Dr NE
Albuquerque, NM 87107

(Seal, if bid is by a corporation)

New Mexico Contractor's License No. 61439

Classification: EE98/EL01/ES07/GB98



Bid Proposal Form

PROJECT IDENTIFICATION: Buckman Booster Stations #3 and #4
VFD Replacement

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Public Utilities Administration

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No. <u>1</u>	Title: <u>Addendum #1</u>	Date: <u>5/20/2020</u>
No. <u>2</u>	Title: <u>Addendum #2</u>	Date: <u>6/3/2020</u>
 - B. Bidder has visited the site and become familiar with and is satisfied as to the general, local and site conditions that may affect cost, progress, and performance of the Work;
 - C. Bidder is familiar with and is satisfied as to all federal, state and local Laws and Regulations that may affect cost, progress, and performance of the Work.
 - D. Bidder is aware of the general nature of work to be performed by OWNER and others at the Site that relates to the Work as indicated in the Bidding Documents.
 - E. Bidder has correlated the information known to Bidder, information and observations obtained from visits to the site and drawings identified in the Bidding Documents and all additional examinations, investigations, explorations, tests, studies and data with the Bidding Documents.
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 - G. The Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performance of the Work for which this Bid is submitted.

- 4.01 Bidder will complete the Work in accordance with the Contract Documents for the following price(s):

Eight hundred eighty-eight thousand, one hundred forty-six dollars and eighty-eight cents

BASE BID \$ 888,146.88

New Mexico Gross Receipts Tax 7.125 % rate, estimate \$ 63,280.47

Gross Receipt Taxes are excluded from the above base bid prices and will be billed as a separate added amount at the time of each pay request, and at the rate applicable at the time of billing. The Proposer acknowledges that the following Cash Contingency Allowance (\$550,000.00) is included in the Base Bid.

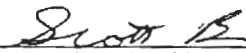
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Automation	Not to Exceed	\$20,000.
4-400 HP Motors (Supply Only)	Not to Exceed	\$160,000.
2 - HVAC Units	Do not include in CCA	
Unforeseen Conditions	Balance of Allowance	
 - C. Contractor to include insurance, taxes, bonding, overhead and profit in Base Bid.
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- 6.01 The Undersigned understands that the Owner reserves the right to reject any or all Proposals or to waive any formality or technicality in any Proposal in the interest of the Owner.

SUBMITTED ON: June 10, 2020

SUBMITTED BY:


signature (attach evidence of authority to sign for partnerships or corporation)

Scott Burson, Vice-President
name and title

Firm Name: Great Western Electrical, Inc.

Firm Address: 3310 Girard Blvd NE

(Seal, if bid is by a corporation)

New Mexico Contractor's License No. 93237

Classification: EL1, EE98

City of Santa Fe
Sangre De Cristo Water Company
Buckman Booster Stations #3 and #4
VFD Replacement
Pre-Bid Meeting
May 27, 2020

Initials	Name	Representing	Phone	email
BV	Bill Velasquez	HEI, Inc.	505-553-5431	bvelasquez@heinm.com
	Norm Berget	HEI, Inc.	505-980-5817	nberget@heinm.com
	Craig Goodwin	HEI, Inc.	505-228-6751	
SB	Scott Burson	Great Western Electric	505-881-6525	sburson@nm.gwe.com
	Danny Burson	Great Western Electric	505-881-6525	dburson@nm.gwe.com
(20)	Russell Herring	B and D Industries	505-991-6622	russellh@bandindustries.com
	Will Hoke	B and D Industries	505-	will@bandindustries.com
	Joseph Harrison	B and D Industries	505-	jharrison@bandindustries.com
SW	SAMUEL URIOSTE	B & D INDUSTRIES	505-307-3203	SURIOSTE505@
TJ	Dave Johnson	Border States	505-366-8406	djohnson@borderstates.com
	Alfred Ledesma	Border States	915-637-1001	aledesma@borderstates.com
	Sebastian Rabo	Wunderlich-Malec	505-991-3017	sebastian.rabo@wmenj.com
	Jonathan Montoya	City of Santa Fe / Water Division	505-955-4373	jmontoya@santafenm.gov
	Alex Gamino	City of Santa Fe / Water Division	505-955-4375	alex.gamino@santafenm.gov
	Dave Gonzales	Peak Power Engineering	505-982-7071	doweren@earthlink.net
MF	Michel Fidel	M & E Engineering	505-983-2389	michel@mneengineering.com

CITY OF SANTA FE

PUBLIC UTILITIES DEPARTMENT



BUCKMAN BOOSTER STATION NO. 3

VFD REPLACEMENT

MAY 1, 2020

ENGINEER

PEAK POWER ENGINEERING, INC.
1309 AGUA FRIA
SANTA FE, NEW MEXICO 87505
TELE: (505) 650-1653

SCOPE OF WORK - BOOSTER PUMP MOTOR REPLACEMENT

1. TWO EXISTING 400 HORSEPOWER BOOSTER PUMP MOTORS TO BE REMOVED AND REPLACED WITH NEW BY BOOSTER PUMP SYSTEM CONTRACTOR SELECTED BY OWNER.
2. THE REQUIRED CASH ALLOWANCE AMOUNT FOR REPLACEMENT OF THE PUMP MOTORS SHALL BE PROVIDED TO ALL BIDDERS AND SHALL BE INCLUDED IN EACH CONTRACTORS BID.
3. CASH ALLOWANCE SHALL INCLUDE ONLY THE WORK PROVIDED BY THE PUMP SYSTEM CONTRACTOR:
 - A. REMOVAL OF EXISTING PUMP MOTORS AND DISPOSAL OFF SITE.
 - B. FURNISH AND INSTALL NEW PUMP MOTORS AS SPECIFIED BY THE OWNER.
 - C. START UP, TESTING, AND COMMISSIONING OF NEW PUMP MOTORS AND VFD'S.
 - D. CASH ALLOWANCE INCLUDES ONLY MECHANICAL AND PLUMBING WORK ASSOCIATED WITH PUMP MOTOR REPLACEMENT.
4. ELECTRICAL DISCONNECT AND RECONNECT OF MOTOR POWER AND CONTROLS SHALL BE INCLUDED IN BASE BID WORK.

SCOPE OF WORK - RTU CABINET

1. NEW RTU CABINET SHALL BE FURNISHED BY CONTRACTOR THROUGH DIRECT PURCHASE FROM YUKON AND ASSOCIATES, KILBUQUERQUE. CASH ALLOWANCE AMOUNT FOR PURCHASE OF COMPLETE RTU CABINET SHALL BE PROVIDED TO ALL BIDDERS AND SHALL BE INCLUDED IN EACH CONTRACTOR'S BID.
2. CASH ALLOWANCE SHALL INCLUDE ONLY THE PURCHASE OF THE RTU CABINET FROM YUKON AND ASSOCIATES AND SERVICES BY YUKON TECHNICIANS FOR ON-SITE START-UP, TESTING, AND COMMISSIONING. ALL OTHER WORK RELATED TO THE RTU CABINET AS DESCRIBED BELOW AND AS REQUIRED FOR COMPLETE OPERATIONAL SYSTEM SHALL BE INCLUDED IN THE CONTRACTORS BASE BID.
3. CONTRACTOR SHALL REMOVE EXISTING RTU CABINET AND SALVAGE TO OWNER FOR REUSE AT ALTERNATE SITE.
4. CONTRACTOR SHALL INSTALL NEW RTU CABINET FURNISHED BY YUKON AND ASSOCIATES UNDER CASH ALLOWANCE.
5. CONTRACTOR SHALL FURNISH AND INSTALL INSTRUMENTATION, CONTROL, AND NETWORK WIRING AND RACEWAY AS INDICATED ON THE DRAWINGS.
6. CONTRACTOR SHALL TERMINATE INSTRUMENTATION, CONTROL, AND NETWORK WIRING AS SHOWN OF EQUIPMENT SHOP DRAWINGS AND AS DIRECTED BY RTU CABINET FACTORY REPRESENTATIVE.
7. CONTRACTOR SHALL INCLUDE IN HIS BID, SERVICES FOR ASSISTING YUKON AND ASSOCIATES WITH START-UP, TESTING, AND COMMISSIONING SERVICES.

SCOPE OF WORK - VARIABLE FREQUENCY DRIVES (VFD)

1. REMOVE EXISTING VFD CABINETS AND SALVAGE TO OWNER FOR RE-USE AT ALTERNATE SITE. SALVAGED MATERIALS SHALL BE DELIVERED TO CITY STORAGE FACILITY AT FAIRLY ROAD AND AIRPORT ROAD IN SANTA FE.
2. FURNISH NEW VFD CABINETS UNDER CASH ALLOWANCE. CONTACT: BORDER STATES ELECTRIC, DAVID JOHNSON FOR BILL OF MATERIALS AND PRICE QUOTE. THE VFD PACKAGE FURNISHED BY THE CONTRACTOR SHALL INCLUDE THE SERVICES OF A FACTORY REPRESENTATIVE FOR START-UP, TESTING, AND COMMISSIONING SERVICES.
3. UNDER BASE BID, INSTALL AND CONNECT NEW VFD CABINETS FURNISHED UNDER CASH ALLOWANCE. CONTRACTOR BASE BID SHALL ALSO INCLUDE TIME AND MATERIALS TO SUPPORT FACTORY REP WITH START-UP AND COMMISSIONING.
4. INSTALL NEW 480VAC AND 120VAC CONDUIT AND CONDUCTORS AS SHOWN ON THE DRAWINGS. MAKE FINAL CONNECTIONS AS DIRECTED BY VFD EQUIPMENT FACTORY REPRESENTATIVE.

LIST OF DRAWINGS

- | | |
|------|-------------------------------------|
| EI-0 | TITLE SHEET |
| EI-1 | ELECTRICAL DEMOLITION PLAN |
| EI-2 | ELECTRICAL POWER PLAN - NEW WORK |
| EI-3 | ELECTRICAL ONE - LINE DIAGRAM |
| II-1 | INSTRUMENTATION AND CONTROL PLAN |
| II-2 | PROCESS AND INSTRUMENTATION DIAGRAM |

GENERAL ELECTRICAL NOTES

1. WORK COVERED BY THESE DRAWINGS CONSISTS OF FURNISHING ALL LABOR, EQUIPMENT, SUPPLIES AND MATERIALS, AND PERFORMING ALL OPERATIONS, INCLUDING CUTTING, CHANNELING, AND UNDERGROUND SYSTEMS AS INDICATED.
2. ALL ELECTRICAL WORK SHALL BE PERFORMED IN A NEAT AND WORKMAN LIKE MANNER IN FULL ACCORDANCE WITH NATIONAL ELECTRICAL CODE (NEC), NATIONAL ELECTRIC SAFETY CODE (NESC), AND LOCAL AND STATE SAFETY CODES.
3. CONTRACTOR SHALL BE RESPONSIBLE FOR FINAL COORDINATION WITH UTILITY COMPANIES. VERIFY EXACT REQUIREMENTS PRIOR TO ROUGH-IN. THERE SHALL BE NO EXTRA COSTS TO THE OWNER FOR CONTRACTOR'S FAILURE TO COORDINATE UTILITY REQUIREMENTS.
4. SHOULD THE CONTRACTOR DETECT ANY DISCREPANCIES BETWEEN CONTRACT DOCUMENTS AND LEGAL OR SAFETY REQUIREMENTS FOR THE PROJECT, HE SHALL PROMPTLY NOTIFY THE ENGINEER IN WRITING. ONCE NOTIFIED, THE ENGINEER SHALL MODIFY THE CONTRACT DOCUMENTS ACCORDINGLY. IF THE CONTRACTOR PROCEEDS WITH ANY WORK WHICH IS IN VARIANCE OF KNOWN LEGAL OR SAFETY REQUIREMENTS, THE CONTRACTOR SHALL ASSUME RESPONSIBILITY FOR THIS WORK AND SHALL PROMPTLY CORRECT THE WORK WHEN NOTIFIED WITHOUT ADDITIONAL COST TO THE OWNER.
5. APPROVED WIRING METHODS:
 - A. UNDERGROUND INSTALLATIONS SHALL BE COPPER BUILDING WIRE IN SCHEDULE 40 PVC CONDUIT.
 - B. EXPOSED INSTALLATION IN PROCESS AREAS SHALL BE COPPER BUILDING WIRE IN RIGID METALLIC CONDUIT.
 - C. EXPOSED INSTALLATIONS IN NON-PROCESS AREAS SHALL BE COPPER BUILDING WIRE IN RIGID METAL CONDUIT.
6. NOT USED
7. ALL WIRING SHALL BE COPPER, XHHW-2 INSULATION. MINIMUM CONDUCTOR SIZE SHALL BE #12.
8. EXTERIOR WIRING AND DEVICES SHALL BE INSTALLED IN CONDUIT WITH WEATHER-TIGHT FITTINGS AND IN WEATHER-TIGHT BOXES.
9. ALL METALLIC RACEWAY IN CONTACT WITH EARTH SHALL BE COATED. PROVIDE EITHER PLASTIBOND OR 2 LAYERS SCOTCH #51 HALF-LAPPED.

MECHANICAL & ELECTRICAL
ENGINEERING, INC.



1001 W. 1ST ST. SUITE 100
SANTA FE, NM 87505-1001
TEL: 505-650-1653
FAX: 505-650-1654

CITY OF SANTA FE
BOOSTER STATION NO. 3
VFD REPLACEMENT



SCALE - AS NOTED

DRAWN BY: J. J. JONES

CHECKED BY: J. J. JONES

DATE: MAY 1, 2020

SHEET NO. 1 OF 1

PROJECT NO. 1001

DATE: MAY 1, 2020

BY: J. J. JONES

FOR: J. J. JONES

DATE: MAY 1, 2020

BY: J. J. JONES

FOR: J. J. JONES

DATE: MAY 1, 2020

BY: J. J. JONES

FOR: J. J. JONES

DATE: MAY 1, 2020

BY: J. J. JONES

FOR: J. J. JONES

DATE: MAY 1, 2020

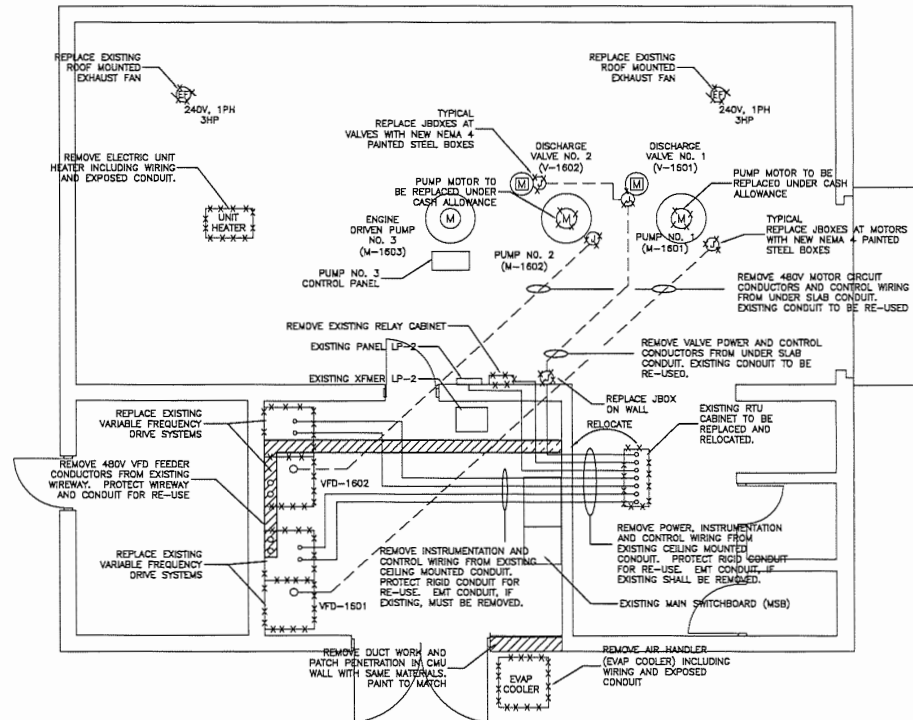
BY: J. J. JONES

FOR: J. J. JONES

DATE: MAY 1, 2020

BY: J. J. JONES

FOR: J. J. JONES



ELECTRICAL DEMOLITION PLAN
SCALE 1/4" = 1'-0"

MECHANICAL & ELECTRICAL
ENGINEERING, INC.



ALBUQUERQUE, NEW MEXICO 87113-5000
PHONE: 505.263.1111 FAX: 505.263.1112
WWW.M&E-ENG.COM

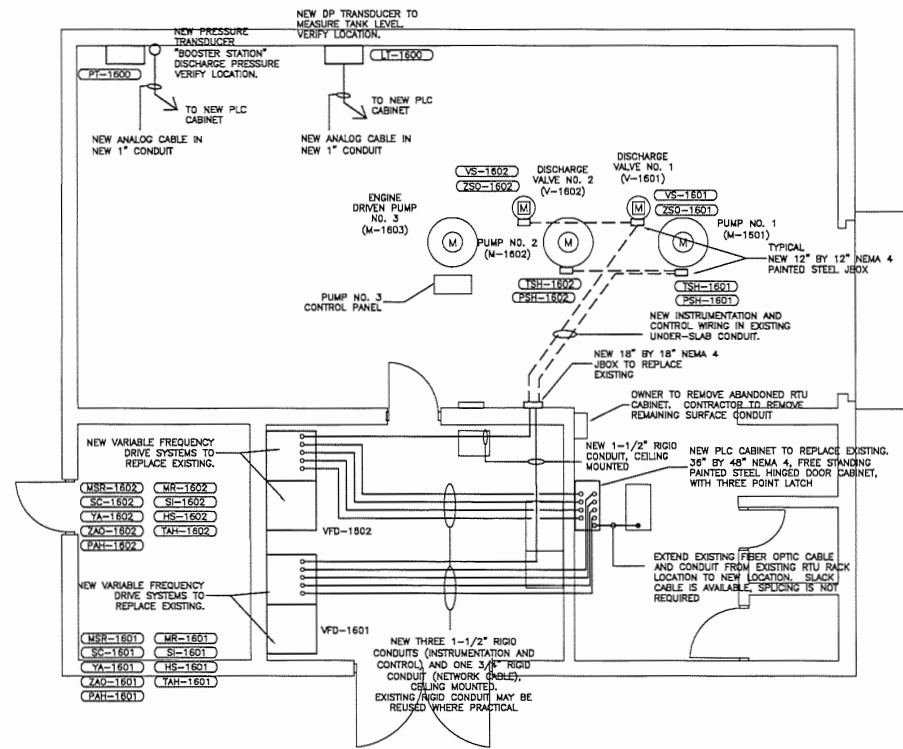
CITY OF SANTA FE
BOOSTER STATION NO. 3
VFD REPLACEMENT



SCALE - AS NOTED
DATE: MAY 1, 2020
DRAWN BY: DJ
CHECKED BY: DJ
IN CHARGE: DJ

SHEET NO.
E3-1

[illegible]



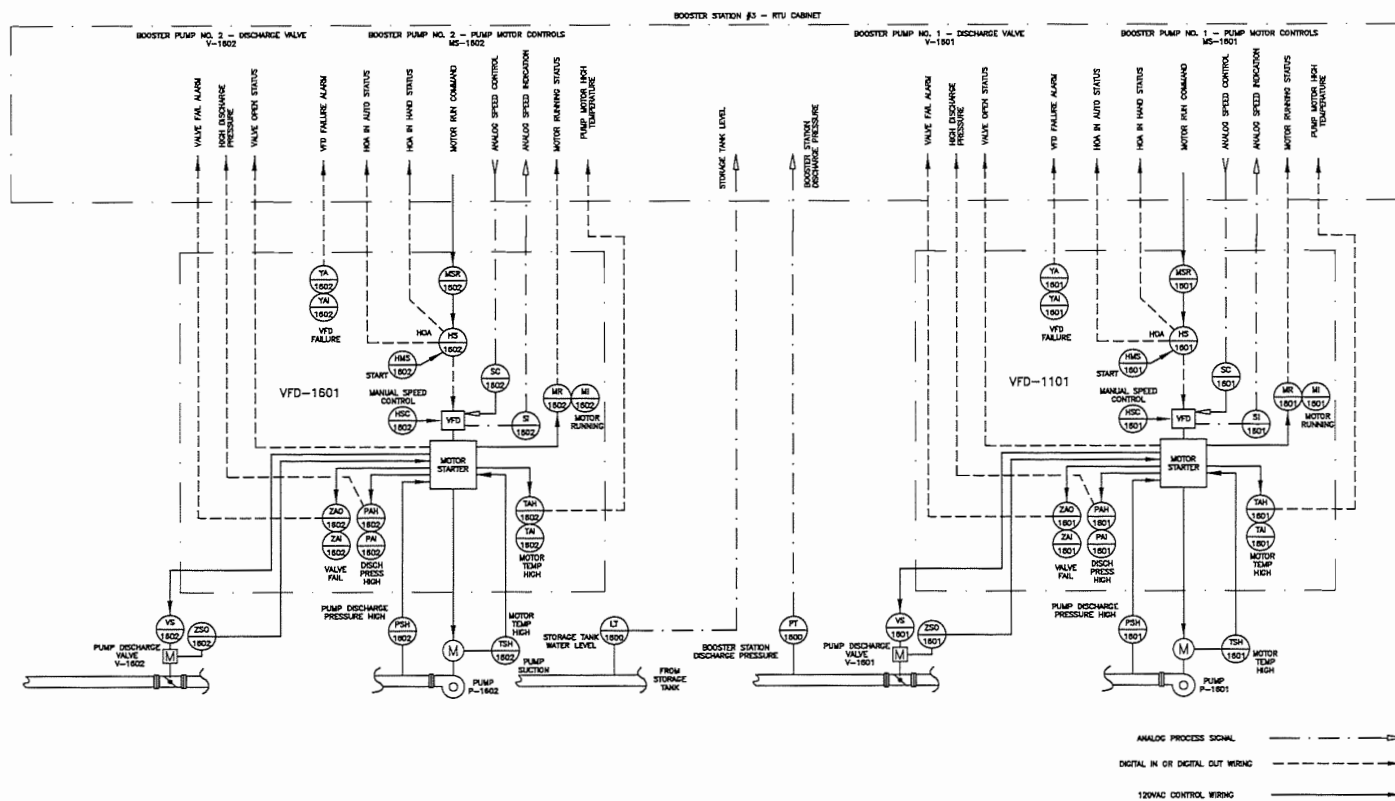
INSTRUMENTATION AND CONTROL PLAN
SCALE: 1/4" = 1'-0"

- | |
|---|
| ELECTRICAL CONDUIT - EXPOSED |
| 1. ALL EXPOSED CONDUIT IN PUMP AREA OF THE BUILDING SHALL BE RIGID METALLIC CONDUIT. FITTINGS AND COUPLINGS SHALL MATCH CONDUIT MATERIAL. |
| 2. EXPOSED CONDUIT IN ELECTRICAL ROOM SHALL BE RIGID METALLIC CONDUIT. FITTINGS AND COUPLINGS SHALL MATCH CONDUIT MATERIAL. |
| ELECTRICAL CABINETS |
| 1. ALL ELECTRICAL BOXES AND CABINETS SHALL BE NEMA 4 PAINTED STEEL WITH STAINLESS STEEL HARDWARE. |
| WIRE AND CABLE REQUIREMENTS |
| 480VAC WIRE - XHHW-2, ORG, YEL, BRN |
| 120VAC WIRE - XHHW-2, RED, WHITE |
| DC WIRE - XHHW-2, BLUE, BLUE W/WHITE STRIPE |
| ANALOG CABLE - BELDEN 9342, TWSH |
| CAT 6 - 4 PAIR DATA CABLE - ORANGE |

INSTRUMENTATION TAG AND LABEL NUMBERS AS SHOWN ARE FOR BIDDING PURPOSES ONLY.

CONTRACTOR SHALL LABEL ALL WIRING AND DEVICES PER INSTRUMENTATION CABINET SHOP DRAWINGS

MECHANICAL & ELECTRICAL ENGINEERING, INC.	
CITY OF SANTA FE BOOSTER STATION NO. 3 VFD REPLACEMENT	
SANTA FE NEW MEXICO	
DATE: MAY 1, 2020 DRAWN BY: DC CHECKED BY: DC IN: JH, M, JS SHEET NO. 13-1	



INSTRUMENTATION TAG AND
LABEL NUMBERS AS SHOWN
ARE FOR BIDDING PURPOSES
ONLY.

CONTRACTOR SHALL LABEL ALL
WIRING AND DEVICES PER
INSTRUMENTATION CABINET
SHOP DRAWINGS

MECHANICAL & ELECTRICAL
ENGINEERING, INC.



ALBUQUERQUE, NEW MEXICO, U.S.A.
SANTA FE, NEW MEXICO, U.S.A.
SANTA FE, NEW MEXICO, U.S.A.

CITY OF SANTA FE
BOOSTER STATION NO. 3
VFD REPLACEMENT



SCALE - AS NOTED
DATE MAY 1, 2023
DRAWN BY: DC
CHECKED BY: DC
SHEET NO. 13-2

CITY OF SANTA FE

PUBLIC UTILITIES DEPARTMENT



BUCKMAN BOOSTER STATION NO. 4

VFD REPLACEMENT

MAY 1, 2020

ENGINEER

PEAK POWER ENGINEERING, INC.
1309 AGUA FRIA
SANTA FE, NEW MEXICO 87505
TELE: 505-950-1553

SCOPE OF WORK - BOOSTER PUMP MOTOR REPLACEMENT

1. TWO EXISTING 400 HORSEPOWER BOOSTER PUMP MOTORS TO BE REMOVED AND REPLACED WITH NEW BY BOOSTER PUMP SYSTEM CONTRACTOR SELECTED BY OWNER.
2. THE REQUIRED CASH ALLOWANCE AMOUNT FOR REPLACEMENT OF THE PUMP MOTORS SHALL BE PROVIDED TO ALL BIDDERS AND SHALL BE INCLUDED IN EACH CONTRACTOR'S BID.
3. CASH ALLOWANCE SHALL INCLUDE ONLY THE WORK PROVIDED BY THE PUMP SYSTEM CONTRACTOR:
 - A. REMOVAL OF EXISTING PUMP MOTORS AND DISPOSAL OFF SITE.
 - B. FURNISH AND INSTALL NEW PUMP MOTORS AS SPECIFIED BY THE OWNER.
 - C. START UP, TESTING, AND COMMISSIONING OF NEW PUMP MOTORS AND VFD'S.
 - D. CASH ALLOWANCE INCLUDES ONLY MECHANICAL AND PLUMBING WORK ASSOCIATED WITH PUMP MOTOR REPLACEMENT.
4. ELECTRICAL DISCONNECT AND RECONNECT OF MOTOR POWER AND CONTROLS SHALL BE INCLUDED IN BASE BID WORK.

SCOPE OF WORK - RTU CABINET

1. NEW RTU CABINET SHALL BE FURNISHED BY CONTRACTOR THROUGH DIRECT PURCHASE FROM YUKON AND ASSOCIATES. ALBUQUERQUE. CASH ALLOWANCE AMOUNT FOR PURCHASE OF COMPLETE RTU CABINET SHALL BE PROVIDED TO ALL BIDDERS AND SHALL BE INCLUDED IN EACH CONTRACTOR'S BID.
2. CASH ALLOWANCE SHALL INCLUDE ONLY THE PURCHASE OF THE RTU CABINET FROM YUKON AND ASSOCIATES AND SERVICES BY YUKON TECHNICIANS FOR ON-SITE START-UP, TESTING, AND COMMISSIONING. ALL OTHER WORK RELATED TO THE RTU CABINET AS DESCRIBED BELOW AND AS REQUIRED FOR COMPLETE OPERATIONAL SYSTEM SHALL BE INCLUDED IN THE CONTRACTOR'S BASE BID.
3. CONTRACTOR SHALL REMOVE EXISTING RTU CABINET AND SALVAGE TO OWNER FOR RE-USE AT ALTERNATE SITE.
4. CONTRACTOR SHALL INSTALL NEW RTU CABINET FURNISHED BY YUKON AND ASSOCIATES UNDER CASH ALLOWANCE.
5. CONTRACTOR SHALL FURNISH AND INSTALL INSTRUMENTATION, CONTROL, AND NETWORK WIRING AND RACEWAY AS INDICATED ON THE DRAWINGS.
6. CONTRACTOR SHALL TERMINATE INSTRUMENTATION, CONTROL, AND NETWORK WIRING AS SHOWN OF EQUIPMENT SHOP DRAWINGS AND AS DIRECTED BY RTU CABINET FACTORY REPRESENTATIVE.
7. CONTRACTOR SHALL INCLUDE IN HIS BID, SERVICES FOR ASSISTING YUKON AND ASSOCIATES WITH START-UP, TESTING, AND COMMISSIONING SERVICES.

SCOPE OF WORK - VARIABLE FREQUENCY DRIVES (VFD)

1. REMOVE EXISTING VFD CABINETS AND SALVAGE TO OWNER FOR RE-USE AT ALTERNATE SITE. SALVAGED MATERIALS SHALL BE DELIVERED TO CITY STORAGE FACILITY AT FAIRLY ROAD AND AIRPORT ROAD IN SANTA FE.
2. FURNISH NEW VFD CABINETS UNDER CASH ALLOWANCE. CONTACT: BORDER STATES ELECTRIC, DAVID JOHNSON FOR BILL OF MATERIALS AND PRICE QUOTE. THE VFD PACKAGE FURNISHED BY THE CONTRACTOR SHALL INCLUDE THE SERVICES OF A FACTORY REPRESENTATIVE FOR START-UP, TESTING, AND COMMISSIONING SERVICES.
3. UNDER BASE BID, INSTALL AND CONNECT NEW VFD CABINETS FURNISHED UNDER CASH ALLOWANCE. CONTRACTOR BASE BID SHALL ALSO INCLUDE TIME AND MATERIALS TO SUPPORT FACTORY REP WITH START-UP AND COMMISSIONING.
4. INSTALL NEW 480VAC AND 120VAC CONDUIT AND CONDUCTORS AS SHOWN ON THE DRAWINGS. MAKE FINAL CONNECTIONS AS DIRECTED BY VFD EQUIPMENT FACTORY REPRESENTATIVE.

LIST OF DRAWINGS

- | | |
|------|-------------------------------------|
| E2-0 | TITLE SHEET |
| E2-1 | ELECTRICAL DEMOLITION PLAN |
| E2-2 | ELECTRICAL POWER PLAN - NEW WORK |
| E2-3 | ELECTRICAL ONE - LINE DIAGRAM |
| I2-1 | INSTRUMENTATION AND CONTROL PLAN |
| I2-2 | PROCESS AND INSTRUMENTATION DIAGRAM |

GENERAL ELECTRICAL NOTES

1. WORK COVERED BY THESE DRAWINGS CONSISTS OF FURNISHING ALL LABOR, EQUIPMENT, SUPPLIES AND MATERIALS; AND PERFORMING ALL OPERATIONS, INCLUDING CUTTING, CHANNELING, AND UNDERGROUND SYSTEMS AS INDICATED.
2. ALL ELECTRICAL WORK SHALL BE PERFORMED IN A NEAT AND WORKMAN LIKE MANNER IN FULL ACCORDANCE WITH NATIONAL ELECTRICAL CODE (NEC), NATIONAL ELECTRIC SAFETY CODE (NESC), AND LOCAL AND STATE SAFETY CODES.
3. CONTRACTOR SHALL BE RESPONSIBLE FOR FINAL COORDINATION WITH UTILITY COMPANIES. VERIFY EXACT REQUIREMENTS PRIOR TO ROUGH-IN. THERE SHALL BE NO EXTRA COSTS TO THE OWNER FOR CONTRACTOR'S FAILURE TO COORDINATE UTILITY REQUIREMENTS.
4. SHOULD THE CONTRACTOR DETECT ANY DISCREPANCIES BETWEEN CONTRACT DOCUMENTS AND LEGAL OR SAFETY REQUIREMENTS FOR THE PROJECT, HE SHALL PROMPTLY NOTIFY THE ENGINEER IN WRITING. ONCE NOTIFIED, THE ENGINEER SHALL MODIFY THE CONTRACT DOCUMENTS ACCORDINGLY. IF THE CONTRACTOR PROCEEDS WITH ANY WORK WHICH IS IN VARIANCE OF KNOWN LEGAL OR SAFETY REQUIREMENTS, THE CONTRACTOR SHALL ASSUME RESPONSIBILITY FOR THIS WORK AND SHALL PROMPTLY CORRECT THE WORK WHEN NOTIFIED WITHOUT ADDITIONAL COST TO THE OWNER.
5. APPROVED WIRING METHODS:
 - A. UNDERGROUND INSTALLATIONS SHALL BE COPPER BUILDING WIRE IN SCHEDULE 40 PVC CONDUIT.
 - B. EXPOSED INSTALLATION IN PROCESS AREAS SHALL BE COPPER BUILDING WIRE IN RIGID METALLIC CONDUIT.
 - C. EXPOSED INSTALLATIONS IN NON-PROCESS AREAS SHALL BE COPPER BUILDING WIRE IN RIGID METAL CONDUIT.
6. NOT USED
7. ALL WIRING SHALL BE COPPER, XHHW-2 INSULATION. MINIMUM CONDUCTOR SIZE SHALL BE #12.
8. EXTERIOR WIRING AND DEVICES SHALL BE INSTALLED IN CONDUIT WITH WEATHER-TIGHT FITTINGS AND IN WEATHER-TIGHT BOXES.
9. ALL METALLIC RACEWAY IN CONTACT WITH EARTH SHALL BE COATED, PROVIDE EITHER PLASTIBOND OR 2 LAYERS SCOTCH #51 HALF-LAPPED.

MECHANICAL & ELECTRICAL
ENGINEERING, INC.

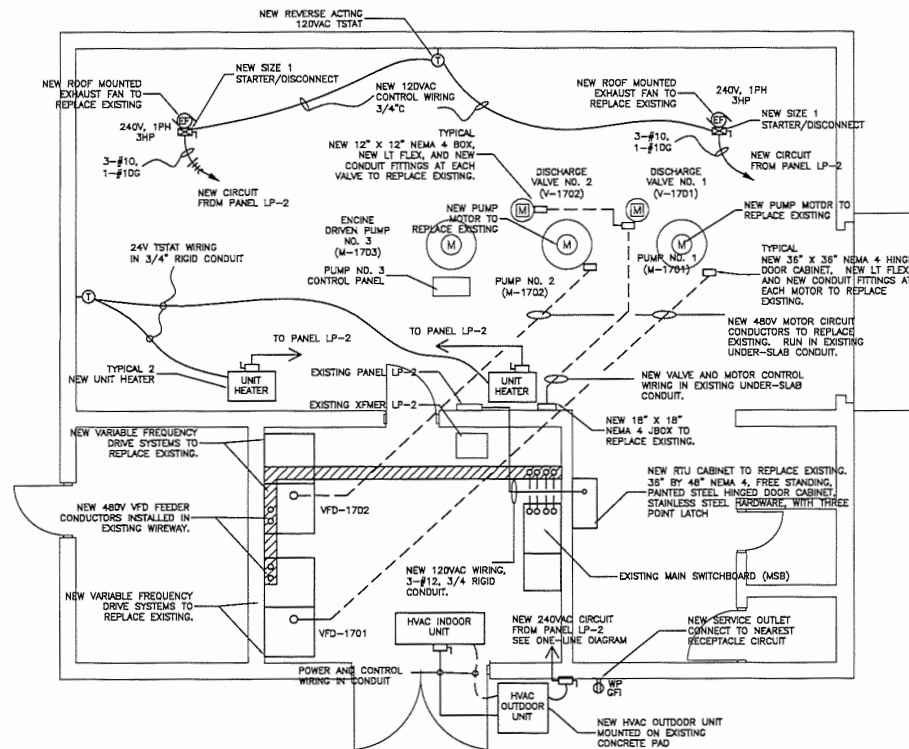


CITY OF SANTA FE
BOOSTER STATION NO. 4
VFD REPLACEMENT



SCALE - AS NOTED
DATE: MAY 1, 2020
DRAWN BY: JC
CHECKED BY: JC
SHEET NO. 4

E4-0



ELECTRICAL PLAN - NEW WORK

SCALE 1/4" = 1'-0"

ELECTRICAL CONDUIT - EXPOSED

1. ALL EXPOSED CONDUIT IN PUMP AREA OF THE BUILDING SHALL BE RIGID METALLIC CONDUIT. FITTINGS AND COUPLINGS SHALL MATCH CONDUIT MATERIAL.
2. EXPOSED CONDUIT IN ELECTRICAL ROOM SHALL BE RIGID METALLIC CONDUIT. FITTINGS AND COUPLINGS SHALL MATCH CONDUIT MATERIAL.

ELECTRICAL CABINETS

1. ALL ELECTRICAL BOXES AND CABINETS SHALL BE NEMA 4 - PAINTED STEEL WITH STAINLESS STEEL HARDWARE.

WIRE AND CABLE REQUIREMENTS

- 480VAC WIRE - XHHW-2, ORG, YEL, BRN
 120VAC WIRE - XHHW-2, RED, WHITE
 DC WIRE - XHHW-2, BLUE, BLUE W/WHITE STRIPE
 ANALOG CABLE - BELDEN 9342, TWSH
 CAT 5 - 4 PAIR DATA CABLE - ORANGE

HEATING AND COOLING EQUIPMENT SCHEDULE

DESCRIPTION	MANUFACTURER	MODEL NUMBER	VOLTS	PHASE	MINIMUM CKT AMPS	MAX OCP	COMMENTS
HVAC INDOOR UNIT	MITSUBISHI	PCA-A42KAB	240	1	2		COOLING ONLY
HVAC OUTDOOR UNIT	MITSUBISHI	PUP-A42NHAB	240	1	28	40	COOLING ONLY
UNIT HEATER	CHARN	MHP-102	240	1	42	60	24 VAC TSTAT
WALL MOUNTING BRACKET	CHARN	MWB-10					
EXHAUST FAN	MATCH EXISTING		240	1	15	20	

MECHANICAL & ELECTRICAL
 ENGINEERING, INC.



CITY OF SANTA FE
 BOOSTER STATION NO. 4
 VFD REPLACEMENT



SCALE - AS NOTED

DATE: MAY 1, 2020

DRAWN BY: CD

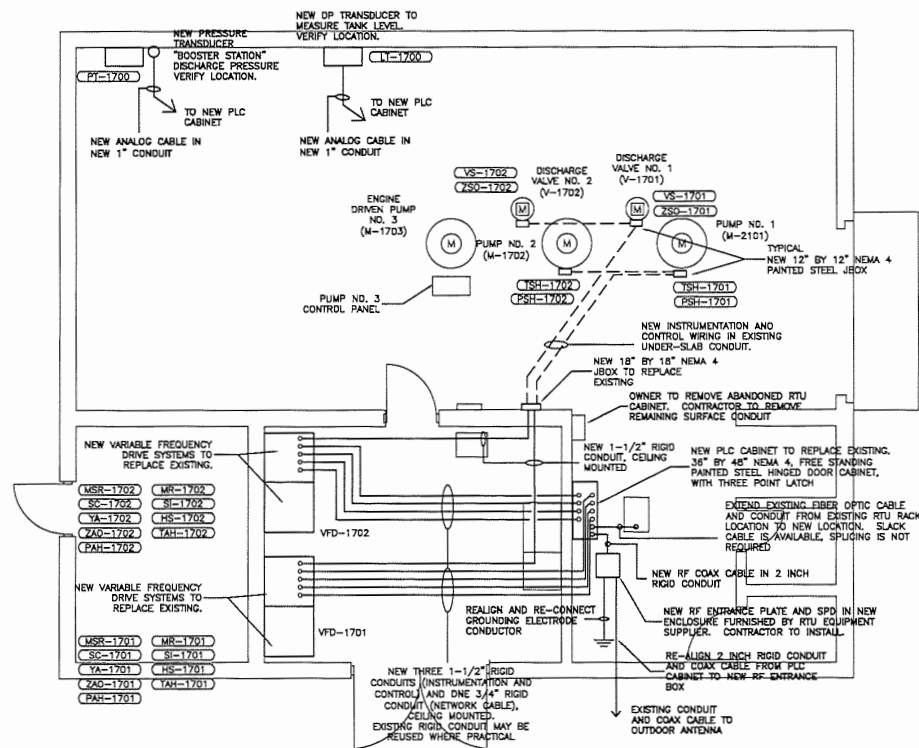
CHECKED BY: CD

DATE: MAY 1, 2020

SHEET NO.

E4-2

[illegible][illegible]



INSTRUMENTATION AND CONTROL PLAN
SCALE 1/4" = 1'-0"

ELECTRICAL CONDUIT - EXPOSED
1. ALL EXPOSED CONDUIT IN PUMP AREA OF THE BUILDING SHALL BE RIGID METALLIC CONDUIT. FITTINGS AND COUPLINGS SHALL MATCH CONDUIT MATERIAL.
2. EXPOSED CONDUIT IN ELECTRICAL ROOM SHALL BE RIGID METALLIC CONDUIT. FITTINGS AND COUPLINGS SHALL MATCH CONDUIT MATERIAL.
ELECTRICAL CABINETS
1. ALL ELECTRICAL BOXES AND CABINETS SHALL BE NEMA 4, PAINTED STEEL WITH STAINLESS STEEL HARDWARE.
WIRE AND CABLE REQUIREMENTS
480VAC WIRE - XHHW-2, ORG, YEL, BRN
120VAC WIRE - XHHW-2, RED, WHITE
DC WIRE - XHHW-2, BLUE, BLUE W/WHITE STRIPE
ANALOG CABLE - BELDEN 8342, TWSH
CAT 6 - 4 PAIR DATA CABLE - ORANGE

INSTRUMENTATION TAG AND LABEL NUMBERS AS SHOWN ARE FOR BIDDING PURPOSES ONLY.

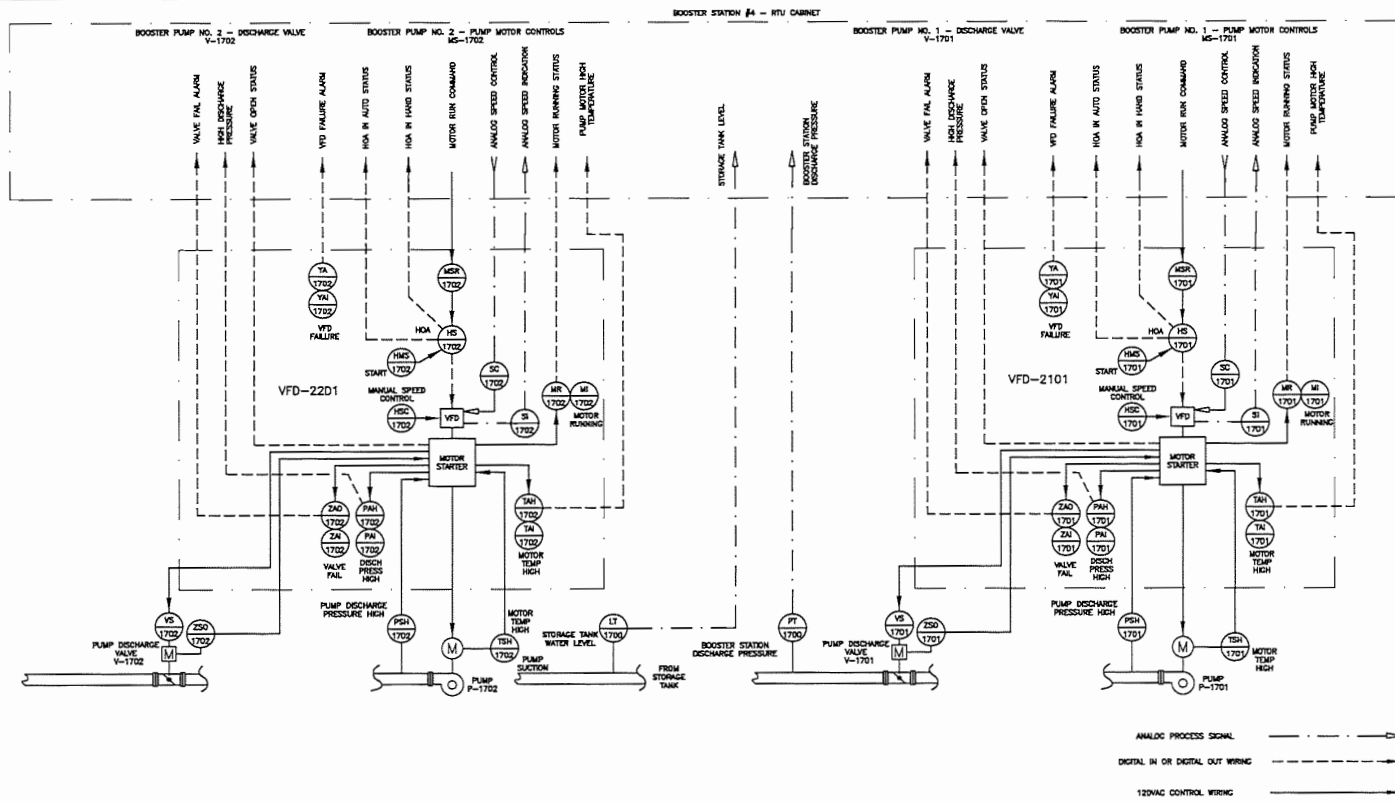
CONTRACTOR SHALL LABEL ALL WIRING AND DEVICES PER INSTRUMENTATION CABINET SHOP DRAWINGS

MECHANICAL & ELECTRICAL ENGINEERING, INC.

11

CITY OF SANTA FE
BOOSTER STATION NO. 4
VFD REPLACEMENT

SCALE - AS NOTED
DATE: MAY 1, 2020
DRAWN BY: DC
CHECKED BY: DC
DESIGNED BY: DC
PROJECT NO. 14-1



PROCESS AND INSTRUMENTATION DIAGRAM
 SCALES NONE

INSTRUMENTATION TAG AND LABEL NUMBERS AS SHOWN ARE FOR BIDDING PURPOSES ONLY.

CONTRACTOR SHALL LABEL ALL WIRING AND DEVICES PER INSTRUMENTATION CABINET SHOP DRAWINGS

MECHANICAL & ELECTRICAL
 ENGINEERING, INC.



ALBUQUERQUE, NEW MEXICO, U.S.A.
 PHONE: (505) 262-1111 FAX: (505) 262-1111

CITY OF SANTA FE
 BOOSTER STATION NO. 4
 VFD REPLACEMENT



SCALE - AS NOTED
 DATE: MAY 1, 2020
 DRAWN BY: DG
 CHECKED BY: DG
 DESIGNED BY: DG

SHEET NO.
 14-2

2020 07 16 HEI SOS

Final Audit Report

2020-07-16

Created:	2020-07-16
By:	Irene Romero (ikromero@ci.santa-fe.nm.us)
Status:	Signed
Transaction ID:	CBJCHBCAABAACQ5M9ZFpxv7HH8_dDs9eOEgJZ8fg8WtW

"2020 07 16 HEI SOS" History

-  Document created by Irene Romero (ikromero@ci.santa-fe.nm.us)
2020-07-16 - 7:42:06 PM GMT- IP address: 63.232.20.2
-  Document emailed to Marcos Martinez (mdmartinez@santafenm.gov) for signature
2020-07-16 - 7:43:34 PM GMT
-  Email viewed by Marcos Martinez (mdmartinez@santafenm.gov)
2020-07-16 - 7:45:44 PM GMT- IP address: 67.0.231.150
-  Document e-signed by Marcos Martinez (mdmartinez@santafenm.gov)
Signature Date: 2020-07-16 - 7:46:04 PM GMT - Time Source: server- IP address: 67.0.231.150
-  Signed document emailed to Irene Romero (ikromero@ci.santa-fe.nm.us), Marcos Martinez (mdmartinez@santafenm.gov) and mfmartinez@santafenm.gov
2020-07-16 - 7:46:04 PM GMT



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 HEI Inc.

3 Complete information requested ☒ Plus GRT
☐ Inclusive of GRT

Original Contract Amount: \$744,604.00

Termination Date: June 30, 2021

☒ Approved by Council Date: Pending

☐ or by City Manager Date: _____

Contract is for: BB3 & BB4 VFD/RTU Replacements PL # WTR1950519

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 \$ 774,604.00 of original Contract# pending Termination Date: 6/30/2021

Reason: BB3 & BB4 VFD/RTU Replacements

Amount \$ _____ amendment # _____ Termination Date: _____

Reason: _____

Amount \$ _____ amendment # _____ Termination Date: _____

Reason: _____

Amount \$ _____ amendment # _____ Termination Date: _____

Reason: _____

Total of Original Contract plus all amendments: \$ \$774,604.00



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

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

RFP# _____ Date: _____

RFQ ☐ _____ Date: _____

Sole Source ☐ _____ Date: _____

Other SPA 70-000-17-00063

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

Purchasing Officer Review

Comments or Exceptions: _____

7 Funding Source: Water **BU/Line Item:** 5050395.572970

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: Maya Martinez

Phone # 4. _____

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: HEI, INC

Procurement Title: BB3 & BB4 VFD/RTU REPLACEMENT

Other Methods: State Price Agreement ☒ Cooperative ☐ Sole Source ☐ Exempt ☐ Other ☐

Department Requesting/Staff Member Public Utilities Dept/Source of Supply/Alex Gamino

Procurement Requirements:

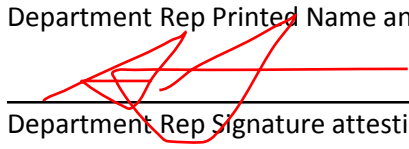
A procurement file shall be maintained for all contracts, regardless of the method of procurement. The procurement file shall contain the basis on which the award is made, all submitted bids, all evaluation materials, score sheets, quotations and all other documentation related to or prepared in conjunction 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: _____

Alex Gamino, Automation and Security Administrator

Department Rep Printed Name and Title


Department Rep Signature attesting that all information included

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

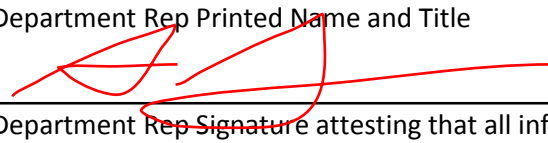
☐ ☒ Copy of Executed Contract
☐ ☒ Copy of all documentation presented to the Committees
☐ ☒ Finalized Council Committee Minutes
☐ ☒ Other: _____

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.

Alex Gamino, Automation and Security Administrator

Department Rep Printed Name and Title



Department Rep Signature attesting that all information included



**State of New Mexico
General Services Department
Purchasing Division**

Statewide Price Agreement Amendment

**Awarded Vendor:
9 Vendors**

Price Agreement Number: **70-000-17-00063**

Price Agreement Amendment No.: **Three**

Term: **July 27, 2017 – July 26, 2021**

Ship To:
All State of New Mexico agencies, commissions,
institutions, political subdivisions and local public
bodies allowed by law.

Procurement Specialist: Mark Lujan

Telephone No.: (505) 827-0564

Email: Mark.Lujan@state.nm.us

Invoice:
As Requested

Title: Electrical On-Call

This Price Agreement Amendment is to be attached to the respective Price Agreement and become a part thereof.

In accordance with Price Agreement provisions, and by mutual agreement of all parties, this Price Agreement is extended from July 27, 2020 to July 26, 2021 at the same price, terms and conditions.

Except as modified by this amendment, the provisions of the Price Agreement shall remain in full force and effect.

Accepted for the State of New Mexico

A handwritten signature in blue ink that reads "Valerie Pauk for".

Mark Hayden, New Mexico State Purchasing Agent

Date: 06/17/2020



State of New Mexico
General Services Department
Purchasing Division

Statewide Price Agreement Amendment

Awarded Vendor:
9 Vendors

Price Agreement Number: 70-000-17-00063

Price Agreement Amendment No.: Two

Term: July 27, 2017 – July 26, 2020

Ship To:
All State of New Mexico agencies, commissions,
institutions, political subdivisions and local public
bodies allowed by law.

Procurement Specialist: Mark Lujan

Telephone No.: (505) 827-0564

Email: Mark.Lujan@state.nm.us

Invoice:
As Requested at time of order

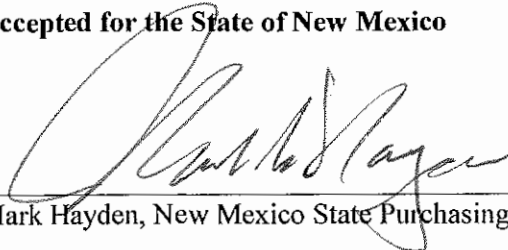
Title: **Electrical On-Call**

This Price Agreement Amendment is to be attached to the respective Price Agreement and become a part thereof.

In accordance with Price Agreement provisions, and by mutual agreement of all parties, this Price Agreement is extended from July 27, 2019 to July 26, 2020 at the same price, terms and conditions.

Except as modified by this amendment, the provisions of the Price Agreement shall remain in full force and effect.

Accepted for the State of New Mexico


Mark Hayden, New Mexico State Purchasing Agent

Date: 6/24/2019





State of New Mexico
General Services Department
Purchasing Division

Statewide Price Agreement Amendment

Awarded Vendor
9 Vendors

Telephone No. _____

Price Agreement Number: 70-000-17-00063

Price Agreement Amendment No.: One

Term: July 27, 2017 – July 26, 2019

Ship To:
All State of New Mexico agencies, commissions,
institutions, political subdivisions and local public
bodies allowed by law.

Invoice:
As Requested

Procurement Specialist: Mark Lujan

Telephone No.: (505) 827-0564

Title: **Electrical On-Call**

This Price Agreement Amendment is to be attached to the respective Price Agreement and become a part thereof.

In accordance with Price Agreement provisions, and by mutual agreement of all parties, this Price Agreement is extended from July 27, 2018 to July 26, 2019 at the same price, terms and conditions.

Except as modified by this amendment, the provisions of the Price Agreement shall remain in full force and effect.

Accepted for the State of New Mexico

New Mexico State Purchasing Agent

Date: 07/25/2018

Purchasing Division, 1100 St. Francis Drive 87505, PO Box 6850, Santa Fe, NM 87502-6850 (505) 827-0472
ML



State of New Mexico
General Services Department

Statewide Price Agreement

Awarded Vendor

9 Vendors (see pages 17, 18)

Telephone No. _____

Price Agreement Number: 70-0001700063

Payment Terms: Net 30

F.O.B.: Destination

Delivery: As Requested

Ship To:

All State of New Mexico agencies, commissions, institutions, political subdivisions and local public bodies allowed by law.

Procurement Specialist: Clarke J. Fountain

Telephone No.: (505) 827-1935

Invoice:

As Requested

Title: Electrical On-Call

Term: 07/27/2017 - 07/26/2018

This Price Agreement is made subject to the "terms and conditions" shown on the reverse side of this page, and as indicated in this Price Agreement.

Accepted for the State of New Mexico

Mary Pen - Dillman
New Mexico State Purchasing Agent for

Date: 07/27/2017

State of New Mexico
General Services Department
Purchasing Division
Price Agreement #: 7000001-7000063

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Terms and Conditions
(Unless otherwise specified)

1. **General:** When the State Purchasing Agent or his/her designee issues a purchased document in response to the Vendor's bid, a binding contract is created.
2. **Variation in Quantity:** No variation in the quantity of any item called for by this order will be accepted unless such variation has been caused by conditions of loading, shipping, packing or allowances in manufacturing process and then only to the extent, if any, specified in this order.
3. **Assignment:**
 - a. Neither the order, nor any interest therein, nor any claim thereunder, shall be assigned or transferred by the Vendor, except as set forth in Subparagraph 3b or as expressly authorized in writing by the State Purchasing Agent or his/her designee. No such assignment or transfer shall relieve the Vendor from the obligations and liabilities under this order.
 - b. Vendor agrees that any and all claims for overcharge resulting from antitrust violations which are borne by the State as to goods, services, and materials purchased in connection with this bid are hereby assigned to the State.
4. **State Furnished Property:** State furnished property shall be returned to the State upon request in the same condition as received except for ordinary wear, tear and modifications ordered hereunder.
5. **Discounts:** Prompt payment discounts will not be considered in computing the low bid. Discounts for payment within twenty (20) days will be considered after the award of the contract. Discounted time will be computed from the date of receipt of the merchandise invoice, whichever is later.
6. **Inspection:** Final inspection and acceptance will be made at the destination. Supplies rejected at the destination for nonconformance with specifications shall be removed at the Vendor's risk and expense, promptly after notice of rejection.
7. **Inspection of Plant:** The State Purchasing Agent or his/her designee may inspect, at any reasonable time, the part of the Contractor's, or any subcontractor's plant or place of business, which is related to the performance of this contract.
8. **Commercial Warranty:** The Vendor agrees that the supplies or services furnished under this order shall be covered by the most favorable commercial warranties the Vendor gives for such to any customer for such supplies or services. The rights and remedies provided herein shall extend to the State and are in addition to and do not limit any rights afforded to the State by any other clause of this order. Vendor agrees not to disclaim warranties of fitness for a particular purpose of merchantability.
9. **Taxes:** The unit price shall exclude all state taxes.
10. **Packing, Shipping and Invoicing:**
 - a. The State's purchasing document number and the Vendor's name, user's name and location shall be shown on each packing and delivery ticket, package, bill of lading and other correspondence in connection with the shipments. The user's count will be accepted by the Vendor as final and conclusive on all shipments not accompanied by a packing ticket.
 - b. The Vendor's invoice shall be submitted duly certified and shall contain the following information: order number, description of supplies or services, quantities, unit price and extended totals. Separate invoices shall be rendered for each and every complete shipment.
 - c. Invoices must be submitted to the using agency and NOT the State Purchasing Agent.
11. **Default:** The State reserves the right to cancel all or any part of this order without cost to the State, if the Vendor fails to meet the provisions of this order and, except as otherwise provided herein, to hold the Vendor liable for any excess cost occasioned by the State 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,

State of New Mexico
General Services Department
Purchasing Division
Price Agreement #: 70-0001700063

Page 33

fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather and defaults of subcontractors due to any of the above, unless the State shall determine that the supplies or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit the Vendor to meet the required delivery schedule. The rights of the State provided in this paragraph shall not be exclusive and are in addition to any other rights now being provided by law or under this order.

12. NonCollusion: In signing this bid the Vendor certifies he/she has not, either directly or indirectly, entered into action in restraint of free competitive bidding in connection with this offer submitted to the State Purchasing Agent or his/her designee.

13. Nondiscrimination: Vendor doing business with the State of New Mexico must be in compliance with the Federal Civil Rights Act of 1964 and Title VIII of the Act (Rev. 1979) and the Americans with Disabilities Act of 1990 (Public Law 101-336).

14. 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.

15. Items: All bid items are to be NEW and of most current production, unless otherwise specified.

16. Payment for Purchases: Except as otherwise agreed to: late payment charges may be assessed against the user state agency in the amount and under the conditions set forth in Section 13-1-158 NMSA 1978.

17. Workers' Compensation: The Contractor agrees to comply with state laws and rules pertaining to Workers' Compensation benefits for its employees. If the Contractor fails to comply with Workers' Compensation Act and applicable rules when required to do so, this Agreement may be terminated by the contracting agency.

18. Submission of Bid: Bids must be submitted in a sealed envelope with the bid number and opening date clearly indicated on the bottom left hand side of the front of the envelope. Failure to label bid envelope will necessitate the premature opening of the bid in order to identify the bid number.

19. Contractor Personnel: Personnel proposed in the Contractor's written bid to the Procuring Agency are considered material to any work performed under this Price Agreement. Once a Purchase Order or contract has been executed, no changes of personnel will be made by the Contractor without prior written consent of the Procuring Agency. Replacement of any Contractor personnel, if approved, shall be with personnel of equal ability, experience, and qualifications. The Contractor will be responsible for any expenses incurred in familiarizing the replacement personnel to insure their being productive to the project immediately upon receiving assignments. Approval of replacement personnel shall not be unreasonably withheld. The Procuring Agency shall retain the right to request the removal of any of the Contractor's personnel at any time.

20. Subcontracting: The Contractor shall not subcontract any portion of the Price Agreement without the prior written approval of the Procuring Agency. No such subcontracting shall relieve the Contractor from its obligations and liabilities under this Price Agreement, nor shall any subcontracting obligate payment from the Agency.

21. Records and Audit: The Contractor shall maintain detailed time and expenditure records that indicate the date, time, nature, and cost of services rendered during this Price Agreement's term and effect, and retain them for a period of three (3) years from the date of final payment under this Price Agreement. The records shall be subject to inspection by the Agency, State Purchasing Division, Department of Finance and Administration, and for Information Technology contracts, State Chief Information Officer. The Agency shall have the right to audit billings, both before and after payment. Payment for services under this Price Agreement shall not foreclose the right of the Agency to recover excessive or illegal payments.

22. Subcontracts: The foregoing requirements for Contractor Personnel, Subcontracting, and Audit shall be inserted into all subcontracts from the prime contractor to the subcontractor.

State of New Mexico
General Services Department
Purchasing Division
Price Agreement #: 70-0001700063

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New Mexico Employees Health Coverage

A. If Contractor has, or grows to, six (6) or more employees who work, or who are expected to work, an average of at least 20 hours per week over a six (6) month period during the term of the contract, Contractor certifies, by signing this agreement, to have in place, and agrees to maintain for the term of the contract, health insurance for its New Mexico Employees and offer that health insurance to its New Mexico Employees if the expected annual value in the aggregate of any and all contracts between Contractor and the State exceeds \$250,000 dollars.

B. Contractor agrees to maintain a record of the number of its New Mexico Employees who have (a) accepted health insurance; (b) declined health insurance due to other health insurance coverage already in place; or (c) declined health insurance for other reasons. These records are subject to review and audit by a representative of the state.

C. Contractor agrees to advise all of its New Mexico Employees of the availability of State publicly financed health care coverage programs by providing each of its New Mexico Employees with, as a minimum, the following web site link to additional information: <http://www.insurenwmexico.state.nm.us/>.

D. For purposes of this Paragraph, the following terms have the following meanings:

- (1) "New Mexico Employee" means any resident of the State of New Mexico employed by Contractor who performs the majority of the employee's work for Contractor within the State of New Mexico, regardless of the location of Contractor's office or offices; and
- (2) "offer" means to make available, without unreasonable restriction, enrollment in one or more health coverage plans and to actively seek and encourage participation in order to achieve the goals of Executive Order 2007-049. This could include State publicly financed public health coverage programs such as *Insure New Mexico*!

New Mexico Pay Equity Initiative

Contractor agrees, if it has ten (10) or more New Mexico employees OR eight (8) or more employees in the same job classification, at any time during the term of this contract, to complete and submit the PE10-249 form on the annual anniversary of the initial report submittal for contracts up to one (1) year in duration. If contractor has (250) or more employees, contractor must complete and submit the PE250 form on the annual anniversary of the initial report submittal for contracts that are up to one (1) year in duration. For contracts that extend beyond one (1) calendar year, or are extended beyond one (1) calendar year, contractor also agrees to complete and submit the PE10-249 or PE250 form, whichever is applicable, within thirty (30) days of the annual contract anniversary date of the initial submittal date or, if more than 180 days has elapsed since submittal of the last report, at the completion of the contract, whichever comes first. Should contractor not meet the size requirement for reporting at contract award but subsequently grows such that they meet or exceed the size requirement for reporting, contractor agrees to provide the required report within ninety (90) days of meeting or exceeding the size requirement. That submittal date shall serve as the basis for submittals required thereafter.

Contractor also agrees to levy this requirement on any subcontractor(s) performing more than 10% of the dollar value of this contract if said subcontractor(s) meets, or grows to meet, the stated employee size thresholds during the term of the contract. Contractor further agrees that, should one or more subcontractor not meet the size requirement for reporting at contract award but subsequently grows such that they meet or exceed the size requirement for reporting, contractor will submit the required report, for each such subcontractor, within ninety (90) days of that subcontractor meeting or exceeding the size requirement. Subsequent report submittals, on behalf of each such subcontractor, shall be due on the annual anniversary of the initial report submittal. Contractor shall submit the required form(s) to the State Purchasing Division of the General Services Department, and other departments as may be determined, on behalf of the applicable subcontractor(s) in accordance with the schedule contained in this paragraph. Contractor acknowledges that this subcontractor requirement applies even though contractor itself may not meet the size requirement for reporting and be required to report it self.

Two copies of the Pay Equity Worksheet shall be submitted prior to Award by the prospective Awarded Vendor.

The PE10-249 and PE250 worksheet is available at the following website:
http://www.genservices.state.nm.us/statepurchasing/Pay_Equity.aspx

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Statewide Price Agreement

Article I – Statement of Work

Under the terms and conditions of this Price Agreement all State of New Mexico agencies, commissions, institutions, political subdivisions and local bodies allowed by law may issue orders for items and/or services described herein. The terms and conditions of this Price Agreement shall form a part of each order issued hereunder.

The items and/or services to be ordered shall be as listed under Article IX - Price Schedule. All orders issued hereunder will bear both an order number and this Price Agreement number. It is understood that no guarantee or warranty is made or implied by the New Mexico State Purchasing Agent, his/her designee or the user that any order for any definite quantity will be issued under this Price Agreement. The Contractor is required to accept the order and furnish the items and/or services in accordance with the articles contained hereunder for the quantity of each order.

Article II – Term

The term of this Price Agreement, for issuance of orders, shall be as indicated in the specifications.

Article III – Specifications

Items and/or services furnished hereunder shall conform to the requirements of specifications and/or drawings applicable to items listed under Article IX-Price Schedule. Orders issued against this schedule will show the applicable Price Agreement item(s), number(s), and price(s); however they may not describe the item(s) fully.

Article IV – Shipping and Billing Instructions

Contractor shall ship in accordance with the following instructions: Shipment shall be made only against specific orders which the user may place with the Contractor during the term; The Contractor shall enclose a packing list with each shipment listing the order number, price agreement number and the commercial parts number (if any) for each item; Delivery shall be made as indicated on page 1. If vendor is unable to meet stated delivery the State Purchasing Agent or his/her designee must be notified.

Article V – Termination

The Agency may terminate this Agreement for convenience or cause. The Contractor may only terminate this Agreement based upon the Agency's uncured, material breach of this Agreement. Contractor shall give Agency written notice of termination at least thirty (30) days prior to the intended date of termination, which notice shall (i) identify all the Agency's material breaches of this Agreement upon which the termination is based and (ii) state what the Agency must do to cure such material breaches. Contractor's notice of termination shall only be effective (i) if the Agency 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 Agency 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. Termination of this Contract, however, shall not affect any outstanding orders. This provision is not exclusive and shall not waive other rights and remedies afforded either party in the event of breach of contract or default. In such instances the contract may be cancelled effective immediately.

Article VI – Amendment

This Price Agreement may be amended by mutual agreement of the New Mexico State Purchasing Agent or his/her designee and the Contractor upon written notice by either party to the other. An amendment to this Price Agreement shall not affect any outstanding orders issued prior to the effective date of the amendment as mutually agreed upon, and as published by the New Mexico State Purchasing Agent or his/her designee. Amendments affecting price adjustments and/or the extension of a price agreement expiration date are not allowed unless specifically provided in the bid and price agreement specifications.

Article VII – Indemnity Clause

Contractor shall indemnify and hold harmless the State, its officers and employees, against liability, claims, damages, losses or expenses arising out of bodily injury to persons or damage to properties caused by, or resulting from Contractor's, and/or its employees, own negligent act or omission while Contractor, and/or its employees, perform or fails to perform its obligations and duties under the Terms and Conditions of this agreement. This save harmless and indemnification clause is subject to the immunities, provisions, and limitations of the Tort Claims Act (Section 41-4-1, et seq., N.M.S.A. 1978 comp and Section 57-7-1 N.M.S.A. 1978 comp and any amendments thereto.

It is specifically agreed between the parties executing this agreement that it is not intended by any of the provisions of any part of the agreement to create in the public or any member thereof a third party beneficiary or to authorize anyone not a party to the agreement to maintain a suit(s) for wrongful death(s), bodily and/or personal injury(s) to person(s), damage(s) to property(ies) and/or any other claim(s) whatsoever pursuant to the provisions of this agreement.

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Vendor shall provide all insurance necessary to employees on the work site, including but not limited to Workers' Compensation.

Article VIII – Issuance of Orders

Only written signed orders are valid under this Price Agreement.

Article IX – Packing (if applicable)

Packing shall be in conformance with standard commercial practices.

Article X – Price Schedule

Prices as listed in the price schedule hereto attached are firm.

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Specifications:

The State of New Mexico, General Services Department (GSD), Facilities Management Division (FMD) wishes to establish a price agreement contract for Miscellaneous Electrical services and work related to these systems. Procurement will be based on a vendor supplying pricing through an established cost schedule. The price agreement will contain the contractor's commitment to offer services on a zone basis and willingness to respond to contract vendor requests when such requests are originated by authorized procuring agencies. Determination for the award shall be based upon the lowest total cost of all the bid items according to the formula listed within the "Cost Proposal" section. The In-state Preference and Veterans' Preference bidding advantage will be applied if applicable. Each bidder MUST enter a price for the requested items #1-4, 13, 14 and 15 in the zone or their bid will be deemed unresponsive. This procurement may result in a multi-source award. A current Public Works Registration number must be provided or the bid will be deemed unresponsive.

Under the terms and conditions of this Price Agreement all State of New Mexico agencies may issue orders for items and/or services described herein. The terms and conditions of this Price Agreement shall form a part of each order issued hereunder.

Term:

The term of this agreement shall be for one (1) year from date of award with the option to extend for a period (s) of two (2) additional years, on a year-by-year basis, by mutual agreement of all parties and approval of the New Mexico state purchasing director at the same price, terms and conditions. This agreement shall not exceed three (3) years. Per NWPSA 1978 Section 13-1-154.1, the cap of one million dollars (\$1,000,000) is effective for every Project. The cap of ten million dollars (\$10,000,000) is effective for each Contractor's contract Price Agreement.

Escalation Clause:

In the event of a Dept of Workforce Solutions wage rate decision increase or a Union required increase, an escalation request will be reviewed by NMI State Purchasing Division on an individual basis. This measure is not intended to allow any increase in profit margin, only to compensate for an actual cost increase. Price decreases as well as increases shall apply. Since the wage decision lasts for the term of a project, the new rates will be effective for a wage decision pulled for a new project under the new rate schedule.

Effective dates for increase on this Price Agreement will not be any sooner than fifteen (15) days from the date the written request is received by this office. To facilitate prompt consideration, all requests for price increase must include all information listed below:

- Contract 'item' number
- Current 'item' price
- Proposed new 'item' price
- Percentage of increase
- DWS Wage Rate documentation of old and new rate schedules

Insurance:

The contractor shall provide all insurance necessary for its employees on the project, including, but not limited to, workman's compensation insurance. The contractor agrees to comply with state laws and rules pertaining to workers' compensation insurance coverage for its employees. If the contractor fails to comply with the workers' compensation act and applicable rules, when required to do so, this contract will be cancelled immediately.

Contractor shall indemnify and hold harmless the state, its officers and employees against liability claims, damages, losses or expenses arising out of bodily injury to persons or damage to property caused by or resulting from the contractor's, and/or its employees, own negligent act(s) or omissions while the contractor, and/or its employees, perform(s) or fails to perform its obligations and duties under the

Terms and Conditions of this agreement. This "save harmless and indemnification" clause is subject to the immunities, provisions and limitations of the tort claims act ((41-4-1, et seq., N.M.S.A. 1978 comp), section 57-7-1 N.M.S.A. 1978 compo and any amendments thereto.

It is specifically agreed between the parties executing this agreement that it is not intended by any of the provisions of the agreement to create the public or any member thereof a third party beneficiary or to authorize anyone not a party to the agreement to maintain a suit(s) for wrongful death(s), bodily and/or personal injury(ies) to person(s), damages to property(ies) and/or any other claim(s) whatsoever, pursuant to the provisions of this agreement.

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The contractor shall provide public liability insurance for the minimum amount of \$300,000 for damage to or destruction of property arising out of each occurrence; the amount of \$300,000 to any person for any number of claims arising out of each occurrence for all damages other than property damage as permitted under the New Mexico tort claims act; and the amount of \$1,000,000 for all claims arising out of each occurrence.

Builder's Risk Insurance:

Before commencing the Work for a project under this Price Agreement, the Contractor shall secure and maintain a Builder's Risk Policy upon the entire project for the full cost of replacement at the time of loss. This insurance shall also name the Owner, Contractor, and Subcontractors of all tiers, as named insureds. The Owner and Contractor shall be named as loss payee(s).

This insurance shall be written as a Builder's Risk Policy or equivalent form to cover all risks of physical loss to property except those specifically excluded by the policy. The policy, at a minimum unless otherwise agreed to in writing, shall insure against the perils of:

- a. fire, lightning, explosion, windstorm, hail, smoke, water from any source, aircraft (except aircraft, including helicopters, operated by or on behalf of the Contractor), vehicles, riot and civil commotion, terrorism, theft, vandalism, malicious mischief, earthquake, collapse, defective design, defective workmanship, defective materials and earth movement including mudslide.
- b. This insurance shall also include, at a minimum, additional coverages for:
- c. damage to land excavation, footings, and/or temporary structures;
- d. property in transit or in temporary storage;
- e. engineering, testing, applicable design and related soft costs;
- f. loss of use, delays in occupancy resulting from a covered cause of loss;
- g. fencing and signage;
- h. demolition and debris removal including pollutants;
- i. fire department service charges and refill of fire protection devices.

The Contractor shall be solely responsible for any deductible amounts or coinsurance penalties.

This policy shall provide for a waiver of subrogation in favor of the Owner, Contractor, and Subcontractors of all tiers. This insurance shall remain in effect until the project is accepted by the Owner, or occupied in whole or in part. Partial occupancy or use of the work shall not commence until the Owner has secured the consent of the insurance company or companies providing the coverage required in this subsection. Should any partial occupancy or use of the work occur prior to the foregoing consent being obtained, such partial occupancy or use does not create an automatic right of cancellation of the coverage required in this subsection.

The Builder's Risk Policy shall be provided by an insurance company with an A.M. Best rating of A VI, or better, acceptable to the Owner, and authorized to conduct business in the State of New Mexico.

Before commencing a project, the contractor shall provide a copy of the Builder's Risk Policy or coverage binder with endorsements obtained in compliance with this subsection.

If the Contractor does not maintain Builder's Risk insurance as required by this Price Agreement, including all the endorsements, coverages, and deductibles described herein, the Contractor shall give written notice to the Owner before commencing the Work or immediately upon notice by the insurance company. The Owner may elect to provide insurance options to the Contractor or secure insurance to protect its interests, including the coverage of deductibles in consultation with the Contractor. The cost difference, if any, of the force-placed insurance shall be the sole responsibility of the Contractor and will not be considered a change order to the Price Agreement. In any event, no work shall commence pursuant to the Price Agreement until a Builder's Risk Policy is in place to the satisfaction and protection of the Owner.

The coverages afforded to the Owner by the State of New Mexico General Services Department Risk Management Division (GSD/RMD) under their Certificate of Coverage including property in course of construction shall be excess over the Builder's Risk

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policy secured by the Contractor. The State's Certificate of Coverage will not indemnify any private sector contractor, entity, business, person, or organization.

Wage rates:

All work covered by this invitation to bid shall be in accordance with applicable state laws and is subject to the minimum wage rate determination issued by the Department of Workforce Solutions if applicable.

A wage rate decision is required by the public works minimum wage act for construction, demolition or renovation purposes on projects costing \$60,000 or more and funded in part by state or local funding. When a specific project is anticipated that will exceed \$60,000, the agency will make a written request to Department of Workforce Solutions for a Wage Rate Determination decision at least 3 weeks before they solicit quotes from the contractor. The contractor must agree to comply with that current wage decision for the project. The subcontractors, if applicable, will also be subject to the Wage Decision. When applicable, or for additional information, visit <http://>

For the purposes of bidding the 'wage decision project' wage rate items, use the current effective DWS Wage Rates as the guideline since increases in wage rates will be handled under the escalation clause.

Performance, Payment and Material Bonding:

A 100% performance bond and a 100% payment and material bond executed by a surety company authorized to do business in the State of New Mexico will be required of the successful bidder(s) prior to each project over \$25,000,000. Said bonds must be provided to the requesting agency and are to be filed with the agency's purchasing office. Failure to comply shall result in order being issued to another vendor and difference being charged back to the awarded contractor(s). Bond cost shall be billed as an actual cost with no markup. A copy of the bond is required to be sent to the Agency.

Firm Lump Sum Fixed Price:

Price shall include New Mexico gross receipts tax or local option tax (es) on a separate line. Such tax or taxes shall be added to its purchase order at the current tax rate at the project's location. The total project contract amount represents the total compensation to be paid by the state for goods and/or services provided and referred to hereafter as the firm lump sum fixed price. It is understood that the party providing said goods and/or services in such lump sum fashion to the state is responsible for payment of all its costs necessary to complete the work including but not limited to labor, equipment, tools, materials, subcontractors, professional services fee for drawings and specifications if not provided, taxes, licenses, fee, permits, bonds if required, profit and overhead and insurance. The prices quoted herein represent the total compensation to be paid by the State for goods and/or services provided.

A single Project will be limited to total costs not to exceed \$1,000,000 including NM Gross receipts tax. The Agency shall not separate work and issue separate Purchase Orders whose combined totals exceed the Project limits threshold in order to utilize this Price Agreement. By awarding the Price Agreement, the Agency makes no promise of work to be generated. The volume and location of work will vary by need and funding on a yearly basis.

General:

All work shall be performed in accordance with the New Mexico building codes and electrical industry standards.

The awarded contractor shall be responsible for all permits associated with this work as required by the State of New Mexico, Construction Industries Division. The Construction Industries Division will issue permits for work performed at state owned buildings. Permit costs shall be billed as an actual cost with no markup.

The user agency, in a GSD owned building, shall not initiate any project utilizing this agreement, until the scope of work is reviewed and approved by the director of the FMD of the GSD. The user agency must obtain any and all approvals from the FMD, prior to its commencement of any work applicable to this contract.

The contractor will be contacted on an as needed basis to perform work associated with this contract in the zones specified. The user agency may solicit quotes from more than one vendor listed in this price agreement. The contractor may lower his rates on any of the bid items in order to submit a more competitive quote. The user agency may issue a purchase order to the contractor with the lowest quote that meets all of the requirements of the scope of work. The user agency reserves the right to accept offers from contractors that desire to submit quotes which better meet the hours and identified costs in order to obtain a fair and reasonable price based on the level of effort and mix of labor proposed to perform the specific project in the zone originally bid. Upon agreement of the cost by the contractor and the user agency, a firm lump sum fixed price purchase order will be executed.

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Failure to respond to the state's requests without reasonable cause shall be grounds for termination of this contract.

The contractor and the subcontractors' employees agree to cooperate with and to abide by the rules and requirements of the requesting state agency to not interfere with the daily operations of the agency or to jeopardize the health, safety or welfare of the user agency's employees or general public conducting business with the state.

The using agency reserves the right to purchase materials directly from existing statewide price agreement sources, and to provide these materials to the contractor.

Travel:

Contractors will be allowed to quote anticipated travel mileage one way trip from vendor's place of business to jobsite in excess of fifty (50) miles. The rate used for travel cost will be the current rate allowed by the Federal Government. Mileage will be based by mapquest.com. No per diem will be allowed. The travel mileage will be calculated by finding the exact one way trip mileage on mapquest, subtracting 50 miles and multiplying that mileage times the Federal Government rate times the number of days to be at the site.

Debarred or Suspended Contractors:

A business (Contractor, Subcontractor, or Supplier) that has either been debarred or suspended pursuant to the requirements of Sections 13-1-177 through 13-1-180, and 13-4-11 through 13-4-17, NMSA 1978, shall not be permitted to do business with the State and shall not be considered for award of contract during the period for which it is debarred or suspended.

Bribes, Gratuities and Kickbacks:

It is illegal in the State of New Mexico for any public employee to solicit or accept anything of value in connection with award of contract for this Bid and for any person to offer or pay anything of value to any such public employee (30-24-1 and 30-24-2, NMSA 1978).

Pursuant to Section 13-1-191, NMSA 1978, reference is hereby made to the Criminal Laws of New Mexico (including Sections 30-24-1 through 30-24-3, NMSA 1978, and 30-41-1 through 30-41-3, NMSA 1978), which prohibit bribes, kickbacks, and gratuities, violations of which constitutes a felony. Further, the Procurement Code (Sections 13-1-28 through 13-1-199, NMSA 1978) imposes civil and criminal penalties for its violation.

Assignment of Antitrust Claims:

The Contractor agrees that any and all claims that the Contractor may have or that may inure to the Contractor for overcharges resulting from antitrust violations as to goods, services, and materials purchased in connection with this Bid are hereby assigned to the State of New Mexico, but only to the extent that such overcharges are passed on to the State. The Contractor further agrees to require each of its Suppliers, Subcontractors, and Sub subcontractors to assign any and all such claims for overcharges to the State by executing an assignment on the form provided by the Owner for such purpose. The executed form (see Section 00600-7) shall be submitted prior to the commencement of the Work or the supplying of any materials by the Supplier, Subcontractor, or Sub subcontractor. The submission of this executed form may be waived by the Owner upon a showing of a good-faith effort by the Contractor to obtain agreement in writing from his Supplier, Subcontractor, or Sub subcontractor. Waiver by the Owner may not unreasonably be denied.

It is agreed that the Contractor retains all rights to any such antitrust claims to the extent of any overcharges not passed on to the State, including the right to any treble damages attributable thereto.

Subcontractors:

Subcontractors are allowed for work on this contract only with written prior approval by the agency contracting for the work. Subcontractors' activities must be defined and the cost of their work broken out on a separate line(s) on the quote. The subcontractor's quote must follow the price agreement item breakdown. If a subcontractor's quote is included in the accepted primary contractor's quote then subcontractor approval is implied. If a contractor desires to change the subcontractor after contract award, written approval must be obtained from user agency.

The Primary contractor will be wholly responsible for the entire performance of the subcontractor and must adequately supervise the work of the subcontractor in order to ensure that the quality of their work meets the State's standards. Subcontractors are subject to the same applicable licensing and insurance coverage as the primary contractor. Subcontractors who have been suspended or debarred from doing state or federal work may not be used by the Primary Contractor.

Scope of Work:

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The contractor for this work shall provide all materials, labor, tools and equipment, and pay for any permits and fees necessary to perform the work. All work shall be in strict compliance with the national and state electrical code.

The owner shall provide, at a minimum, a detailed scope of work and/or drawings, generally defining the electrical work required for the project.

This contractor shall be capable of providing all new or upgrades to the existing electrical service and systems, diagnostic services, perform trouble shooting services for the owner and to prepare proposals for all costs and services needed to perform the work required, in compliance with the national and state electrical codes.

The work shall include the repair, replacement or extension of electrical systems within, attached to or servicing buildings or sites above ground or underground. The work shall include, but not be limited to: installation of new power and lighting circuits; new power services; new electrical devices, equipment and lighting fixtures; and any other related electrical work. Work shall also include the removal and disposal of existing power circuits, lighting fixtures and equipment; and the termination of associated circuits and services. Any related work required to accomplish the requested electrical work is included. Low voltage work could be included.

All work shall be performed in a neat and workmanlike manner, while maintaining the work area(s) in a clean condition. All work shall be installed in strict compliance with industry standards, by workers trained and certified to perform the work. All materials shall be new and of the highest quality available for the type of work being performed.

The contractor shall provide all protective coverings necessary to protect existing finishes and improvements which are in the area where the new work will occur.

The contractor shall restore any damage to existing finishes. Restoration work shall be inconspicuous with existing finishes.

The contractor shall provide all clean-up for its operations. All hazardous and non-hazardous construction debris shall be removed from the work areas and disposed of at an approved waste disposal site. The owner's trash container for the building shall not be used for disposal of construction debris.

Labor:

Personnel working on the project and providing these services shall be experienced in all areas related to this work and required by this contract. Journeyman level personnel shall have the ability and necessary skills to diagnosis problems and to make the appropriate decisions needed to provide these services.

Work is to be warranted against defects in materials and workmanship for a period of one year from the date of completion and acceptance by the owner or using agency.

Hourly rates are requested for the three levels of personnel as follows.

Journeyman: a person licensed by the State of New Mexico as a journeyman in the specialized field of work required and being performed on this project.

Apprentice: a person with substantial experience in this field of work, but not yet licensed as a journeyman.

Laborer: a person with minimal experience, performing simple tasks as clean-up and other minor forms of labor.

Other Direct Labor: Hourly rates for other direct personnel that may be anticipated during the course of this contract should be added under other labor categories listed in the bid documents.

Materials, Subcontracts and Other Associated Costs:

Materials, subcontracts and other associated costs necessary to perform the work stipulated in the scope of work shall be identified and quoted individually with estimates from suppliers. After acceptance of the costs identified in this section by the Agency, those costs shall be treated as provided in the section on Firm Lump Sum Fixed Price. If there is to be a discount on the retail materials, the quote must show the discount.

All material specified in the quote regardless of whether incorporated in the work shall be deemed included as paid for by the Owner or Agency. As such, any unused materials shall be turned over to the owner or agency for whom the work was provided.

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The State of New Mexico requires that all materials shall be new and of the highest quality and at the best attainable price available for the type of work being performed.

Equipment Rental:

If special equipment is required to perform the work required, the Contractor may quote the cost of said equipment.

Quote Request:

When a service is needed, the using agency shall provide, at a minimum, a detailed scope of work and/or drawings defining work required.

The contractor shall visit the site and compare the owner's scope of work and/or drawings to the existing conditions and provide all services called for in addition to the requirements set forth in this contract.

The contractor will be required to provide a written quote at no cost to the State, to include the work to be performed as well as the number of days required for the completion of the project and submit it to the using agency.

Change Orders:

Change Orders are lump sum amounts which are added to the Purchase Order as a line item or put into a new Purchase Order. They are to be used for unforeseen conditions or Agency identified but unestimated work. When they are quantified and identified, the resultant cost must be submitted to the Agency with material or subcontractor quotes. No extra work can be started until the Change Order is approved in writing and the Purchase Order is approved.

Written justification shall accompany the request. The justification shall include the reason, the scope, the history of the issue, the place of the work and any other relevant details.

Work Commencement:

Prior to commencement of any work performed the using agency will issue a notice to proceed for the work upon receipt of a purchase order, based on the prices set forth by vendor's quote. The contractor is required to submit a work schedule which will indicate the approximate completion date of the project. It should be updated with any changes as the work proceeds. The contractor shall begin the work based on the priority identified by the using agency. Any delay beyond the stated completion date shall be upon agreement by the owner and the contractor. If submittals or shop drawings are required, then they must be approved before the relevant work is started.

The Contractor shall supervise and direct the work. He shall be solely responsible for all construction means, methods, techniques, sequences and procedures and for coordinating all portions of the work under the project. The contractor shall be responsible to the user agency for the acts and omissions of his employees and, if prior approved, Subcontractors and their agents and employees and other persons performing any of the work under a contract with the Contractor.

Where work is to be conducted in a state correctional or secured facility, security clearances and background checks that may be required by the facility for the contractor and its employees must be obtained prior to commencement of any work at that facility. The using agency reserves the right to deny any employee of the contractor, access to the facility should the employee be in violation of any criteria required for the security clearance.

The user agency reserves the right to provide an escort and/or full time supervision of the contractor and its employees during any or all phases of a project, should the user agency feel it is in its best interest to provide these extraordinary security services.

The user agency reserves the right to escort any or all employees of the contractor off its property, for any inappropriate conduct or actions that jeopardize the safety, security or well-being of the facility. Inappropriate behavior by the contractor, its employees or subcontractors shall immediately cancel this contract. Any employee of the contractor found in violation of any law, while on the user agency's property, will be prosecuted.

The user agency may order the Contractor to stop the work on a portion of it if the contractor fails to correct defective work or persistently fails to carry out the work. The user agency would do so in writing with justifications with the knowledge that if the 'stop work' was not sufficiently justified, the contractor may be owed for demobilizing and remobilizing.

Review of Project Documents:

The contractor shall carefully study and compare the project documents and shall report at once to the user agency any error, inconsistency or omission he may discover. If this occurs during the work, the contractor shall not continue the related work until the issue is resolved.

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Testing:

Any testing required by the project documents and retesting required as a result of the failure of the first or subsequent tests, including but not limited to testing for job mix formulas and design mixes, shall be performed by a testing laboratory under the direct supervision of a Registered Professional Engineer licensed to practice in the State of New Mexico and shall be paid for by the contractor.

Safety:

The Contractor is responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the work. This includes precautions to prevent damage, injury or loss to: 1) all employees on the work and all other persons who may be affected thereby, 2) all the work and all materials and equipment to be incorporated therein, whether in storage on or off site, under the care, custody or control of the Contractor or any of his Subcontractors or sub-subcontractors, 3) other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.

The contractor shall erect and maintain, as required by existing conditions and progress of work all reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations and notifying agencies and users of adjacent utilities. All OSHA regulations shall be followed as well as any other Codes which pertain to safety procedures.

Payments:

Contractor shall submit invoices or pay requests at regular intervals but not less than once a month. Pay requests will be based on Lump Sum Fixed Price and percent of project completion. If there are anticipated to be more than several pay applications for the project, then a schedule of values must be submitted and approved after the Notice to Proceed is issued.

Close-out Documents:

Substantial completion will occur when the contractor considers the work to be substantially complete and the agency concurs. Substantial completion means that the user agency can occupy or utilize the work/area. The contractor is responsible for creating a list of items still to be completed or corrected. The user agency must approve the list. When the work is finally complete and inspected and accepted by the user agency, the final pay application may be submitted along with any required close-out documents. Such documents might include the certificate of occupancy, the permit signed off by CMD, Lien releases, Consent of Surety, as-built drawings, warranty certificates, maintenance & Operations manuals, and verification of user training.

Warranties:

The Contractor warrants to the user agency that all work and all materials and equipment furnished under this price agreement will be of good quality, free from defects and faults and in conformance with the Project documents. All work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. If required by the user agency, the contractor shall furnish satisfactory evidence as to the kind and quality of the materials and equipment. Unless otherwise specified, the contractor's workmanship, materials and equipment will be warranted for a period of one year beginning at the agreed upon date of substantial completion.

State Purchasing Zones:

Purchasing zones will be used to determine area covered by each awarded contractor and their pricing. Purchasing zones may be found below. Bidders are not required to bid on all purchasing zones but are encouraged to bid only for the areas where they can guarantee to provide cost effective service under this price agreement.

PURCHASING ZONES:

Zone 1: San Juan, McKinley

Zone 2: Santa Fe, Los Alamos, Rio Arriba, Taos, San Miguel, Mora, Colfax, Union, Harding

Zone 3: Bernalillo, Sandoval, Valencia, Cibola, Catron, Socorro, Torrance, Guadalupe, Roosevelt,

De Baca, Quay, Curry

Zone 4: Dona Ana, Sierra, Grant, Luna, Hidalgo, Otero, Lincoln

Zone 5: Chavez, Eddy, Lea

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CONTRACTOR REQUIRED INFORMATION:

No person shall act as a contractor without a license issued by the Construction Industries Division, classified to cover the type of work to be performed. No bid on a contract shall be submitted unless the contractor has a valid contractor's license issued by the Construction Industries Division to bid and to perform the type of work to be undertaken as set forth in §§60-13-12, NMSA 1978.

New Mexico Public Works Registration No.: _____

Contractor's New Mexico License No.: _____.

Contractor Classification No.: _____.

State Tax ID No.: _____

NM RESIDENT PREFERENCE:

In-state resident contractors or businesses must attach a copy of their current valid certificate issued from the State Taxation and Revenue Department in order for the 5% bidding advantage to be applied.

NM RESIDENT VETERAN'S PREFERENCE:

NM Resident Veteran businesses must attach a copy of their current valid certificate issued from the State Taxation and Revenue Department in order for the 10% bidding advantage to be applied.

COST PROPOSAL:

Bids for services are requested on a statewide basis and separate awards for each or combinations of zones may be utilized. Bidders are encouraged to bid only in areas where the bidder may adequately service this price agreement. The intent of this contract is to award the price agreement to companies who may best be able to perform the work in an effective, efficient manner.

If the contractor is bidding on multiple zones, contractor is to indicate price per zone where the work would be performed. See the attached five zone map to determine the zones in which to bid.

Zones to be serviced: _____ 1, _____ 2, _____ 3, _____ 4, _____ 5.

Contractors bidding in zones 1 and 2 must have a physical office in Albuquerque, Santa Fe or within 60 miles of either of those cities

BID ITEMS: (mandatory items are bolded)

**0001 1 HOUR CERTIFIED, LICENSED JOURNEYMAN, REGULAR HOURS WORKED,
NON WAGE DECISION PROJECT.**

ZONE 1 \$ _____; ZONE 2 \$ _____; ZONE 3 \$ _____;

ZONE 4 \$ _____; ZONE 5 \$ _____.

**0002 1 HOUR CERTIFIED, LICENSED JOURNEYMAN, REGULAR HOURS WORKED,
WAGE DECISION PROJECT.**

ZONE 1 \$ _____; ZONE 2 \$ _____; ZONE 3 \$ _____;

ZONE 4 \$ _____; ZONE 5 \$ _____.

**0003 1 HOUR CERTIFIED, LICENSED JOURNEYMAN,
AFTER HOURS WORKED, NON WAGE DECISION PROJECT**

ZONE 1 \$ _____; ZONE 2 \$ _____; ZONE 3 \$ _____;

ZONE 4 \$ _____; ZONE 5 \$ _____.

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- 0004 1 HOUR CERTIFIED, LICENSED JOURNEYPERSON,
AFTER HOURS WORKED, WAGE DECISION PROJECT
ZONE 1 \$ _____; ZONE 2 \$ _____; ZONE 3 \$ _____;
ZONE 4 \$ _____; ZONE 5 \$ _____.
- 0005 1 HOUR EXPERIENCED APPRENTICE, REGULAR
HOURS WORKED, NON WAGE DECISION PROJECT.
ZONE 1 \$ _____; ZONE 2 \$ _____; ZONE 3 \$ _____;
ZONE 4 \$ _____; ZONE 5 \$ _____.
- 0006 1 HOUR EXPERIENCED APPRENTICE, REGULAR
HOURS WORKED, WAGE DECISION PROJECT.
ZONE 1 \$ _____; ZONE 2 \$ _____; ZONE 3 \$ _____;
ZONE 4 \$ _____; ZONE 5 \$ _____.
- 0007 1 HOUR EXPERIENCED APPRENTICE, AFTER HOURS
WORKED, NON WAGE DECISION PROJECT
ZONE 1 \$ _____; ZONE 2 \$ _____; ZONE 3 \$ _____;
ZONE 4 \$ _____; ZONE 5 \$ _____.
- 0008 1 HOUR EXPERIENCED APPRENTICE, AFTER HOURS
WORKED, WAGE DECISION PROJECT
ZONE 1 \$ _____; ZONE 2 \$ _____; ZONE 3 \$ _____;
ZONE 4 \$ _____; ZONE 5 \$ _____.
- 0009 1 HOUR LABORER, REGULAR HOURS WORKED, NON WAGE DECISION PROJECT.
ZONE 1 \$ _____; ZONE 2 \$ _____; ZONE 3 \$ _____;
ZONE 4 \$ _____; ZONE 5 \$ _____.
- 0010 1 HOUR LABORER, REGULAR HOURS WORKED, WAGE DECISION PROJECT.
ZONE 1 \$ _____; ZONE 2 \$ _____; ZONE 3 \$ _____;
ZONE 4 \$ _____; ZONE 5 \$ _____.
- 0011 1 HOUR LABORER, AFTER HOURS WORKED, NON WAGE DECISION PROJECT.
ZONE 1 \$ _____; ZONE 2 \$ _____; ZONE 3 \$ _____;
ZONE 4 \$ _____; ZONE 5 \$ _____.
- 0012 1 HOUR LABORER, AFTER HOURS WORKED, WAGE DECISION PROJECT.
ZONE 1 \$ _____; ZONE 2 \$ _____; ZONE 3 \$ _____;

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ZONE 4 \$ _____; ZONE 5 \$ _____

0013 1 HOUR PROJECT MANAGER/SUPERVISOR

ZONE 1 \$ _____; ZONE 2 \$ _____; ZONE 3 \$ _____;

ZONE 4 \$ _____; ZONE 5 \$ _____.

0014 PERCENTAGE SUPERVISION AND COORDINATION ON SUBCONTRACTORS
(maximum) _____ %

0015 PERCENTAGE OFF RETAIL FOR ALL PARTS AND MATERIALS. _____ %

The bid tabulation will be calculated by adding all of items 1-4 and dividing by 4. Then that amount will be multiplied by the percentage of supervision of subcontractors plus 1 and then multiplied by 1 minus the percentage off retail parts/materials.

Example: The labor rates totaled \$300. Divide by 4 = \$75.

The supervision rate is 20%. $\$75 \times 1.20 = \$90$.

The percent off for parts is 10%. $\$90 \times .90 = \$81$.

The final calculation for this vendor for that zone is \$81.

ITEMS BELOW ARE TO BE SHOWN ON PROJECT QUOTES AND AS PART OF THE APPROVED FIXED PRICE CONTRACT PER PROJECT

0010 SUBCONTRACTOR WORK INCLUDING PROFESSIONAL SERVICES-
ACTUAL QUOTE (PROVIDE DOCUMENTATION)

0011 PARTS/MATERIAL

0012 EQUIPMENT RENTAL or UTILIZATION
ACTUAL QUOTE (PROVIDE DOCUMENTATION) or Utilization costs which shall be based on the life expectancy of the equipment and the purchase price of the equipment.

0013 OTHER ASSOCIATED COSTS
ACTUAL QUOTE (PROVIDE DOCUMENTATION EACH COST MUST BE DESCRIBED ON INDIVIDUAL LINES)

ONE WAY PER MILE COST BASED ON FEDERAL GOVERNMENT RATE TIMES MILES over 50, PER SERVICE VEHICLE REQUIRED, MEASURED FROM THE AWARDED CONTRACTOR'S OFFICE/SHOP TO THE REQUESTED JOB SITE, FOR TRAVEL IN EXCESS OF 50 MILES ONE WAY, BASED ON MAPQUEST.COM.

PHYSICAL ADDRESS: _____

COMPANY NAME: _____

ADDRESS: _____

CITY: _____

STATE: _____

ZIP CODE: _____

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Purchasing Division
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- 0015 PERMIT AND FEES AT ACTUAL COST
0016 BOND AT ACTUAL COST
0017 NEW MEXICO GROSS RECEIPTS TAX
WILL BE CALCULATED BY AGENCY BASED ON PROJECT LOCATION RATE
0018 BUILDER'S RISK INSURANCE AT ACTUAL COST

PO WILL BE ISSUED FOR A LUMP SUM FOR ALL OF THE ABOVE LISTED ITEMS # 1-18 ON A PER-PROJECT BASIS.

BILLING WILL BE PER FIXED PRICE CONTRACT FOR MATERIALS RECEIVED AND PERCENT OF PROJECT COMPLETION.

Awarded Vendors:

(AA) 0000009253
Allied Electric Inc.
P.O. Box 28430
Santa Fe, NM 87592-8430
505-438-8899

(AB) NOT IN SHARE
Alpha & Omega Electric, LLC
1301 Alcazar St., NE
Albuquerque, NM 87110
505-554-3513

(AC) 0000097177
APIC Solutions Inc.
5550 Midway Park Place NE
Albuquerque, NM 87109
505-345-1381

(AD) 0000046277
B&D Industries Inc.
9720 Bell Avenue SE
Albuquerque, NM 87123
505-299-4464

(AE) 0000049380
BIXBY ELECTRIC INC.
521 Wheeler Avenue SE
Albuquerque, NM 87102
505-842-5384

(AF) 0000049954
Great Western Electrical, Inc.
3310 Girard Blvd. NE
Albuquerque, NM 87107
505-861-6525

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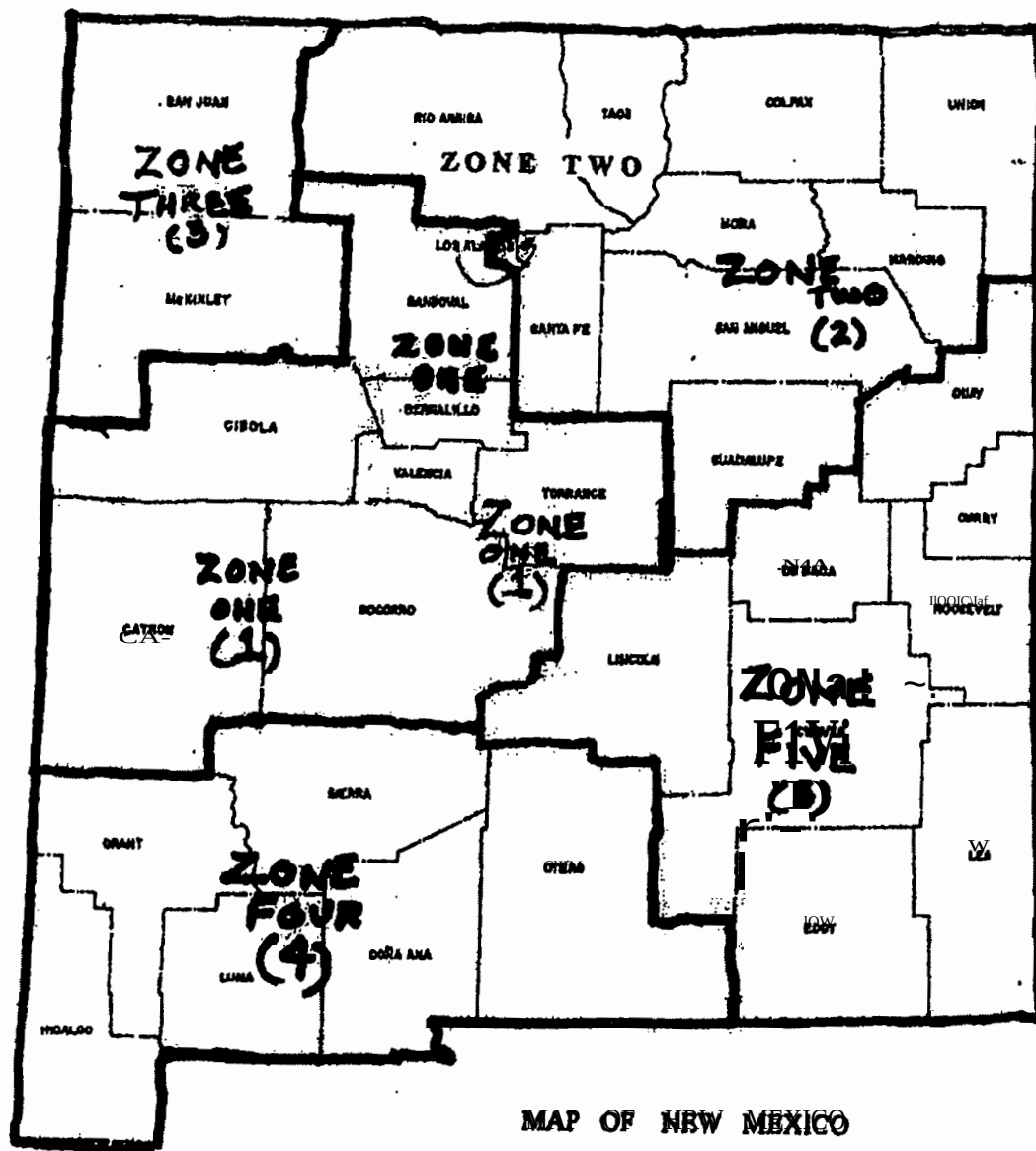
(AG) 0000052470
HEL, Inc.
3800 Vassar Dr. NE
Albuquerque, NM 87107
505-880-1819

(AH) 0000043517
Murrill Electric LLC
807 Del Rio St.
Carlsbad, NM 88221
575-234-9905

(AI) 0000081759
Omega Electrical Contractors, Incorporated
PO Box 1690
Peralta, NM 87042-1690
505-344-2761

Item	Approx. Qty.	Unit	Article and Description	Unit Price
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Purchasing zones on page 13 deleted by amendment 1. See zone map following and 3 following sheets for awarded items per vendor.



Zone One: Bernalillo, Catron, Cibola, Sandoval, Socorro, Torrance and Valencia counties

Zone Two: Colfax, Guadalupe, Harding, Los Alamos, Mora, Rio Arriba, Santa Fe, San Miguel, Taos and Union counties

Zone Three: McKinley and San Juan counties

Zone Four: Dona Ana, Grant, Hidalgo, Luna, Otero and Sierra counties

Zone Five: Chavez, Curry, DeBaca, Eddy, Lea, Lincoln, Quay and Roosevelt counties

7000017000063 Electrical On Call

[illegible]

006	hr.	Experienced Apprentice, regular hours worked, wage-decision project.	ZONE 1	\$25000	\$28000	\$40000	\$345.1	\$61.356	\$600.00	\$600.00		\$75.000
			ZONE 2	\$25000		\$40000	\$345.1	\$57.064	\$65.000	\$600.00		\$85.000
			ZONE 3	\$25000		\$40000	\$345.1	\$52.772	\$65.000	\$600.00		\$85.000
			ZONE 4	\$25000		\$40000	\$345.1	\$61.356	\$70.000	\$600.00		\$85.000
			ZONE 5	\$25000		\$40000	\$345.1	\$61.356	\$70.000	\$600.00	H/A	\$75.000
007	hr.	Experienced Apprentice, after hours worked, non-wage-decision project.	ZONE 1	\$26000	\$28000	\$35000	\$45.220	\$55.998	\$80.000	\$55.000		\$57.000
			ZONE 2	\$26000		\$35000	\$45.220	\$51.666	\$85.000	\$55.000		\$67.000
			ZONE 3	\$26000		\$35000	\$45.220	\$47.334	\$85.000	\$55.000		\$67.000
			ZONE 4	\$26000		\$35000	\$45.220	\$55.998	\$90.000	\$55.000		\$67.000
			ZONE 5	\$26000		\$35000	\$45.220	\$55.998	\$90.000	\$55.000	\$85.000	\$57.000
008	hr.	Experienced Apprentice, after hours worked, wage-decision project.	ZONE 1	\$28.000	\$28.000	\$40.000	\$45.220	\$99.774	\$80.000	\$60.000		\$75.000
			ZONE 2	\$28.000		\$40.000	\$45.220	\$95.442	\$85.000	\$60.000		\$85.000
			ZONE 3	\$28.000		\$40.000	\$45.220	\$91.110	\$85.000	\$60.000		\$85.000
			ZONE 4	\$28.000		\$40.000	\$45.220	\$99.774	\$90.000	\$60.000		\$85.000
			ZONE 5	\$28.000		\$40.000	\$45.220	\$99.774	\$90.000	\$60.000	H/A	\$75.000
009	hr.	Laborer, regular hours worked, non-wage-decision project	ZONE 1	\$16.000	\$24.50	\$30.000	\$34.51	\$33.555	\$40.00	\$50.00		\$33.00
			ZONE 2	\$16.000		\$30.000	\$34.51	\$29.23	\$43.00	\$50.00		\$43.00
			ZONE 3	\$16.000		\$30.000	\$34.51	\$24.91	\$43.00	\$50.00		\$43.00
			ZONE 4	\$16.000		\$30.000	\$34.51	\$33.555	\$48.00	\$50.00		\$43.00
			ZONE 5	\$16.000		\$30.000	\$34.51	\$33.555	\$48.00	\$50.00	\$64.00	\$33.00
010	hr.	Laborer, regular hours worked, wage-decision project	ZONE 1	\$21.00	\$24.50	\$35.00	\$34.51	\$47.08	\$40.00	\$55.00		\$55.25
			ZONE 2	\$21.00		\$35.00	\$34.51	\$42.76	\$43.00	\$55.00		\$65.25
			ZONE 3	\$21.00		\$35.00	\$34.51	\$38.44	\$43.00	\$55.00		\$65.25
			ZONE 4	\$21.00		\$35.00	\$34.51	\$47.08	\$48.00	\$55.00		\$65.25
			ZONE 5	\$21.00		\$35.00	\$34.51	\$47.08	\$48.00	\$55.00	\$33.25	\$55.25
011	hr.	Laborer, after hours worked, non-wage-decision project	ZONE 1	\$22.00	\$24.50	\$30.00	\$45.20	\$44.78	\$58.00	\$50.00		\$42.50
			ZONE 2	\$22.00		\$30.00	\$45.20	\$40.46	\$60.00	\$50.00		\$52.50
			ZONE 3	\$22.00		\$30.00	\$45.20	\$36.14	\$60.00	\$50.00		\$52.50
			ZONE 4	\$22.00		\$30.00	\$45.20	\$44.78	\$65.00	\$50.00		\$52.50
			ZONE 5	\$22.00		\$30.00	\$45.20	\$44.78	\$65.00	\$50.00	\$96.00	\$42.50

012	hr.	Laborer, after hours worked, wage-decision project	ZONE11	\$25.000	\$24.500	\$35.000	\$45.200	\$48.004	\$58.000	\$55.000		\$55.255
			ZONE22	\$25.000		\$35.000	\$45.200	\$43.722	\$60.000	\$55.000		\$65.255
			ZONE 3	\$25.000		\$35.000	\$45.200	\$39.400	\$60.000	\$55.000		\$65.255
			ZONE44	\$25.000		\$35.000	\$45.200	\$48.004	\$65.000	\$55.000		\$65.255
			ZONE55	\$25.000		\$35.000	\$45.200	\$48.004	\$65.000	\$55.000	\$49.888	\$55.255
013	hr.	Project manager/supervisor (required bid item)	ZONE11	\$55.000	\$54.000	\$50.000	\$60.000	\$152.777	\$100.000	\$75.000		\$54.500
			ZONE 2	\$55.000		\$50.000	\$60.000	\$143.881	\$105.000	\$75.000		\$64.500
			ZONE 3	\$55.000		\$50.000	\$60.000	\$134.885	\$105.000	\$75.000		\$64.500
			ZONE 4	\$55.000		\$50.000	\$60.000	\$152.777	\$110.000	\$75.000		\$64.500
			ZONE 5	\$55.000		\$50.000	\$60.000	\$152.777	\$110.000	\$75.000	\$95.000	\$54.500
014	%	Supervision and coordination subcontractors (maximum %) (required bid item)										
			_____ %	15%	10%	15%	12%	10%	15%	10%	15%	5%
015	%	Percentage off retail for all parts and materials (required bid item)										
			_____ %	5%	0%	15%	10%	10%	20%	5%	8%	15%



City of Santa Fe

Treasury Department

200 Lincoln Ave.

Santa Fe, New Mexico 87504-0909

505-955-6551

BUSINESS REGISTRATION

Business Name: HEI INC
DBA: HEI INC

Business Location: SF COUNTY
SANTA FE, NM 87501

Owner: WILL HUMBARD

License Number: 225955

Issued Date: March 04, 2020

Expiration Date: December 31, 2020

CRS Number: 02360388007

License Type: Business License - Renewable

Classification: Out of Jurisdiction Contractor -
General

Fees Paid: \$10.00

HEI INC
PO BOX 31310
ALBUQUERQUE, NM 87190

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



ADDITIONAL REMARKS SCHEDULE

AGENCY Burke Insurance Group, LLC		NAMED INSURED HEI, Inc. 3800 Vassar PO Box 31310 Albuquerque, NM 87190-1310 Bernalillo	
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:

City of Santa Fe and Owner are named as Additional Insured per Additional Insured Endorsement for ongoing and completed operation for General Liability as required by written contract. City of Santa Fe and Owner are named as Additional Insured on all policies except Worker's Compensation per written contract. A waiver of subrogation exists in favor of City of Santa Fe and Owner as to the general liability, auto, umbrella and workers compensation policies per written contract. The general liability, auto and umbrella policies are primary and non-contributory. Thirty (30) day written notice of cancellation applies, with the exception of 10 days for non-payment of premium.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

CONTRACTORS' COMMERCIAL GENERAL LIABILITY BROADENED ENDORSEMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

A. Endorsement - Table of Contents:

<u>Coverage:</u>	<u>Begins on Page:</u>
1. Employee Benefit Liability Coverage	2
2. Unintentional Failure to Disclose Hazards	8
3. Damage to Premises Rented to You.....	8
4. Supplementary Payments	9
5. Medical Payments.....	10
6. Voluntary Property Damage (Coverage a.) and Care, Custody or Control Liability Coverage (Coverage b.).....	10
7. 180 Day Coverage for Newly Formed or Acquired Organizations	10
8. Waiver of Subrogation	10
9. Automatic Additional Insured - Specified Relationships:	11
• Managers or Lessors of Premises;	
• Lessor of Leased Equipment;	
• Vendors;	
• State or Political Subdivisions - Permits Relating to Premises;	
• State or Political Subdivisions - Permits; and	
• Contractors' Operations	
10. Broadened Contractual Liability - Work Within 50' of Railroad Property	14
11. Property Damage to Borrowed Equipment.....	14
12. Employees as Insureds - Specified Health Care Services:	15
• Nurses;	
• Emergency Medical Technicians; and	
• Paramedics	
13. Broadened Notice of Occurrence.....	15

B. Limits of Insurance:

The Commercial General Liability Limits of Insurance apply to the insurance provided by this endorsement, except as provided below:

1. Employee Benefit Liability Coverage

Each Employee Limit: \$ 1,000,000
Aggregate Limit: \$ 3,000,000
Deductible: \$ 1,000

3. Damage to Premises Rented to You

The lesser of:

a. The Each Occurrence Limit shown in the Declarations; or

b. \$500,000 unless otherwise stated \$ _____

4. Supplementary Payments

a. Bail bonds: \$ 1,000

b. Loss of earnings: \$ 350

5. Medical Payments

Medical Expense Limit: \$ 10,000

6. Voluntary Property Damage (Coverage a.) and Care, Custody or Control Liability Coverage (Coverage b.)

Limits of Insurance (Each Occurrence)

Coverage **a.** \$1,000

Coverage **b.** \$5,000 unless otherwise stated \$ _____

Deductibles (Each Occurrence)

Coverage **a.** \$250

Coverage **b.** \$250 unless otherwise stated \$ _____

COVERAGE	PREMIUM BASIS (a) Area (b) Payroll (c) Gross Sales (d) Units (e) Other	RATE (For Limits in Excess of \$5,000)	ADVANCE PREMIUM (For Limits in Excess of \$5,000)
b. Care, Custody or Control			\$
TOTAL ANNUAL PREMIUM			\$

11. Property Damage to Borrowed Equipment

Each Occurrence Limit: \$ 10,000

Deductible: \$ 250

C. Coverages:

1. Employee Benefit Liability Coverage

- a. The following is added to **SECTION I - COVERAGES: Employee Benefit Liability Coverage**.

(1) Insuring Agreement

- (a) We will pay those sums that the insured becomes legally obligated to pay as damages caused by 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 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 **SEC-**

TION III - LIMITS OF INSURANCE; and

- 2) Our right and duty to defend ends 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 the act, error or omission, is negligently committed in the "administration" of your "employee benefit program"; and

- 1) Occurs during the policy period; or
2) Occurred prior to the effective date of this endorsement provided:
a) You did not have knowledge of a claim or "suit" on or before the ef-

fective date of this endorsement.

You will be deemed to have knowledge of a claim or "suit" when any "authorized representative";

- i) Reports all, or any part, of the act, error or omission to us or any other insurer;
 - ii) Receives a written or verbal demand or claim for damages because of the act, error or omission; and
- b) There is no other applicable insurance.

(2) Exclusions

This insurance does not apply to:

(a) Bodily Injury, Property Damage or Personal and Advertising Injury

"Bodily injury", "property damage" or "personal and advertising injury".

(b) Dishonest, Fraudulent, Criminal or Malicious Act

Damages arising out of any intentional, dishonest, fraudulent, criminal or malicious act, error or omission, committed by any insured, including the willful or reckless violation of any statute.

(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 With Respect to Participation

Any claim 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 with respect to that person's decision to participate or not to participate in any plan included in the "employee benefit program".

(f) Workers' Compensation and Similar Laws

Any claim arising out of your failure to comply with the mandatory provisions of any workers' compensation, unemployment compensation insurance, social security or disability benefits law or any similar law.

(g) ERISA

Damages for which any 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 by 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

Taxes, fines or penalties, including those imposed under the Internal Revenue Code or any similar state or local law.

(j) Employment-Related Practices

Any liability arising out of any:

- (1)** Refusal to employ;
- (2)** Termination of employment;
- (3)** Coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation, discrimination or other employment-related practices, acts or omissions; or
- (4)** Consequential liability as a result of **(1)**, **(2)** or **(3)** above.

This exclusion applies whether the insured may be held liable as an employer or in any other capacity and to any obligation to share damages with or repay someone else who must pay damages because of the injury.

(3) Supplementary Payments

SECTION I - COVERAGES, SUPPLEMENTARY PAYMENTS - COVERAGES A AND B also apply to this Coverage.

b. Who is an Insured

As respects Employee Benefit Liability Coverage, **SECTION II - WHO IS AN INSURED** is deleted in its entirety and replaced by the following:

- (1)** If you are designated in the Declarations as:
 - (a)** An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.
 - (b)** A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds but only with respect to the conduct of your business.
 - (c)** A limited liability company, you are an insured. Your members are also insureds,

but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.

- (d)** An organization other than a partnership, joint venture or limited liability company, you are an insured. Your "executive officers" and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.
 - (e)** A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.
- (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 Coverage Part.
- (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 no other similar insurance applies to that organization. However, coverage under this provision:
- (a)** Is afforded only until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier; and

- (b) Does not apply to any act, error or omission that was committed before you acquired or formed the organization.

c. Limits of Insurance

As respects Employee Benefit Liability Coverage, **SECTION III - LIMITS OF INSURANCE** is deleted in its entirety and replaced by the following:

- (1) The Limits of Insurance shown in Section **B. Limits of Insurance, 1. Employee Benefit Liability Coverage** 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, errors or omissions; or
 - (e) Benefits included in your "employee benefit program".
- (2) The Aggregate Limit shown in Section **B. Limits of Insurance, 1. Employee Benefit Liability Coverage** of this endorsement is the most we will pay for all damages because of acts, errors or omissions negligently committed in the "administration" of your "employee benefit program".
- (3) Subject to the limit described in (2) above, the Each Employee Limit shown in Section **B. Limits of Insurance, 1. Employee Benefit Liability Coverage** of this endorsement 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 related acts, errors or omissions, regardless of the amount of time that lapses between such 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".

(4) Deductible Amount

- (a) Our obligation to pay damages on behalf of the insured applies only to the amount of damages in excess of the deductible amount stated in the Declarations as applicable to Each Employee. The limits of insurance shall not be reduced by the amount of this deductible.
- (b) The deductible amount stated in the Declarations 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 the insured against 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, or claim,

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.

d. Additional Conditions

As respects **Employee Benefit Liability Coverage, SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS** is amended as follows:

- (1) Item **2. Duties in the Event of Occurrence, Offense, Claim or Suit** is deleted in its entirety and replaced by the following:

2. Duties in the Event of an Act, Error or Omission, or 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 claim 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 that insured's own cost, voluntarily make a payment, assume any obligation, or incur any expense without our consent.

- (2) Item **5. Other Insurance** is deleted in its entirety and replaced by the following:

5. Other Insurance

If other valid and collectible insurance is available to the insured for a loss we cover under this Coverage Part, our obligations are limited as follows:

a. Primary Insurance

This insurance is primary except when **c.** 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 **b.** below.

b. 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 limit of insurance to the total applicable limits of insurance of all insurers.

c. No Coverage

This insurance shall not cover any loss for which the insured is entitled to recovery under any other insurance in force previous to the effective date of this Coverage Part.

e. Additional Definitions

As respects **Employee Benefit Liability Coverage**, **SECTION V - DEFINITIONS** is amended as follows:

(1) The following definitions are added:

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. Interpreting the "employee benefit programs";
- c. Handling records in connection with the "employee benefit programs"; or
- d. Effecting, continuing or terminating any "employee's" participation in any benefit included in the "employee benefit program".

However, "administration" does not include:

- a. Handling payroll deductions; or
 - b. The failure to effect or maintain any insurance or adequate limits of coverage of insurance, including but not limited to unemployment insurance, social security benefits, workers' compensation and disability benefits.
2. "Cafeteria plans" means plan authorized by applicable law to allow "employees" to elect to pay for certain benefits with pre-tax dollars.
 3. "Employee benefit programs" 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 under the plan for such benefits;
 - c. Unemployment insurance, social security

benefits, workers' compensation and disability benefits; and

- 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.

(2) The following definitions are deleted in their entirety and replaced by the following:

21. "Suit" means a civil proceeding in which money 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;
- b. Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent; or
- c. An appeal of a civil proceeding.

8. "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".

2. Unintentional Failure to Disclose Hazards

SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS, 7. Representations is hereby amended by the addition of the following:

Based on our dependence upon your representations as to existing hazards, if unintentionally you should fail to disclose all such hazards at the inception date of your policy, we will not reject coverage

under this Coverage Part based solely on such failure.

3. Damage to Premises Rented to You

- a. The last Subparagraph of Paragraph 2. **SECTION I - COVERAGES, COVERAGE A. - BODILY INJURY AND PROPERTY DAMAGE, 2. LIABILITY Exclusions** is hereby deleted and replaced by the following:

Exclusions c. through q. do not apply to damage by fire, explosion, lightning, smoke or soot to premises while rented to you or temporarily occupied by you with permission of the owner.

- b. The insurance provided under **SECTION I - COVERAGES, COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY** applies to "property damage" arising out of water damage to premises that are both rented to and occupied by you.

(1) As respects Water Damage Legal Liability, as provided in Paragraph 3.b. above:

The exclusions under **SECTION I - COVERAGES, COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY, 2. Exclusions**, other than i. **War** and the **Nuclear Energy Liability Exclusion**, are deleted and the following are added:

This insurance does not apply to:

(a) "Property damage":

- 1) Assumed in any contract; or
- 2) Loss caused by or resulting from any of the following:
 - a) Wear and tear;
 - b) Rust, corrosion, fungus, decay, deterioration, hidden or latent defect or any quality in property that causes it to damage or destroy itself;
 - c) Smog;
 - d) Mechanical breakdown including rupture or

- bursting caused by centrifugal force;
 - e) Settling, cracking, shrinking or expansion; or
 - f) Nesting or infestation, or discharge or release of waste products or secretions, by insects, birds, rodents or other animals.
- (b) Loss caused directly or indirectly by any of the following:
 - 1) Earthquake, volcanic eruption, landslide or any other earth movement;
 - 2) Water that backs up or overflows from a sewer, drain or sump;
 - 3) Water under the ground surface pressing on, or flowing or seeping through:
 - a) Foundations, walls, floors or paved surfaces;
 - b) Basements, whether paved or not; or
 - c) Doors, windows or other openings.
- (c) Loss caused by or resulting from water that leaks or flows from plumbing, heating, air conditioning, or fire protection systems caused by or resulting from freezing, unless:
 - 1) You did your best to maintain heat in the building or structure; or
 - 2) You drained the equipment and shut off the water supply if the heat was not maintained.
- (d) Loss to or damage to:
 - 1) Plumbing, heating, air conditioning, fire protection systems, or

other equipment or appliances; or

- 2) The interior of any building or structure, or to personal property in the building or structure caused by or resulting from rain, snow, sleet or ice, whether driven by wind or not.

c. Limit of Insurance

The Damage to Premises Rented to You Limit as shown in the Declarations is amended as follows:

- (2) Paragraph 6. of **SECTION III - LIMITS OF INSURANCE** is hereby deleted and replaced by the following:

- 6. Subject to 5. above, the Damage to Premises Rented to You Limit is the most we will pay under **COVERAGE A, BODILY INJURY AND PROPERTY DAMAGE LIABILITY**, for damages because of "property damage" to premises while rented to you or temporarily occupied by you with permission of the owner, arising out of any one "occurrence" to which this insurance applies.

- (3) The amount we will pay is limited as described in Section **B. Limits of Insurance, 3. Damage to Premises Rented to You** of this endorsement.

4. Supplementary Payments

Under **SECTION I - COVERAGE, SUPPLEMENTARY PAYMENTS - COVERAGES A AND B**:

- a. Paragraph 2. is replaced by the following:

Up to the limit shown in Section **B. Limits of Insurance, 4.a, Bail Bonds** of this endorsement 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.

- b. Paragraph 4. 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 the limit shown in Section **B. Limits of Insurance, 4.b. Loss of Earnings** of this endorsement per day because of time off from work.

5. Medical Payments

The Medical Expense Limit of Any One Person as stated in the Declarations is amended to the limit shown in Section **B. Limits of Insurance, 5. Medical Payments** of this endorsement.

6. Voluntary Property Damage and Care, Custody or Control Liability Coverage

a. Voluntary Property Damage Coverage

We will pay for "property damage" to property of others arising out of operations incidental to the insured's business when:

- (1) Damage is caused by the insured; or
- (2) Damage occurs while in the insured's possession.

With your consent, we will make these payments regardless of fault.

b. Care, Custody or Control Liability Coverage

SECTION I - COVERAGES, COVERAGE A, BODILY INJURY AND PROPERTY DAMAGE LIABILITY, 2. Exclusions, j. Damage to Property, Subparagraphs (3), (4) and (5) do not apply to "property damage" to the property of others described therein.

With respect to the insurance provided by this section of the endorsement, the following additional provisions apply:

- a. The Limits of Insurance shown in the Declarations are replaced by the limits designated in Section **B. Limits of Insurance, 6. Voluntary Property Damage and Care, Custody or Control Liability Coverage** of this endorsement with respect to coverage provided by this endorsement. These limits are inclusive of and not in addition to the limits being replaced. The Limits of Insurance shown in Section **B. Limits of Insurance, 6. Voluntary Property Damage and Care, Custody or Control**

Liability Coverage of this endorsement fix the most we will pay in any one "occurrence" regardless of the number of:

- (1) Insureds;
- (2) Claims made or "suits" brought; or
- (3) Persons or organizations making claims or bringing "suits".

b. Deductible Clause

- (1) Our obligation to pay damages on your behalf applies only to the amount of damages for each "occurrence" which are in excess of the deductible amount stated in Section **B. Limits of Insurance, 6. Voluntary Property Damage and Care, Custody or Control Liability Coverage** of this endorsement. The limits of insurance will not be reduced by the application of such deductible amount.
- (2) Condition **2. Duties in the Event of Occurrence, Offense, Claim or Suit**, applies to each claim or "suit" irrespective of the amount.
- (3) 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 has been paid by us.

7. 180 Day Coverage for Newly Formed or Acquired Organizations

SECTION II - WHO IS AN INSURED is amended as follows:

Subparagraph **a.** of Paragraph **4.** is hereby deleted and replaced by the following:

- a. Insurance 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;

8. Waiver of Subrogation

SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS, 9. Transfer of Rights of Recovery Against Others to Us is hereby amended by the addition of the following:

We waive any right of recovery we may have because of payments we make for

injury or damage arising out of your on-going operations or "your work" done under a written contract requiring such waiver with that person or organization and included in the "products-completed operations hazard". However, our rights may only be waived prior to the "occurrence" giving rise to the injury or damage for which we make payment under this Coverage Part. The insured must do nothing after a loss to impair our rights. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce those rights.

9. Automatic Additional Insured - Specified Relationships

a. The following is hereby added to **SECTION II - WHO IS AN INSURED:**

(1) Any person or organization described in Paragraph **9.a.(2)** below (hereinafter referred to as additional insured) whom you are required to add as an additional insured under this Coverage Part by reason of:

- (a) A written contract or agreement; or
- (b) An oral agreement or contract where a certificate of insurance showing that person or organization as an additional insured has been issued,

is an insured, provided:

- (a) The written or oral contract or agreement is:
 - 1) Currently in effect or becomes effective during the policy period; and
 - 2) Executed prior to an "occurrence" or offense to which this insurance would apply; and
- (b) They are not specifically named as an additional insured under any other provision of, or endorsement added to, this Coverage Part.

(2) Only the following persons or organizations are additional insureds under this endorsement, and insurance coverage provided to such additional insureds is limited as provided herein:

(a) The manager or lessor of a premises leased to you with whom you have agreed per Paragraph **9.a.(1)** above to provide insurance, but only with respect to liability arising out of the ownership, maintenance or use of that part of a premises leased 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.
- 2) Structural alterations, new construction or demolition operations performed by or on behalf of such additional insured.

(b) Any person or organization from which you lease equipment with whom you have agreed per Paragraph **9.a.(1)** above to provide insurance. Such person(s) or organization(s) are insureds solely with respect to their liability arising out of the maintenance, operation or use by you of equipment leased to you by such person(s) or organizations(s). However, this insurance does not apply to any "occurrence" which takes place after the equipment lease expires.

(c) Any person or organization (referred to below as vendor) with whom you have agreed per Paragraph **9.a.(1)** above to provide insurance, but 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, unless 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.
- 2) This insurance does not apply to any insured person or organization:
- a) From whom you have acquired such products, or any ingredient, part or container, entering into, accompanying or containing such products; or
 - b) When liability included within the "products-completed operations hazard" has been excluded under this Coverage Part with respect to such products.
- (d) Any state or political subdivision with which you have agreed per Paragraph 9.a.(1) above to provide insurance, subject to the following additional provision:
- This insurance applies only with respect to the following hazards for which the state or political subdivision has issued a permit in connection with premises you own, rent or control and to which this insurance applies:
- 1) 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; or
 - 2) The construction, erection, or removal of elevators; or
 - 3) The ownership, maintenance, or use of any elevators covered by this insurance.
 - (e) Any state or political subdivision with which you have agreed per Paragraph **9.a.(1)** above to provide insurance, 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.
 - 2) This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of operations performed for the state or political subdivision.
 - (f) With respect to injury or damage that occurs in New Mexico, any person or organization with which you have agreed per Paragraph **9.a.(1)** above to provide insurance, but only to the extent that the liability is caused by "your work" performed for that additional insured and only to the extent that such liability is caused by your negligence, acts or omissions or the negligence, acts or omissions of those acting on your behalf. A person or organization's status as an insured under this provision of this endorsement continues for only the period of time required by the written contract or agreement, but in no event beyond the expiration date of this Coverage Part. If there is no written contract or agreement, or if no period of time is required by the written contract or agreement, a person or organization's status as an insured under this endorsement ends when your operations for that insured are completed.
 - (g) With respect to injury or damage that occurs in the "coverage territory" but not in the state of New Mexico, any person or organization with which you have agreed per Paragraph **9.a.(1)** above to provide insurance, but only with respect to liability arising out of "your work" performed for that additional insured by you or on your behalf. A person or organization's status as an insured under this provision of this endorsement continues for only the period of time required by the written contract or agreement, but in no event beyond the expiration date of this Coverage Part. If there is no written contract or agreement, or if no period of time is required by the written contract or agreement, a person or organization's status as an insured under this endorsement ends when your operations for that insured are completed.
- (3) Any insurance provided to an additional insured designated under Paragraph **9.a.(2)**:
- (a) Subparagraphs (e), (f) and (g) do not apply to "bodily injury" or "property damage" included within the "products-completed operations hazard";
 - (b) Subparagraphs (a), (b), (d), (e) and (g) do not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of the sole negligence or willful misconduct of the additional insured or its "employees"; or
 - (c) Subparagraph (f) and (g) do not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of:

- 1) The rendering of, or failure to render, any professional services by you or on your behalf, but only with respect to either or both of the following operations:
 - a) Providing engineering, architectural or surveying services to others; and
 - b) Providing, or hiring independent professionals to provide, engineering, architectural or surveying services in connection with construction work you perform.
 - 2) Subject to Paragraph 3) below, professional services include:
 - a) Preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders, or drawings and specifications; and
 - b) Supervisory or inspection activities performed as part of any related architectural or engineering activities.
 - 3) Professional services do not include services within construction means, methods, techniques, sequences and procedures employed by you in connection with construction work you perform.
 - (d) Subparagraphs (f) and (g) do not apply to "bodily injury" or "property damage" arising out of "your work" for which a consolidated (wrap-up) insurance program has been provided by the prime contractor / project manager or owner of the construction project in which you are involved.
- b. Only with regard to insurance provided to an additional insured designated under Paragraph **9.a.(2)** Subparagraphs (f) and (g) above, **SECTION III - LIMITS OF INSURANCE** is amended to include:

The limits applicable to the additional insured are those specified in the written contract or agreement or in the Declarations of this Coverage Part, whichever are less. If no limits are specified in the written contract or agreement, or if there is no written contract or agreement, the limits applicable to the additional insured are those specified in the Declarations of this Coverage Part. The limits of insurance are inclusive of and not in addition to the limits of insurance shown in the Declarations.
 - c. **SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS** is hereby amended as follows:
 - (1) Condition **5. Other Insurance** is amended to include:
 - (a) Where required by a written contract or agreement, this insurance is primary and / or noncontributory as respects any other insurance policy issued to the additional insured, and such other insurance policy shall be excess and / or noncontributing, whichever applies, with this insurance.
 - (b) Any insurance provided by this endorsement shall be primary to other insurance available to the additional insured except:
 - 1) As otherwise provided in **SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS, 5. Other Insurance, b. Excess Insurance**; or
 - 2) For any other valid and collectible insurance available to the additional insured as an additional insured by attachment of an endorsement to another insurance policy that is

written on an excess basis. In such case, the coverage provided under this endorsement shall also be excess.

(2) **Condition 11. Conformance to Specific Written Contract or Agreement** is hereby added:

11. Conformance to Specific Written Contract or Agreement

- a. With respect to additional insureds described in Paragraph **9.a.(2)(f)** above only:

If a written contract or agreement between you and the additional insured specifies that coverage for the additional insured:

- (1) Be provided by the Insurance Services Office additional insured form number **CG 32 04** or **CG 32 12**; or
- (2) Include coverage for completed operations; or
- (3) Include coverage for "your work";

and where the limits or coverage provided to the additional insured is more restrictive than was specifically required in that written contract or agreement, the terms of Paragraphs **9.a.(3)(a)** or **9.b.** above, or any combination thereof, shall be interpreted as providing the limits or coverage required by the terms of the written contract or agreement, but only to the extent that such limits or coverage is included within the terms of the Coverage Part to which this endorsement is attached.

- b. With respect to additional insureds described in Paragraph **9.a.(2)(g)** above only:

If a written contract or agreement between you and the additional insured specifies that coverage for the additional insured:

- a. Be provided by the Insurance Services Office additional insured form number **CG 20 10** or **CG 20 37** (where edition specified); or
- b. Include coverage for completed operations; or
- c. Include coverage for "your work";

and where the limits or coverage provided to the additional insured is more restrictive than was specifically required in that written contract or agreement, the terms of Paragraphs **9.a.(3)(a)**, **9.a.(3)(b)** or **9.b.** above, or any combination thereof, shall be interpreted as providing the limits or coverage required by the terms of the written contract or agreement, but only to the extent that such limits or coverage is included within the terms of the Coverage Part to which this endorsement is attached. If, however, the written contract or agreement specifies the Insurance Services Office additional insured form number **CG 20 10** but does not specify which edition, or specifies an edition that does not exist, Paragraphs **9.a.3.b.** and **9.b.** of this endorsement shall not apply and Paragraph **9.a.(3)(a)** of this endorsement shall apply.

10. Broadened Contractual Liability - Work Within 50' of Railroad Property

It is hereby agreed that Paragraph **f.(1)** of Definition **12. "Insured contract"** (**SECTION V - DEFINITIONS**) is deleted.

11. Property Damage to Borrowed Equipment

- a. The following is hereby added to Exclusion **j. Damage to Property** of Paragraph 2., **Exclusions** of **SECTION I - COVERAGES, COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY**:

Paragraphs (3) and (4) of this exclusion do not apply to tools or equipment loaned to you, provided they are not being used to perform operations at the time of loss.

- b. With respect to the insurance provided by this section of the endorsement, the following additional provisions apply:

- (1) The Limits of insurance shown in the Declarations are replaced by the limits designated in Section **B. Limits of Insurance, 11.** of this endorsement with respect to coverage provided by this endorsement. These limits are inclusive of and not in addition to the limits being replaced. The Limits of Insurance shown in Section **B. Limits of Insurance, 11.** of this endorsement fix the most we will pay in any one "occurrence" regardless of the number of:

- (a) Insureds;
- (b) Claims made or "suits" brought; or
- (c) Persons or organizations making claims or bring "suits".

(2) Deductible Clause

- (a) Our obligation to pay damages on your behalf applies only to the amount of damages for each "occurrence" which are in excess of the Deductible amount stated in Section **B. Limits of Insurance, 11.** of this endorsement. The limits of insurance will not be reduced by the application of such Deductible amount.
- (b) Condition 2. **Duties in the Event of Occurrence, Of-**

fense, Claim or Suit, applies to each claim or "suit" irrespective of the amount.

- (c) 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 has been paid by us.

12. Employees as Insureds - Specified Health Care Services

It is hereby agreed that Paragraph 2.a.(1)(d) of **SECTION II - WHO IS AN INSURED**, does not apply to your "employees" who provide professional health care services on your behalf as duly licensed:

- a. Nurses;
- b. Emergency Medical Technicians; or
- c. Paramedics,

in the jurisdiction where an "occurrence" or offense to which this insurance applies takes place.

13. Broadened Notice of Occurrence

Paragraph a. of Condition 2. **Duties in the Event of Occurrence, Offense, Claim or Suit (SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS)** is hereby deleted and replaced by the following:

- a. You must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, notice should include:

- (1) How, when and where the "occurrence" or offense took place;
- (2) The names and addresses of any injured persons and witnesses; and
- (3) The nature and location of any injury or damage arising out of the "occurrence" or offense.

This requirement applies only when the "occurrence" or offense is known to an "authorized representative".

COMMERCIAL GENERAL LIABILITY COVERAGE FORM

Various provisions in this Coverage Part restrict this insurance. Read the entire Coverage Part carefully to determine rights, duties and what is and is not covered.

Throughout this Coverage Part the words "you" and "your" refer to the Named Insured shown in the Declarations, and any other person or organization qualifying as a Named Insured under this Coverage Part. The words "we", "us" and "our" refer to the Company providing this insurance.

The word "insured" means any person or organization qualifying as such under **SECTION II - WHO IS AN INSURED**.

Other words and phrases that appear in quotation marks have special meaning. Refer to **SECTION V - DEFINITIONS**.

SECTION I - COVERAGES

COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY

1. Insuring Agreement

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "bodily injury" or "property damage" 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 for "bodily injury" or "property damage" to which this insurance does not apply. We may, at our discretion, investigate any "occurrence" 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**; and
- (2) Our right and duty to defend ends when we have used up the applicable limit of insurance in the payment of judgments or settlements under **SECTION I - COVERAGES, COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY**; **SECTION I - COVERAGES, COVERAGE B. PERSONAL AND ADVERTISING INJURY LIABILITY**; or medical expenses under **SECTION I - COVERAGES, COVERAGE C. MEDICAL PAYMENTS**.

No other obligation or liability to pay sums or perform acts or services is covered unless expressly provided for under

SUPPLEMENTARY PAYMENTS - COVERAGES A AND B.

- b. This insurance applies to "bodily injury" and "property damage" only if:
 - (1) The "bodily injury" or "property damage" is caused by an "occurrence" that takes place in the "coverage territory";
 - (2) The "bodily injury" or "property damage" occurs during the policy period; and
 - (3) Prior to the "coverage term" in which "bodily injury" or "property damage" occurs, you did not know, per Paragraph **1.d.** below, that the "bodily injury" or "property damage" had occurred or had begun to occur, in whole or in part.
- c. "Bodily injury" or "property damage" which:
 - (1) Occurs during the "coverage term"; and
 - (2) Was not, prior to the "coverage term", known by you, per Paragraph **1.d.** below, to have occurred;

includes any continuation, change or resumption of that "bodily injury" or "property damage" after the end of the "coverage term" in which it first became known by you.
- d. You will be deemed to know that "bodily injury" or "property damage" has occurred at the earliest time when any "authorized representative":
 - (1) Reports all, or any part, of the "bodily injury" or "property damage" to us or any other insurer;
 - (2) Receives a written or verbal demand or claim for damages because of the "bodily injury" or "property damage";
 - (3) First observes, or reasonably should have first observed, the "bodily injury" or "property damage";
 - (4) Becomes aware, or reasonably should have become aware, by any means other than as described in (3) above, that "bodily injury" or "property damage" had occurred or had begun to occur; or
 - (5) Becomes aware, or reasonably should have become aware, of a

condition from which "bodily injury" or "property damage" is substantially certain to occur.

- e. Damages because of "bodily injury" include damages claimed by any person or organization for care, loss of services or death resulting at any time from the "bodily injury".

2. Exclusions

This insurance does not apply to:

a. Expected or Intended Injury

"Bodily injury" or "property damage" which may reasonably be expected to result from the intentional or criminal acts of the insured or which is in fact expected or intended by the insured, even if the injury or damage is of a different degree or type than actually expected or intended. This exclusion does not apply to "bodily injury" resulting from the use of reasonable force to protect persons or property.

b. Contractual Liability

"Bodily injury" or "property damage" for which the insured 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:

- (1) That the insured would have in the absence of the contract or agreement; or
- (2) Assumed in a contract or agreement that is an "insured contract", provided the "bodily injury" or "property damage" occurs subsequent to the execution of the contract or agreement. When a claim for such "bodily injury" or "property damage" is made, we will defend that claim provided the insured has assumed the obligation to defend such claim in the "insured contract". Such defense payments will not reduce the limits of insurance.

c. Liquor Liability

"Bodily injury" or "property damage" for which any insured may be held liable by reason of:

- (1) Causing or contributing to the intoxication of any person;
- (2) The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or

- (3) Any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

This exclusion applies only if you are in the business of manufacturing, distributing, selling, serving or furnishing alcoholic beverages.

d. Workers' Compensation and Similar Laws

Any obligation of the insured under a workers' compensation, disability benefits or unemployment compensation law or any similar law.

e. Employer's Liability

"Bodily injury" to:

- (1) An "employee" of the insured sustained in the "workplace";
- (2) An "employee" of the insured arising out of the performance of duties related to the conduct of the insured's business; or
- (3) The spouse, child, parent, brother or sister of that "employee" as a consequence of Paragraphs (1) or (2) above.

This exclusion applies:

- (1) Whether the insured may be liable as an employer or in any other capacity; and
- (2) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

This exclusion does not apply to liability assumed by the insured under an "insured contract".

f. Pollutant

- (1) "Bodily injury" or "property damage" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release, escape or emission of "pollutants":

- (a) At or from any premises, site or location which is or was at any time owned or occupied by, or rented or loaned to, any insured. However, Paragraph (a) does not apply to:

- 1) "Bodily injury" to any person injured while on any premises, site or location owned or occupied by, or rented or loaned to, you provided:

- a) The injury is caused by the inadequate ventilation of vapors;
- b) The person injured is first exposed to such vapors during the policy period; and
- c) Within 30 days of such first exposure, the person injured is clinically diagnosed or treated by a physician for the medical condition caused by the exposure to such vapors. However, Paragraph c) does not apply if the "bodily injury" is caused by vapors produced by or originating from equipment that is used to heat, cool or dehumidify the building, or equipment that is used to heat water for personal use, by the building's occupants or their guests.

This exception 1) shall apply only to Named Insureds; we shall have no duty to defend or pay damages for any person or organization that is not a Named Insured. However, this paragraph does not apply if the "bodily injury" is caused by vapors produced by or originating from equipment that is used to heat, cool or dehumidify the building, or equipment that is used to heat water for personal use, by the building's occupants or their guests.

For the purpose of the exception granted in Paragraph 1) only, vapors means any gaseous or airborne irritant or airborne contaminant, including smoke, fumes, vapor or soot, but excluding asbestos, which is discharged, dispersed, emitted, released or escapes from materials, machinery or equipment used in the service or maintenance of the premises. Vapors does not mean any gaseous or

airborne irritants or contaminants used in a manufacturing process or which is the product or by-product of any manufacturing process;

- 2) "Bodily injury" or "property damage" for which you may be held liable, if you are a contractor, and the owner or lessee of such premises, site or location has been added to this Coverage Part as an additional insured with respect to your ongoing operations or "your work" performed for that additional insured at that premises, site or location and such premises, site or location is not and never was owned or occupied by, or rented or loaned to, any insured, other than that additional insured; or
- 3) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire";

- (b) At or from any premises, site or location which is or was at any time used by or for any insured or others for the handling, storage, disposal, processing or treatment of waste;
- (c) Which are or were at any time transported, handled, stored, treated, disposed of, or processed as waste by or for:
 - 1) Any insured; or
 - 2) Any person or organization for whom you may be legally responsible;
- (d) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the "pollutants" are brought on or to the premises, site or location in connection with such operations by such insured, contractor or subcontractor. However, Paragraph (d) does not apply to:
 - 1) "Bodily injury" or "property damage" arising out of the discharge, dispersal, seepage, migration, release, es-

cape or emission of fuels, lubricants or other operating fluids, or exhaust gases, which are needed to perform, or are the result of, the normal electrical, hydraulic or mechanical functions necessary for the operation of "mobile equipment" or its parts, if such fuels, lubricants or other operating fluids, or exhaust gases, escape, seep or migrate, or are discharged, dispersed, released or emitted from a vehicle part designed to hold, store or receive them. This exception does not apply if the fuels, lubricants or other operating fluids, or exhaust gases, escape, seep or migrate, or are discharged, dispersed, released or emitted with the intent to cause "bodily injury" or "property damage" or with the knowledge that "bodily injury" or "property damage" is substantially certain to occur, or if such fuels, lubricants or other operating fluids, or exhaust gases, are brought on or to the premises, site or location with such intent to escape, seep or migrate, or be discharged, dispersed, released or emitted as part of the operations being performed by such insured, contractor or subcontractor;

- 2) "Bodily injury" or "property damage" sustained within a building and caused by the release of gases, fumes or vapors from materials brought into that building in connection with operations being performed by you or on your behalf by a contractor or subcontractor; or
- 3) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire"; or
- (e) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the op-

erations are to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants".

- (2) Any loss, cost or expense arising out of any:
 - (a) 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
 - (b) 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".

However, Paragraphs (2)(a) and (b) do not apply to liability for damages because of "property damage" that the insured would have in the absence of such request, demand, order or statutory or regulatory requirement, or such claim or "suit" by or on behalf of a governmental authority.

g. Aircraft, Auto or Watercraft

"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 51 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 on, 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 in the state 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".

h. Mobile Equipment

"Bodily injury" or "property damage" arising out of:

(1) The transportation of "mobile equipment" by an "auto" owned or operated by or rented or loaned to any insured; or

(2) The use of "mobile equipment" in, or while in practice for, or while being prepared for, any prearranged racing, speed, demolition, or stunting activity.

i. War

"Bodily injury" or "property damage", however caused, arising, directly or indirectly, out of:

(1) War, including undeclared or civil war;

(2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or

(3) Insurrection, rebellion, revolution, usurped power, or action taken by

governmental authority in hindering or defending against any of these.

j. Damage to Property

"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 sell, 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 an 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) That particular part of any property that must be restored, repaired or replaced because "your work" was incorrectly performed on it.

Paragraphs (1), (3) and (4) of this exclusion do not apply to "property damage" (other than damage by fire or explosion) to premises, including the contents of such premises, rented to you for a period of 7 or fewer consecutive days, for which the amount we will pay is limited to the Damage To Premises Rented To You Limit as described in **SECTION III - LIMITS OF INSURANCE**.

Paragraph (2) of this exclusion does not apply if the premises are "your work" and were never occupied, rented or held for rental by you.

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".

k. Damage to Your Product

"Property damage" to "your product" arising out of it or any part of it.

I. 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.

m. Damage to Impaired Property or Property Not Physically Injured

"Property damage" to "impaired property" or property that has not been physically injured, arising out of:

- (1) A defect, deficiency, inadequacy or dangerous condition in "your product" or "your work"; or
- (2) A delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms.

This exclusion does not apply to the loss of use of other property arising out of sudden and accidental physical injury to "your product" or "your work" after it has been put to its intended use.

n. Recall of Products, Work or Impaired Property

Any liability or damages claimed for any loss, cost or expense incurred by you or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of:

- (1) "Your product";
- (2) "Your work"; or
- (3) "Impaired property";

if such product, work or property is withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy or dangerous condition in it.

o. Personal and Advertising Injury

"Bodily injury" arising out of "personal and advertising injury".

p. Asbestos

"Bodily injury" or "property damage" arising out of, attributable to, or any way related to asbestos in any form or transmitted in any manner.

q. Employment-Related Practices

"Bodily injury" to:

(1) A person arising out of any:

- (a) Refusal to employ that person;
- (b) Termination of that person's employment; or
- (c) Other employment-related practices, policies, acts or omissions including but not limited to coercion, criticism, demotion, evaluation, failure to promote, reassignment, discipline, defamation, harassment, humiliation or discrimination directed at that person; or

(2) The spouse, child, parent, brother or sister of that person as a consequence of "bodily injury" to that person at whom any of the employment-related practices described in Paragraphs (a), (b) or (c) above is directed.

This exclusion applies:

- (1) Whether the insured may be liable as an employer or in any other capacity; and
- (2) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

r. Additional Insured Prior Knowledge

An additional insured added by attachment of an endorsement to this Coverage Part that is seeking coverage for a claim or "suit", if that additional insured knew, per the following paragraph, that "bodily injury" or "property damage" had occurred or had begun to occur, in whole or in part, prior to the "coverage term" in which such "bodily injury" or "property damage" occurs or begins to occur.

An additional insured added by attachment of an endorsement to this Coverage Part will be deemed to have known that "bodily injury" or "property damage" has occurred or has begun to occur at the earliest time when that additional insured, or any one of its owners, members, partners, managers, executive officers, "employees" assigned to manage that additional insured's insurance program, or "employees" assigned to give or receive notice of an "occurrence", "personal and advertising injury" offense, claim or "suit":

- (1) Reports all, or any part, of the "bodily injury" or "property damage" to us or any other insurer;
- (2) Receives a written or verbal demand or claim for damages because of the "bodily injury" or "property damage";
- (3) First observes, or reasonably should have first observed, the "bodily injury" or "property damage";
- (4) Becomes aware, or reasonably should have become aware, by any means other than as described in (3) above, that "bodily injury" or "property damage" had occurred or had begun to occur; or
- (5) Becomes aware, or reasonably should have become aware, of a condition from which "bodily injury" or "property damage" is substantially certain to occur.

s. Electronic Data

Damages arising out of the loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate "electronic data".

t. Distribution of Material in Violation of Statutes

"Bodily injury" or "property damage" arising directly or indirectly out of any action or omission that violates or is alleged to violate:

- a. The Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law; or
- b. The CAN-SPAM Act of 2003, including any amendment of or addition to such law; or
- c. Any statute, ordinance or regulation, other than the TCPA or CAN-SPAM Act of 2003, that prohibits or limits the sending, transmitting, communicating or distribution of material or information.

Exclusions **c.** through **q.** do not apply to "property damage" by fire or explosion to premises while rented to you or temporarily occupied by you with permission of the owner, for which the amount we will pay is limited to the Damage to Premises Rented To You Limit as described in **SECTION III - LIMITS OF INSURANCE**.

COVERAGE B. PERSONAL AND ADVERTISING INJURY LIABILITY

1. Insuring Agreement

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "personal and advertising injury" 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 for "personal and advertising injury" to which this insurance does not apply. We may, at our discretion, investigate any offense 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**; and
- (2) Our right and duty to defend ends when we have used up the applicable limit of insurance in the payment of judgments or settlements under **SECTION I - COVERAGES, COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY; SECTION I - COVERAGES, COVERAGE B. PERSONAL AND ADVERTISING INJURY LIABILITY**; or medical expenses under **SECTION I - COVERAGES, COVERAGE C. MEDICAL PAYMENTS**.

No other obligation or liability to pay sums or perform acts or services is covered unless expressly provided for under **SUPPLEMENTARY PAYMENTS - COVERAGES A AND B**.

- b. This insurance applies to "personal and advertising injury" only if:
 - (1) The "personal and advertising injury" is caused by an offense arising out of your business; and
 - (2) The "personal and advertising injury" offense was committed in the "coverage territory" during the policy period; and
 - (3) Prior to the "coverage term" in which the "personal and advertising injury" offense is committed, you did not know, per Paragraph **1.d.** below, that the offense had been committed or had begun to be committed, in whole or in part.
- c. "Personal and advertising injury" caused by an offense which:
 - (1) Was committed during the "coverage term"; and

- (2) Was not, prior to the "coverage term", known by you, per Paragraph 1.d. below, to have been committed;

includes any continuation, change or resumption of that offense after the end of the "coverage term" in which it first became known by you.

- d. You will be deemed to know that a "personal and advertising injury" offense has been committed at the earliest time when any "authorized representative":

- (1) Reports all, or any part, of the "personal and advertising injury" to us or any other insurer;
- (2) Receives a written or verbal demand or claim for damages because of the "personal and advertising injury";
- (3) First observes, or reasonably should have first observed, the offense that caused the "personal and advertising injury";
- (4) Becomes aware, or reasonably should have become aware, by any means, other than as described in (3) above, that the offense had been committed or had begun to be committed; or
- (5) Becomes aware, or reasonably should have become aware, of a condition from which "personal and advertising injury" is substantially certain to occur.

2. Exclusions

This insurance does not apply to:

a. Knowing Violation of Rights of Another

"Personal and advertising injury" caused by or at the direction of the insured with the knowledge that the act would violate the rights of another and would inflict "personal and advertising injury".

b. Material Published With Knowledge of Falsity

"Personal and advertising injury" arising out of oral or written publication of material, if done by or at the direction of the insured with knowledge of its falsity.

c. Material Published Prior to Coverage Term

"Personal and advertising injury" arising out of oral or written publication of material whose first publication took place before the later of the following:

- (1) The inception of this Coverage Part; or

- (2) The "coverage term" in which insurance coverage is sought.

d. Criminal Acts

"Personal and advertising injury" arising out of a criminal act committed by or at the direction of the insured.

e. Contractual Liability

"Personal and advertising injury" for which the insured 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:

- (1) That the insured would have in the absence of the contract or agreement; or
- (2) Assumed in a contract or agreement that is an "insured contract", provided the "personal and advertising injury" is caused by or arises out of an offense committed subsequent to the execution of the contract or agreement. When a claim for such "personal and advertising injury" is made, we will defend that claim, provided the insured has assumed the obligation to defend such claim in the "insured contract". Such defense payments will not reduce the limits of insurance.

f. Breach of Contract

"Personal and advertising injury" arising out of a breach of contract, except an implied contract to use another's advertising idea in your "advertisement".

g. Quality or Performance of Goods - Failure to Conform to Statements

"Personal and advertising injury" arising out of the failure of goods, products or services to conform with any statement of quality or performance made in your "advertisement".

h. Wrong Description of Prices

"Personal and advertising injury" arising out of the wrong description of the price of goods, products or services stated in your "advertisement".

i. Infringement of Copyright, Patent, Trademark or Trade Secret

"Personal and advertising injury" arising out of the infringement of copyright, pat-

ent, trademark, trade secret or other intellectual property rights.

However, this exclusion does not apply to infringement, in your "advertisement", of copyright, trade dress or slogan.

j. Insureds in Media and Internet Type Businesses

"Personal and advertising injury" committed by an insured whose business is:

- (1) Advertising, broadcasting, publishing or telecasting;
- (2) Designing or determining content of web-sites for others; or
- (3) An Internet search, access, content or service provider.

However, this exclusion does not apply to Paragraphs 17. a., b. and c. of "personal and advertising injury" under **SECTION V - DEFINITIONS**.

For the purposes of this exclusion, the placing of frames, borders or links, or advertising, for you or others anywhere on the Internet is not, by itself, considered the business of advertising, broadcasting, publishing or telecasting.

k. Electronic Chatrooms or Bulletin Boards

"Personal and advertising injury" arising out of an electronic chatroom or bulletin board any insured hosts, owns, or over which any insured exercises control.

l. Unauthorized Use of Another's Name or Product

"Personal and advertising injury" arising out of the unauthorized use of another's name or product in your e-mail address, domain name or metatag, or any other similar tactics to mislead another's potential customers.

m. Employment Related Practices

"Personal and advertising injury" to:

- (1) A person arising out of any:
 - (a) Refusal to employ that person;
 - (b) Termination of that person's employment; or
 - (c) Other employment-related practices, policies, acts or omissions including but not limited to coercion, criticism, demotion, evaluation, failure to promote, reassignment, discipline, defamation, harassment, humiliation

or discrimination directed at that person; or

- (2) The spouse, child, parent, brother or sister of that person as a consequence of "personal and advertising injury" to that person at whom any of the employment-related practices described in Paragraphs (a), (b) or (c) above is directed.

This exclusion applies:

- (1) Whether the insured may be liable as an employer or in any other capacity; and
- (2) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

n. Pollutant

"Personal and advertising injury" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release, escape or emission of "pollutants" at any time.

o. Pollutant-Related

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".

p. Asbestos

"Personal and advertising injury" arising out of, attributable to, or any way related to asbestos in any form or transmitted in any manner.

q. Additional Insured Prior Knowledge

An additional insured added by attachment of an endorsement to this Coverage Part that is seeking coverage for a claim or "suit", if that additional insured knew, per the following paragraph, that a "personal and advertising injury" offense had been committed or had begun to be committed, in whole or in part, prior to the "coverage term" in which such offense

was committed or began to be committed.

An additional insured added by attachment of an endorsement to this Coverage Part will be deemed to have known that a "personal and advertising injury" offense has been committed or has begun to be committed at the earliest time when that additional insured, or any one of its owners, members, partners, managers, executive officers, "employees" assigned to manage that additional insured's insurance program, or "employees" assigned to give or receive notice of an "occurrence", "personal and advertising injury" offense, claim or "suit":

- (1) Reports all, or any part, of the "personal and advertising injury" to us or any other insurer;
- (2) Receives a written or verbal demand or claim for damages because of the "personal and advertising injury";
- (3) First observes, or reasonably should have first observed, the offense that caused the "personal and advertising injury";
- (4) Becomes aware, or reasonably should have become aware, by any means other than as described in (3) above, that the "personal and advertising injury" offense had been committed or had begun to be committed; or
- (5) Becomes aware, or reasonably should have become aware, of a condition from which "personal and advertising injury" is substantially certain to occur.

r. War

"Personal and advertising injury", however caused, arising, directly or indirectly, out of:

- (1) War, including undeclared or civil war;
- (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- (3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

s. Distribution of Material in Violation of Statutes

"Personal and advertising injury" arising directly or indirectly out of any action or omission that violates or is alleged to violate:

- a. The Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law; or
- b. The CAN-SPAM Act of 2003, including any amendment of or addition to such law; or
- c. Any statute, ordinance or regulation, other than the TCPA or CAN-SPAM Act of 2003, that prohibits or limits the sending, transmitting, communicating or distribution of material or information.

COVERAGE C. MEDICAL PAYMENTS

1. Insuring Agreement

- a. We will pay medical expenses as described below for "bodily injury" caused by an accident:

- (1) On premises you own or rent;
- (2) On ways next to premises you own or rent; or
- (3) Because of your operations;

provided that:

- (1) The accident takes place in the "coverage territory" and during the policy period;
- (2) The expenses are incurred and reported to us within three years of the date of the accident; and
- (3) The injured person submits to examination, at our expense, by physicians of our choice as often as we reasonably require.

- b. We will make these payments regardless of fault. These payments will not exceed the applicable limit of insurance. We will pay reasonable expenses for:

- (1) First aid administered at the time of an accident;
- (2) Necessary medical, surgical, x-ray and dental services, including prosthetic devices; and
- (3) Necessary ambulance, hospital, professional nursing and funeral services.

2. Exclusions

We will not pay expenses for "bodily injury":

a. Any Insured

To any insured, except "volunteer workers".

b. Hired Person

To a person hired to do work for or on behalf of any insured or a tenant of any insured.

c. Injury on Normally Occupied Premises

To a person injured on that part of premises you own or rent that the person normally occupies.

d. Workers' Compensation and Similar Laws

To a person, whether or not an "employee" of any insured, if benefits for the "bodily injury" are payable or must be provided under a workers' compensation or disability benefits law or a similar law.

e. Athletic Activities

To any person injured while officiating, coaching, practicing for, instructing or participating in any physical exercises or games, sports, or athletic contests or exhibitions of an athletic or sports nature.

f. Products-Completed Operations Hazard

Included within the "products-completed operations hazard".

g. Coverage A Exclusions

Excluded under **COVERAGE A, BODILY INJURY AND PROPERTY DAMAGE LIABILITY**.

SUPPLEMENTARY PAYMENTS - COVERAGES A AND B

We will pay, with respect to any claim we investigate or settle, or any "suit" against an insured we defend:

1. All expenses we incur.
2. Up to \$250 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.
3. The cost of bonds to release attachments, but only for bond amounts within the applicable limit of insurance. We do not have to furnish these bonds.
4. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", in-

cluding actual loss of earnings up to \$250 a day because of time off from work.

5. All costs taxed against the insured in the "suit".
6. Prejudgment interest awarded against the insured on that part of the judgment we become obligated to pay and which falls within the applicable limit of insurance. If we make an offer to pay the applicable limit of insurance, we will not pay any prejudgment interest based on that period of time after the offer.
7. All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable limit of insurance.

These payments will not reduce the limits of insurance.

SECTION II - WHO IS AN INSURED

1. If you are designated in the Declarations as:

- a. An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.
- b. A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.
- c. A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.
- d. An organization other than a partnership, joint venture or limited liability company, you are an insured. Your "executive officers" and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.
- e. A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.

2. Each of the following is also an insured:

- a. Your "volunteer workers" only while performing duties related to the conduct of your business, or your "employees", other than either your "executive officers" (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by

you or while performing duties related to the conduct of your business. However, none of these "employees" or "volunteer workers" are insureds for:

(1) "Bodily injury" or "personal and advertising injury":

- (a) To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), to a co-"employee" while in the course of his or her employment or performing duties related to the conduct of your business, or to your other "volunteer workers" while performing duties related to the conduct of your business;
- (b) To the spouse, child, parent, brother or sister of that co-"employee" or "volunteer worker" as a consequence of Paragraph (1)(a) above;
- (c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraphs (1)(a) or (b) above; or
- (d) Arising out of his or her providing or failing to provide professional health care services.

(2) "Property damage" to property:

- (a) Owned, occupied or used by; or
- (b) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by,

you, any of your "employees", "volunteer workers", any partner or member (if you are a partnership or joint venture), or any member (if you are a limited liability company).

- b. Any person (other than your "employee" or "volunteer worker"), or any organization while acting as your real estate manager.
- c. Any person or organization having proper temporary custody of your property if you die, but only:
 - (1) With respect to liability arising out of the maintenance or use of that property; and
 - (2) Until your legal representative has been appointed.

- d. 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 Coverage Part.

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. Insurance under this provision is afforded only until the 90th day after you acquire or form the organization or the end of the policy period, whichever is earlier;
- b. **COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY** does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and
- c. **COVERAGE B. PERSONAL AND ADVERTISING INJURY LIABILITY** does not apply to "personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.

No person or organization is an insured with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations.

SECTION III - LIMITS OF INSURANCE

1. The Limits of Insurance shown in the Declarations and the rules below fix the most we will pay regardless of the number of:

- a. Insureds;
- b. Claims made or "suits" brought; or
- c. Persons or organizations making claims or bringing "suits".

2. a. The General Aggregate Limit is the most we will pay for the sum of:

- (1) Medical expenses under **COVERAGE C. MEDICAL PAYMENTS**;
- (2) Damages under **COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY**, except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard"; and
- (3) Damages under **COVERAGE B. PERSONAL AND ADVERTISING INJURY LIABILITY**.

This General Aggregate Limit will not apply if either the Location General Aggregate

gate Limit of Insurance, Paragraph **2.b.**, or the Construction Project General Aggregate Limit of Insurance, Paragraph **2.c.** applies.

- b. A separate Location General Aggregate Limit of Insurance, equal to the amount of the General Aggregate Limit shown in the Declarations, shall apply to each location owned by, or rented or leased to you and is the most we will pay for the sum of:

(1) Damages under **COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY**, except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard"; and

(2) Medical expenses under **COVERAGE C. MEDICAL PAYMENTS**,

which can be attributed to operations at only a single location owned by, or rented or leased to you.

- c. A separate Construction Project General Aggregate Limit of Insurance, equal to the amount of the General Aggregate Limit shown in the Declarations, shall apply to each construction project and is the most we will pay for the sum of:

(1) Damages under **COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY**, except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard"; and

(2) Medical expenses under **COVERAGE C. MEDICAL PAYMENTS**;

which can be attributed only to ongoing operations and only at a single construction project.

- d. Only for the purpose of determining which General Aggregate Limit of Insurance, **2.a.**, **2.b.**, or **2.c.**, applies:

(1) Location 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.

(2) Construction project means a location you do not own, rent or lease where ongoing improvements, alterations, installation, demolition or maintenance work is performed by you or on your behalf. All connected ongoing improvements, alterations, installation, demolition or maintenance work performed by you or on

your behalf at the same location for the same persons or organizations, no matter how often or under how many different contracts, will be deemed to be a single construction project.

3. The Products-Completed Operations Aggregate Limit is the most we will pay under **COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY** for damages because of "bodily injury" and "property damage" included in the "products-completed operations hazard".

4. Subject to **2.a.** above, the Personal and Advertising Injury Limit is the most we will pay under **COVERAGE B. PERSONAL AND ADVERTISING INJURY LIABILITY** for the sum of all damages because of all "personal and advertising injury" sustained by any one person or organization.

5. Subject to **2.** or **3.** above, whichever applies, the Each Occurrence Limit is the most we will pay for the sum of:

a. Damages under **COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY**; and

b. Medical expenses under **COVERAGE C. MEDICAL PAYMENTS**;

because of all "bodily injury" and "property damage" arising out of any one "occurrence".

6. Subject to **5.** above, the Damage to Premises Rented to You Limit is the most we will pay under **COVERAGE 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 or explosion, while rented to you or temporarily occupied by you with permission of the owner.

7. Subject to **5.** above, the Medical Expense Limit is the most we will pay under **COVERAGE C. MEDICAL PAYMENTS** for all medical expenses because of "bodily injury" sustained by any one person.

The Limits of Insurance of this Coverage Part apply separately to each "coverage term".

SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS

1. Bankruptcy

Bankruptcy or insolvency of the insured or of the insured's estate will not relieve us of our obligations under this Coverage Part.

2. Duties in the Event of Occurrence, Offense, Claim or Suit

- a. You must see to it that we are notified as soon as practicable of an "occurrence" or

a "personal and advertising injury" offense which may result in a claim. To the extent possible, notice should include:

- (1) How, when and where the "occurrence" or offense took place;
- (2) The names and addresses of any injured persons and witnesses; and
- (3) The nature and location of any injury or damage arising out of the "occurrence" or offense.

b. If a claim is made or "suit" is brought against any insured, you must:

- (1) Immediately record the specifics of the claim 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 injury or damage to which this insurance may also apply.

d. No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without our consent.

3. Legal Action Against Us

No person or organization has a right under this Coverage Part:

- a. To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or
- b. To sue us on this Coverage Part unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured; but we will not be liable for damages that are not payable

under the terms of this Coverage Part or that are in excess of the applicable limit of insurance. An agreed settlement means a settlement and release of liability signed by us, the insured and the claimant or the claimant's legal representative.

4. Liberalization

If, within 60 days prior to the beginning of this Coverage Part or during the policy period, we make any changes to any forms or endorsements of this Coverage Part for which there is currently no separate premium charge, and that change provides more coverage than this Coverage Part, the change will automatically apply to this Coverage Part as of the latter of:

- a. The date we implemented the change in your state; or
- b. The date this Coverage Part became effective; and

will be considered as included until the end of the current policy period. We will make no additional premium charge for this additional coverage during the interim.

5. Other Insurance

If other valid and collectible insurance is available to the insured for a loss we cover under **COVERAGE A, BODILY INJURY AND PROPERTY DAMAGE LIABILITY** or **COVERAGE B, PERSONAL AND ADVERTISING INJURY LIABILITY** of this Coverage Part, 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

This insurance is excess over:

- (1) Any of the other insurance, whether primary, excess, contingent or on any other basis:
 - (a) That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar insurance for "your work";
 - (b) That is Fire or Explosion insurance for premises rented to you or temporarily occupied by you with permission of the owner;
 - (c) That is insurance purchased by you to cover your liability as a tenant for "property damage" to

premises rented to you or temporarily occupied by you with permission of the owner; or

- (d) If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to **SECTION I - COVERAGES, COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY, 2. Exclusions, g. Aircraft, Auto or Watercraft.**
- (2) Any other primary insurance available to the insured covering liability for damages arising out of the premises or operations, or the products and completed operations, for which the insured has been added as an additional insured by attachment of an endorsement.
- (3) Any other insurance:
 - (a) Whether primary, excess, contingent or on any other basis, except when such insurance is written specifically to be excess over this insurance; and
 - (b) That is a consolidated (wrap-up) insurance program which has been provided by the prime contractor/project manager or owner of the consolidated project in which you are involved.

When this insurance is excess, we will have no duty under **COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY** or **COVERAGE B. PERSONAL AND ADVERTISING INJURY LIABILITY** 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 will 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 the 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 in the Declarations of this Coverage Part.

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 limit of insurance to the total applicable limits of insurance of all insurers.

6. Premium Audit

- a. We will compute all premiums for this Coverage Part in accordance with our rules and rates.
- b. Premium shown in this Coverage Part as advance premium is a deposit premium only. At the close of each audit period we will compute the earned premium for that period and send notice to the first Named Insured. The due date for audit and retrospective premiums is the date shown as the due date on the bill. If:
 - (1) The earned premium is less than the deposit premium, we will return the excess to the first Named Insured; or
 - (2) The earned premium is greater than the deposit premium, the difference will be due and payable to us by the first Named Insured upon notice from us.
- c. The first Named Insured must keep records of the information we need for premium computation, and send us copies at such times as we may request.

7. Representations

By accepting this Coverage Part, you agree:

- a. The statements in the Declarations are accurate and complete;
- b. Those statements are based upon representations you made to us; and
- c. We have issued this Coverage Part in reliance upon your representations.

8. Separation of Insureds

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this Coverage Part to the first Named Insured, this insurance applies:

- a. As if each Named Insured were the only Named Insured; and
- b. Separately to each insured against whom claim is made or "suit" is brought.

9. Transfer of Rights of Recovery Against Others to Us

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.

10. Two or More Coverage Forms or Policies Issued by Us

If this Coverage Part and any other Coverage Form, Coverage Part or policy issued to you by us or any company affiliated with us apply to the same "occurrence" or "personal and advertising injury" offense, the aggregate maximum limit of insurance under all the Coverage Forms, Coverage Parts or policies shall not exceed the highest applicable limit of insurance under any one Coverage Form, Coverage Part or policy. This condition does not apply to any Coverage Form, Coverage Part or policy issued by us or an affiliated company specifically to apply as excess insurance over this Coverage Part.

11. When We Do Not Renew

If we decide not to renew this Coverage Part, we will mail or deliver to the first Named Insured shown in the Declarations written notice of the nonrenewal not less than 30 days before the expiration date.

If notice is mailed, proof of mailing will be sufficient proof of notice.

SECTION V - DEFINITIONS

1. "Advertisement" means a notice that is broadcast, telecast or published to the general public or specific market segments about your goods, products or services for the purpose of attracting customers or supporters. "Advertisement" includes a publicity article. For purposes of this definition:

- a. Notices that are published include material placed on the Internet or on similar electronic means of communication; and
- b. Regarding web-sites, only that part of a web-site that is about your goods, products or services for the purposes of attracting customers or supporters is considered an "advertisement".

2. "Authorized representative" means:

- a. If you are designated in the Declarations as:

- (1) An individual, you and your spouse are "authorized representatives".
- (2) A partnership or joint venture, your members, your partners, and their spouses are "authorized representatives".
- (3) A limited liability company, your members and your managers are "authorized representatives".
- (4) An organization other than a partnership, joint venture or limited liability company, your "executive officers" and directors are "authorized representatives". Provided you are not a publicly traded organization, your stockholders are also "authorized representatives".
- (5) A trust, your trustees are "authorized representatives".

- b. Your "employees":

- (1) Assigned to manage your insurance program; or
- (2) Responsible for giving or receiving notice of an "occurrence", "personal and advertising injury" offense, claim or "suit";

are also "authorized representatives".

3. "Auto" means:

- a. A land motor vehicle, trailer or semitrailer designed for travel on public roads, including any attached machinery or equipment; or
- b. Any other land vehicle that is subject to a compulsory or financial responsibility law or other motor vehicle insurance law in the state where it is licensed or principally garaged.

However, "auto" does not include "mobile equipment".

4. "Bodily injury" means bodily injury, sickness or disease sustained by a person, including death resulting from any of these at any time.

5. "Coverage term" means the following individual increment, or if a multi-year policy period, increments, of time, which comprise the policy period of this Coverage Part:

- a. The year commencing on the Effective Date of this Coverage Part at 12:01 AM standard time at your mailing address shown in the Declarations, and if a multi-year policy period, each consecutive annual period thereafter, or portion thereof if any period is for a period of less than 12 months, constitute individual "coverage terms". The last "coverage term" ends at

- 12:00 AM standard time at your mailing address shown in the Declarations on the earlier of:
- (1) The day the policy period shown in the Declarations ends; or
 - (2) The day the policy to which this Coverage Part is attached is terminated or cancelled.
- b. However, if after the issuance of this Coverage Part, any "coverage term" is extended for an additional period of less than 12 months, that additional period of time will be deemed to be part of the last preceding "coverage term".
6. "Coverage territory" means:
- a. The United States of America (including its territories and possessions), Puerto Rico and Canada;
 - b. International waters or airspace, but only if the injury or damage occurs in the course of travel or transportation between any places included in a. above; or
 - c. All other parts of the world if the injury or damage arises out of:
 - (1) Goods or products made or sold by you in the territory described in a. above;
 - (2) The activities of a person whose home is in the territory described in a. above, but is away for a short time on your business; or
 - (3) "Personal and advertising injury" offenses that take place through the Internet or similar electronic means of communication,

provided the insured's responsibility to pay damages is determined in a "suit" on the merits, in the territory described in a. above or in a settlement to which we agree.
7. "Electronic data" means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.
8. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".
9. "Executive officer" means a person holding any of the officer positions created by your charter, constitution, by-laws or any other similar governing document.
10. "Hostile fire" means one which becomes uncontrollable or breaks out from where it was intended to be.
11. "Impaired property" means tangible property, other than "your product" or "your work", that cannot be used or is less useful because:
- a. It incorporates "your product" or "your work" that is known or thought to be defective, deficient, inadequate or dangerous; or
 - b. You have failed to fulfill the terms of a contract or agreement;
- if such property can be restored to use by:
- a. The repair, replacement, adjustment or removal of "your product" or "your work"; or
 - b. Your fulfilling the terms of the contract or agreement.
12. "Insured contract" means:
- 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 "property damage" by fire or explosion to premises while rented to you or temporarily occupied by you with permission of the owner is not an "insured contract";
 - b. A sidetrack agreement;
 - c. Any easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;
 - d. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
 - e. An elevator maintenance agreement;
 - f. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for "bodily injury", "property damage" or "personal and advertising injury" to a third person or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.
- Paragraph f. does not include that part of any contract or agreement:
- (1) That indemnifies a railroad for "bodily injury", "property damage" or "personal and advertising injury" arising out of construction or demolition operations, within 50 feet of any rail-

road property and affecting any railroad bridge or trestle, tracks, roadbeds, tunnel, underpass or crossing;

- (2) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:

(a) Preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or

(b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage;

- (3) Under which the insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in Paragraph (2) above and supervisory, inspection, architectural or engineering activities;

- (4) That indemnifies an advertising, public relations or media consulting firm for "personal and advertising injury" arising out of the planning, execution or failure to execute marketing communications programs. Marketing communications programs include but are not limited to comprehensive marketing campaigns; consumer, trade and corporate advertising for all media; media planning, buying, monitoring and analysis; direct mail; promotion; sales materials; design; presentations; point-of-sale materials; market research; public relations and new product development;

- (5) Under which the insured, if an advertising, public relations or media consulting firm, assumes liability for "personal and advertising injury" arising out of the insured's rendering or failure to render professional services, including those services listed in Paragraph (4), above;

- (6) That indemnifies a web-site designer or content provider, or Internet search, access, content or service provider for injury or damage arising out of the planning, execution or failure to execute Internet services. Internet services include but are not limited to design, production, distribution, maintenance and administration of web-sites and web-banners; hosting web-sites; registering domain names; registering with search

engines; marketing analysis; and providing access to the Internet or other similar networks; or

- (7) Under which the insured, if a web-site designer or content provider, or Internet search, access, content or service provider, assumes liability for injury or damage arising out of the insured's rendering or failure to render Internet services, including those listed in Paragraph (6), above.

13. "Leased worker" means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm, to perform duties related to the conduct of your business. "Leased worker" includes supervisors furnished to you by the labor leasing firm. "Leased worker" does not include a "temporary worker".

14. "Loading or unloading" means the handling of property:

- a. After it is moved from the place where it is accepted for movement into or onto an aircraft, watercraft or "auto";
- b. While it is in or on an aircraft, watercraft or "auto"; or
- c. While it is being moved from an aircraft, watercraft or "auto" to the place where it is finally delivered;

but "loading or unloading" does not include the movement of property by means of a mechanical device, other than a hand truck, that is not attached to the aircraft, watercraft or "auto".

15. "Mobile equipment" means any of the following types of land vehicles, including any attached machinery or equipment:

- a. Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;
- b. Vehicles maintained for use solely on or next to premises you own or rent;
- c. Vehicles that travel on crawler treads;
- d. Vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:

(1) Power cranes, shovels, loaders, diggers or drills; or

(2) Road construction or resurfacing equipment such as graders, scrapers or rollers;

- e. Vehicles not described in a., b., c. or d. above that are not self-propelled and are maintained primarily to provide mobility to

permanently attached equipment of the following types:

- (1) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or
- (2) Cherry pickers and similar devices used to raise or lower workers;
- f. Vehicles not described in **a., b., c. or d.** above maintained primarily for purposes other than the transportation of persons or cargo.

However, self-propelled vehicles with the following types of permanently attached equipment are not "mobile equipment" but will be considered "autos":

- (1) Equipment designed primarily for:
 - (a) Snow removal;
 - (b) Road maintenance, but not construction or resurfacing; or
 - (c) Street cleaning;
- (2) Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and
- (3) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.

However, "mobile equipment" does not include any land vehicles that are subject to a compulsory or financial responsibility law or other motor vehicle insurance law in the state where it is licensed or principally garaged. Land vehicles subject to a compulsory or financial responsibility law or other motor vehicle insurance law are considered "autos".

- 16. "Occurrence" means an accident, including continuous or repeated exposure to substantially the same general harmful conditions.
- 17. "Personal and advertising injury" means injury, including consequential "bodily injury", arising out of one or more of the following offenses:
 - a. False arrest, detention or imprisonment;
 - b. Malicious prosecution;
 - c. The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person occupies, committed by or on behalf of its owner, landlord or lessor;

- d. Oral or written publication, in any manner, of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;
- e. Oral or written publication, in any manner, of material that violates a person's right of privacy;
- f. The use of another's advertising idea in your "advertisement"; or
- g. Infringing upon another's copyright, trade dress or slogan in your "advertisement".

18. "Pollutant" means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals, petroleum, petroleum products and petroleum by-products, and waste. Waste includes materials to be recycled, reconditioned or reclaimed. "Pollutants" include but are not limited to substances which are generally recognized in industry or government to be harmful or toxic to persons, property or the environment regardless of whether the injury or damage is caused directly or indirectly by the "pollutants" and whether:

- a. The insured is regularly or otherwise engaged in activities which taint or degrade the environment; or
- b. The insured uses, generates or produces the "pollutant".

19. "Products-completed operations hazard":

- a. Includes all "bodily injury" and "property damage" occurring away from premises you own or rent and arising out of "your product" or "your work" except:
 - (1) Products that are still in your physical possession; or
 - (2) Work that has not yet been completed or abandoned. However, "your work" will be deemed completed at the earliest of the following times:
 - (a) When all of the work called for in your contract has been completed; or
 - (b) When all of the work to be done at the job site has been completed if your contract calls for work at more than one job site; or
 - (c) When that part of the work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.

Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.

b. Does not include "bodily injury" or "property damage" arising out of:

- (1) The transportation of property, unless the injury or damage arises out of a condition in or on a vehicle not owned or operated by you, and that condition was created by the "loading or unloading" of that vehicle by any insured;
- (2) The existence of tools, uninstalled equipment or abandoned or unused materials; or
- (3) Products or operations for which the classification, listed in the Declarations or in a schedule, states that products-completed operations are included.

20. "Property damage" means:

- a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or
- b. Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of the "occurrence" that caused it.

For the purposes of this insurance, "electronic data" is not tangible property.

21. "Suit" means a civil proceeding in which money damages because of "bodily injury", "property damage" or "personal and advertising injury" 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;
- b. Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent; or
- c. An appeal of a civil proceeding.

22. "Temporary worker" means a person who is furnished to you to substitute for a permanent "employee" on leave or to meet seasonal or short-term workload conditions.

23. "Volunteer worker" means a person who is not your "employee", and who donates his or

her work and acts at the direction of and within the scope of duties determined by you, and is not paid a fee, salary or other compensation by you or anyone else for their work performed for you.

24. "Workplace" means that place and during such hours to which the "employee" sustaining "bodily injury" was assigned by you, or any other person or entity acting on your behalf, to work on the date of "occurrence".

25. "Your product":

a. Means:

- (1) Any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by:

- (a) You;
- (b) Others trading under your name; or
- (c) A person or organization whose business or assets you have acquired; and

- (2) Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.

b. Includes:

- (1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your product"; and
- (2) The providing of or failure to provide warnings or instructions.

c. Does not include vending machines or other property rented to or located for the use of others but not sold.

26. "Your work":

a. Means:

- (1) Work or operations performed by you or on your behalf; and
- (2) Materials, parts or equipment furnished in connection with such work or operations.

b. Includes:

- (1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your work"; and
- (2) The providing of or failure to provide warnings or instructions.

NUCLEAR ENERGY LIABILITY EXCLUSION

(Broad Form)

1. The insurance does not apply:

A. Under any Liability Coverage, to "bodily injury" or "property damage":

(1) With respect to which an insured under this Coverage Part is also an insured under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters, Nuclear Insurance Association of Canada, or any of their successors, or would be an insured under any such policy but for its termination upon exhaustion of its limit of liability; or

(2) Resulting from the "hazardous properties" of "nuclear material" and with respect to which (a) any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof, or (b) the insured is, or had this Coverage Part not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization.

B. Under any Medical Payments coverage, to expenses incurred with respect to "bodily injury" resulting from the "hazardous properties" of "nuclear material" and arising out of the operation of a "nuclear facility" by any person or organization.

C. Under any Liability Coverage, to "bodily injury" or "property damage" resulting from the "hazardous properties" of "nuclear material", if:

(1) The "nuclear material" (a) is at any "nuclear facility" owned by, or operated by or on behalf of, an insured, or (b) has been discharged or dispersed therefrom;

(2) The "nuclear material" is contained in "spent fuel" or "waste" at any time possessed, handled, used, processed, stored, transported or disposed of, by or on behalf of an insured; or

(3) The "bodily injury" or "property damage" arises out of the furnishing by

an insured of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any "nuclear facility", but if such facility is located within the United States of America, its territories or possessions or Canada, this Exclusion (3) applies only to "property damage" to such "nuclear facility" and any property thereat.

2. As used in this exclusion:

"Hazardous properties" includes radioactive, toxic or explosive properties.

"Nuclear material" means "source material", "special nuclear material" or "by-product material".

"Source material", "special nuclear material", and "by-product material" have the meanings given them in the Atomic Energy Act of 1954 or in any law amendatory thereof.

"Spent fuel" means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a "nuclear reactor".

"Waste" means any waste material (a) containing "by-product material" other than the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its "source material" content, and (b) resulting from the operation by any person or organization of any "nuclear facility" included under the first two paragraphs of the definition of "nuclear facility".

"Nuclear facility" means:

A. Any "nuclear reactor";

B. Any equipment or device designed or used for (1) separating the isotopes of uranium or plutonium, (2) processing or utilizing "spent fuel", or (3) handling, processing or packaging "waste";

C. Any equipment or device used for the processing, fabricating or alloying of "special nuclear material" if at any time the total amount of such material in the custody of the insured at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235;

D. Any structure, basin, excavation, premises or place prepared or used for the storage or disposal of "waste";

and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations.

"Nuclear reactor" means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material.

"Property damage" includes all forms of radioactive contamination of property.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED BY CONTRACT

This endorsement modifies insurance provided under the following:

**BUSINESS AUTO COVERAGE FORM
GARAGE COVERAGE FORM**

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Endorsement Effective: 6/1/2020	Policy Number: EBA 0087604
Named Insured: See attached certificate	
Countersigned by: WW Burke	

(Authorized Representative)

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

SECTION II - LIABILITY COVERAGE, A. Coverage, I. Who is an Insured is amended to include as an insured any person or organization with which you have agreed in a valid written contract to provide insurance as is afforded by this policy.

This provision is limited to the scope of the valid written contract.

This provision does not apply unless the valid written contract has been executed prior to the "bodily injury" or "property damage".

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BLANKET WAIVER OF SUBROGATION - AUTO

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Endorsement Effective: 6/1/2020	Policy Number: EBA0087604
Named Insured: See Attached Certificate	
Countersigned by: WW Burke	

(Authorized Representative)

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

1. Blanket Waiver of Subrogation

SECTION IV - BUSINESS AUTO CONDITIONS, A. Loss Conditions, 5. Transfer of Rights of Recovery Against Others to Us 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 "bodily injury" or "property damage" arising out of the operation of a covered "auto" when you have assumed liability for such "bodily injury" or "property damage" under an "insured contract", provided the "bodily injury" or "property damage" occurs subsequent to the execution of the "insured contract".

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PRIMARY AND NONCONTRIBUTORY INSURANCE

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Endorsement Effective: 6/1/2020	Policy Number: EBA0087604
Named Insured: See Certificate	
Countersigned by: WW Burke	

(Authorized Representative)

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

1. Noncontributory Insurance

SECTION IV - BUSINESS AUTO CONDITIONS, B. General Conditions, 5. Other Insurance is replaced by the following:

- c. Regardless of the provisions of Paragraph a, above, this Coverage Form's Liability Coverage is primary and we will not seek contribution from any other insurance for any liability assumed under an "insured contract" that requires liability to be assumed on a primary noncontributory basis.



WAIVER OF SUBROGATION

Insured Name: HEI INC

Insured Policy Number: WC100-0005961-2020A

Builders Trust of New Mexico waives any right of recovery of subrogation against the certificate holder named on this certificate of insurance, but only to the extent that the employers to whom we provide coverage performs work under a written contract with the certificate holder that requires this waiver.

Name of Person	Name of Organization
	Blanket Waiver of Subrogation

Date: 12/18/2019

Countersigned by Randy L. Alkin

Agency Number: 6 – 8

Agency Name: Burke Insurance Group LLC

(505) 345-3477 1-800-640-3369 FAX (505) 344-7245
5931 OFFICE BOULEVARD, NE SUITE 3 ALBUQUERQUE, NM 87109 - P.O. BOX 91330
ALBUQUERQUE, NM 87109

www.builderstrust.com

CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2020-__

INTRODUCED BY:

A RESOLUTION

CREATING A COMMUNITY HEALTH AND SAFETY TASK FORCE.

WHEREAS, the City of Santa Fe (City) recognizes the national movement that is taking place across the country calling for communities to assess, improve and reimagine ways in which social justice, law enforcement and community health and safety must come together on behalf of all people and;

WHEREAS, the City's Police Department, Fire Department, Community Services Department, and Emergency Management Department all contribute to the City's mission of community health and safety and;

WHEREAS, the City has developed certain community programs, such as "MIHO," "THRIVE," and "CONNECT" that are examples of innovative ways the City can improve the lives of its community through collaboration, cross-departmental community service, and more appropriate types of responsiveness to different kinds of calls for help or assistance and at the same time represent important and useful building blocks for additional innovative approaches and;

1 **WHEREAS**, the City’s residents and leadership are in broad agreement about the need
2 for thoughtful and inclusive self-examination of the ways in which traditional approaches toward
3 public safety have been provided, acknowledging the call for racial and social justice, recognizing
4 the historical injustices that have too often led to violence and inequities in communities of color ;
5 and;

6 **WHEREAS**, the City of Santa Fe seeks to continuously improve its provision of services
7 and evolve its practices to best ensure equitable treatment of community members and a
8 community-health driven practice of public safety.

9 **NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE**
10 **CITY OF SANTA FE** that a Community Health and Safety (“CHS”) Task Force is hereby
11 created.

12 **Section 1. NAME:** The task force shall be called the Community Health and Safety
13 Task Fo

14 **Section 2. PURPOSE:** the purpose of the CHS Task Force is to examine ways in
15 which the City’s community health and safety services can work together as complementary parts
16 of an overall strategy for the benefit of all of the people of Santa Fe.

17 **Section 3. DUTIES AND RESPONSIBILITIES:** The CHS Task Force shall
18 accomplish the following tasks:

19 A. Assess SFPD policies, procedures and practices, with attention to data and
20 written documents, including SFPD’s use of force policies, professional standards and ethics, the
21 training that officers receive during and after attending the state’s Police Academy, equipment
22 and weapons, staffing and pay levels, workloads and calls for service, 9-1-1 call handling and
23 dispatch services, among other matters;

24 B. Assess ways the SFPD can connect with all facets of the community to provide
25 safety and offer services and engender trust and mutual respect;

1 C. Assess the ways the SFFD, Emergency Management, Community Services, and
2 the SFPD can provide mutual support in achieving their shared missions to keep the people of
3 Santa Fe healthy and safe;

4 D. Examine City programs, such as MIHO, THRIVE, CONNECT and others to find
5 existing initiatives that can be building blocks for future cross-department collaboration;

6 E. Explore types of calls for service that could be better handled or responded to by
7 non-SFPD personnel;

8 F. Provide an opportunity for a broad cross-section of the Santa Fe community to
9 give advice and offer their experiences and ideas that will help improve the quality and
10 consistency of community health and safety; and

11 G. Examine such other matters as the co-chairs and members of the Task Force may
12 deem relevant to their mission or related to the general purpose of the Task Force.

13 **Section 4. MEMBERSHIP; OFFICERS; TERMS:**

14 A. *Membership.* The CHS Task Force membership shall consist of eleven members
15 appointed by the mayor with the approval of the Governing Body. Two of the members shall be
16 city councilors and nine shall be members of the general public with experience or knowledge in
17 community health and/or public safety who reside within the municipal boundaries of the City of
18 Santa Fe; four of the general public members shall be selected from each of the City districts,
19 with five members serving in an at-large capacity.

20 B. *Officers.* The appointed city councilors shall serve as co-chairs of the Task Force.

21 C. *Terms.* Members shall serve until they complete their duties and responsibilities
22 as set forth above.

23 D. *Compensation.* Members shall not receive compensation for their service on the
24 CHS Task Force.

25 **Section 5. VACANCIES:** Vacancies on the CHS Task Force shall be filled in the

1 same manner as initial appointments.

2 **Section 6. MEETINGS; DURATION:** The CHS Task Force shall conduct a series
3 of public conversations and, at least once per month, shall conduct public meetings to discuss and
4 develop recommendations related to the duties and responsibilities described above. Unless
5 further extended by the Governing Body, the CHS Task Force shall conclude no more than three
6 (3) months from the date the members are appointed.

7 **Section 7. STAFF LIAISON:** The City Manager shall appoint an appropriate staff
8 member to serve as the liaison to the Task Force.

9 PASSED, APPROVED, and ADOPTED this _____ day of _____, 2020.

10
11
12 _____
13 ALAN WEBBER, MAYOR

14 ATTEST:

15
16 _____
17 YOLANDA Y. VIGIL, CITY CLERK

18 APPROVED AS TO FORM:

19 
20 _____
21 ERIN K. McSHERRY, CITY ATTORNEY
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Legislation/2020/Resolutions/Community Health and Safety Task Force

Community Health and Safety Task Force

Final Audit Report

2020-07-24

Created:	2020-07-24
By:	Jeff Norris (jtnorris@ci.santa-fe.nm.us)
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"Community Health and Safety Task Force" History

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Adobe Sign

City of Santa Fe Fiscal Impact Report (FIR)

This Fiscal Impact Report (FIR) shall be completed for each proposed bill or resolution as to its direct impact upon the City's operating budget and is intended for use by any of the standing committees of and the Governing Body of the City of Santa Fe. Bills or resolutions with no fiscal impact still require a completed FIR. Bills or resolutions with a fiscal impact must be reviewed by the Finance Committee. Bills or resolutions without a fiscal impact generally do not require review by the Finance Committee unless the subject of the bill or resolution is financial in nature.

Section A. General Information

(Check) Bill: _____ Resolution: x

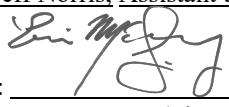
(A single FIR may be used for related bills and/or resolutions)

Short Title(s): Creating a Community Health and Safety Task Force

Sponsor(s): Councilor Renee Villareal, Councilor Chris Rivera

Reviewing Department(s): Legislative Services

Persons Completing FIR: Jeff Norris, Assistant to the Legislative Liaison Date: 7/22/20 Phone: 955-6692

Reviewed by City Attorney:  Date: 7/24/20
(Signature)

Reviewed by Finance Director: _____ Date: _____
(Signature)

Section B. Summary

Briefly explain the purpose and major provisions of the bill/resolution:

purpose of the Community Health and Safety Task Force is to examine and make recommendations regarding ways in which the city's community health and safety services can work together as complementary parts of an overall strategy for the benefit of all people of Santa Fe.

Section C. Fiscal Impact

Note: Financial information on this FIR does not directly translate into a City of Santa Fe budget increase. For a budget increase, the following are required:

- a. The item must be on the agenda at the Finance Committee and City Council as a "Request for Approval of a City of Santa Fe Budget Increase" with a definitive funding source (could be same item and same time as bill/resolution)
- b. Detailed budget information must be attached as to fund, business units, and line item, amounts, and explanations (similar to annual requests for budget)
- c. Detailed personnel forms must be attached as to range, salary, and benefit allocation and signed by Human Resource Department for each new position(s) requested (prorated for period to be employed by fiscal year)*

1. Projected Expenditures:

- a. Indicate Fiscal Year(s) affected – usually current fiscal year and following fiscal year (i.e., FY 03/04 and FY 04/05)

- b. Indicate: "A" if current budget and level of staffing will absorb the costs
"N" if new, additional, or increased budget or staffing will be required

Finance Director: _____

- c. Indicate: “R” – if recurring annual costs
 “NR” if one-time, non-recurring costs, such as start-up, contract or equipment costs
- d. Attach additional projection schedules if two years does not adequately project revenue and cost patterns
- e. Costs may be netted or shown as an offset if some cost savings are projected (explain in Section 3 Narrative)

x Check here if no fiscal impact

Column #:	1	2	3	4	5	6	7	8
	Expenditure Classification	FY _____	"A" Costs Absorbed or "N" New Budget Required	"R" Costs Recurring or "NR" Non-recurring	FY _____	"A" Costs Absorbed or "N" New Budget Required	"R" Costs – Recurring or "NR" Non-recurring	Fund Affected

Personnel* \$ _____ _____ _____ \$ _____ _____ _____ _____

Fringe** \$ _____ _____ _____ \$ _____ _____ _____ _____

Capital Outlay \$ _____ _____ _____ \$ _____ _____ _____ _____

Land/ Building \$ _____ _____ _____ \$ _____ _____ _____ _____

Professional Services \$ _____ _____ _____ \$ _____ _____ _____ _____

All Other Operating Costs \$ _____ _____ _____ \$ _____ _____ _____ _____

Total: \$ _____ _____ _____ \$ _____ _____ _____ _____

* Any indication that additional staffing would be required must be reviewed and approved in advance by the City Manager by attached memo before release of FIR to committees. **For fringe benefits contact the Finance Dept.

2. Revenue Sources:

a. To indicate new revenues and/or

b. Required for costs for which new expenditure budget is proposed above in item 1.

Column #:	1	2	3	4	5	6
	Type of Revenue	FY _____	"R" Costs Recurring or "NR" Non-recurring	FY _____	"R" Costs – Recurring or "NR" Non-recurring	Fund Affected

_____ \$ _____ _____ \$ _____ _____ _____

_____ \$ _____ _____ \$ _____ _____ _____

_____ \$ _____ _____ \$ _____ _____ _____

Total: \$ _____ _____ \$ _____ _____ _____ _____

3. Expenditure/Revenue Narrative:

Explain revenue source(s). Include revenue calculations, grant(s) available, anticipated date of receipt of revenues/grants, etc. Explain expenditures, grant match(s), justify personnel increase(s), detail capital and operating costs, etc. (Attach supplemental page, if necessary.)

The Health and Safety Task Force is not expected to require any extra expense except for some additional staff time within allotted hours.

Section D. **General Narrative**

1. Conflicts: Does this proposed bill/resolution duplicate/conflict with/companion to/relate to any City code, approved ordinance or resolution, other adopted policies or proposed legislation? Include details of city adopted laws/ordinance/resolutions and dates. Summarize the relationships, conflicts or overlaps.

There are not conflicts with the resolution, but the recommendations resulting from the Task Force may include changing laws.

2. Consequences of Not Enacting This Bill/Resolution:

Are there consequences of not enacting this bill/resolution? If so, describe.

Without the resolution, the Task Force would not be created as a formal mechanism for providing policy recommendations to the City regarding public health and safety.

3. Technical Issues:

Are there incorrect citations of law, drafting errors or other problems? Are there any amendments that should be considered? Are there any other alternatives which should be considered? If so, describe.

None identified.

4. Community Impact:

Briefly describe the major positive or negative effects the Bill/Resolution might have on the community including, but not limited to, businesses, neighborhoods, families, children and youth, social service providers and other institutions such as schools, churches, etc.

The Resolution will create a forum for the community to participate in discussions regarding public health and safety as impacted by City government and the recommendations resulting from those discussions.

Community Health and Safety Task Force (FIR)

Final Audit Report

2020-07-24

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underscored material = new ~~[bracketed material]~~ = delete

CITY OF SANTA FE, NEW MEXICO

BILL NO. 2020-20

INTRODUCED BY:

AN ORDINANCE

**CREATING EFFICIENCIES, ENHANCING EFFECTIVENESS, AND ELIMINATING
SILOS BY REORGANIZING CERTAIN CITY DEPARTMENTS, ORGANIZING THE
ECONOMIC DEVELOPMENT DIVISION, AFFORDABLE HOUSING OFFICE, LAND
USE DEPARTMENT, TOURISM SANTA FE DEPARTMENT, RECREATION
DIVISION, AND THE ARTS AND CULTURE DEPARTMENT AS DIVISIONS OF A
COMMUNITY DEVELOPMENT DEPARTMENT; ORGANIZING THE COMMUNITY
SERVICES DEPARTMENT, POLICE DEPARTMENT, FIRE DEPARTMENT, AND
OFFICE OF EMERGENCY MANAGEMENT AS DIVISIONS OF A COMMUNITY
HEALTH & SAFETY DEPARTMENT; AND PLACING THE CONSTITUENT AND
COUNCIL RELATIONS DEPARTMENT INTO THE CITY CLERK'S OFFICE;
AMENDING SECTION 2.6-3; REPLACING SECTION 2-8 SFCC 1987 WITH A NEW
SECTION 2-8 SFCC 1987 THAT ESTABLISHES ALL CITY DEPARTMENTS;
REORGANIZING EXISTING SECTIONS 2-8, 2-14, 2-15, 2-19, AND 2-10 AS
SUBSECTIONS OF THE NEW SECTION 2-8; ESTABLISHING IN ORDINANCE THE
EXISITING INFORMATION TECHNOLOGY AND TELECOMMUNICATIONS
DEPARTMENT AND THE CONSTITUENT AND COUNCIL SERVICES
DEPARTMENT; AND REPEALING THE SECTIONS OF CHAPTER 2 THAT
ESTABLISH DEPARTMENTS THAT ARE EITHER BECOMING DIVISIONS OR NO
LONGER EXIST, SECTIONS 2-9, 2-10, 2-11, 2-12, 2-13, 2-16, 2-19, 2-21, AND 2-23 SFCC**

1 1987; AMENDING SECTION 2-22 SFCC 1987 TO PROVIDE CONTRACT INTERNAL
2 AUDIT FUNCTIONS; AND AMENDING SECTIONS 26-1.6 AND 26-3.5 REGARDING
3 THE OFFICE OF AFFORDABLE HOUSING.

4
5 BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SANTA FE:

6 Section 1. Section 2-6.3 SFCC 1987 (being Code 1953, § 2-60; Code 1973, § 2-
7 84; SFCC 1981, § 2-1-24, as amended) is hereby amended to read:

8 2-6.3 - Duties of the city clerk. The city clerk shall:

9 A. Keep in custody all minutes, ordinances and resolutions approved by the governing
10 body;

11 B. Attend all meetings of the governing body;

12 C. Record all proceedings, ordinances and resolutions of the governing body;

13 D. Upon request, furnish copies of municipal records. The city clerk may charge a
14 reasonable fee for the cost of furnishing copies of municipal records;

15 E. Administer the municipal election and perform other election duties required pursuant
16 to Articles 8 and 9, Chapter 3 NMSA 1978;

17 F. Have custody of, and safely keep, all official records and documents, such as contracts,
18 agreements, deeds, of the city, the originals of which are to stay in the office, except upon
19 request of the city attorney for purposes of litigation;

20 G. Administer and process the filing and release of liens for the city as prescribed by
21 Article 36, Chapter 3 NMSA 1978 or as otherwise provided by law; ~~and~~

22 H. Administer and manage the Constituent and Council Services Department; and

23 I. [H]. Perform other duties prescribed by law, ordinance or city rules and regulations.

24 Section 2. Section 2-8 SFCC 1987 (being Ord. No. 1983-33, § 4, as amended) is
25 hereby repealed.

1 **Section 3. A new Section 2-8 SFCC 1987 is hereby ordained to read:**

2 **[NEW MATERIAL] 2-8 CITY DEPARTMENTS.**

3 **2-8.1 Finance Department.**

4 A. Creation of department.

5 There is created a department of city government to be known as the "finance
6 department".

7 B. Finance officer.

8 (1) *Position Established.* The position of finance officer is established.
9 The finance officer is the city treasurer and manager of the finance department of the
10 city. The designation as finance officer shall not be considered separate employment
11 nor occasion any additional salary.

12 (2) *Duties.* The finance officer shall:

- 13 (a) Receive all money due and payable to the city;
- 14 (b) Keep his accounts and records in the manner prescribed by
15 generally accepted accounting principles;
- 16 (c) Keep the money of the city separate from any other money in
17 his possession;
- 18 (d) Expend the money only as directed by the governing body;
- 19 (e) Submit monthly, or more often if required by the governing
20 body, a report of the receipts and expenditures of the city;
- 21 (f) Supervise the depositing and safekeeping of all money
22 belonging to the city;
- 23 (g) With the advice and consent of the governing body designate
24 banks qualified to receive or deposit money entrusted in his care;

1 (h) Prepare annually, for the close of the fiscal year, a
2 comprehensive annual financial report showing the receipts, expenditures and
3 balances for each fund. A copy of the financial report shall be filed in the
4 finance officer; and

5 (i) Perform other duties prescribed by law, ordinance or city rules
6 and regulations.

7 (3) *Reports to Governing Body.* The finance officer shall be responsible
8 and report to the governing body through the city manager.

9 (4) *Records Open for Inspection.* The records of the finance officer shall
10 be open to inspection by any citizen during the regular business hours of the city.

11 **2-8.2 Community Health and Safety Department.**

12 A. Creation of department.

13 There is created a department of city government to be known as the
14 "community health and safety department", comprised of four divisions: the police
15 department, the fire department, the community services department, and the office of
16 emergency management.

17 B. Police Department.

18 (1) Powers and duties generally. Police officers shall execute and return all writs and
19 processes directed to them by the municipal judge and, in criminal cases or cases of
20 violations of city ordinances, they may serve the same in any part of the country. They
21 shall suppress all riots, disturbances and breaches of the peace, apprehend all disorderly
22 persons within the city and shall pursue and arrest any person fleeing from justice.
23 They shall apprehend any person in the act of committing any offense against the laws
24 of the state or the ordinances of the city, and forthwith bring such persons before a
25 competent authority for examination and trial. They shall have, in the discharge of their

proper duties, like powers and be subject to like responsibilities as sheriffs or constables in similar cases.

(2) Appointment of police officers; commissions.

No person shall assume or exercise the functions, powers, duties and privileges incident or belonging to the office of municipal policeman without first having received his appointment in writing, known as his "commission", from the governing body. The advice of the chief of police shall be obtained in the employment and commissioning of all policemen of the department.

(3) Training schools and examinations.

(a) There shall be held and conducted at such times as may be prescribed by the chief of police, with the approval of the governing body, schools for training in modern police methods and practices. The schools for training and the checking of the qualifications and general fitness of applicants for positions in the police department shall be under the direction and supervision of the chief of police.

(b) All members of the police department shall take such examinations as may be prescribed.

(c) In the taking of all written examinations there shall be assigned to each applicant a number which shall be endorsed on his examination papers, and the grading of the examinations shall be by number only.

(d) Except as otherwise provided, no member shall be retained in the police department and no applicant shall be appointed to the police department unless such member or applicant, after taking the prescribed training courses, has successfully passed the prescribed examinations, written and oral; provided, that the minimum educational qualifications required by the City Personnel Act shall not apply to members of the present police department who are otherwise

1 qualified under the provisions hereof; provided further, that in passing on the
2 qualifications of members of the present police department, consideration shall
3 be given to:

- 4 (i) Length of service and faithfulness to duty; and
- 5 (ii) General aptitude for police work as disclosed by the individual
6 records of such members to be confirmed by oral examinations.

7 (4) Extra or emergency police officers.

8 The city manager may employ on behalf of the city such extra or emergency police
9 officers as may be required in the proper administration of municipal affairs.

10 (5) Police department reserve.

11 (a) Created. There is created the city "police department reserve force",
12 hereinafter referred to as the "reserve".

13 (b) Control by Chief of Police. The reserve is under the exclusive control of the
14 chief of the city police department who shall have the sole and exclusive
15 authority to:

- 16 (i) Summarily discipline or dismiss members without appeal to any
17 body or tribunal;
- 18 (ii) Approve or disapprove all bylaws, rules and regulations of the
19 reserve; and
- 20 (iii) Approve or disapprove all officers, employees or agents of the
21 reserve.

22 c. Authority. The reserve and its individual members shall only have authority
23 in law enforcement on specific request by the city police chief. A specific
24 request shall be made for each individual instance of service.

25 d. Powers and Duties.

1 (i) The duties of the reserve are to assist in enforcement of law by
2 cooperating with all law enforcement agencies and regulatory bodies.

3 (ii) The reserve or its members when acting upon call, and only when
4 acting upon call, of the city police chief, for the city or for another law
5 enforcement agency or regulatory authority, shall be possessed of the
6 same powers and duties as a city police officer or an officer of such law
7 enforcement agency or regulatory authority.

8 e. Call of Members. When the city police chief calls up the members of the
9 reserve, the call shall be in writing, list the names of each member of the
10 reserve called, the purpose of the call, and the date and time the call begins and
11 terminates. Except when on call, reserve members shall have no more authority
12 in law enforcement than that of any private citizen.

13 f. Requests for Assistance. Should any law enforcement agency or regulatory
14 body desire assistance from the reserve, the request shall be made to the city
15 police chief who may authorize it, if:

16 (i) Reserve members are fully covered by the workman's compensation
17 insurance policy of the assisted agency or body, and this is evidenced
18 by a writing presented to the chief; and

19 (ii) Any and all liability that may arise against the city, its officers,
20 employees or agents, the reserve, or its members as a result of such
21 assistance, is assumed in writing by the assisted agency or body.

22 g. Workmen's Compensation. The city shall immediately take steps to provide
23 necessary workmen's compensation insurance for the reserve and necessary
24 liability insurance covering liability that may arise against the city, its officers,
25 employees or agents as a result of the activities of the reserve on behalf of the

city. If any or a portion of such liability is to be self-insured, the self-insurance fund shall be increased accordingly.

C. Fire Department.

(1) Volunteer firefighters. There is created in the city "fire department, volunteer firefighters force", hereinafter referred to as the volunteer firefighters.

(a) The volunteer firefighters shall be subject to all regulations of the fire department of the city of Santa Fe and along with paid firemen be subject to the authority of the chief of city fire department who shall have sole and exclusive authority to:

(i) approve or disapprove of membership in the volunteer firefighters.

(ii) discipline or dismiss members of the volunteer firefighters subject to the same grievance procedure as set out in Ordinance No. 1983-44.

(b) The volunteer firefighters and its individual members shall have authority in fire protection only upon request by the city fire dispatch.

(c) Volunteer firefighters; powers and duties.

(i) The duties of the volunteer firefighters are to provide safe and efficient fire fighting by adhering to any and all city of Santa Fe standard operating procedures, as referenced herein, or as may be amended from time to time, in Exhibit A, attached hereto.

(ii) The volunteer firefighters shall be summoned and will respond simultaneously with fire apparatus. Volunteer firefighters and paid firefighters shall possess the same powers and perform the same duties.

(d) Volunteer firefighters; insurance.

(i) The city shall provide necessary liability insurance covering liability that may arise against the city, its officers, employees, volunteer

1 firefighters, or agents as a result of activities of the volunteer
2 firefighters on behalf of the city. If any or a portion of such liability is
3 to be self-insured, the self-insurance fund shall be increased
4 accordingly.

5 (ii) Active volunteer firefighter members are covered by an accident,
6 sickness, or disability insurance policy which is paid by the City of
7 Santa Fe.

8 (2) Department authority and powers.

9 (a) Pursuant to Section 3-18-1F. and G. NMSA 1978 and 3-18-11B(1), the city
10 may provide proper means for protection from fire and protect the property of
11 its municipality and its inhabitants and preserve the health, safety, peace and
12 order within the municipality. Therefore, the stated purpose of this subsection
13 is to grant the fire department all authority necessary to protect life and
14 property from the hazards created by fire, explosion, and similar emergencies.

15 (b) The fire department shall have full and complete authority in connection
16 with fighting, mitigating, and preventing the spread of any fire that may arise
17 within the city, with the power to do and perform all necessary or expedient
18 acts for the fighting of fire. When called to a fire, the fire department shall
19 have:

20 (i) Full and complete authority of the premises to which it has been
21 summoned until the fire has been extinguished and the premises are
22 deemed safe by the fire department; and

23 (ii) By emergency vehicle or by foot, the right of ingress and egress on
24 all public or private streets, alleyways, roads, driveways, and
25 thoroughfares located within the city limits or the city annexation areas.

1 (c) The fire department shall have full and complete authority in connection
2 with the provision of prehospital emergency medical services within the city,
3 with the power to do and perform all necessary or expedient acts for the
4 provision of these services.

5 (d) The fire chief shall have full authority to sign agreements, approved by the
6 city attorney's office, with landowners to implement fire hazard mitigation
7 activities.

8 (3) Department members designated as special police officers. Every member duly
9 enrolled and in good standing in the fire department shall be a special police officer of
10 the city with power to act as such from the time of the sounding of any fire alarm until
11 the apparatus and equipment for fighting fire has been returned to the fire station.

12 (4) Obstructing or interfering with firemen. It is unlawful for any person to obstruct,
13 annoy, or interfere with firemen while in the discharge of their duties.

14 (D) Community Services Division. The community services division includes senior services,
15 libraries, and family and youth services.

16 (F) Office of Emergency Management.

17 (1) In accordance with Section 12-10-5, the "office of emergency management," shall
18 consist of:

19 (a) An emergency manager who shall be appointed in accordance with Section
20 12-10-5 NMSA 1978, and who shall be subject to the personnel system of the
21 city;

22 (b) Additional professional and administrative personnel as may be required to
23 effectively carry out the emergency management program; and

24 (c) All other city officers and employees, together with those volunteer forces
25 enrolled to aid the city during periods of disaster or emergency.

1 (2) Definitions.

2 *Civil emergency* means conditions of unrest, including but not limited to riot, civil
3 disturbance, unlawful assembly, hostile military or paramilitary action, war, terrorism,
4 or sabotage.

5 *Comprehensive emergency management plan (CEMP)* means a written document that
6 describes the city's overall emergency management plan. A CEMP specifies the
7 purpose, organization, responsibilities, and facilities of the agencies and officials of the
8 city in the mitigation of, preparation for, response to, and recovery from emergencies
9 and disasters.

10 *Curfew* means a period of time declared by the mayor, during which no person or
11 persons, other than persons authorized by the mayor by administrative order, may be
12 upon the public streets, sidewalks, grounds, or semi-public property, either on foot or in
13 vehicles of any type, within the city.

14 *Disaster* means the occurrence of a natural catastrophe, technological accident, or
15 human-caused event that has resulted in environmental damage, property damage,
16 deaths, and/or multiple injuries, which may exceed the response capability of the local
17 jurisdiction, necessitating state, and potentially federal, involvement.

18 *Emergency* means any occasion or instance, such as a terrorist attack, terrorist threat,
19 civil unrest, wildland and urban fire, flood, hazardous materials spill, nuclear accident,
20 aircraft accident, earthquake, hurricane, tornado, tropical storm, tsunami, war-related
21 disaster, public health or medical emergency, other occurrence requiring an emergency
22 response, or any other condition that warrants action to protect life, property, or the
23 environment.

24 *Emergency management* means an approach to prevent, protect against, respond to,
25 recover from, and mitigate the effects of incidents.

1 *Emergency operations center (EOC)* means the physical location at which the
2 coordination of information and resources to support incident management (on-scene
3 operations) activities normally takes place.

4 *Emergency plan* means an ongoing plan for responding to a wide variety of potential
5 hazards.

6 *Hazard mitigation plan* means the representation of the city's commitment to reduce
7 risks from natural hazards, serving as a guide for decision makers as they commit
8 resources to reducing the effects of natural hazards.

9 *National Incident Management System (NIMS)* means the federal government's
10 standardized framework of doctrines, concepts, principles, terminology, and
11 organizational processes for emergency management.

12 (3) Purpose.

13 (a) The purpose of the office of emergency management is to coordinate the
14 efforts of all municipal agencies and employees, nongovernmental agencies,
15 and private sector partners to prepare for and function in the event of disasters
16 and emergencies endangering the lives of persons in the city, property of the
17 residents of the city, or public property in the city.

18 (b) The duty of the office of emergency management is to coordinate the
19 development of emergency plans for the effective employment of municipal
20 resources to protect the lives and health of the residents of the city and the
21 private and public property therein from the effects of emergencies or natural or
22 man-caused disasters.

23 (c) The office of emergency management shall coordinate the implementation
24 of such plans in preparation for, during, and after periods of emergency or
25 disaster. Such plans shall be coordinated with those of the county and in

consonance with the state emergency management plans.

(4) Emergency manager. The emergency manager shall:

(a) Be responsible to the [~~city manager~~] Director of Community Health and Safety for the organization, administration, and operation of the emergency management program of the city;

(b) Coordinate the emergency management activities of all municipal departments and agencies of the city, nongovernmental agencies, and private sector partners;

(c) Be the liaison and cooperate with the emergency management agencies of the federal government, the state, the county, and the other political subdivisions therein;

(d) Develop an organizational structure for the office of emergency management, subject to the approval of the governing body and recommend appointments to fill the positions established therein subject to the city manager's authority;

(e) Manage the emergency operations center ("EOC"); establish the overall structure, roles, responsibilities, and direction for the operation of the EOC; and ensure that the EOC is appropriately sited, staffed, equipped, and maintained;

(f) Maintain written emergency plans, including but not limited to all chapters, annexes, and appendices of the Comprehensive Emergency Management Plan and Hazard Mitigation Plan, and annually review the plans to identify any recommendations for revisions; and

(g) Maintain records documenting compliance with requirements of federal and state emergency management programs, including the National Incident Management System.

1 (5) Financing.

2 (a) Funds for necessary expenses of the office of emergency management,
3 including salaries for approved positions, may be made available through
4 appropriations by the governing body in accordance with Section 12-10-7
5 NMSA 1978.

6 (b) The emergency manager shall prepare and submit to the governing body an
7 annual proposed budget for emergency management expenditures and shall
8 indicate those amounts eligible for matching funds under the federal grant
9 programs.

10 (c) During an emergency, purchases may be exempt from the city's
11 procurement code, as permitted pursuant to Section 11-13 SFCC 1987.

12 **2-8.3 Community Development Department.**

13 There is created a department of city government to be known as the
14 "community development department" that shall include the following divisions:
15 economic development division, office of affordable housing, land use division,
16 tourism Santa Fe division, recreation division, and the arts and culture division.

17 **2-8.4 Information Technology and Telecommunications Department.**

18 There is created a department of city government to be known as the
19 "information technology and telecommunications department".

20 **2-8.5 Public Works Department.**

21 There is created a department of city government to be known as the "public
22 works department".

23 **2-8.6 Public Utilities Department.**

24 There is created a department of city government to be known as the "public
25 utilities department".

1 **2-8.7 Human Resources Department.**

2 There is created a department of city government to be known as the "human
3 resources department".

4 **2-8.8 Council and Constituent Relations Department.**

5 There is created a department of city government to be known as the "council
6 and constituent relations department," within the office of the city clerk.

7 **Section 4. Section 2-9 SFCC 1987 (being _____) is hereby repealed.**

8 **Section 5. Section 2-10 SFCC 1987 (being _____) is hereby repealed.**

9 **Section 6. Section 2-11 SFCC 1987 (being Ord. No. 1983-33, § 1, as amended) is**
10 **hereby repealed.**

11 **Section 7. Section 2-12 SFCC 1987 (being Ord. No. 2007-45) is hereby repealed.**

12 **Section 8. Section 2-13 SFCC 1987 (being Ord. No. 1987-26, § 2, as amended) is**
13 **hereby repealed.**

14 **Section 9. Section 2-16 SFCC 1987 (being Ord. No. 1975-20, as amended) is**
15 **hereby repealed.**

16 **Section 10. Section 2-19 SFCC 1987 (being Ord. No. 2014-22, § 2) is hereby**
17 **repealed.**

18 **Section 11. Section 2-21 SFCC 1987 (being Ord. No. 2014-22, § 3) is hereby**
19 **repealed.**

20 **Section 12. Section 2-22 SFCC 1987 (being Ord. No. 1983-33, § 4, as amended) is**
21 **hereby amended to read:**

22 **2-22 INTERNAL AUDIT [~~DEPARTMENT~~].**

23 **2-22.1 Short title.**

24 Section 2-22 SFCC 1987 shall be cited as the "Internal Audit [~~Department~~] Ordinance."

25 **2-22.2 Findings; purpose; goals.**

1 A. The governing body finds that good governance, transparency and
2 accountability are critical in the public sector for the effective and credible functioning of a
3 healthy democracy, and in fulfilling the government's responsibility to citizens and taxpayers.

4 B. Transparent and reliable reporting and effective auditing in government serve
5 to promote accountability, enhance the effectiveness of government services to its citizens,
6 and increase the public's confidence in their government.

7 C. The members of the governing body share a duty to insure that the actions of
8 public officials, employees and contractors of the city are carried out in the most responsible
9 manner possible and that city policies, budgets, goals and objectives are fully implemented.

10 D. To accomplish this, the city requires the services of an independent office or
11 contractor to provide independent, objective assurance and review services designed to
12 promote transparency, accountability, efficiency and effectiveness of city government.

13 E. The governing body does hereby establish the internal audit department, an
14 independent city department of city government or an independent contractor reporting to the
15 city manager, which shall oversee the functions hereby established. To ensure independence
16 and compliance with generally accepted governmental auditing standards, the internal auditor:

17 (1) Shall report results to the city manager, the audit committee, the
18 finance committee and the governing body;

19 (3) Has access to the governing body in accordance with the Open
20 Meeting Act; and

21 (4) Is sufficiently removed from political pressures to conduct audits and
22 report findings, opinions, and conclusions objectively without fear of political
23 reprisal.

24 F. The ~~[governing body also directs the]~~ internal audit department, in
25 cooperation with the audit committee, shall establish job descriptions and department policies

and procedures based on generally accepted governmental auditing standards; and to adopt the Code of Ethics as defined by the Institute of Internal Auditors.

2-22.3 Definitions.

For the purpose of this section, the following definitions shall apply, unless the context clearly indicates or requires a different meaning.

Auditees mean the city related departments, programs, activities, agencies, vendors, contractors, employees, public officials or other city related entities affected by an audit or investigation.

Committee means the City of Santa Fe audit committee.

Contractors mean all city contractors.

Employee means a city employee.

Internal auditor means the internal auditor who is the head of the internal audit department or the city's primary contact for the internal audit contractor.

Official means the mayor or a city councilor.

Report means an audit, a special audit, an investigation and/or an examination.

Special investigation or special audit means additional procedures or audits undertaken because the need was not previously foreseen.

2-22.4 Creation of the internal audit department; resources; staff.

A. The internal audit department is created as an independent office of city government. The internal auditor ~~[is]~~ shall either be the head of the internal audit department or an independent contractor and shall report to the city manager.

B. The audit committee shall review applications for and make a recommendation to the city manager for hiring an internal auditor~~[, a city employee].~~

1 C. The internal auditor shall review applications and make recommendations to
2 the city manager for hiring other internal audit department employees^[3] or procuring
3 independent contractors [~~to be procured~~] for assistance with the internal audit [~~department~~].

4 D. In accordance with law and in consultation with the city attorney's office, the
5 city manager shall report proposed personnel actions, such as hiring, discipline₂ or
6 termination, relating to the internal auditor to the audit committee in executive session, in
7 accordance with the New Mexico Open Meetings Act. Nothing in this paragraph shall prohibit
8 the city manager from immediately placing the internal auditor on administrative leave due to
9 a proposed personnel action; however, the city manager shall report the proposed personnel
10 action to the audit committee, within seven (7) business days from the date the internal auditor
11 is placed on administrative leave.

12 E. The internal auditor's work shall result in a complete written final report being
13 made of each annual audit, special audit, investigation and/or examination made ("report")
14 and shall be delivered to the city manager, except if the city manager is the subject of the
15 audit, then the report shall be delivered to the mayor. The internal auditor shall also notify the
16 governing body in writing that the final report has been delivered. Each report, in its final
17 form, shall set out in detail, in a separate section, any violation of law or good accounting
18 practices found. Such reports are confidential under this section until placed on the finance
19 committee's agenda or put in their final form, whichever occurs first. Reports shall not exist in
20 a draft form for more than thirty (30) days without presentation to the finance committee.
21 Final reports shall also be timely presented to the audit committee. If the draft report is not
22 ready to be delivered to the city manager in its final form or is not ready to be presented to the
23 finance committee after thirty (30) days, then staff shall inform the finance committee, in
24 writing, the specific date, absent court order not exceeding twenty (20) days, when the final

1 report will be delivered to the city manager or presented to the finance committee and the
2 stated basis for the additional time needed.

3 F. Any final report for presentation to city committees or the governing body
4 shall be included in the meeting packet and such meeting packets shall be posted on the city's
5 website.

6 G. Prior to the committee meeting a final report placed on a committee agenda
7 shall be accessible by all members of the governing body and the public, and at such time
8 shall become a public record consistent with the Inspection of Public Records Act and its
9 exemptions.

10 H. Within thirty (30) days after receipt of the report, the employee and/or
11 division and/or department audited may notify the internal auditor of any errors in the report.
12 If the internal auditor is satisfied from data or documents at hand, or by an additional
13 investigation, that the report is erroneous, the internal auditor shall correct the report and
14 furnish copies of the corrected report to all parties receiving the original report.

15 I. The internal auditor may disclose audit information or audit documentation
16 that is confidential, without losing the confidentiality under this Ordinance to an independent
17 external auditor in connection with a special audit, performance audit, attestation engagement,
18 or other existing or potential engagement regarding the financial affairs and transactions of
19 the city.

20 J. The auditor's budget shall be reflected in the city manager's proposed budget
21 as a separate department. The budget shall be sufficient to allow the organization to carry out
22 its responsibilities, including sufficient funding for annual continuing professional education
23 requirements and professional certification as required by the generally accepted
24 governmental auditing standards. The auditor's proposed budget shall be prepared and
25 presented to the finance director and the city manager.

1 **2-22.5 Internal auditor's duties; responsibilities; authority; administrative**
2 **subpoena power.**

3 A. If the internal auditor detects instances of possible fraud, waste, or abuse or
4 potential violations of law by an auditee, ~~he~~ the auditor shall report the irregularities to the
5 city manager and the audit committee.

6 (1) In accordance with Section 12-6-6 NMSA 1978 and state auditor's
7 Rule 2.2.2.10K(3), a notification letter regarding the possible fraud, waste, or abuse
8 shall also be sent to the state auditor's office whether or not an investigation by the
9 internal auditor is conducted.

10 (2) If the irregularity is criminal in nature, the internal auditor shall
11 immediately refer the irregularity to the appropriate prosecuting authority.

12 (3) If the irregularity warrants a special investigation, audit, and/or
13 special audit, then the internal auditor shall conduct a special investigation, audit
14 and/or special audit. The report shall be submitted to the city manager, the audit
15 committee, the auditee, the governing body through the finance committee.

16 (4) The internal auditor shall not accept complaints related to
17 discrimination or labor law matters. In some cases, it may be appropriate for internal
18 audit to work with investigators or legal authorities, or withdraw from or defer further
19 audit work on the audit or portion of the audit to avoid interfering with an ongoing
20 investigation or legal proceeding.

21 B. The internal auditor shall adhere to generally accepted governmental auditing
22 standards in conducting its work and will be considered independent as defined by those
23 standards.

24 C. The internal auditor's work department ~~department~~ is subject to a peer review by an
25 appropriate professional non-partisan objective group every three (3) to five (5) years if the

1 internal auditor is an employee; contract internal auditors shall serve for no more than four
2 consecutive years. A copy of the written report by an objective group shall be furnished to the
3 city manager, audit committee, and governing body, via the finance committee.

4 D. The internal auditor shall have the power to subpoena witnesses, administer
5 oaths, and require the production of records subject to the New Mexico Rules of Civil
6 Procedure. In the case of a refusal to obey a subpoena issued to any person, the internal
7 auditor may make application to any district court in the state that shall have the jurisdiction
8 to order the witness to appear before the internal auditor and to produce evidence if so
9 ordered, or to give testimony touching on the matter in question.

10 **2-22.6 Scope of audits.**

11 A. Audits, except for special audits or special investigations/examinations, will
12 be conducted based on an annual audit plan developed in accordance with applicable
13 professional auditing standards. This plan and any modifications thereof, are to be reviewed
14 by the audit committee and recommended for approval.

15 (1) Within sixty (60) days before the beginning of each fiscal year, the
16 internal auditor shall submit a one-to-five-year audit plan to the audit committee, the
17 city manager and the governing body for review and comments, but the internal
18 auditor shall have final authority to select the audits planned. The proposed plan shall
19 include the rationale for the selections, for auditing departments, offices, boards,
20 activities, subcontractors and agencies for the period. This plan may be amended after
21 review;

22 (2) The final plan and any amendments will be presented to the audit
23 committee, the city manager, and subject to approval of the governing body;

24 (3) In the selection of audit areas and audit objectives, the
25 determination of audit scope and the timing of audit work, the internal auditor should

1 consult with federal, state, and other external auditors so that the desirable audit
2 coverage is provided and audit effort is properly coordinated.

3 B. The internal auditor is authorized to conduct the following audits as defined in
4 generally accepted governmental auditing standards:

5 (1) *Performance/Management Audits.* Performance audits are defined as
6 engagements that provide assurance or conclusions based on an evaluation of
7 sufficient and appropriate evidence against stated criteria, such as specific
8 requirements, measures, or defined business practices.

9 (2) *Financial Audits.*

10 (3) *Attestation Engagements.* Attestation engagements result in an
11 examination, a review, or agreed upon procedures about a subject matter that is the
12 responsibility of another party. This includes special audits.

13 (4) *Advisory (Non-Audit) Services.* This includes special investigations.
14 The issued report shall not include an opinion statement or a statement indicating the
15 investigation was done in accordance with generally accepted government auditing
16 standards. These services are subject to applicable professional standards.

17 C. The auditor shall have the authority to conduct performance and financial
18 audits, attestation engagements or to provide advisory (non-audit) services to independently
19 and objectively determine whether:

20 (1) The city, state or federal law authorizes the implemented activities
21 and programs that are the subject of the audit;

22 (2) The objectives intended by city, state, or federal law are efficiently
23 and effectively accomplished in the implementation of activities and programs;

24 (3) The expenditure of funds was or is in compliance with applicable
25 laws;

1 (4) The revenues were or are properly collected, deposited, and accounted
2 for;

3 (5) The entity, programs, activities, functions, or policies are effective,
4 including the identification of any causes of inefficiencies or uneconomical practices;

5 (6) The desired result or benefits are being achieved;

6 (7) Resources, including funds, property and personnel, were or are
7 adequately safeguarded, controlled, and used in a faithful, effective, and efficient
8 manner;

9 (8) Financial and other reports fairly and fully disclosed all information
10 as required by law necessary to evaluate and ascertain the nature and scope of
11 programs and activities;

12 (9) Management established operating and administrative procedures and
13 practices, accounting internal control systems and internal management controls were
14 and are adequate and functioning as intended;

15 (10) City policies, budgets, goals, and objectives were and are fully
16 implemented; and

17 (11) Indications of fraud, waste, abuse, or illegal acts are valid and need
18 further investigation.

19 **2-22.7 Reports.**

20 A. The internal auditor shall report results of all types of audits, investigations
21 and/or engagements in their final report form to the audit committee, the city manager, the
22 auditees, and the governing body via the finance committee.

23 B. All types of audit reports, investigations, and/or engagements, in their final
24 report form, are public records, available for public inspection.

1 C. The internal auditor's reports, including attestation engagements, shall follow
2 the guidelines as specified in generally accepted governmental auditing standards, or in the
3 case of a non-audit service applicable professional auditing standards.

4 D. At a minimum audit and attestation engagement reports should include:
5 (1) Statements describing the objectives, scope and methodology of the
6 audit;
7 (2) A statement that the audit was performed in accordance with generally
8 accepted government auditing standards;
9 (3) Background information, audit results, and findings as appropriate;
10 (4) A conclusion based on the audit objectives and the audit findings;
11 and
12 (5) The findings in the audit report should present sufficient, appropriate
13 evidence to support the conclusion in relation to the audit objectives.

14 E. Responses submitted by the city manager relevant to the audit findings must
15 include a remediation plan specifying dates and corrective action to be taken to
16 resolve the issue.

17 (1) A response is required within fourteen (14) days of receipt of a final
18 report;
19 (2) If no response is received, the internal auditor will note that fact in the
20 transmittal letter and will release the report without a remediation plan.

21 F. The internal auditor shall submit an annual report to the audit committee, city
22 manager, and governing body via the finance committee within sixty (60) days after
23 fiscal year end indicating all audits, investigations, and/or engagements completed,
24 major findings, corrective actions taken by administrative managers, and significant
25 issues which have not been fully addressed by management.

1 **2-22.8 Reporting.**

2 The internal auditor shall follow the internal audit plan, report to the governing body
3 via the finance committee, the auditees, the city manager, and the audit committee regarding all
4 audit activities, results, and conclusions. Depending on the type of audit, the internal auditor
5 shall report more frequently when requested.

6 **2-22.9 Contract auditors, consultants, and experts.**

7 Within budgetary constraints, the internal auditor may obtain the services of certified
8 public accountants, qualified management consultants, certified fraud examiners, forensic
9 auditors, or other professional experts necessary to perform the functions of the internal audit
10 department. Contractors performing an audit shall not have any financial interest in the
11 affairs of the auditees, officials, or employees. The internal auditor shall coordinate and
12 monitor auditing performed by persons under contract to the internal auditor.

13 **2-22.10 Penalty; cooperation; retaliation prohibited.**

14 A. All city officials, employees, and contractors shall provide the internal auditor
15 full and unrestricted access to all city offices, employees, records, information, data, reports,
16 plans, projections, matters, contracts, memoranda, correspondence, electronic data, property,
17 equipment and facilities, and any other materials within their custody. At the internal auditor's
18 request, an official, employee, or contractor shall prepare reports and provide interviews. If an
19 auditee, official, employee, vendor, or contractor fails to produce the requested information,
20 the internal auditor shall notify the city manager requesting his assistance in causing a search
21 to be made and germane exhibits to be taken from any book, paper, or record, written or
22 electronic, excepting personal property. The city manager shall require the officials,
23 employees, vendors, or contractors to produce the requested information. Further, all contracts
24 with outside contractors and subcontractors shall contain a "right-to-audit" clause providing
25 the internal auditor access to the contractor's employees and to all financial and performance

1 related records, property, and equipment purchased in whole or in part with governmental
2 funds.

3 B. No person shall retaliate against, punish, or penalize any other person for
4 complaining to, cooperating with, or assisting the internal auditor in the performance of his
5 office. The internal auditor, all city employees and public officials, and any person
6 cooperating with the internal auditor in performance of duties has the same protections as
7 provided for in the Federal Whistle Blower Protection Act and the New Mexico
8 Whistleblower Protection Act, Sections 10-16C-1 et seq. NMSA 1978.

9 C. Any official or employee who violates this section may be subject to
10 discipline as may be specified in applicable city ordinances or any applicable collective
11 bargaining agreement.

12 **2-22.11 Audits and the Inspection of Public Records Act.**

13 A. This subsection is adopted pursuant to the general welfare and police powers
14 conferred upon the city of Santa Fe by § 3-17-1 et seq. and § 3-18-1 et seq. NMSA 1978,
15 pursuant to the powers conferred upon the city of Santa Fe by the New Mexico Constitution,
16 Article X §§ 6(D) and 6(E) and the Municipal Charter Act § 3-15-1 et seq. NMSA 1978,
17 which have been exercised by the city's adoption of the Santa Fe Municipal Charter. The
18 purpose of this subsection is within both the city's home rule powers and the delegated powers
19 that all municipalities have to provide for the general welfare of their residents by the general
20 welfare clause in Section 3-17-1(B) NMSA 1978 and police power to "protect generally the
21 property of its municipality and its inhabitants" and to "preserve peace and order within the
22 municipality" by Section 3-18-1(F) and (G) NMSA 1978.

23 B. At all times during the audit process and after the report becomes a public
24 record; the internal auditor shall follow applicable standards and 2.2.2 NMAC regarding the
25 release of any information relating to the audit. Applicable standards include but are not

1 limited to the AICPA Code of Ethics Rule 301 and related interpretations and guidance,
2 Institute for Internal Auditors interpretations and guidance and GAGAS 4.30 to 4.32 and
3 GAGAS 4.40 to 4.44.

4 **Section 13. Section 2-23 SFCC 1987 (being Ord. No. 2020-3, § 1, as amended) is**
5 **hereby repealed.**

6 **Section 14. 26-1.6 SFCC 1987 (being Ord. No. 2005-30(A), § 35 and Ord. #2007-**
7 **45, § 30, as amended) is hereby amended to read:**

8 **26-1.6 - Creation of office of affordable housing.**

9 A. The office of affordable housing shall be established to administer the Santa Fe homes
10 program in accordance with the provisions of this chapter, and to administer the city's other
11 affordable housing programs. [~~The office of affordable housing shall be an independent~~
12 ~~department responsible to the city manager.~~]

13 B. In administering this chapter, the office of affordable housing shall work with the land
14 use [~~department~~] division to eliminate conflict and duplication in the permitting and development
15 approval process.

16 C. The office of affordable housing shall administer any agreements previously executed
17 by the city and others.

18 **Section 15. 26-3.5 SFCC 1987 (being Ord. No. 2007-23, § 8, as amended) is**
19 **hereby amended to read:**

20 **26-3.5 - Definitions.**

21 *AHTF* means the affordable housing trust fund.

22 *Administrative procedures* refer to the administrative procedures adopted by resolution
23 that outline application, evaluation, and all other administrative procedures associated with the
24 AHTF.

25 *Affordable housing* means residential housing primarily for persons or households of low

1 or moderate income.

2 *Allowable uses* means those uses for the AHTF which are set forth in subsection 26-3.4
3 SFCC 1987.

4 *Community housing priorities* means priorities established from time to time by the
5 governing body to guide the allocation of funds from the AHTF.

6 *Comprehensive housing strategy* means a services delivery system that addresses the full
7 continuum of housing needs from the homeless to the homebuyer.

8 *Eligible households* means a person or households of low or moderate income as defined
9 in rules adopted by the New Mexico Mortgage Finance Association.

10 *Leverage* means the dollar value of other resources committed to projects for which an
11 application and approval has been received for a loan or grant from the AHTF. Each dollar
12 committed to the project that is not generated from the AHTF shall be considered as leverage.

13 *Office of affordable housing* means the ~~[department]~~ division of the city of Santa Fe or its
14 successor administering affordable housing programs.

15
16 APPROVED AS TO FORM:

17 
18 _____

19 ERIN K. McSHERRY, CITY ATTORNEY

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21
22 *Legislation/2020/Bills/Department Reorganization*

2020-20 Department Reorg

Final Audit Report

2020-07-24

Created:	2020-07-24
By:	Jeff Norris (jtnorris@ci.santa-fe.nm.us)
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"2020-20 Department Reorg" History

-  Document created by Jeff Norris (jtnorris@ci.santa-fe.nm.us)
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1 **CITY OF SANTA FE, NEW MEXICO**

2 **RESOLUTION NO. 2020-____**

3 **INTRODUCED BY:**

4
5 *Finance Committee*

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11 **A RESOLUTION**

12 **ADOPTING THE CITY OF SANTA FE FISCAL YEAR 2020/2021 ANNUAL OPERATING**
13 **BUDGET AND ORGANIZATIONAL CHART.**

14
15 **WHEREAS**, the Governing Body in and for the Municipality of the City of Santa Fe, State
16 of New Mexico, has developed a budget for fiscal year 2020/2021; and;

17 **WHEREAS**, this budget was brought forth in the spirit of positive collaboration among
18 departmental staff and elected officials, and;

19 **WHEREAS**, the official meetings for the review of said budget were duly advertised in
20 compliance with the State Open Meetings Act, and;

21 **WHEREAS**, it is the majority opinion of this Governing Body that the proposed budget
22 meets the requirements as currently determined for fiscal year 2020/2021.

23 **NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE**
24 **CITY OF SANTA FE** that the Governing Body hereby adopts the budget hereinabove described as

1 to funds, categories and departments, and respectfully requests approval from the Local Government
2 Division of the Department of Finance and Administration.

3 **BE IT FURTHER RESOLVED** that the Governing Body also hereby approves and adopts
4 the organizational chart included as an addendum to the fiscal year 2020/2021 budget.

5 **BE IT FURTHER RESOLVED** that previous financial policy resolutions are superseded by
6 the policies included in the fiscal year 2020/2021 budget.

7 PASSED, APPROVED and ADOPTED the 29th day of July, 2020.

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9 _____
10 ALAN WEBBER, MAYOR
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12 _____
13 RENEE VILLARREAL, COUNCILOR
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12 _____
13 SIGNE I. LINDELL, COUNCILOR
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15 _____
16 MICHAEL J. GARCIA, COUNCILOR
17

15 _____
16 CAROL ROMERO-WIRTH, COUNCILOR
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18 _____
19 CHRIS RIVERA, COUNCILOR
20

18 _____
19 ROMAN ABEYTA, COUNCILOR
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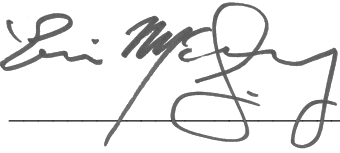
21 _____
22 JAMIE CASSUTT-SANCHEZ, COUNCILOR
23

21 _____
22 JOANNE VIGIL COPPLER, COUNCILOR
23
24
25

1 ATTEST:

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4 YOLANDA Y. VIGIL, CITY CLERK

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6 APPROVED AS TO FORM:

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9 ERIN K. MCSHERRY, CITY ATTORNEY

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12 LOCAL GOVERNMENT DIVISION
13 N.M. DEPARTMENT OF FINANCE
14 AND ADMINISTRATION
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Operating Budget Adoption FY2021

Final Audit Report

2020-07-24

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"Operating Budget Adoption FY2021" History

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CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2020-__

INTRODUCED BY:

Councilor Renee Villarreal

A RESOLUTION

CHANGING THE START TIME OF AFTERNOON SESSIONS OF GOVERNING BODY MEETINGS TO 4:00 P.M. AND EVENING SESSIONS OF GOVERNING BODY MEETINGS TO 6:00 P.M. BEGINNING WITH THE AUGUST 12, 2020 MEETING AND CONTINUING THROUGH THE DECEMBER 9, 2020 GOVERNING BODY MEETING.

WHEREAS, since March 25, 2020, all public meetings for the City of Santa Fe (“City”), including Governing Body meetings, have been held virtually; and

WHEREAS, several Governing Body meetings have required the Governing Body to suspend their Procedural Rules to continue deliberations beyond the 11:30 p.m.; and

WHEREAS, several Evening Sessions of the Governing Body have started well past the 7:00 p.m. time stated in the posted agendas and the Governing Body’s Procedural Rules, requiring the public and staff to extend their attendance at meetings; and

WHEREAS, the City is facing a financial crisis that requires acute attention to spending; and

1 **WHEREAS**, staff attendance at Governing Body meetings beyond their normal 5:00
2 p.m. workday makes it difficult for staff to reduce their hours in compliance with the City-wide
3 furlough and negatively impacts the City management's and Governing Body's collective
4 attempts to reduce spending; and

5 **WHEREAS**, earlier meetings of the Governing Body meetings would assist the
6 implementation of the Furlough Bridge Plan, reduce potential overtime costs, and facilitate public
7 participation.

8 **NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE**
9 **CITY OF SANTA FE** that the Afternoon Session of Governing Body meetings will begin at
10 4:00 p.m. beginning with the Governing Body's August 12, 2020 meeting and concluding with
11 the Governing Body's December 9, 2020 meeting.

12 **BE IT FURTHER RESOLVED** that the Evening Session of Governing Body meetings
13 will begin at 6:00 p.m. beginning with the August 12, 2020 meeting and concluding with the
14 December 9, 2020 meeting.

15 PASSED, APPROVED, and ADOPTED this _____ day of _____, 2020.

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19 _____
20 ALAN WEBBER, MAYOR

21 ATTEST:

22
23 _____
24 YOLANDA Y. VIGIL, CITY CLERK
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1 APPROVED AS TO FORM:

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3 _____

4 ERIN K. McSHERRY, CITY ATTORNEY

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25 *Legislation/2020/Resolutions/Governing Body Start Time Change*

Governing Body Start Time Change (Final For Signature)

Final Audit Report

2020-07-24

Created:	2020-07-24
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"Governing Body Start Time Change (Final For Signature)" History

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2020-07-24 - 8:09:31 PM GMT

CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2020-__

INTRODUCED BY:

A RESOLUTION PERMITTING CITY DEPARTMENTS

TO SEEK RETROACTIVE APPROVAL OF CONTRACTS FOR FISCAL YEAR 2021

FOR UP TO NINETY (90) DAYS

WHEREAS, the COVID-19 pandemic has caused unforeseeable disruption globally and locally in the City of Santa Fe; and

WHEREAS, one of the consequences of this disruption has been that the City's revenues, expenditures, and budget are uncertain and the State of New Mexico has postponed the requirement for submitting an approved budget to the State; and

WHEREAS, City Departments' budgets have been uncertain, while contracts have expired with the typical end of fiscal year; and

WHEREAS, if certain contracts expire without renewal, the delay of renewal will cause further delays to the provision of services throughout the City, and the City would require additional time to solicit and negotiate replacement contracts; and

WHEREAS, the purchasing manual allows for the retroactive approval of contracts for

1 up to thirty (30) days after their expiration date and longer if exceptional circumstances apply that
2 are not caused by the procuring department; and

3 **WHEREAS**, state law permits emergency procurement “when the service, construction
4 or item of tangible personal property procured is needed immediately to control a serious threat to
5 public health, welfare, safety or property caused by a flood, fire, epidemic, riot, act of terrorism,
6 equipment failure or similar event; or plan or prepare for the response to a serious threat to public
7 health, welfare, safety or property caused by a flood, fire, epidemic, riot, act of terrorism,
8 equipment failure or similar event and cannot be acquired through normal procurement methods.”
9 NMSA 1978, § 13-1-127.

10 **WHEREAS**, the COVID-19 pandemic has created an ongoing disruptive, deadly, and
11 costly exceptional circumstance that necessitates retroactive approval of contracts and
12 amendments that would have otherwise expired at the beginning of Fiscal Year 2021, for up to
13 ninety (90) days beyond the date they would otherwise expire.

14 **NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE**
15 **CITY OF SANTA FE** that Departments may bring contracts to be amended or extended for up
16 to ninety (90) days after the end of the contract term, if the renewal has been delayed by the
17 COVID-19 pandemic for Fiscal Year 2021; and

18 **BE IT FURTHER RESOLVED** that in no event shall contracts as extended or amended
19 exceed the terms allowed by NMSA 1978, Sections 13-1-150 to -152; and

20 **BE IT FURTHER RESOLVED** that the Finance Department shall track the number of
21 contracts retroactively approved during the COVID-19 pandemic and report the number to the
22 Finance Committee on a periodic basis during the pendency of the pandemic.

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24 PASSED, APPROVED, and ADOPTED this _____ day of _____, 2020.

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ALAN M. WEBBER, MAYOR

ATTEST:

YOLANDA Y. VIGIL, CITY CLERK

APPROVED AS TO FORM:



ERIN K. McSHERRY, CITY ATTORNEY

1

2

Legislation/2020/Resolutions/

City of Santa Fe Fiscal Impact Report (FIR)

This Fiscal Impact Report (FIR) shall be completed for each proposed bill or resolution as to its direct impact upon the City's operating budget and is intended for use by any of the standing committees of and the Governing Body of the City of Santa Fe. Bills or resolutions with no fiscal impact still require a completed FIR. Bills or resolutions with a fiscal impact must be reviewed by the Finance Committee. Bills or resolutions without a fiscal impact generally do not require review by the Finance Committee unless the subject of the bill or resolution is financial in nature.

Section A. General Information

(Check) Bill: _____ Resolution: X

(A single FIR may be used for related bills and/or resolutions)

Short Title(s): Retroactive Approval of Contracts for Fiscal Year 2021 for up to ninety (90) days.

Sponsor(s): Councilor Abeyta and Mayor Webber

Reviewing Department(s): Finance Department and City Attorney's Office

Persons Completing FIR: Fran Dunaway Date: 7/21/2020 Phone: 955-6432

Reviewed by City Attorney: _____ Date: _____
(Signature)

Reviewed by Finance Director: _____ Date: _____
(Signature)

Section B. Summary

Briefly explain the purpose and major provisions of the bill/resolution:

The proposed Resolution creates a Fiscal Year 2021 exemption to item XX. Retroactive Approval for Contract or Contract Amendments of the 2020 Procurement Manual, which permits retroactive approval within 30 days of expiration. The purpose of permitting a retroactive approval of 90 days within expiration is due to the COVID-19 pandemic and the uncertainty of the current fiscal year budgets.

Section C. Fiscal Impact

Note: Financial information on this FIR does not directly translate into a City of Santa Fe budget increase. For a budget increase, the following are required:

- a. The item must be on the agenda at the Finance Committee and City Council as a "Request for Approval of a City of Santa Fe Budget Increase" with a definitive funding source (could be same item and same time as bill/resolution)
- b. Detailed budget information must be attached as to fund, business units, and line item, amounts, and explanations (similar to annual requests for budget)
- c. Detailed personnel forms must be attached as to range, salary, and benefit allocation and signed by Human Resource Department for each new position(s) requested (prorated for period to be employed by fiscal year)*

1. Projected Expenditures:

- a. Indicate Fiscal Year(s) affected – usually current fiscal year and following fiscal year (i.e., FY 03/04 and FY 04/05)
- b. Indicate: "A" if current budget and level of staffing will absorb the costs
 "N" if new, additional, or increased budget or staffing will be required
- c. Indicate: "R" – if recurring annual costs
 "NR" if one-time, non-recurring costs, such as start-up, contract or equipment costs
- d. Attach additional projection schedules if two years does not adequately project revenue and cost patterns
- e. Costs may be netted or shown as an offset if some cost savings are projected (explain in Section 3 Narrative)

Finance Director: _____

X Check here if no fiscal impact

Column #:	1	2	3	4	5	6	7	8
	Expenditure Classification	FY _____	"A" Costs Absorbed or "N" New Budget Required	"R" Costs Recurring or "NR" Non-recurring	FY _____	"A" Costs Absorbed or "N" New Budget Required	"R" Costs – Recurring or "NR" Non-recurring	Fund Affected
	Personnel*	\$ _____	_____	_____	\$ _____	_____	_____	_____
	Fringe**	\$ _____	_____	_____	\$ _____	_____	_____	_____
	Capital Outlay	\$ _____	_____	_____	\$ _____	_____	_____	_____
	Land/ Building	\$ _____	_____	_____	\$ _____	_____	_____	_____
	Professional Services	\$ _____	_____	_____	\$ _____	_____	_____	_____
	All Other Operating Costs	\$ _____	_____	_____	\$ _____	_____	_____	_____
	Total:	\$ _____			\$ _____			

* Any indication that additional staffing would be required must be reviewed and approved in advance by the City Manager by attached memo before release of FIR to committees. **For fringe benefits contact the Finance Dept.

2. Revenue Sources:

- To indicate new revenues and/or
- Required for costs for which new expenditure budget is proposed above in item 1.

Column #:	1	2	3	4	5	6
	Type of Revenue	FY _____	"R" Costs Recurring or "NR" Non-recurring	FY _____	"R" Costs – Recurring or "NR" Non-recurring	Fund Affected
	_____	\$ _____	_____	\$ _____	_____	_____
	_____	\$ _____	_____	\$ _____	_____	_____
	_____	\$ _____	_____	\$ _____	_____	_____
	Total:	\$ _____		\$ _____		

3. Expenditure/Revenue Narrative:

Explain revenue source(s). Include revenue calculations, grant(s) available, anticipated date of receipt of revenues/grants, etc. Explain expenditures, grant match(s), justify personnel increase(s), detail capital and operating uses, etc. (Attach supplemental page, if necessary.)

N/A

Section D. General Narrative

1. Conflicts: Does this proposed bill/resolution duplicate/conflict with/companion to/relate to any City code, approved ordinance or resolution, other adopted policies or proposed legislation? Include details of city adopted laws/ordinance/resolutions and dates. Summarize the relationships, conflicts or overlaps.

The proposed Resolution will create a limited exception to item XX. Retroactive Approval for Contract or Contract Amendment. Of the 2020 Procurement Manual that was adopted January 2020 as a result of adopting the State of New Mexico Procurement Code, with minor amendments, in 2018.

2. Consequences of Not Enacting This Bill/Resolution:

Are there consequences of not enacting this bill/resolution? If so, describe.

If the Resolution is not adopted the City will face interruption and/or cancelation of multiple existing and new essential Contractual Services that serve the public and City operations. Not allowing extended retroactive approval would require a new solicitation process for all expiring contracts, which can take several months.

3. Technical Issues:

Are there incorrect citations of law, drafting errors or other problems? Are there any amendments that should be considered? Are there any other alternatives which should be considered? If so, describe.

None identified.

4. Community Impact:

Briefly describe the major positive or negative effects the Bill/Resolution might have on the community including, but not limited to, businesses, neighborhoods, families, children and youth, social service providers and other institutions such as schools, churches, etc.

The Resolution permitting City Departments to seek retroactive approval of Contracts for Fiscal Year 2021 for up to ninety (90) days ensures that all essential contract services continue and contractors continue services for payment. Also, permitting the 90 day retroactive approval allows the Departments the time to submit packets to the required departments and committees for review and approvals as well as to the City Manager or/and Governing Body for final approval. There is no major negative effects to describe for this Resolution having impact on the community, businesses, etc. There are primarily positive effects to continue essential contractual city operations to serve the community.