



AGENDA

REGULAR MEETING OF
THE FINANCE COMMITTEE
SEPTEMBER 21, 2020 AT 5:00
PM
ATTEND VIRTUALLY

SPECIAL PROCEDURES FOR FINANCE 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 Finance 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 for the meeting will be posted at <https://santafe.primegov.com/public/portal>.

1. **CALL TO ORDER**
2. **ROLL CALL**
3. **APPROVAL OF AGENDA**
4. **APPROVAL OF CONSENT AGENDA**
5. **APPROVAL OF MINUTES**
 - a. Regular Finance Committee Meeting – August 31, 2020
6. **ACTION ITEMS: CONSENT**
 - a. Request for Approval of Change Order No. 2 to the Original Contract No. 19-0714 with TLC Company, Inc. for the Canyon Road Water Treatment



AGENDA

REGULAR MEETING OF
THE FINANCE COMMITTEE
SEPTEMBER 21, 2020 AT 5:00
PM
ATTEND VIRTUALLY

Plant Raw Water Supply Pipeline CIP No.3038C to Extend the Contract Term by 96 Calendar Days. (Robert Jorgenson, Water Division Engineer, rnjorgenson@santafenm.gov, 955-4265)

COMMITTEE REVIEW

Finance Committee (Scheduled) 09/21/2020
Governing Body (Scheduled) 09/30/2020

- b. Project Status Presentation and Request for Approval of Amendment No. 2 to the contract with B&D Industries to Increase the contract amount by \$35,457.72 for construction of CIP Project #503A (Salvador Perez Recreation Building – Structural and Building Envelope Rehabilitation), for additional deferred maintenance scope as detailed in the memo. B&D Industries Cost Proposal and Presentation Materials. (Anson Rane, Pw Project Administrator, Aerane@Santafenm.Gov, 955-5935)

Committee Review:

PWC (approved) 5-26-20
Finance (scheduled) 9-21-20
Governing Body (scheduled) 9-30-20

- c. Request for Approval of Amendment 1 to the Immix Technology Agreement Item # 20-0306 Contract #3201928 for the Kronos Workforce Telestaff Cloud Hosting Services for a 3 year Contract Procured Through Immix Technology on GSA GS-35F-0265X in the Amount of \$111,204.38 Budgeted in ITT Applications Software Subscriptions 6203600.530710 (Manuel Gonzales, ITT Project Manager, mmgonzales@santafenm.gov 955-5531)

COMMITTEE REVIEW

Finance Committee (Scheduled) 09/21/2020
Governing Body (Scheduled) 09/30/2020

- d. Consideration of Resolution No. 2020-__: A Resolution Adopting the 2022-2026 Senior Infrastructure Capital Improvements Plan (ICIP) for the Division of Senior Services, Community Services Department. (Councilor Abeyta) (Gino Rinaldi, Senior Services Division Director, earinaldi@santafenm.gov, 955-4710)

COMMITTEE REVIEW:



AGENDA

REGULAR MEETING OF
THE FINANCE COMMITTEE
SEPTEMBER 21, 2020 AT 5:00
PM
ATTEND VIRTUALLY

Finance Committee: 9/21/2020
Public Works and Utilities Committee: 9/29/20
Governing Body: 9/30/2020

- e. Request for the Approval of the Budget Amendment Resolution-North Central New Mexico Economic Development District-Non Metro Area Agency on Aging NSIP. Item # 20-0363 (Munis Contract #3201993) in the amount of \$111,126.00. The NSIP grant funds will be used to purchase raw food supplies for meal preparation for eligible senior citizens participating in our meal program during FY 2021. Gino Rinaldi, Senior Services Division Director earinaldi@santafenm.gov 505-955-4710
- f. Request for the Approval of the Budget Amendment Resolution-North Central New Mexico Economic Development District-Non Metro Area Agency on Aging FFRCA Federal Sub-Award . Item # 20-0402 (Munis Contract #3201960) in the amount of \$61,325.10. The FFRCA grant funds will be used to purchase operational supplies for meal preparation for eligible senior citizens participating in our meal program during FY 2021. Gino Rinaldi, Senior Services Division Director earinaldi@santafenm.gov 505-955-4710

7. **PRESENTATION**

- a. Benefits Presentation (Ashley Barela, Assistant Human Resources Director, ambarela@santafenm.gov, 955-6517, Bernadette Salazar, Human Resources Director, bjsalazar@santafenm.gov, 955-6591, AON representative)

8. **MATTERS FROM STAFF**

9. **MATTERS FROM THE COMMITTEE**

10. **MATTERS FROM THE CHAIR**

NEXT MEETING: October 05 2020

11. **ADJOURN**



City of Santa Fe

AGENDA

REGULAR MEETING OF
THE FINANCE COMMITTEE
SEPTEMBER 21, 2020 AT 5:00
PM
ATTEND VIRTUALLY

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



MINUTES

1. **CALL TO ORDER**
2. **ROLL CALL**

Members Present:

Councilor Roman Abeyta
Councilor Renee Villarreal
Councilor Carol Romero-Wirth
Councilor Signe Lindell
Councilor Jamie Cassutt-Sanchez

Members Excused:

Others Attending:

Mary McCoy, Finance Department Director
Jesse Guillen, Legislative Liaison
Bradley Fluetsch, Cash and Investment Manager
Fran Dunaway, Chief Procurement Officer
Ben Valdez, Attendee
Gino Rinaldi, Attendee
Bernadette Salazar, Attendee
Regina Wheeler, Attendee
Randy Randall, Attendee
John Del Mar, Attendee
Jason Kluck, Attendee
Eli Isaacson, Attendee
Paul Babcock, Attendee
Jarel Lapan Hill, Attendee
Fabian Trujillo, Attendee
Alan Webber, Attendee
Chris Rivera, Attendee
John Romero, Attendee
Alexis Lotero, Attendee
Rich Brown, Attendee
Noah Berke, Attendee



MINUTES

REGULAR MEETING OF
THE FINANCE COMMITTEE
AUGUST 31, 2020 AT 5:00 PM

Michael Garcia, Attendee

3. APPROVAL OF AGENDA

MOTION: Councilor Romero-Wirth moved, seconded by Councilor Lindell, to approve the agenda as presented.

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

For: Councilor Abeyta, Councilor Villarreal, Councilor Romero-Wirth, Councilor Lindell, Councilor Cassutt-Sanchez

Against: None

Abstain: None

4. APPROVAL OF CONSENT AGENDA

MOTION: Councilor Lindell moved, seconded by Councilor Cassutt-Sanchez, to approve the consent agenda as amended. Councilor Lindell pulled items a, k, and l for discussion. Councilor Villarreal pulled items a, b, and e for discussion. Councilors Romero-Wirth pulled items g and h for discussion. Councilor Cassutt-Sanchez pulled item b for discussion.

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

For: Councilor Abeyta, Councilor Villarreal, Councilor Romero-Wirth, Councilor Lindell, Councilor Cassutt-Sanchez

Against: None

Abstain: None

5. APPROVAL OF MINUTES



MINUTES

REGULAR MEETING OF
THE FINANCE COMMITTEE
AUGUST 31, 2020 AT 5:00 PM

- a. Regular Finance Committee Minutes – August 17, 2020

MOTION: Councilor Lindell moved, seconded by Councilor Cassutt-Sanchez, to approve the minutes as presented.

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

For: Councilor Abeyta, Councilor Villarreal, Councilor Romero-Wirth, Councilor Lindell, Councilor Cassutt-Sanchez

Against: None

Abstain: None

7. CONSENT AGENDA

- a. Consideration of Bill No. 2020-__: An Ordinance Relating to the City of Santa Fe Economic Development Plan Ordinance, Article 11-11 SFCC 1987; Approving and Adopting a Local Economic Development Project Participation Agreement Between the City of Santa Fe and Savant X, Inc. for Design, Development and Construction of Tenant Improvements; and Lease Payments, Expansion of a Corporate Research Center, a Local Economic development Project. (Mayor Webber and Councilor Vigil Coppler) (Fabian Trujillo, Office for Small Business Growth Manager, frujillo@santafenm.gov, 505-955-6912).
Fiscal Impact: \$500,000 (LEDA Fund)

COMMITTEE REVIEW:

Economic Development Advisory Committee: 8/12/20

City Council (request to publish): 8/12/20

Finance Committee: 8/31/20

City Council (public hearing): 9/09/20

MOTION: Councilor Lindell moved, seconded by Councilor Romero-Wirth, to approve the Bill as presented.

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



MINUTES

REGULAR MEETING OF
THE FINANCE COMMITTEE
AUGUST 31, 2020 AT 5:00 PM

For: Councilor Abeyta, Councilor Romero-Wirth, Councilor Lindell,
Councilor Cassutt-Sanchez

Against: None

Abstain: Councilor Villarreal

- b. Consideration of Resolution No. 2020-__: A Resolution Adopting the 2022-2026 Infrastructure Capital Improvements Plan (ICIP). (Councilors Rivera, Vigil Coppler, and Garcia) (John Romero, Acting Public Works Department Director, jjromero1@santafenm.gov, 955-6638)

COMMITTEE REVIEW

Public Works and Utilities Committee: 8/24/20

Finance Committee: 8/31/2020

Governing Body: 9/9/20

MOTION: Councilor Cassutt-Sanchez moved, seconded by , to remove the funding request for the new Fire Station #2 and replace it with funding request for Midtown property infrastructure improvements and swapping Citywide parks renovations and repairs with Santa Fe median beautification.

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

For: Councilor Abeyta, Councilor Villarreal, Councilor Romero-Wirth,
Councilor Lindell, Councilor Cassutt-Sanchez

Against: None

Abstain: None

- c. Consideration of Bill No. 2020-__: An Ordinance Creating New Section 7-1.11 and 14-13 SFCC 1987, Establishing a Fee Schedule for Services Provided by the Land Use Department; Repealing Section 7-3.3, Regarding the Permit Fee to Move a Building; Amending Section 14-9 to Allow the Land Use Director to Issue Certain Preliminary Permits at the Owner's Own Risk;



MINUTES

REGULAR MEETING OF
THE FINANCE COMMITTEE
AUGUST 31, 2020 AT 5:00 PM

Amending Section 14-9.5 to Clarify the Process for Constructing Public and Quasi-Public Improvements Prior to Commencement of Other Aspects of Development; Adding a Definition to Subsection 14-12.1 for “Site Restoration”; and Establishing an Effective Date. (Mayor Webber) (Eli Isaacson, Land Use Department Director, eisaacson@santafenm.gov, 955-6830)

COMMITTEE REVIEW

Planning Commission: 8/20/2020

Public Works and Utilities Committee: 8/24/20

Finance Committee: 8/31/2020

Governing Body (Request to Publish): 9/09/2020

Governing Body (Public Hearing): 9/30/2020

MOTION: Councilor Lindell moved, seconded by Councilor Cassutt-Sanchez, to approve the bill as presented.

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

For: Councilor Abeyta, Councilor Villarreal, Councilor Romero-Wirth, Councilor Lindell, Councilor Cassutt-Sanchez

Against: None

Abstain: None

- d. Consideration of Resolution No. 2020-__: A Resolution Accepting a Municipal Arterial Program (“MAP”) Cooperative Grant from the New Mexico Department of Transportation (“NMDOT”) Identified as Control Number L500383 for the Planning, Design, and Construction of Agua Fria Street and South Meadows Road Intersection Improvements. (Councilors Rivera and Abeyta) (Tom Graham, ADA Coordinator, tmgraham@santafenm.gov, 955-6654)

· Request Approval of a Municipal Arterial Program Cooperation Agreement (MUNIS Contract No. 3202084) with the NMDOT in the amount of \$216,000.00 for Planning, Design and Construction of CIP 853 C – Agua Fria and South Meadows Road Intersection Improvement Project



MINUTES

REGULAR MEETING OF
THE FINANCE COMMITTEE
AUGUST 31, 2020 AT 5:00 PM

· Request for Approval of Budget Adjustment Resolution (BAR) to Budget NMDOT Grant Funding

COMMITTEE REVIEW

Finance Committee (Scheduled)	08/31/2020
Governing Body (Scheduled)	09/09/2020

MOTION: Councilor Lindell moved, seconded by Councilor Cassutt-Sanchez, to approve the bill as presented.

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

For: Councilor Abeyta, Councilor Villarreal, Councilor Romero-Wirth, Councilor Lindell, Councilor Cassutt-Sanchez

Against: None

Abstain: None

- e. Request for Approval of the Capital Reallocation Budget Amendment Resolution; (John Romero, Traffic Division Director, jjromero1@santafenm.gov 955-6638), Bradley Fluetsch, Financial Planning & Investments, bjfluetsch@santafenm.gov, 955-6885)

MOTION: Councilor Villarreal moved, seconded by Councilor Lindell, to approve the capital reallocation budget amendment resolution as amended. Reduce the roof repair allocation by \$372,000 and allocate \$200,000 for public safety radios and \$172,000 for lighting and sidewalk improvements for Harrison Road.

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

For: Councilor Abeyta, Councilor Villarreal, Councilor Romero-Wirth, Councilor Lindell, Councilor Cassutt-Sanchez

Against: None



MINUTES

REGULAR MEETING OF
THE FINANCE COMMITTEE
AUGUST 31, 2020 AT 5:00 PM

Abstain: None

- f. Request for the Approval of the North Central New Mexico Economic Development District-Non Metro Area Agency on Aging Title III Federal & State Sub-Award. Contract #2020-21-60026 (Munis Contract #3202012) in the amount of \$801,843.02 to provide services to eligible clientele who receive Transportation, Nutrition, and in-Home Support services during FY 2021; (Gino Rinaldi, Senior Services Division Director earinaldi@santafenm.gov, 505-955-4710)

Committee Review:

Quality of Life: 9/2/20

Council: 9/9/20

MOTION: Councilor Lindell moved, seconded by Councilor Cassutt-Sanchez, to approve the bill as presented.

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

For: Councilor Abeyta, Councilor Villarreal, Councilor Romero-Wirth, Councilor Lindell, Councilor Cassutt-Sanchez

Against: None

Abstain: None

- g. Request for Approval of Contract Amendment #3 with Studio X in the amount of \$125,000 for Website Services, for FY21. (Randy Randall, Tourism Director, rrandall@santafenm.gov, 955-6209)

COMMITTEE REVIEW:

Quality of Life Committee (scheduled): 08/19/2020

Finance Committee (scheduled): 08/31/2020

Governing Body (scheduled): 09/09/2020



MINUTES

MOTION: Councilor Romero-Wirth moved, seconded by Councilor Lindell, to approve the Contracts as presented.

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

For: Councilor Abeyta, Councilor Villarreal, Councilor Romero-Wirth, Councilor Lindell, Councilor Cassutt-Sanchez

Against: None

Abstain: None

- h. Request for Approval of Contract Amendment #3 with Certified Folder Display Services, Inc. in the amount of \$45,000 for SF Visitor's Guide Distribution Services, for FY21. (Randy Randall, Tourism Director, rrandall@santafenm.gov, 955-6209)

COMMITTEE REVIEW:

Quality of Life Committee (scheduled): 08/19/2020

Finance Committee (scheduled): 08/31/2020

Governing Body (scheduled): 09/09/2020

MOTION: Councilor Romero-Wirth moved, seconded by Councilor Lindell, to approve the Contracts as presented.

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

For: Councilor Abeyta, Councilor Villarreal, Councilor Romero-Wirth, Councilor Lindell, Councilor Cassutt-Sanchez

Against: None

Abstain: None

- i. Request for Approval of Contract Amendment #2 with Lou Hammond & Associates in the amount of \$125,000 for Public Relations Services, for FY21. (Randy Randall, Tourism Director, rrandall@santafenm.gov, 955-6209)



MINUTES

REGULAR MEETING OF
THE FINANCE COMMITTEE
AUGUST 31, 2020 AT 5:00 PM

COMMITTEE REVIEW:

Quality of Life Committee (scheduled): 08/19/2020

Finance Committee (scheduled): 08/31/2020

Governing Body (scheduled): 09/09/2020

MOTION: Councilor Lindell moved, seconded by Councilor Cassutt-Sanchez, to approve the bill as presented.

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

For: Councilor Abeyta, Councilor Villarreal, Councilor Romero-Wirth, Councilor Lindell, Councilor Cassutt-Sanchez

Against: None

Abstain: None

- j. Request for Approval of Contract Amendment #1 with Vladimir Jones in the amount of \$1,300,000 for Advertising Agency Services, for FY21. (Randy Randall, Tourism Director, rrandall@santafenm.gov, 955-6209)

COMMITTEE REVIEW:

Quality of Life Committee (scheduled): 08/19/2020

Finance Committee (scheduled): 08/31/2020

Governing Body (scheduled): 09/09/2020

MOTION: Councilor Lindell moved, seconded by Councilor Cassutt-Sanchez, to approve the bill as presented.

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

For: Councilor Abeyta, Councilor Villarreal, Councilor Romero-Wirth, Councilor Lindell, Councilor Cassutt-Sanchez

Against: None



MINUTES

Abstain: None

- k. Request for Approval to Award the first Citywide Price Agreement # 20/22/B-CWPA/1 effective July 1, 2020 thru June 30, 2021, with the option to renew for three (3) additional years, to both contractors for “On Call Janitorial Services-Citywide”. (Frances Dunaway, Chief Procurement Officer, fadunaway@santafenm.gov, 955.6432).

MOTION: Councilor Lindell moved, seconded by Councilor Villarreal, to approve the price agreement as presented with direction to put the price agreement out for rebid.

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

For: Councilor Abeyta, Councilor Villarreal, Councilor Romero-Wirth, Councilor Lindell, Councilor Cassutt-Sanchez

Against: None

Abstain: None

- l. Request for the Approval to Utilize the Sourcewell Cooperative Agreement with Wex Bank in the Total Amount of \$495,000 for the Purchase of Fuel. (Wex Bank); (Deputy Chief Ben Valdez, bpvaldez@santafenm.gov, 955-5040)

COMMITTEE REVIEW

Finance Committee (Scheduled)	08/31/2020
Governing Body (Scheduled)	09/09/2020

MOTION: Councilor Cassutt-Sanchez moved, seconded by Councilor Romero-Wirth, to approve the cooperative agreement as presented.

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



MINUTES

For: Councilor Abeyta, Councilor Villarreal, Councilor Romero-Wirth, Councilor Lindell, Councilor Cassutt-Sanchez

Against: None

Abstain: None

- m. Request for Approval of Amendment No. 4 to the Alpha Southwest Contract to Provide Refurbishment of Newly Acquired Las Campanas Effluent Pump Station Tank in the Amount of \$298,193.00 (John Delmar, Water Division Engineer, jpdelmar@santafenm.gov, 955-4231)

· Request for Approval of Budget Adjustment Resolution (BAR) from WWMD Cash Balance.

COMMITTEE REVIEW

Finance Committee (Scheduled)	08/31/2020
Governing Body (Scheduled)	09/09/2020

MOTION: Councilor Lindell moved, seconded by Councilor Cassutt-Sanchez, to approve the bill as presented.

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

For: Councilor Abeyta, Councilor Villarreal, Councilor Romero-Wirth, Councilor Lindell, Councilor Cassutt-Sanchez

Against: None

Abstain: None

8. **DISCUSSION AGENDA**

9. **PRESENTATION**

- a. Review of the Fiscal Impact Report Associated with Bill No. 2020-20: An Ordinance Creating Efficiencies, Enhancing Effectiveness, and Eliminating Silos by Reorganizing Certain City Departments, Organizing the Economic



MINUTES

REGULAR MEETING OF
THE FINANCE COMMITTEE
AUGUST 31, 2020 AT 5:00 PM

Development Division, Office of Affordable Housing [Office], Planning and 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, Recreation Division, and Office of Emergency Management and Safety as Divisions of a Community Health and Safety Department; and Placing [the]-Constituent and Council Relations [Department] Into the City Clerk’s Office to Form an Office of Community Engagement; 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 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; and Making Such Other Changes as are Necessary. (Jarel LaPan Hill, City Manager, jlpanhill@santafenm.gov, 955-6848, Erin K. McSherry, City Attorney, ekmcsherry@santafenm.gov, 955-6512 and Jesse Guillen, jbguillen@santafenm.gov, 505-955-6518)

- b. Benefits Presentation (Ashley Barela, Assistant Human Resources Director, ambarela@santafenm.gov, 955-6517, Bernadette Salazar, Human Resources Director, bjsalazar@santafenm.gov, 955-6591, AON representative)

Postpone the Benefits Presentation to the 9/21/20 Finance Committee Meeting.

10. **MATTERS FROM STAFF**

11. **MATTERS FROM THE COMMITTEE**

MATTERS FROM THE CHAIR

NEXT MEETING:



City of Santa Fe

MINUTES

REGULAR MEETING OF
THE FINANCE COMMITTEE
AUGUST 31, 2020 AT 5:00 PM

12. ADJOURN

Liaison

Chair

ACTION SHEET	
PUBLIC WORKS AND UTILITES COMMITTEE MEETING OF 08/24/2020	
ISSUE NO. 8D	
Request for Approval of Change Order No. 2 to the Original Contract No. 19-0714 with TLC Company, Inc. for the Canyon Road Water Treatment Plant Raw Water Supply Pipeline CIP No.3038C to Extend the Contract Term by 96 Calendar Days. (Robert Jorgenson, Water Division Engineer, njorgenson@santafenm.gov , 955-4265)	
<u>COMMITTEE REVIEW</u>	
Finance Committee (Scheduled)	08/31/2020
Governing Body (Scheduled)	09/09/2020
PUBLIC WORKS AND UTILITES COMMITTEE ACTION: Approved on Consent Agenda to forward to the 8/31/2020 Finance Committee	
SPECIAL CONDITIONS OR AMENDMENTS:	
STAFF FOLLOW UP:	

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

City of Santa Fe, New Mexico

MEMO

Date: August 10, 2020
To: Public Works and Utilities Committee and Finance Committee
Via: Shannon Jones, Public Utilities Department Director 
Jesse Roach, Water Division Director 
From: Robert Jorgensen, Engineer (rnjorgensen@santafenm.gov -- 505-955-4265) 

Item and Issue

Approval of Change Order No. 2 extending the contract term by 96 calendar days under contract Item #19-0714 with TLC Company, Inc. for the CRWTP Raw Water Supply Pipeline CIP #3038C project is requested. Munis # 3200259; PL # WTR18505ND.

Background and Summary

The TLC construction contract is for the installation of a 24 inch diameter pipeline between Nichols Dam and the Canyon Road Water Treatment Plant (CRWTP). The pipeline is located along the Nichols Dam service road and along upper Canyon Road (also known as Forest Road 386). This pipeline will replace the existing raw water supply pipeline which runs in the Santa Fe River Channel.

The City suspended work on May 27, 2020 after the Forest Service issued Stage 2 fire restrictions. Fire restriction were lifted by the Forest Service on July 29, 2020. TLC was unable to work for a 63 calendar period due to fire restrictions. TLC is scheduled to resume work on August 31, 2020.

Change Order 2

Change Order No. 2 extends the contract term by 96 calendar days.

Recommended Action

Staff requests the following:

- Approval of Change Order No. 2 extending the contract term by 96 calendar days

CHANGE ORDER
 FOR
 CRWTP RAW WATER SUPPLY PIPELINE CIP #3038C
 #19-0714; #20-0250

To: TLC Company, Inc.
5000 Edith Blvd. NE
Albuquerque, NM 87107

Contract No.: 19-0714
 Change Order No.: 02
 Date: August 10, 2020

You are hereby directed to make the following changes to this Contract:

Contract Time Extension, Article 5 Term: Increase term from 337 calendar days to 433 calendar days (96 calendar day extension) from Notice to Proceed (completion date of December 7, 2020).

The work covered by this order shall be performed under the same terms and conditions as that which is included in the original Contract. Not valid until approved by City of Santa Fe.

ORIGINAL CONTRACT SUM	\$2,935,706.75
NET CHANGE BY PREVIOUS CHANGE ORDERS	\$191,268.04
CONTRACT SUM PRIOR TO THIS CHANGE ORDER	\$3,126,974.79
CONTRACT SUM WILL BE (INCREASED) (DECREASED) BY THIS CHANGE ORDER	\$0.00
NEW CONTRACT SUM INCLUDING THIS CHANGE ORDER	\$3,126,974.79

CHANGES APPROVED:

<u>Eddie C Padilla</u>	<u>8/12/20</u>		
TLC Company, Inc.	Date	Mayor / City Manager	Date
CRS #02-0226090-000		Finance Director	Date
Registration # 222153		<u>Marcos Martinez</u>	Aug 11, 2020
		<small>Marcos Martinez (Aug 11, 2020 08:58 MDT)</small>	
		Senior Assistant City Attorney	Date
		<u>Shannon Jones</u>	
		<small>Shannon Jones (Aug 12, 2020 11:45 MDT)</small>	
		Public Utilities Director	Date
		<u>Robert Jorgensen</u>	
		<small>Robert Jorgensen (Aug 12, 2020 11:25 MDT)</small>	
		Water Division Director	Date
		Project Manager	Date

Munis # 3200259
 PL # WTR18505ND


2020 08 11 TLC#2 CRWTP RAW

Final Audit Report

2020-08-11

Created:	2020-08-11
By:	Irene Romero (ikromero@ci.santa-fe.nm.us)
Status:	Signed
Transaction ID:	CBJCHBCAABAHAHNZmn8FfhbNs3DyqwigK0Lc1WeqNo2Rs

"2020 08 11 TLC#2 CRWTP RAW" History

-  Document created by Irene Romero (ikromero@ci.santa-fe.nm.us)
2020-08-11 - 2:15:55 PM GMT- IP address: 63.232.20.2
-  Document emailed to Marcos Martinez (mdmartinez@santafenm.gov) for signature
2020-08-11 - 2:18:39 PM GMT
-  Email viewed by Marcos Martinez (mdmartinez@santafenm.gov)
2020-08-11 - 2:58:05 PM GMT- IP address: 75.161.250.9
-  Document e-signed by Marcos Martinez (mdmartinez@santafenm.gov)
Signature Date: 2020-08-11 - 2:58:49 PM GMT - Time Source: server- IP address: 75.161.250.9
-  Signed document emailed to Marcos Martinez (mdmartinez@santafenm.gov), Irene Romero (ikromero@ci.santa-fe.nm.us) and mfmartinez@santafenm.gov
2020-08-11 - 2:58:49 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 TLC Company Inc.

3 Complete information requested Plus GRT
 Inclusive of GRT

Original Contract Amount: \$2,935,706.75

Termination Date: 240 NTP

Approved by Council Date: Pending

or by City Manager Date: _____

Contract is for: RFB 19/18B CRWTP Raw Water Supply Pipeline

Amendment # CO#2 to the Original Contract# 19-0714

Increase/(Decrease) Amount \$ _____

Extend Termination Date to: December 7, 2020

Approved by Council or Pending

by City Manager Date: _____

Amendment is for: Extend Term

4 **History of Contract & Amendments:** (option: attach spreadsheet if multiple amendments) Plus GRT
 Inclusive of GRT

Amount \$ 2,935,706.75 of original Contract# pending Termination Date: 240NTP

Reason: RAW Water Pipeline

Amount \$ 191,268.04 amendment # CO #1 Termination Date: 9/2/2020

Reason: term

Amount \$ 0 amendment # CO #2 Termination Date: 12/7/20

Reason: Extend Term

Amount \$ _____ amendment # _____ Termination Date: _____

Reason: _____

Total of Original Contract plus all amendments: \$ \$3,126,974.79



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

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

RFP# RFB # 9/18/B Date: June 18, 2019

RFQ _____ Date: _____

Sole Source _____ Date: _____

Other _____

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

Fran Dunaway, CEO, Salco
Fran Dunaway (Sep 11, 2020 11:20 MDT)

Purchasing Officer Review

Comments or Exceptions: _____

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

Alexis Lotero
Alexis Lotero (Sep 9, 2020 15:40 MDT)

Budget Officer Approval

Comments or Exceptions: _____

8 **Any out-of-the ordinary or unusual issues or concerns:**

(Memo may be attached to explain detail.)

9 **Staff Contact who completed this form:** Maya Martinez

Phone # # _____

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 PROCUREMENT CHECKLIST

Contractor Name: TLC Company, Inc.

Procurement Title: CRWTP Raw Water Supply Pipeline CIP #3038C

Procurement Method: State Price Agreement Cooperative Sole Source Other

Exempt Request For Proposal (RFP) Invitation To Bid (ITB) Contract under 60K Contract over 60K

Department Requesting Public Utilities _____ Staff Name Robert Jorgensen

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	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Approved Procurement Checklist (by Purchasing)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Memo addressed to City Manager (under 60K) Committees/City Council (over 60K)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	State Price Agreement
<input type="checkbox"/>	<input checked="" type="checkbox"/>	RFP
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Evaluation Committee Report
<input type="checkbox"/>	<input checked="" type="checkbox"/>	ITB
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Bib Tab
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Quotes (3 valid current quotes)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Cooperative Agreement
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Sole Source Request and Determination Form
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Contractors Exempt Letter
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Purchasing Officers approval for exempt procurement
<input type="checkbox"/>	<input checked="" type="checkbox"/>	BAR
<input type="checkbox"/>	<input checked="" type="checkbox"/>	FIR
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Executed Contract, Agreement or Amendment
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Current Business Registration and CRS numbers on contract or agreement
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Summary of Contracts and Agreements form
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Certificate of Insurance
<input type="checkbox"/>	<input type="checkbox"/>	All documentation presented to Committees
<input type="checkbox"/>	<input type="checkbox"/>	Other: _____

Robert Jorgensen Robert Jorgensen (Aug 12, 2020 11:25 MDT) Engineer April 16, 2020

Department Rep Printed Name (attesting that all information included) Title Date

Fran Dunaway, CFO Fran Dunaway (Sep 11, 2020 11:20 MDT)

Purchasing Officer (attesting that all information is reviewed) Title Date

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



City of Santa Fe

Treasury Department
200 Lincoln Ave.
Santa Fe, New Mexico 87504-0909
505-955-6551

BUSINESS REGISTRATION

Business Name: TLC PLUMBING AND UTILITY
DBA: TLC PLUMBING AND UTILITY

Business Location: SF COUNTY
SANTA FE, NM 87501

Owner: DALE ARMSTRONG

License Number: 222153

Issued Date: March 10, 2020

Expiration Date: December 31, 2020

CRS Number: 02226090000

License Type: Business License - Renewable

Classification: Out of Jurisdiction Contractor -
Plumbing

Fees Paid: \$10.00

TLC PLUMBING AND UTILITY
5000 EDITH BLVD NE
ALBUQUERQUE, NM 87107

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

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

TO BE POSTED IN A CONSPICUOUS PLACE

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**PRIMARY AND NONCONTRIBUTORY -
OTHER INSURANCE CONDITION**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

The following is added to the **Other Insurance** Condition and supersedes any provision to the contrary:

Primary And Noncontributory Insurance

This insurance is primary to and will not seek contribution from any other insurance available to an additional insured under your policy provided that:

- (1) The additional insured is a Named Insured under such other insurance; and
- (2) You have agreed in writing in a contract or agreement that this insurance would be primary and would not seek contribution from any other insurance available to the additional insured.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.



COMMERCIAL GENERAL LIABILITY CONTRACTORS ENDORSEMENT

This endorsement modifies insurance provided under the following: COMMERCIAL GENERAL LIABILITY COVERAGE FORM

Coverage afforded under this expanded coverage endorsement does not apply to any person or organization covered as an additional insured on any other endorsement now or hereafter attached to this Coverage Form.

SCHEDULE

The coverage provided by this endorsement is summarized below and is intended to provide a general coverage description only. For the details affecting each coverage please refer to the terms and conditions in this endorsement.

- A. Expected or Intended Injury
B. Liquor Liability Coverage Extension
C. Non-Owned Watercraft
D. Non-Owned Aircraft
E. Damage To Property - Borrowed Equipment
F. Damage To Premises Rented To You
G. Personal And Advertising Injury
H. Supplementary Payments
I. Additional Insureds - Automatic Status
J. Who Is An Insured Broadened
K. Knowledge and Notice of Occurrence
L. Other Insurance Condition Amended
M. Unintentional Failure To Disclose Hazards
N. Waiver of Transfer of Rights Of Recovery Against Others To Us - Automatic Status
O. Liberalization
P. Definitions

A. EXPECTED OR INTENDED INJURY
Under SECTION 1, COVERAGES, COVERAGE A, BODILY INJURY AND PROPERTY DAMAGE
Under SECTION 1, COVERAGES, COVERAGE B, PERSONAL AND ADVERTISING INJURY LIABILITY, Item 2, Exclusions a, Contractual Liability is deleted.

"Bodily Injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" or "property damage" resulting from the use of reasonable force for the purpose of protecting persons or property.

G. PERSONAL AND ADVERTISING INJURY

Under SECTION 1, COVERAGES, COVERAGE B PERSONAL AND ADVERTISING INJURY LIABILITY, Item 2, Exclusions a, Contractual Liability is deleted.

Under SECTION 1 - COVERAGES, COVERAGE B PERSONAL AND ADVERTISING INJURY LIABILITY, the following are added to Item 2, Exclusions:

- q. Discrimination Relating To Room, Dwelling or Premises
r. Fines or Penalties

H. SUPPLEMENTARY PAYMENTS

Under SECTION 1 - SUPPLEMENTARY PAYMENTS COVERAGES A AND B, Item 1.b. is replaced with the following:

- b. Up to \$2,500 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.

Under SECTION 1 - SUPPLEMENTARY PAYMENTS COVERAGES A AND B, Item 1.d. is replaced with the following:

- d. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or suit, including actual loss of earnings up to \$1,000 a day because of time off from work.

I. ADDITIONAL INSUREDS - AUTOMATIC STATUS

SECTION II - WHO IS AN INSURED is amended to include as an insured any person or organization (called "additional insured") described in paragraphs a. through g. below whom you are required to add as an additional insured on this policy under a written contract or written agreement. However the written contract or written agreement must be:

- 1. Currently in effect or becoming effective during the term of the policy; and
2. Executed prior to the "bodily injury", "property damage" or "personal injury and advertising injury", but

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

- a. State or Governmental Agency or Subdivision or Political Subdivisions
b. Mortgagee, Assignee or Receiver

(1) This insurance applies only with respect to the following hazards for which the state or governmental agency or subdivision or political subdivision has issued a permit or authorization in connection with premises you own, rent or control and to which this insurance applies:

- (a) The existence, repair, maintenance, erection, construction, 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
(b) The construction, erection, or removal of elevators.

(2) This insurance applies only with respect to operations performed by you or on your behalf for which the state or governmental agency or subdivision or political subdivision has issued a permit or authorization.

This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of operations performed for the federal government, state or municipality.

- b. Managers or Lessors of Premises

A manager or lessor of premises but only with respect to liability arising out of the ownership, maintenance or use of that specific part of the premises leased to you and subject to the following additional exclusions:

- (1) Any "occurrence" which takes place after you cease to be a tenant in that premises; or

B. LIQUOR LIABILITY COVERAGE EXTENSION

SECTION 1, COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY, Item 2, Exclusions c, Liquor Liability is deleted.

C. NON-OWNED WATERCRAFT

Under SECTION 1, COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY, Item 2, Exclusions g(2) is replaced with the following:

- (a) Less than 60 feet long; and

D. NON-OWNED AIRCRAFT

Under SECTION 1, COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY, Item 2, Exclusions g(2) is replaced with the following:

- (f) An aircraft you do not own provided that:

- (a) The pilot in command holds a currently effective certificate issued by the duly constituted authority of the United States of America or Canada, designating that person as a commercial or airline transport pilot;
(b) It is rented with a trained, paid crew; and
(c) It does not transport persons or cargo for a charge.

E. DAMAGE TO PROPERTY - BORROWED EQUIPMENT

Under SECTION 1, COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY, Item 2, Exclusions i, is deleted and replaced by the following:

1. Damage To Property:

- (1) Property you own, rent or occupy;
(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 the insured;
(5) That particular part of any 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 real property that must be repaired, replaced, or repaired because "your work" was inaccurately performed on it.

Paragraphs (1), (3) and (4) of this exclusion do not apply to:

- (i) "property damage" to tools or equipment loaned to you if the tools or equipment are not being used to perform operations at the time of loss; or
(ii) "property damage" (other than damage by fire) to premises rented to you or temporarily occupied to you with the permission of the owner or to the contents of premises rented to you for a period of seven (7) or fewer consecutive days. A separate limit of insurance applies to Damage To Premises Rented To You as described in Section III - LIMITS OF INSURANCE.

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 beyond one year from the date "your work" was completed. 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".

F. DAMAGE TO PREMISES RENTED TO YOU

Under SECTION 1 - COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY, Item 2, Exclusions, the last paragraph of Item 2, Exclusions is replaced with the following:

Exclusion c, through f, do not apply to damage by fire or explosion to premises which are rented to you or temporarily occupied by you with permission of the owner. A separate limit of insurance applies to this coverage as described in Section III - LIMITS OF INSURANCE.

- (2) Structural alterations, new construction or demolition operations performed by or on behalf of such additional insured.

c. Mortgagee, Assignee or Receiver

A mortgagee, assignee or receiver but only with respect to their liability as mortgagee, assignee or receiver and arising out of the ownership, maintenance, or use of a premises by you.

This insurance does not apply to structural alterations, new construction or demolition operations performed by or for such additional insured.

d. Owners Or Other Interests From Whom Land Has Been Leased

An owner or other interest from whom land has been leased by you but only with respect to liability arising out of the ownership, maintenance or use of that specific part of the land leased to you and subject to the following additional exclusions:

This insurance does not apply to:

- (1) Any "occurrence" which takes place after you cease to lease that land; or
(2) Structural alterations, new construction or demolition operations performed by or on behalf of such additional insured.

e. Co-owner of Insured Premises

A co-owner of a premises co-owned by you and covered under this insurance but only with respect to the co-owners liability as co-owner of such premises.

f. Lessee of Equipment

Any person or organization from whom you lease equipment. Such person or organization are insureds only with respect to their liability arising out of the maintenance, operation or use by you of equipment leased to you by such person or organization. A person's or organization's status as an insured under this endorsement ends when their written contract or written agreement with you for such leased equipment ends.

With respect to the insurance afforded these additional insureds, the following exclusions apply:

This insurance does not apply:

- (1) To any "occurrence" which takes place after the equipment lease expires; and
(2) To "bodily injury", "property damage" or "personal and advertising injury" arising out of the sole negligence of such additional insured.

Any insurance provided to an additional insured designated under paragraphs a, through f, above does not apply to bodily injury or "property damage" included within the "products-completed operations hazard".

As respects the coverage provided under this provision, Paragraph 4.B.(1) of Section IV - Commercial General Liability Conditions is deleted and replaced with the following:

4. Other Insurance

b. Excess Insurance

(1) This insurance is excess over: Any other insurance naming the additional insured as an insured whether primary, excess, contingent or on any other basis unless a written contract or written agreement specifically requires that this insurance be either primary or primary and non-contributing. Where required by written contractor written agreement, we will consider any other insurance maintained by the additional insured for injury or damage covered by this endorsement to be excess and non-contributing with this insurance.

J. WHO IS AN INSURED BROADENED

Under SECTION II - WHO IS AN INSURED the following is added to Item 1:

f. Joint Ventures / Partnership / Limited Liability Company Coverage

You are an insured when you had an interest in a joint venture, partnership or limited liability company which is terminated or ended prior to or during this policy period but only to the extent of your interest in such joint venture, partnership or limited liability company. This coverage does not apply:

- (1) Prior to the termination date of any joint venture, limited liability company or partnership; or

(2) If there is other valid and collectible insurance purchased specifically to insure the joint venture, legal liability company or partnership.

Under SECTION II - WHO IS AN INSURED, 2a.(1)(b) is deleted and replaced with the following:

(d) Arising out of his or her providing or failing to provide professional health care services.

This does not apply to nurses, emergency medical technicians or paramedics employed by you to provide health care services, but only if you are not in the business or occupation of providing such professional services.

Under SECTION II - WHO IS AN INSURED the following is added:

4. For COVERAGE A and COVERAGE B only, the owner of any building leased to you, but only if the building owner is a shareholder in your corporation or a partner in your partnership insured by this policy, and only with respect to liability arising out of the ownership, maintenance or use of that part of the premises leased to you. However, this insurance does not apply:

- a. To any "occurrence" or offense which takes place after you cease to be a tenant in the premises; or
- b. To structural alterations, new construction or demolition operations performed by or on behalf of the building owner.

Under SECTION II - WHO IS AN INSURED, 3a. is deleted and replaced with the following:

a. Coverage under this provision is afforded only until the end of the policy period or the next anniversary of this policy's effective date after you acquire or form the organization whichever is earlier.

Under SECTION II - WHO IS AN INSURED the last paragraph in this section is deleted and replaced with the following:

Except as provided in 3. above, no person or organization is an insured with respect to the conduct of any current or past joint ventures, limited liability company or partnership that is not shown as a named insured in the Declarations.

K. KNOWLEDGE AND NOTICE OF OCCURRENCE

Under SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS, 2. Duties in the Event of Occurrence, Offense, Claim Or Suit, the following is added:

e. The requirement in Condition 2a. applies only when the "occurrence" or offense is known to:

- (1) You, if you are an individual;
- (2) A partner, if you are a partnership;
- (3) An "executive officer" or Insurance manager, if you are a corporation; or
- (4) A manager, if you are a limited liability company.

f. The requirement in Condition 2b. will not be breached unless the breach occurs after such claim or "suit" is known to:

- (1) You, if you are an individual;
- (2) A partner, if you are a partnership;
- (3) An "executive officer" or Insurance manager, if you are a corporation; or
- (4) A manager, if you are a limited liability company.

g. Your rights under this Coverage Part will not be prejudiced if you fail to give us notice of an "occurrence," offense, claim, or "suit" and that failure is solely due to your reasonable belief that the "bodily injury" or "property damage" is not covered under this Coverage Part. However, you shall give written notice of this "occurrence," offense, claim, or "suit" to us as soon as you are aware this insurance may apply to such "occurrence," offense, claim or "suit."

L. OTHER INSURANCE CONDITION AMENDED

When required by written contract with any additional insured owner, lessee, or contractor to provide insurance on a primary and noncontributory basis, Condition 4 of Section IV - Commercial General Liability Conditions is deleted and replaced with the following:

4. Other Insurance

If other valid and collectible insurance is available for a loss we cover under Coverage A or B of this Coverage Part, our obligations are limited as follows:

them, if that is the primary cause of the injury or damage; or

(2) 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 (1) above and supervisory, inspection, architectural or engineering activities.

Under SECTION V - DEFINITIONS, Item 14, the following is added to the definition of "Personal and Advertising Injury":

h. Discrimination or humiliation that results in injury to the feelings or reputation of a natural person, but only if such discrimination or humiliation is:

- (1) Not done intentionally by or at the direction of:
 - (a) The Insured; or
 - (b) Any "executive officer," director, stockholder, partner, member or manager (if you are a limited liability company) of the Insured;
- (2) Not directly or indirectly related to the employment, prospective employment, past employment or termination of employment of any person or persons by any Insured.

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" or "property damage" 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 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

a. Primary Insurance

This insurance is primary and non-contributory except when b. below applies.

b. Excess Insurance

This insurance is excess over any of the other insurance, whether primary, excess, contingent, or on any other basis:

- (1) That is Fire, Extended Coverage, Builders Risk, Installation Risk, or similar coverage for your work;
- (2) That is Fire Insurance for premises rented to you or temporarily occupied by you with permission of the owner; or
- (3) If the loss arises out of the maintenance or use of aircraft, "autos," or watercraft to the extent not subject to Exclusion g. of Section I - Coverage A.
- (4) If the loss is caused by the sole negligence of any additional insured, owner, lessee, or contractor.

When this insurance is excess, we will have no duty under Coverage A or B to defend the Insured against any "suit" if any other insurer has a duty to defend the Insured against that "suit." If no other defenses, we will undertake to do so, but we will be entitled to the other 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 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 deductibles 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.

M. UNINTENTIONAL FAILURE TO DISCLOSE HAZARDS

Under SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS, Item 6. Representations, the following is added:

d. Your failure to disclose all hazards or prior "occurrences" existing as of the inception date of this policy shall not prejudice the coverage afforded by this policy, provided such failure to disclose all hazards or prior "occurrences" is not intentional.

N. WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US - AUTOMATIC STATUS

Under SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS, Item 8. Transfer of Rights of Recovery Against Others To Us is deleted and replaced by the following:

We waive any right of recovery we may have against any person or organization with respect to which the Insured has waived its right of recovery.

It is further agreed that work commenced under letter of intent or work order, subject to subsequent reduction to writing, with customers whose customary written contracts would require a waiver of recovery rights against them also falls within this blanket waiver of recovery rights.

O. LIBERALIZATION

If we adopt a change in our forms or rates which would broaden coverage for contractors under this coverage form without an additional premium charge, your policy will automatically provide the additional coverage's as of the date the broadened coverage is effective in your state.

P. DEFINITIONS

Under SECTION V - DEFINITIONS, Item 3. is deleted and replaced with the following:

3. "Bodily injury" means bodily injury, disability, sickness, or disease sustained by a person, including death resulting from any of these at any time. "Bodily injury" includes mental anguish or other mental injury resulting from "bodily injury."

Under SECTION V - DEFINITIONS, Item 8. is deleted and replaced with the following:

8. "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 damage by fire 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;

POLICY NUMBER: 1466277

COMMERCIAL GENERAL LIABILITY

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED - OWNERS, LESSEES OR CONTRACTORS - SCHEDULED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:
COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name of Additional Insured Person(s) Or Organization(s)	Location(s) Of Covered Operations
All persons or organizations when you have agreed in writing in a contract or agreement that such persons or organizations be added as an additional insured.	All Locations
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

A. Section II - Who is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury," "property damage" or "personal and advertising injury" caused, in whole or in part, by:

- 1. Your acts or omissions; or
- 2. The acts or omissions of those acting on your behalf;

In the performance of your ongoing operations for the additional insured(s) at the location(s) designated above.

However:

- 1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
- 2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to "bodily injury" or "property damage" occurring after:

1. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or

2. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

C. With respect to the insurance afforded to these additional insureds, the following is added to Section III - Limits Of Insurance:

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

- 1. Required by the contract or agreement; or
- 2. Available under the applicable Limits of Insurance shown in the Declarations;

whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED - OWNERS, LESSEES OR CONTRACTORS - COMPLETED OPERATIONS

This endorsement modifies insurance provided under the following:
 COMMERCIAL GENERAL LIABILITY COVERAGE PART
 PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s)	Location(s) And Description Of Covered Operations
All persons or organizations when you have agreed in writing in a contract or agreement that such persons or organizations be added as an additional insured.	All Locations
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

- A. Section II - Who Is An Insured** is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury" or "property damage" caused, in whole or in part, by "your work" at the location designated and described in the schedule of this endorsement performed for that additional insured and included in the "products-completed operations hazard".
- However:
- The insurance afforded to such additional insured only applies to the extent permitted by law; and
 - If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.
- B. With respect to the insurance afforded to these additional insureds, the following is added to Section III - Limits Of Insurance:**
- If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:
- Required by the contract or agreement; or
 - Available under the applicable Limits of Insurance shown in the Declarations; whichever is less.
- This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

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

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

SECTION IV - BUSINESS AUTO CONDITIONS, B. General Conditions, 5. Other Insurance, Item c. 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.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EARLIER NOTICE OF CANCELLATION PROVIDED BY US

This endorsement modifies insurance provided under the following:

- COMMERCIAL AUTO COVERAGE PART
- CRIME AND FIDELITY COVERAGE PART
- EQUIPMENT BREAKDOWN COVERAGE PART
- FARM COVERAGE PART
- COMMERCIAL PROPERTY COVERAGE PART
- COMMERCIAL INLAND MARINE COVERAGE PART
- COMMERCIAL LIABILITY UMBRELLA COVERAGE PART
- OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE PART
- COMMERCIAL GENERAL LIABILITY COVERAGE PART
- LIQUOR LIABILITY COVERAGE PART
- PROFESSIONAL LIABILITY COVERAGE PART

SCHEDULE

Number of Days' Notice 030

Name Of Additional Insured Person(s) Or Organization(s)	Location(s) Of Covered Operations
PER CERTIFICATE HOLDER LIST WHERE REQUIRED BY CONTRACT (LIST ON FILE WITH COMPANY)	ALL PROJECTS WHERE REQUIRED BY CONTRACT

(If no entry appears above, information required to complete this Schedule will be shown in the Declarations as applicable to this endorsement.)

For any statutorily permitted reason other than nonpayment of premium, the number of days required for notice of cancellation, as provided in paragraph 2, of either the CANCELLATION Common Policy Condition or as amended by an applicable state cancellation endorsement, is increased to the number of days shown in the Schedule above.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.



BUSINESS AUTO ENDORSEMENT

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

SCHEDULE

The coverage provided by this endorsement is summarized below and is intended to provide a general coverage description only. For the details affecting each coverage, please refer to the terms and conditions in this endorsement.

- A. Who Is An Insured broadened:**
- Additional Insured by Contract, Agreement or Permit
 - Legally Incorporated Subsidiaries
 - Newly Acquired Organizations
- B. Supplementary Payments:**
- Ball Bonds - \$3000
 - Loss of Earnings - \$500
- C. Coverage Extensions:**
- Transportation Expenses
 - Personal Effects (Excess Basis)
- D. Additional Coverages:**
- Expenses paid for returning a stolen covered auto
 - Fire Department Service Charge
- E. Alibeg Coverage - Accidental Discharge**
- F. Knowledge and Notice of an Accident, Claim or Suit**
- G. Unintentional Failure To Disclose Hazards**
- H. Worldwide Coverage**
- I. Definitions:**
- Bodily Injury Redefined

In addition to the policy amendments contained in A. through I. listed above, the endorsements listed below will automatically be attached to your policy to complete the coverage provided by the Signature Series Business Auto Endorsement:

- Audio, Visual and Data Electronic Equipment Coverage Added Limits - CA 89 80
- Auto Loan/Lease Gap Coverage - CA 20 74
- Drive Other Car Coverage - Broadened Coverage For Named Individuals - (Executive Officers/Spouses) - CA 89 10
- Employee Hired Autos - CA 20 54
- Employee As Insureds - CA 89 83
- Hired Auto Physical Damage (Refer to Auto Declarations page)
- Rental Reimbursement Coverage - CA 89 23
- Waiver of Transfer of Rights of Recovery (Waiver of Subrogation)

A. WHO IS AN INSURED BROADENED :

SECTION II - LIABILITY COVERAGE, Item A. Coverage, 1. Who Is An Insured is amended to include the following additional paragraph:

- d.** Any legally incorporated subsidiary of yours in which you own more than

50% of the voting stock on the effective date of this endorsement.

However, "insured" does not include any subsidiary that is an "insured" under any other liability policy or would be an "insured" under such a policy but for its termination or the exhaustion of its limit of insurance.

Coverage under this provision is afforded only for the first 180 days after you acquire or form the organization or until the end of the policy period, whichever comes first.

- e. Any organization you newly acquire or form, other than a partnership or joint venture, and cover which you maintain ownership or a majority interest. However, coverage under this provision:

(1) Does not apply if the organization you acquire or form is an "insured" under another auto liability policy or would be "insured" under such a policy but for its termination or the exhaustion of its limits of insurance;

(2) Does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and

(3) Is afforded only for the first 180 days after you acquire or form the organization or until the end of the policy period, whichever comes first.

- f. Any person or organization with whom you agreed, in writing, in a contract, agreement or permit, to provide insurance such as is afforded under this policy.

This provision only applies if the written contract or agreement has been executed or permit has been issued, prior to the "bodily injury" or "property damage".

B. SUPPLEMENTAL PAYMENTS

SECTION II - LIABILITY COVERAGE, Item A. Coverage, 2. Coverage Extensions, a. Supplementary Payments, subparagraphs (2) and (4) are deleted and replaced with the following:

- (2) Up to \$5,000 for cost of bail bonds (including bonds for related traffic law violations) required because of an "accident" we cover. We do not have to furnish these bonds.
- (4) All reasonable expenses incurred by the "insured" at our request, including actual loss of earnings up to \$200 per day because of time off from work.

C. COVERAGE EXTENSIONS

SECTION III - PHYSICAL DAMAGE COVERAGE, Item A. Coverage, 4. Coverage Extensions, a. Transportation Expenses is replaced with the following:

a. Transportation Expenses

We will pay up to \$400 per day to a maximum of \$1,000 for transportation expense incurred by you because of the total theft of a covered "auto" of the private passenger type. We will pay only for those covered "autos" for which you carry either Comprehensive or Specified Causes of Loss Coverage. We will pay for transportation expenses incurred during the period beginning 48 hours after the theft and ending, regardless of the policy's expiration, when the covered "auto" is returned to use or we pay for its "loss".

The following is added to Item 4. Coverage Extensions:

c. Personal Effects

We will pay up to \$500 for the "loss" of your personal effects that are contained in a covered "auto" due to the total theft of this covered "auto." We will pay only for those personal effects that are contained in covered "autos" for which you carry either Comprehensive or Specified Causes of Loss Coverage.

Our payment for "loss" of or damage to personal effects will apply only on an excess basis over other collectible insurance.

D. ADDITIONAL COVERAGES

SECTION III - PHYSICAL DAMAGE COVERAGE, A. Coverage, is amended to include the following additional coverage items:

- 5. We will pay the expense of returning a stolen covered "auto" to you.

6. Fire Department Service Charge

When a fire department is called to save or protect a covered "auto", its equipment, its contents or occupants from a Covered Cause of Loss, we will pay up to \$1,000 for your liability for Fire Department Service Charges:

- (a) Assumed by contract or agreement prior to loss; or
- (b) Required by local ordinance.

No deductible applies to this additional coverage.

F. AIRBAG COVERAGE - ACCIDENTAL DISCHARGE

SECTION III - PHYSICAL DAMAGE COVERAGE, Item B. Exclusions, subparagraph 3.a. is deleted and replaced with the following:

- a. Wear and tear, freezing, mechanical or electrical breakdown.

Mechanical breakdown does not apply to the accidental discharge of an airbag.

F. KNOWLEDGE AND NOTICE OF AN ACCIDENT, CLAIM OR SUIT

SECTION IV - BUSINESS AUTO CONDITIONS, Item A. Loss Conditions is amended as follows:

Subparagraph a. under Item 2. Duties In The Event Of Accident, Claim, Suit Or Loss, is amended to include the following paragraphs:

This requirement applies when the "accident," claim, "suit" or "loss" is first known to:

- (1) You, if you are an individual;
- (2) A partner, if you are a partnership; or
- (3) An executive officer or insurance manager, if you are a corporation.

Subparagraph b(2) under 2. Duties In The Event Of Accident, Claim, Suit Or Loss is amended as follows:

- (2) Immediately send us copies of any request, demand, order, notice, summons or legal paper received concerning the claim or "suit."

Your employees may know of documents received concerning a claim or "suit." This will not mean that you have such knowledge, unless receipt of such documents is known to you, any of your executive officers or partners or your insurance manager.

G. UNINTENTIONAL FAILURE TO DISCLOSE HAZARDS

Under SECTION IV - BUSINESS AUTO CONDITIONS, B. General Conditions, 2. Concealment, Misrepresentation Or Fraud is amended to include the following additional paragraph:

If you unintentionally fail to disclose any hazards existing at the inception date of your policy, we will not deny coverage under this Coverage Part because of such failure.

H. WORLDWIDE COVERAGE

Under SECTION IV - BUSINESS AUTO CONDITIONS, B. General Conditions, 7. Policy Period, Coverage Territory, subparagraph (5) is deleted and replaced with the following:

- (5) Anywhere in the world, it:

(a) A covered "auto" of the private passenger type is leased, hired, rented or borrowed without a driver for a period of 45 days or less; and

(b) The "insured's" responsibility to pay damages is determined in a "suit" on the merits, in the United States of America, Puerto Rico or Canada or in a settlement we agree to.

(c) If, for such "autos" a "suit" is brought outside the territory described in 7.(1) through 7.(4) above, we will reimburse the insured for defense expenses incurred with our written consent, but we will make no payment, nor will we reimburse the insured for damages.

I. DEFINITIONS

Under SECTION V - DEFINITIONS, Item C. is replaced by the following:

- C. "Bodily injury" means bodily injury, sickness or disease sustained by a person, including mental anguish, mental injury or death resulting from any of these. "Bodily injury" includes mental anguish or other mental injury resulting from "bodily injury".

POLICY NUMBER: 1466277

COMMERCIAL AUTO

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US (WAIVER OF SUBROGATION)

This endorsement modifies insurance provided under the following:

- BUSINESS AUTO COVERAGE FORM
- BUSINESS AUTO PHYSICAL DAMAGE COVERAGE FORM
- GARAGE COVERAGE FORM
- MOTOR CARRIER COVERAGE FORM
- TRUCKERS COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Named Insured:
Endorsement Effective Date:

SCHEDULE

Name(s) Of Person(s) Or Organization(s): Automatic Status when required by Contract
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

The Transfer Of Rights Of Recovery Against Others To Us Condition does not apply to the person(s) or organization(s) shown in the Schedule, but only to the extent that subrogation is waived prior to the "accident" or the "loss" under a contract with that person or organization.



Policy No.: EWC008469
Named Insured: Associated Builders & Contractors, Inc., New Mexico Chapter

Waiver of Subrogation by Written Contract Endorsement

In the event that your Member has waived its right to subrogation against a third party under the terms of a written contract entered into by your Member prior to the date of injury to your Member's Employee for whom you have paid Loss, we will also waive any right of subrogation we have against that third party, but only with respect to said Loss, and only if our waiver is required by the written contract.

All other parts of Section K. Recovery, of Part Four – Claims of this Policy remain in effect and are unchanged by this endorsement.

Countersigned

MIDWEST EMPLOYERS CASUALTY COMPANY

Monna L. Cavaldi

Authorized Representative

Secretary

President

This endorsement forms part of the Policy to which attached, effective on the inception date of the Policy unless otherwise stated herein. All other terms and conditions of the Policy remain unchanged.

CHANGE ORDER #1
 FOR
 CRWTP RAW WATER SUPPLY PIPELINE CIP #3038C
 #19-0714

To: TLC Company, Inc.
5000 Edith Blvd. NE
Albuquerque, NM 87107

Contract No.: 19-0714
 Change Order No.: 01
 Date: April 14, 2020

You are hereby directed to make the following changes to this Contract:

- | | |
|---|---------------------|
| 1. Perform the modifications and/or changes of scope as described in the attached Change Order No. 1 Schedule of Items, page 2. | \$176,385.51 |
| 2. New Mexico GRT @ 8.4375% | <u>\$14,882.53</u> |
| TOTAL CHANGE ORDER AMOUNT | \$191,268.04 |

Contract Time Extension, Article 5 Term: Increase term from 240 to 337 calendar days (97 calendar day extension) from Notice to Proceed (completion date of September 2, 2020).

The work covered by this order shall be performed under the same terms and conditions as that which is included in the original Contract. Not valid until approved by City of Santa Fe.

ORIGINAL CONTRACT SUM	\$2,935,706.75
NET CHANGE BY PREVIOUS CHANGE ORDERS	\$0.00
CONTRACT SUM PRIOR TO THIS CHANGE ORDER	\$2,935,706.75
CONTRACT SUM WILL BE (INCREASED) (DECREASED) BY THIS CHANGE ORDER	\$191,268.04
NEW CONTRACT SUM INCLUDING THIS CHANGE ORDER	\$3,126,974.79

CHANGES APPROVED:

See Attached
 TLC Company, Inc. _____ Date
 CRS #02-0226090-000
 Registration # 19-00123458

<u>[Signature]</u>	<u>6/1/2020</u>
Alan Webber, Mayor	Date
<u>[Signature]</u>	<u>6-15-20</u>
Yolanda Y. Vigil, City Clerk	Date
<u>[Signature]</u>	<u>5/31/20</u>
Mary McCoy, Finance Director	Date
<u>[Signature]</u>	<u>4/16/20</u>
Senior Assistant City Attorney	Date
<u>See Attached</u>	_____
Public Utilities Director	Date
<u>See Attached</u>	_____
Water Division Director	Date

ITEM # 20-0250

CHANGE ORDER #1
FOR
CRWTP RAW WATER SUPPLY PIPELINE CIP #3038C
#19-0714

To: TLC Company, Inc.
5000 Edith Blvd. NE
Albuquerque, NM 87107

Contract No.: 19-0714
Change Order No.: 01
Date: April 14, 2020

You are hereby directed to make the following changes to this Contract:

- | | |
|---|---------------------|
| 1. Perform the modifications and/or changes of scope as described in the attached Change Order No. 1 Schedule of Items, page 2. | \$176,385.51 |
| 2. New Mexico GRT @ 8.4375% | <u>\$14,882.53</u> |
| TOTAL CHANGE ORDER AMOUNT | \$191,268.04 |

Contract Time Extension, Article 5 Term: Increase term from 240 to 337 calendar days (97 calendar day extension) from Notice to Proceed (completion date of September 2, 2020).

The work covered by this order shall be performed under the same terms and conditions as that which is included in the original Contract. Not valid until approved by City of Santa Fe.

ORIGINAL CONTRACT SUM	\$2,935,706.75
NET CHANGE BY PREVIOUS CHANGE ORDERS	\$0.00
CONTRACT SUM PRIOR TO THIS CHANGE ORDER	\$2,935,706.75
CONTRACT SUM WILL BE (INCREASED) (DECREASED) BY THIS CHANGE ORDER	\$191,268.04
NEW CONTRACT SUM INCLUDING THIS CHANGE ORDER	\$3,126,974.79

CHANGES APPROVED:

Eddie C. Padilla 6/12/2020
TLC Company, Inc. Date
CRS #02-0226090-000
Registration # 19-00123458

[Signature] 6/1/2020
Alan Webber, Mayor Date

[Signature] 5/21/20
Yolanda Y. Vigil, City Clerk Date

[Signature] 4/16/20
Mary McCoy, Finance Director Date

[Signature] 6/12/2020
Senior Assistant City Attorney Date

[Signature] 6/12/2020
Public Utilities Director Date

[Signature]
Water Division Director Date

Project Manager

Date

CRWTP RAW WATER SUPPLY PIPELINE CIP #3038C

TLC COMPANY, INC.

CHANGE ORDER NO. 1

SCHEDULE OF ITEMS

Bid Item	Description	Amount
-	AECOM plans as sealed by John Sikora P.E. shall be incorporated into contract documents.	0.00
12	<u>12" Drain Line</u> : Credit for changing 12" tricentric butterfly valve with a 12" RW gate valve	(7,116.60)
13	<u>Rock Excavation</u> : Increase quantity by 400 cubic yards based on subsurface utility and potholing work performed under Bid Item 3. Bid price of \$261.00 per cubic yard unchanged	68,121.00
14	<u>Imported Embedment Material</u> : Increase quantity by 350 cubic yards based on subsurface utility and potholing work performed under Bid Item 3. Bid price of \$66.50 per cubic yard unchanged.	23,275.00
23	<u>Utility Relocation</u> : Increase allowance amount based on subsurface utility locates and potholing work performed under Bid Item 3. Utility relocation to be on a time and material basis.	15,000.00
24	<u>Geotechnical Testing</u> : Increase allowance amount to include additional vibration monitors to monitor Audubon structures as negotiated between City, TLC, and Audubon.	20,000.00
25 New Item	<u>6" Drain Line</u> with gate valve, valve box, DIP and fittings, joint restraint, PE encasement, bond and locate wire, marking tape, concrete manhole, complete in place per detail on AECOM Sht. 3-5. Unit price of \$16,195.48 per each.	16,195.48
26 New Item	<u>Electric Conduit Bank</u> with (2) 4" and (2) 2" Sch. 40 PVC conduits with pull tape and warning tape. Unit price of \$11.69 per LF for quantity of 3500 LF. Conduit for future PNM electric line looping / 3 phase power per City and PNM negotiations. See detail 'Electric Conduit Trench Detail' dated April 2, 2020.	40,910.63
Construction Cost		176,385.51
NMGRT @ 8.4375 %		14,882.53
Total		191,268.04

**City of Santa Fe Contract
CRWTP Raw Water Supply Pipeline Construction**

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

IT IS MUTUALLY AGREED BETWEEN THE PARTIES:

1.

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

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

C. "You" and "your" refers to **TLC Company, 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 construct approximately 3,200 linear feet of 24 inch raw water supply pipeline between Nichols Dam and the Canyon Road Water Treatment Plant in Santa Fe County, New Mexico. Pipeline construction consists of, but not limited to trench excavation, furnishing and installing 24 inch (nominal inside diameter) pipe with fittings, valves, locate wire, warning tape, fiber optic conduit with pull boxes, backfill with compaction, pressure testing, combination air and vacuum valve stations, and roadway restoration in accordance with plans, specifications, and all other contract documents attached hereto.

B. Contractor shall provide and keep at the work site, a complete "as-built" record set of drawings that shall be corrected daily and shall show every change from the original approved drawings and specifications. These changes shall be forwarded to City periodically. The drawings shall reflect exact and actual "as-built" conditions of construction, installation, and erection as it progresses. Where drawings are not adequate to show "as-built" conditions, Contractor shall prepare sketches which delineate the necessary "as-built" information. City shall furnish two (2) sets of all paper "blue-line" print "approved" drawings for use in accomplishing specified mark-up. Final "as-built" drawings shall be delivered to City by Contractor upon completion of the work.

C. The Contractor shall be responsible for maintaining traffic control at the site in conformance with the Manual on Uniform Traffic Control Devices.

D. Contractor shall be responsible for all permits, fees, and State and City inspections associated with the construction.

3. **Compensation**

The City shall pay to the Contractor based upon fixed prices for each Deliverable item.

The total compensation under this Agreement shall not exceed two million nine hundred thirty five thousand seven hundred and six dollars and seventy five cents. (\$2,935,706.75.) including 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 240 calendar days from the Notice to Proceed. The City reserves the right to renew the contract on an annual basis by mutual Agreement not exceed a total of four (4) years in accordance with NMSA 1978, §§ 13-1-150 through 152.

6. **Default and Force Majeure**

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

7. **Termination**

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

B. **Notice; City Opportunity to Cure.**

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

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

3. Notwithstanding the foregoing, this Agreement may be terminated immediately upon written notice to the Contractor (i) if the Contractor becomes unable to perform the services contracted for, 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 Vendor/Contractor certifies the Vendor/Contractor has not, either directly or indirectly, entered into action in restraint of free competitive bidding in connection with this offer submitted to the City.

13. Inspection of Plant

The City may inspect, at any reasonable time during Contractor's regular business hours

and upon prior written notice, the Contractor's plant or place of business, or any subcontractor's plant or place of business, which is related to the performance of this contract.

14. **Commercial Warranty**

The Vendor agrees that the tangible personal property or services furnished under this Agreement shall be covered by the most favorable commercial warranties the Vendor gives to any customer for such tangible personal property or services, and that the rights and remedies provided herein shall extend to the City and are in addition to and do not limit any rights afforded to the City by any other clause of this order. Vendor agrees not to disclaim warranties of fitness for a particular purpose 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 Tor 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. Workers Compensation (including accident and disease coverage) at the statutory limit. Employers liability: \$100,000.

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

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

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

34. **Impracticality of Performance**

A party shall be excused from performance under this Agreement for any period that the party is prevented from performing as a result of an act of God, strike, war, civil disturbance, epidemic, or court order, provided that the party has prudently and promptly acted to take any

and all steps that are within the party's control to ensure performance. Subject to this provision, such non-performance shall not be deemed a default or a ground for termination.

35. **Invalid Term or Condition**

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

36. **Enforcement of Agreement**

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

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

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

- i. give the Contractor prompt written notice within 48 hours of any claim;
- ii. allow the Contractor to control the defense of settlement of the claim; and
- iii. cooperate with the Contractor in a reasonable way to facilitate the defense or settlement of the claim.

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

- i. provide the City the right to continue using the product or service and fully indemnify the City against all claims that may arise out of the City's use of the product or service;
- ii. replace or modify the product or service so that it becomes non-infringing; or,
- iii. accept the return of the product or service and refund an amount equal to the value of the returned product or service, less the unpaid portion of the purchase price and any other amounts, which are due to the Contractor. The Contractor's obligation will be void as to any product or service modified by the City to the extent such modification is the cause of the claim.

38. **Survival**

The Agreement paragraphs titled "Patent, Copyright, Trademark, and Trade Secret Indemnification; Indemnification; and Limit of Liability" shall survive the expiration of this

Agreement. Software licenses, leases, maintenance and any other unexpired Agreements that were entered into under the terms and conditions of this Agreement shall survive this Agreement.

39. **Disclosure Regarding Responsibility**

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

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

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

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

E. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the disclosure required by this document. The knowledge and information of a Contractor is not required to exceed that which is the normally possessed by a prudent person in the ordinary course of business dealings.

F. The disclosure requirement provided is a material representation of fact upon which reliance was placed when making an award and is a continuing material representation of the facts during the term of this Agreement. If during the performance of the contract, the Contractor is indicted for or otherwise criminally or civilly charged by any government entity (federal, state or local) with commission of any offenses named in this document the Contractor must provide immediate written notice to the City. If it is later determined that the Contractor knowingly rendered an erroneous disclosure, in addition to other remedies available to the Government, the City may terminate the involved contract for cause. Still further the City may suspend or debar the Contractor from eligibility for future solicitations until such time as the matter is resolved to the satisfaction of the City.

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

The City may, without cause, order the Contractor, in writing, to suspend, delay or

interrupt the work in whole or in part for such period of time as the City may determine. 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. **Construction Contract Performance and Payment Bond.**

A. When a construction contract is awarded in excess of twenty-five thousand dollars (\$25,000), the following bonds or security shall be delivered to the City and shall become binding on the parties upon the execution of the contract. If the contractor fails to deliver the required performance and payment bonds, the contractor's bid shall be rejected, its bid security shall be enforced to the extent of actual damages. Award of the contract shall be made pursuant to the Procurement Code in the following manner:

(1) a performance bond satisfactory to the City, executed by a surety company authorized to do business in this state and said surety to be approved in federal circular 570 as published by the United States treasury department or the state board of finance or the local governing authority, in an amount equal to one hundred percent of the price specified in the contract; and

(2) a payment bond satisfactory to the City, executed by a surety company authorized to do business in this state and said surety to be approved in federal circular 570 as published by the United States treasury department or the state board of finance or the local governing authority, in an amount equal to one hundred percent of the price specified in the contract, for the protection of all persons supplying labor and material to the contractor or its subcontractors for the performance of the work provided for in the contract.

B. A subcontractor shall provide a performance and payment bond on a public works building project if the subcontractor's contract for work to be performed on a project is one hundred twenty-five thousand dollars (\$125,000) or more.

42. **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.

Water Division Director
Public Utilities Department
City of Santa Fe
801 W. San Mateo

Santa Fe, NM 87504

To Contractor:
Dale Armstrong, President
TLC Company Inc
5000 Edith Blvd NE
Albuquerque, NM 87107

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

To Contractor:
Dale Armstrong, President
TLC Company Inc
5000 Edith Blvd NE
Albuquerque, NM 87107

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.

43. **Succession**

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

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

CITY OF SANTA FE:

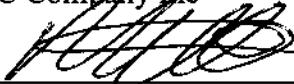


ALAN WEBBER, MAYOR

DATE: 9/5/19

CONTRACTOR:

TLC Company Inc



NAME AND TITLE

DATE: 7/25/19
CRS# 02-0226090-000

Registration # 19-00123458

ATTEST:

Yolanda Y. Vigil
YOLANDA Y. VIGIL, CITY CLERK
cc Mtg. 8-28-19

APPROVED AS TO FORM:

EMM 17/2/19
ERIN K. MCSHERRY, CITY ATTORNEY

APPROVED:

Mary McCoy
MARY MCCOY, FINANCE DIRECTOR

52376.572970
Business Unit Line Item












TLC CO#2 CRWTP RAW packet

Final Audit Report

2020-08-12

Created:	2020-08-12
By:	Maya Martinez (mfmartinez@ci.santa-fe.nm.us)
Status:	Signed
Transaction ID:	CBJCHBCAABAA0whsS3tOFca0P3JjAexT12KC9hmb_Zml

"TLC CO#2 CRWTP RAW packet" History

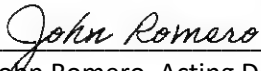
-  Document created by Maya Martinez (mfmartinez@ci.santa-fe.nm.us)
2020-08-12 - 4:52:52 PM GMT- IP address: 63.232.20.2
-  Document emailed to Robert Jorgensen (rnjorgensen@santafenm.gov) for signature
2020-08-12 - 4:55:27 PM GMT
-  Email viewed by Robert Jorgensen (rnjorgensen@santafenm.gov)
2020-08-12 - 5:01:05 PM GMT- IP address: 104.47.64.254
-  Document e-signed by Robert Jorgensen (rnjorgensen@santafenm.gov)
Signature Date: 2020-08-12 - 5:25:56 PM GMT - Time Source: server- IP address: 63.232.20.2
-  Document emailed to Jesse Roach (jdroach@santafenm.gov) for signature
2020-08-12 - 5:25:58 PM GMT
-  Email viewed by Jesse Roach (jdroach@santafenm.gov)
2020-08-12 - 5:42:15 PM GMT- IP address: 104.47.64.254
-  Document e-signed by Jesse Roach (jdroach@santafenm.gov)
Signature Date: 2020-08-12 - 5:44:30 PM GMT - Time Source: server- IP address: 63.232.20.2
-  Document emailed to Shannon Jones (swjones@santafenm.gov) for signature
2020-08-12 - 5:44:33 PM GMT
-  Email viewed by Shannon Jones (swjones@santafenm.gov)
2020-08-12 - 5:44:52 PM GMT- IP address: 70.57.240.125
-  Document e-signed by Shannon Jones (swjones@santafenm.gov)
Signature Date: 2020-08-12 - 5:45:09 PM GMT - Time Source: server- IP address: 70.57.240.125
-  Signed document emailed to Maya Martinez (mfmartinez@ci.santa-fe.nm.us), Robert Jorgensen (rnjorgensen@santafenm.gov), Shannon Jones (swjones@santafenm.gov), Jamie-Rae Diaz (jldiaz@ci.santa-fe.nm.us), and 1 more
2020-08-12 - 5:45:09 PM GMT



City of Santa Fe New Mexico

Public Works Dept. - Facilities Division MEMO

DATE: May 14, 2020
TO: Public Works, CIP & Land Use Committee/ Governing Body
VIA:



John Romero, Acting Department Director, Public Works
Michael Rodriguez, Division Director, Facilities

FROM: Anson Rane, Facilities Division Project Administrator, Public Works

ISSUE: Project Progress Update and Approval of Amendment No. 2 for Salvador Perez Recreation Building Structural and Building Envelope Rehabilitation

PROJECT SUMMARY

The Salvador Perez Recreation Building has been undergoing extensive improvements for the past six months to address mold and ventilation issues as well as extensive deferred maintenance for the facility. The scope of work has included the rehabilitation of the insulation and building envelope, structural repairs, HVAC replacement, upgrades to the locker rooms and swimming pool resurfacing. Four general contractors are engaged to complete this broad scope: B&D Industries for building envelope and structural; Ameresco for HVAC, FacilityBuild, Inc. for the locker rooms and PoolPro LLC for pool resurfacing.

During the work performed by B&D Industries, a number of deferred maintenance items were identified that were not within the contracted scope of work. The additional maintenance and repair items, which addressed code and life safety issues, were time sensitive in that they needed to be completed before the facility could be re-opened and would be an impact to the progress of the contracted work if not addressed in a timely manner. The total cost for this additional work is \$35,457.72.

The project is funded by the 2018 GRT bond for \$2,450,000. The total project cost, including a previous Amendment 1 and this Amendment 2 to B&D Industries, as well as a change order to Pool Pro LLC, will be \$2,480,198. Additional funds from savings from the City Hall Roof Replacement GRT project, in the amount of \$30,198, will be transferred to the Salvador Perez Recreation Building project to address the budget differential.

SUMMARY OF B&D CONTRACT AMENDMENT NO. 2

1. Provide repairs to existing fire protection system backflow and fire sprinkler heads.
2. Repair gas leaks in existing gas piping and re-route section of existing exterior gas line for code compliance (existing gas line was covered by wall finish).
3. Provide temporary heat for the facility during gas shutdown for gas repairs and re-routing.
4. Demolish and remove existing damaged and non-code compliant reception counter.
5. Provide ductwork mitigation/cleaning required due to the shutdown of natatorium HVAC air-handler unit for work by others (Ameresco) and for deferred maintenance.

MEMO

Project Progress Update and Approval of Amendment No. 2 for the Salvador Perez Recreation Building Structural and Building Envelope Rehabilitation

Page 2

PROJECT SCHEDULE

Both the locker room remodel by FacilityBuild and the B&D Industries work on the building and envelope and structure are substantially complete and punchlist corrections are ongoing. The HVAC work by Ameresco is 90% complete with testing and balancing work still to be completed. The pool plaster work is complete and pool water conditioning is ongoing.

Facilities and Parks and Recreation Division staff have commenced with additional pre-occupancy work and tasks including the fabrication and installation of a new reception counter, recharging of the pool filtration system and pool heater startup, the move-in and set up of fitness equipment and the final testing and inspection of the fire alarm and suppression systems. It is anticipated that all work and pre-occupancy set-up will be completed on or about the end of July, 2020.

BUDGET

Funding is available from the Salvador Perez Project: GRT1835502 (org 3359980 object 572970) and from the City Hall Roof Replacement Project: GRT18355A2 (org 3359980 object 572970) from which \$30,198 will be moved into the Salvador Perez Project: GRT1835502 (org 3359980 object 572970).

REQUESTED ACTION

Request approval of Amendment No.2 to the B&D Contract for Salvador Perez Recreation Building Structural and Building Envelope Rehabilitation to increase compensation by \$35,457.72 to \$1,339,838.98 inclusive of NMGR.

ATTACHMENTS

City of Santa Fe – Amendment No.2 to Agreement Between Owner and Contractor (Exhibit 1)
Contractor’s Amendment #2 Price Proposal dated 4/27/20 (Exhibit 1,A)
Contractor’s Certificate of Liability Insurance (Exhibit 1,B)
Procurement Checklist – B&D Amendment 2 (Exhibit 2)
Summary of Contract – B&D Amendment 2 (Exhibit 3)

LEGISLATIVE SCHEDULE:

Public Works Committee: 5/26/2020

Finance Committee: 6/1/2020

City Council: 6/10/2020

**CITY OF SANTA FE
AMENDMENT No. 2 TO
AGREEMENT BETWEEN OWNER AND CONTRACTOR**

AMENDMENT No. 2 (the "Amendment") to the CITY OF SANTA FE AGREEMENT 19-0648 BETWEEN OWNER AND CONTRACTOR, dated August 2, 2019 (the "Agreement"), between the City of Santa Fe (the "City") and B&D Industries, Inc. (the "Contractor"). The date of this Amendment shall be the date when it is executed by the City and the Contractor whichever occurs last.

RECITALS

A. Under the terms of the Agreement, the Contractor has agreed to provide construction services for CIP Project #503A, Salvador Perez Recreation Building - Structural and Building Envelope Rehabilitation;

B. Pursuant to Article 8.5.11 of the Agreement, and for good and valuable consideration, the receipt and sufficiency of which are acknowledged by the parties, the City and the Contractor agree as follows:

1. CONTRACT SUM:

Article 4 of the Agreement is amended to increase the total contract sum dollar amount by \$35,457.72 to include provision for additional Work per the attached proposal dated April 27, 2020 (Exhibit 1,A), so that Article 4.1 reads as follows:

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be one million, three hundred thirty-nine thousand, eight hundred thirty-eight dollars and ninety-eight cents (\$ 1,339,838.98), inclusive of New Mexico Gross Receipts Tax, subject to additions and deductions as provided in the Contract Documents.

2. AGREEMENT IN FULL FORCE.

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

IN WITNESS WHEREOF, the parties have executed this Amendment No. 2 to the City of Santa Fe Agreement 19-6048 Between Owner and Contractor for CIP Project #503A, Salvador Perez Recreation Building Structural and Building Envelope Rehabilitation.

CITY OF SANTA FE:

ALAN M. WEBBER, MAYOR

DATE: _____

ATTEST:

YOLANDA Y. VIGIL, CITY CLERK

CITY ATTORNEY'S OFFICE:

Marcos Martinez

Marcos Martinez (Jun 24, 2020 15:17 MDT)

SENIOR ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

MARY MCCOY, FINANCE DIRECTOR
Business Unit/Line Item

AL
AL

32151.572970.0119900: \$51,396.88, EXP Salvador Perez Building, WIP Construction (2-018 GRT Bond)

CONTRACTOR:

CLINTON BEALL, SENIOR VP
B&D INDUSTRIES, INC.

DATE: 7/29/2020

NM LICENSE #1426
CRS# 01-716872-004
City of Santa Fe Business
Registration# 17-00110523
NM Resident Pref # L1754397648






2020 04 29 Exhibit 1_Amend 2_B+D Sal Perez

Final Audit Report

2020-06-24

Created:	2020-06-24
By:	Irene Romero (ikromero@ci.santa-fe.nm.us)
Status:	Signed
Transaction ID:	CBJCHBCAABAAm3KA3N5TunD8pBwjt-Dylo5Hdcl9ksvm

"2020 04 29 Exhibit 1_Amend 2_B+D Sal Perez" History

-  Document created by Irene Romero (ikromero@ci.santa-fe.nm.us)
2020-06-24 - 9:10:10 PM GMT- IP address: 63.232.20.2
-  Document emailed to Marcos Martinez (mdmartinez@santafenm.gov) for signature
2020-06-24 - 9:10:32 PM GMT
-  Email viewed by Marcos Martinez (mdmartinez@santafenm.gov)
2020-06-24 - 9:17:15 PM GMT- IP address: 63.232.20.2
-  Document e-signed by Marcos Martinez (mdmartinez@santafenm.gov)
Signature Date: 2020-06-24 - 9:17:57 PM GMT - Time Source: server- IP address: 63.232.20.2
-  Signed document emailed to Irene Romero (ikromero@ci.santa-fe.nm.us) and Marcos Martinez (mdmartinez@santafenm.gov)
2020-06-24 - 9:17:57 PM GMT

NEW MEXICO

9720 Bell Ave SE
Albuquerque, NM 87123
Phone: (505) 299-4464
(866) 315-8349
Fax: (505) 298-2114

BRANCH OFFICES

NEW MEXICO

101 DP Rd
Los Alamos, NM 87544
Phone: (505) 661-8336
Fax: (505) 661-8337

TEXAS

2118 E. 8th St
Odessa, TX 79762
Phone: (432) 653-5178
Fax: (432) 653-5179

3928 Business Park Dr.
Amarillo, TX 79110
Phone: (806) 367-8041
Fax: (505) 298-2114

ARIZONA

3454 N. San Marcos Pl,
Bldg B, Suite 3A
Chandler, AZ 85225
Phone: (480) 632-4002
Fax: (505) 298-2114

NEW YORK

15 Wood Rd. Space 100
Round Lake, NY 12151
Phone: (518) 400-7412
Fax: (518) 400-7415

April 27th, 2020

Anson Rane
Facilities Division, Project Administrator
City of Santa Fe, Public Works Department
(505) 955-5935 Office
(505) 795-2639 Cell
aerane@santafenm.gov

Re: Salvador Perez Additional Contingency Items

Mr. Rane,

Thank you for the opportunity to provide this quote.

Pricing Breakdown

Total: \$ 32,698.76
Tax @ 8.4375%: \$ 2,758.96
Grand Total: \$ 35,457.72

Scope: B&D will provide labor and material to perform the following services:

- Backflow repairs: \$ 1,957.00**
- To include:
Emergency service and scheduled repairs of the backflow for the fire protection system.
- Replacing fire sprinkler heads in locker rooms: \$ 1,890.20**
- To include:
Replacement of the fire sprinkler heads in the men's and women's locker rooms.
- Reroute North gas line: \$ 4,952.05**
- To include:
Reroute the existing gas line that is buried under the EIFS on the north side.
- Duct Cleaning: \$ 5,593.33**
- To include:
Clean duct work in natatorium post sandblasting.
- Cost Difference for Fire Sprinkler Heads (No 9): \$ 1,511.56**
- To include:
The difference of the fire sprinkler heads in the locker rooms.
- Fire Sprinkler Parts: \$ 213.29**
- To include:
Additional parts need to replace the fire sprinkler heads in the locker rooms.

NEW MEXICO

9720 Bell Ave SE
Albuquerque, NM 87123
Phone: (505) 299-4464
(866) 315-8349
Fax: (505) 298-2114

BRANCH OFFICES

NEW MEXICO

101 DP Rd
Los Alamos, NM 87544
Phone: (505) 661-8336
Fax: (505) 661-8337

TEXAS

2118 E. 8th St
Odessa, TX 79762
Phone: (432) 653-5178
Fax: (432) 653-5179

3928 Business Park Dr.
Amarillo, TX 79110
Phone: (806) 367-8041
Fax: (505) 298-2114

ARIZONA

3454 N. San Marcos Pl,
Bldg B, Suite 3A
Chandler, AZ 85225
Phone: (480) 632-4002
Fax: (505) 298-2114

NEW YORK

15 Wood Rd. Space 100
Round Lake, NY 12151
Phone: (518) 400-7412
Fax: (518) 400-7415

Temporary Heaters: **\$ 8,067.91**
▪ To include:
Temporary heating for the natatorium for epoxy, primer, and paint applications.

Gas Leak Repairs: **\$ 5,215.55**
▪ To include:
Investigate entire facility gas line for leaks and make necessary repairs.

Reception Desk Removal: **\$ 3,297.87**
▪ To include:
Demo electrical and reception desk in lobby. Patch drywall.

Exclusions:

- Engineering
- Exterior or interior work not included in the above scope / Correcting existing code violations
- Temporary HVAC, Plumbing, Power, Lighting or Facilities, UEC Charges
- Any other major components not identified in the above scope or attached documents

Assumptions:

- All existing utilities, services, and structural supports will accommodate the new install
- B&D will have full unrestricted access to work area
- All work will be performed during standard working hours

Please contact me should you have questions or concerns.

Best Regards,

Kris Trujillo
(505) 379-1760 (cell)
krist@banddindustries.com

This cost proposal is valid for 30 days following issuance by B&D Industries, Inc. If the proposal is accepted after 30 days, B&D reserves the right to revise the price in accordance with commodity pricing changes including, but not limited to, copper, conduit and steel materials. If awarded, B&D reserves the right to review all contract documents associated with the project.



Blanket Additional Insured - Owners, Lessees or Contractors - with Products-Completed Operations Coverage Endorsement

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

It is understood and agreed as follows:

- I. **WHO IS AN INSURED** is amended to include as an **Insured** any person or organization whom you are required by **written contract** to add as an additional insured on this **coverage part**, but only with respect to liability for **bodily injury, property damage or personal and advertising injury** caused in whole or in part by your acts or omissions, or the acts or omissions of those acting on your behalf:
 - A. in the performance of your ongoing operations subject to such **written contract**; or
 - B. in the performance of **your work** subject to such **written contract**, but only with respect to **bodily injury or property damage** included in the **products-completed operations hazard**, and only if:
 - 1. the **written contract** requires you to provide the additional insured such coverage; and
 - 2. this **coverage part** provides such coverage.
- II. But if the **written contract** requires:
 - A. additional insured coverage under the 11-85 edition, 10-93 edition, or 10-01 edition of CG2010, or under the 10-01 edition of CG2037; or
 - B. additional insured coverage with "arising out of" language; or
 - C. additional insured coverage to the greatest extent permissible by law;then paragraph I. above is deleted in its entirety and replaced by the following:

WHO IS AN INSURED is amended to include as an **Insured** any person or organization whom you are required by **written contract** to add as an additional insured on this **coverage part**, but only with respect to liability for **bodily injury, property damage or personal and advertising injury** arising out of **your work** that is subject to such **written contract**.
- III. Subject always to the terms and conditions of this policy, including the limits of insurance, the Insurer will not provide such additional insured with:
 - A. coverage broader than required by the **written contract**; or
 - B. a higher limit of insurance than required by the **written contract**.
- IV. The insurance granted by this endorsement to the additional insured does not apply to **bodily injury, property damage, or personal and advertising injury** arising out of:
 - A. the rendering of, or the failure to render, any professional architectural, engineering, or surveying services, including:
 - 1. the preparing, approving, or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; and
 - 2. supervisory, inspection, architectural or engineering activities; or
 - B. any premises or work for which the additional insured is specifically listed as an additional insured on another endorsement attached to this **coverage part**.
- V. Under **COMMERCIAL GENERAL LIABILITY CONDITIONS**, the Condition entitled **Other Insurance** is amended to add the following, which supersedes any provision to the contrary in this Condition or elsewhere in this **coverage part**:

CNA75079XX (10-16)

Page 1 of 2

VALLEY FORGE INSURANCE COMPANY

Insured Name: B & D INDUSTRIES, INC.

Policy No: 6016149399

Endorsement No: 6

Effective Date: 11/11/2018

00020009660161493992381





Blanket Additional Insured - Owners, Lessees or Contractors - with Products-Completed Operations Coverage Endorsement

Primary and Noncontributory Insurance

With respect to other insurance available to the additional insured under which the additional insured is a named insured, this insurance is primary to and will not seek contribution from such other insurance, provided that a **written contract** requires the insurance provided by this policy to be:

1. primary and non-contributing with other insurance available to the additional insured; or
2. primary and to not seek contribution from any other insurance available to the additional insured.

But except as specified above, this insurance will be excess of all other insurance available to the additional insured.

VI. Solely with respect to the insurance granted by this endorsement, the section entitled COMMERCIAL GENERAL LIABILITY CONDITIONS is amended as follows:

The Condition entitled **Duties In The Event of Occurrence, Offense, Claim or Suit** is amended with the addition of the following:

Any additional insured pursuant to this endorsement will as soon as practicable:

1. give the Insurer written notice of any **claim**, or any **occurrence** or offense which may result in a **claim**;
2. send the Insurer copies of all legal papers received, and otherwise cooperate with the Insurer in the investigation, defense, or settlement of the **claim**; and
3. make available any other insurance, and tender the defense and indemnity of any **claim** to any other insurer or self-insurer, whose policy or program applies to a loss that the Insurer covers under this **coverage part**. However, if the **written contract** requires this insurance to be primary and non-contributory, this paragraph 3. does not apply to insurance on which the additional insured is a named insured.

The Insurer has no duty to defend or indemnify an additional insured under this endorsement until the Insurer receives written notice of a **claim** from the additional insured.

VII. Solely with respect to the insurance granted by this endorsement, the section entitled DEFINITIONS is amended to add the following definition:

Written contract means a written contract or written agreement that requires you to make a person or organization an additional insured on this **coverage part**, provided the contract or agreement:

- A. is currently in effect or becomes effective during the term of this policy; and
- B. was executed prior to:
 1. the **bodily injury or property damage**; or
 2. the offense that caused the **personal and advertising injury**;for which the additional insured seeks coverage.

Any coverage granted by this endorsement shall apply solely to the extent permissible by law.

All other terms and conditions of the Policy remain unchanged.

This endorsement, which forms a part of and is for attachment to the Policy issued by the designated Insurers, takes effect on the effective date of said Policy at the hour stated in said Policy, unless another effective date is shown below, and expires concurrently with said Policy.



TEXAS WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

This endorsement applies only to the insurance provided by the policy because Texas is shown in Item 3.A. of the Information Page.

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule, but this waiver applies only with respect to bodily injury arising out of the operations described in the Schedule where you are required by a written contract to obtain this waiver from us.

This endorsement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

The premium for this endorsement is shown in the Schedule.

Schedule

1. Specific Waiver

Name of person or organization

Blanket Waiver

Any person or organization for whom the Named Insured has agreed by written contract to furnish this waiver.

2. Operations: All Texas Operations

3. Premium:

The premium charge for this endorsement shall be 2% percent of the premium developed on payroll in connection with work performed for the above person(s) or organization(s) arising out of the operations described.

4. Advance Premium: Refer to Schedule of Operations

All other terms and conditions of the policy remain unchanged.

This endorsement, which forms a part of and is for attachment to the policy issued by the designated Insurers, takes effect on the Policy Effective Date of said policy at the hour stated in said policy, unless another effective date (the Endorsement Effective Date) is shown below, and expires concurrently with said policy unless another expiration date is shown below.

Form No: WC 42 03 04 B (06-2014)

Endorsement Effective Date:

Endorsement No: 20; Page: 1 of 1

Underwriting Company: Transportation Insurance Company, 151 N Franklin St, Chicago, IL 60606

Endorsement Expiration Date:

Policy No: WC 6 16149385

Policy Effective Date: 11/11/2018

Policy Page: 71 of 76



**Workers Compensation And Employers Liability Insurance
Policy Endorsement**

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule.

This agreement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

Schedule

Any Person or Organization on whose behalf you are required to obtain this waiver of our right to recover from under a written contract or agreement.

The premium charge for the endorsement is reflected in the Schedule of Operations.

All other terms and conditions of the policy remain unchanged.

This endorsement, which forms a part of and is for attachment to the policy issued by the designated Insurers, takes effect on the Policy Effective Date of said policy at the hour stated in said policy, unless another effective date (the Endorsement Effective Date) is shown below, and expires concurrently with said policy unless another expiration date is shown below.

Form No: WC 00 03 13 (04-1984)

Endorsement Effective Date:

Endorsement No: 4; Page: 1 of 1

Underwriting Company: Transportation Insurance Company, 151 N Franklin St, Chicago, IL 60606

Endorsement Expiration Date:

Policy No: WC 6 16149385

Policy Effective Date: 11/11/2018

Policy Page: 50 of 76



WAIVER OF SUBROGATION

B & D INDUSTRIES, INC
Insured # 5672

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	Effective	Expiration
	Blanket Waiver of Subrogation	1/1/2019	1/1/2020

Date: 12/7/2018

Countersigned by

Agency Number: 35 – 39
Agency Name: HUB International (Lujan)

(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



CONTRACTORS EXTENDED COVERAGE ENDORSEMENT - BUSINESS AUTO PLUS

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

I. LIABILITY COVERAGE

A. Who Is An Insured

The following is added to Section II, Paragraph A.1., **Who Is An Insured**:

1. a. Any incorporated entity of which the Named Insured owns a majority of the voting stock on the date of inception of this Coverage Form; provided that,
- b. The insurance afforded by this provision A.1. does not apply to any such entity that is an Insured under any other liability "policy" providing auto coverage.

2. Any organization you newly acquire or form, other than a limited liability company, partnership or joint venture, and over which you maintain majority ownership interest.

The insurance afforded by this provision A.2.:

- a. Is effective on the acquisition or formation date, and is afforded only until the end of the policy period of this Coverage Form, or the next anniversary of its inception date, whichever is earlier.
- b. Does not apply to:
 - (1) Bodily injury or property damage caused by an accident that occurred before you acquired or formed the organization; or
 - (2) Any such organization that is an Insured under any other liability "policy" providing auto coverage.

3. Any person or organization that you are required by a written contract to name as an additional Insured is an Insured but only with respect to their legal liability for acts or omissions of a person, who qualifies as an Insured under SECTION II - WHO IS AN INSURED and for whom Liability Coverage is afforded under this policy. If required by written contract, this insurance will be primary and non-contributory to insurance on which the additional Insured is a Named Insured.

4. An employee of yours is an Insured while operating an auto hired or rented under a contract or agreement in that employee's name, with your permission, while performing duties related to the conduct of your business.

"Policy", as used in this provision A. Who Is An Insured, includes those policies that were in force on the inception date of this Coverage Form but:

1. Which are no longer in force; or
2. Whose limits have been exhausted.

B. Bail Bonds and Loss of Earnings

Section II, Paragraphs A.2. (2) and A.2. (4) are revised as follows:

1. In a.(2), the limit for the cost of bail bonds is changed from \$2,000 to \$5,000; and
2. In a.(4), the limit for the loss of earnings is changed from \$250 to \$500 a day.

Form No: CNA63359XX (04-2012)	Endorsement Expiration Date:	Policy No: BUA 6016149371
Endorsement Effective Date:	Policy Effective Date: 11/11/2018	Policy Page: 149 of 601
Endorsement No: 24; Page: 1 of 4		
Underwriting Company: The Continental Insurance Company, 161 N Franklin St, Chicago, IL 60606		

© Copyright CNA All Rights Reserved. Includes copyrighted material of the Insurance Services Office, Inc., used with its permission.

C. Fellow Employee

Section II, Paragraph B.5 does not apply.

Such coverage as is afforded by this provision C, is excess over any other collectible insurance.

II. PHYSICAL DAMAGE COVERAGE

A. Glass Breakage - Hitting A Bird Or Animal - Falling Objects Or Missiles

The following is added to Section III, Paragraph A.3.:

With respect to any covered auto, any deductible shown in the Declarations will not apply to glass breakage if such glass is repaired, in a manner acceptable to us, rather than replaced.

B. Transportation Expenses

Section III, Paragraph A.4.a. is revised, with respect to transportation expense incurred by you, to provide:

- a. \$80 per day, in lieu of \$20; subject to
- b. \$1,800 maximum, in lieu of \$600.

C. Loss of Use Expenses

Section III, Paragraph A.4.b. is revised, with respect to loss of use expenses incurred by you, to provide:

- a. \$1,000 maximum, in lieu of \$600.

D. Hired "Autos"

The following is added to Section III, Paragraph A.:

5. Hired "Autos"

If Physical Damage coverage is provided under this policy, and such coverage does not extend to Hired Autos, then Physical Damage coverage is extended to:

- a. Any covered auto you lease, hire, rent or borrow without a driver; and
- b. Any covered auto hired or rented by your employee without a driver, under a contract in that individual employee's name, with your permission, while performing duties related to the conduct of your business.
- c. The most we will pay for any one accident or loss is the actual cash value, cost of repair, cost of replacement or \$75,000, whichever is less, minus a \$500 deductible for each covered auto. No deductible applies to loss caused by fire or lightning.
- d. The physical damage coverage as is provided by this provision is equal to the physical damage coverage(s) provided on your owned autos.
 - a. Such physical damage coverage for hired autos will:
 - (1) Include loss of use, provided it is the consequence of an accident for which the Named Insured is legally liable, and as a result of which a monetary loss is sustained by the leasing or rental concern.
 - (2) Such coverage as is provided by this provision will be subject to a limit of \$760 per accident.

E. Airbag Coverage

The following is added to Section III, Paragraph B.3.:

The accidental discharge of an airbag shall not be considered mechanical breakdown.

Form No: CNA63359XX (04-2012)	Endorsement Expiration Date:	Policy No: BUA 6016149371
Endorsement Effective Date:	Policy Effective Date: 11/11/2018	Policy Page: 150 of 601
Endorsement No: 24; Page: 2 of 4		
Underwriting Company: The Continental Insurance Company, 161 N Franklin St, Chicago, IL 60606		

© Copyright CNA All Rights Reserved. Includes copyrighted material of the Insurance Services Office, Inc., used with its permission.



F. Electronic Equipment

Section III, Paragraphs B.4.c and B.4.d. are deleted and replaced by the following:

- c. Physical Damage Coverage on a covered auto also applies to loss to any permanently installed electronic equipment including its antennas and other accessories
- d. A \$100 per occurrence deductible applies to the coverage provided by this provision.

G. Diminution In Value

The following is added to Section III, Paragraph B.6.:

Subject to the following, the diminution in value exclusion does not apply to:

- a. Any covered auto of the private passenger type you lease, hire, rent or borrow, without a driver for a period of 30 days or less, while performing duties related to the conduct of your business; and
- b. Any covered auto of the private passenger type hired or rented by your employee without a driver for a period of 30 days or less, under a contract in that individual employee's name, with your permission, while performing duties related to the conduct of your business.
- c. Such coverage as is provided by this provision is limited to a diminution in value loss arising directly out of accidental damage and not as a result of the failure to make repairs; faulty or incomplete maintenance or repairs; or the installation of substandard parts.
- d. The most we will pay for loss to a covered auto in any one accident is the lesser of:
 - (1) \$5,000; or
 - (2) 20% of the auto's actual cash value (ACV).

III. Drive Other Car Coverage - Executive Officers

The following is added to Sections II and III:

1. Any auto you don't own, hire or borrow is a covered auto for Liability Coverage while being used by, and for Physical Damage Coverage while in the care, custody or control of, any of your "executive officers", except:
 - a. An auto owned by that "executive officer" or a member of that person's household; or
 - b. An auto used by that "executive officer" while working in a business of selling, servicing, repairing or parking autos.

Such Liability and/or Physical Damage Coverage as is afforded by this provision.

- (1) Equal to the greatest of those coverages afforded any covered auto; and
- (2) Excess over any other collectible insurance.

2. For purposes of this provision, "executive officer" means a person holding any of the officer positions created by your charter, constitution, bylaws or any other similar governing document, and, while a resident of the same household, includes that person's spouse.

Such "executive officers" are insureds while using a covered auto described in this provision.

IV. BUSINESS AUTO CONDITIONS

A. Duties In The Event Of Accident, Claim, Suit Or Loss

The following is added to Section IV, Paragraph A.2.a.:

Form No: CNA63359XX (04-2012)	Endorsement Expiration Date:	Policy No: BUA 6016149371
Endorsement Effective Date:	Policy Effective Date: 11/11/2018	Policy Page: 151 of 601
Endorsement No: 24; Page: 3 of 4		
Underwriting Company: The Continental Insurance Company, 161 N Franklin St, Chicago, IL 60606		

© Copyright CNA All Rights Reserved. Includes copyrighted material of the Insurance Services Office, Inc., used with its permission.

- (4) Your employees may know of an accident or loss. This will not mean that you have such knowledge, unless such accident or loss is known to you or if you are not an individual, to any of your executive officers or partners or your insurance manager.

The following is added to Section IV, Paragraph A.2.b.:

- (8) Your employees may know of documents received concerning a claim or suit. This will not mean that you have such knowledge, unless receipt of such documents is known to you or if you are not an individual, to any of your executive officers or partners or your insurance manager.

B. Transfer Of Rights Of Recovery Against Others To Us

The following is added to Section IV, Paragraph A.5. Transfer Of Rights Of Recovery Against Others To Us:

We waive any right of recovery we may have, because of payments we make for injury or damage, against any person or organization for whom or which you are required by written contract or agreement to obtain this waiver from us.

This injury or damage must arise out of your activities under a contract with that person or organization.

You must agree to that requirement prior to an accident or loss.

C. Concealment, Misrepresentation or Fraud

The following is added to Section IV, Paragraph B.2.:

Your failure to disclose all hazards existing on the date of inception of this Coverage Form shall not prejudice you with respect to the coverage afforded provided such failure or omission is not intentional.

D. Other Insurance

The following is added to Section IV, Paragraph B.5.:

Regardless of the provisions of Paragraphs 5.a. and 5.d. above, the coverage provided by this policy shall be on a primary non-contributory basis. This provision is applicable only when required by a written contract.

That written contract must have been entered into prior to Accident or Loss.

E. Policy Period, Coverage Territory

Section IV, Paragraph B. 7.(b).(a). is revised to provide:

- a. 45 days of coverage in lieu of 30 days.

V. DEFINITIONS

Section V, paragraph C. is deleted and replaced by the following:

Bodily Injury means bodily injury, sickness or disease sustained by a person, including mental anguish, mental injury or death resulting from any of these.

Form No: CNA63359XX (04-2012)	Endorsement Expiration Date:	Policy No: BUA 6016149371
Endorsement Effective Date:	Policy Effective Date: 11/11/2018	Policy Page: 152 of 601
Endorsement No: 24; Page: 4 of 4		
Underwriting Company: The Continental Insurance Company, 161 N Franklin St, Chicago, IL 60606		

© Copyright CNA All Rights Reserved. Includes copyrighted material of the Insurance Services Office, Inc., used with its permission.

It is understood and agreed that this endorsement amends the COMMERCIAL GENERAL LIABILITY COVERAGE PART as follows. If any other endorsement attached to this policy amends any provision also amended by this endorsement, then that other endorsement controls with respect to such provision, and the changes made by this endorsement with respect to such provision do not apply.

TABLE OF CONTENTS	
1.	Additional Insureds
2.	Additional Insured - Primary And Non-Contributory To Additional Insured's Insurance
3.	Bodily Injury - Expanded Definition
4.	Broad Knowledge of Occurrence/ Notice of Occurrence
5.	Broad Named Insured
6.	Broadened Liability Coverage For Damage To Your Product And Your Work
7.	Contractual Liability - Railroads
8.	Electronic Data Liability
9.	Estates, Legal Representatives and Spouses
10.	Expected Or Intended Injury - Exception for Reasonable Force
11.	General Aggregate Limits of Insurance - Per Project
12.	In Rem Actions
13.	Incidental Health Care Malpractice Coverage
14.	Joint Ventures/Partnerships/Limited Liability Companies
15.	Legal Liability - Damage To Premises / Allotated Premises / Property In The Named Insured's Care, Custody or Control
16.	Liquor Liability
17.	Medical Payments
18.	Non-owned Aircraft Coverage
19.	Non-owned Watercraft
20.	Personal And Advertising Injury - Discrimination or Humiliation
21.	Personal And Advertising Injury - Contractual Liability
22.	Property Damage - Elevators
23.	Supplementary Payments
24.	Unintentional Failure To Disclose Hazards
25.	Waiver of Subrogation - Blanket
26.	Wrap-Up Extension: OCIP GCIP, or Consolidated (Wrap-Up) Insurance Programs

CNA74705XX (1-15)	Policy No: 6016149399
Page 1 of 17	Endorsement No: 3
VALLEY FORGE INSURANCE COMPANY	Effective Date: 11/11/2018
Insured Name: B & D INDUSTRIES, INC.	

Copyright CNA All Rights Reserved. Includes copyrighted material of Insurance Services Office, Inc., with its permission.

1. ADDITIONAL INSURED

a. **WHO IS AN INSURED** is amended to include as an Insured any person or organization described in paragraphs A. through H. below whom a Named Insured is required to add as an additional insured on this Coverage Part under a written contract or written agreement, provided such contract or agreement:

- (1) is currently in effect or becomes effective during the term of this Coverage Part; and
- (2) was executed prior to:
 - (a) the bodily injury or property damage; or
 - (b) the offense that caused the personal and advertising injury,
 for which such additional insured seeks coverage.

b. However, subject always to the terms and conditions of this policy, including the limits of insurance, the insurer will not provide such additional insured with:

- (1) a higher limit of insurance than required by such contract or agreement; or
- (2) coverage broader than required by such contract or agreement, and in no event broader than that described by the applicable paragraph A. through H. below.

Any coverage granted by this endorsement shall apply only to the extent permissible by law.

A. Controlling Interest

Any person or organization with a controlling interest in a Named Insured, but only with respect to such person or organization's liability for bodily injury, property damage or personal and advertising injury arising out of:

1. such person or organization's financial control of a Named Insured; or
2. premises such person or organization owns, maintains or controls while a Named Insured leases or occupies such premises;

provided that the coverage granted by this paragraph does not apply to structural alterations, new construction or demolition operations performed by, on behalf of, or for such additional insured.

B. Co-owner of Insured Premises

A co-owner of a premises co-owned by a Named Insured and covered under this insurance but only with respect to such co-owner's liability for bodily injury, property damage or personal and advertising injury as co-owner of such premises.

C. Lessor of Equipment

Any person or organization from whom a Named Insured leases equipment, but only with respect to liability for bodily injury, property damage or personal and advertising injury caused, in whole or in part, by the Named Insured's maintenance, operation or use of such equipment, provided that the occurrence giving rise to such bodily injury, property damage or the offense giving rise to such personal and advertising injury takes place prior to the termination of such lease.

D. Lessor of Land

Any person or organization from whom a Named Insured leases land but only with respect to liability for bodily injury, property damage or personal and advertising injury arising out of the ownership, maintenance or use of such land, provided that the occurrence giving rise to such bodily injury, property damage or the offense giving rise to such personal and advertising injury takes place prior to the termination of such lease. The

CNA74705XX (1-15)	Policy No: 6016149399
Page 2 of 17	Endorsement No: 3
VALLEY FORGE INSURANCE COMPANY	Effective Date: 11/11/2018
Insured Name: B & D INDUSTRIES, INC.	

Copyright CNA All Rights Reserved. Includes copyrighted material of Insurance Services Office, Inc., with its permission.

coverage granted by this paragraph does not apply to structural alterations, new construction or demolition operations performed by, on behalf of, or for such additional insured.

E. Lessor of Premises

An owner or lessor of premises leased to the Named Insured, or such owner or lessor's real estate manager, but only with respect to liability for bodily injury, property damage or personal and advertising injury arising out of the ownership, maintenance or use of such part of the premises leased to the Named Insured, and provided that the occurrence giving rise to such bodily injury or property damage, or the offense giving rise to such personal and advertising injury, takes place prior to the termination of such lease. The coverage granted by this paragraph does not apply to structural alterations, new construction or demolition operations performed by, on behalf of, or for such additional insured.

F. Mortgagee, Assignee or Receiver

A mortgagee, assignee or receiver of premises but only with respect to such mortgagee, assignee or receiver's liability for bodily injury, property damage or personal and advertising injury arising out of the Named Insured's ownership, maintenance, or use of a premises by a Named Insured.

The coverage granted by this paragraph does not apply to structural alterations, new construction or demolition operations performed by, on behalf of, or for such additional insured.

G. State or Governmental Agency or Subdivision or Political Subdivisions - Permits

A state or governmental agency or subdivision or political subdivision that has issued a permit or authorization but only with respect to such state or governmental agency or subdivision or political subdivision's liability for bodily injury, property damage or personal and advertising injury arising out of:

1. the following hazards in connection with premises a Named Insured owns, rents, or controls and to which this insurance applies:
 - a. the existence, maintenance, repair, construction, erection, or removal of advertising signs, awnings, canopies, collar entrances, coal holes, driveways, manholes, marquees, hoistway openings, sidewalk vaults, street banners, or decorations and similar exposures; or
 - b. the construction, erection, or removal of elevators; or
 - c. the ownership, maintenance or use of any elevators covered by this insurance; or
2. the permitted or authorized operations performed by a Named Insured or on a Named Insured's behalf.

The coverage granted by this paragraph does not apply to:

- a. Bodily injury, property damage or personal and advertising injury arising out of operations performed for the state or governmental agency or subdivision or political subdivision; or
- b. Bodily injury or property damage included within the products-completed operations hazard.

With respect to this provision's requirement that additional insured status must be requested under a written contract or agreement, the insurer will treat as a written contract any governmental permit that requires the Named Insured to add the governmental entity as an additional insured.

H. Trade Show Event Lessor

1. With respect to a Named Insured's participation in a trade show event as an exhibitor, presenter or displayer, any person or organization whom the Named Insured is required to include as an additional insured, but only with respect to such person or organization's liability for bodily injury, property damage or personal and advertising injury caused by:

- a. the Named Insured's acts or omissions; or
- b. the acts or omissions of those acting on the Named Insured's behalf,

in the performance of the Named Insured's ongoing operations at the trade show event premises during the trade show event.

2. The coverage granted by this paragraph does not apply to bodily injury or property damage included within the products-completed operations hazard.

2. ADDITIONAL INSURED - PRIMARY AND NON-CONTRIBUTORY TO ADDITIONAL INSURED'S INSURANCE

The Other Insurance Condition in the COMMERCIAL GENERAL LIABILITY CONDITIONS Section is amended to add the following paragraph:

If the Named Insured has agreed in writing in a contract or agreement that this insurance is primary and non-contributory relative to an additional insured's own insurance, then this insurance is primary, and the insurer will not seek contribution from that other insurance. For the purpose of this Provision 2, the additional insured's own insurance means insurance on which the additional insured is a named insured. Otherwise, and notwithstanding anything to the contrary elsewhere in this Condition, the insurance provided to such person or organization is excess of any other insurance available to such person or organization.

3. BODILY INJURY - EXPANDED DEFINITION

Under DEFINITIONS, the definition of bodily injury is deleted and replaced by the following:

Bodily Injury means physical injury, sickness or disease sustained by a person, including death, humiliation, shock, mental anguish or mental injury sustained by that person at any time which results as a consequence of the physical injury, sickness or disease.

4. BROAD KNOWLEDGE OF OCCURRENCE/ NOTICE OF OCCURRENCE

Under CONDITIONS, the condition entitled Duties In The Event of Occurrence, Offense, Claim or Suit is amended to add the following provisions:

A. BROAD KNOWLEDGE OF OCCURRENCE

The Named Insured must give the insurer or the insurer's authorized representative notice of an occurrence, offense or claim only when the occurrence, offense or claim is known to a natural person Named Insured, to a partner, executive officer, manager or member of a Named Insured, or an employee designated by any of the above to give such notice.

B. NOTICE OF OCCURRENCE

The Named Insured's rights under this Coverage Part will not be prejudiced if the Named Insured fails to give the insurer notice of an occurrence, offense or claim and that failure is solely due to the Named Insured's reasonable belief that the bodily injury or property damage is not covered under this Coverage Part. However, the Named Insured shall give written notice of such occurrence, offense or claim to the insurer as soon as the Named Insured is aware that this insurance may apply to such occurrence, offense or claim.

5. BROAD NAMED INSURED

WHO IS AN INSURED is amended to delete its Paragraph 3. in its entirety and replace it with the following:

3. Pursuant to the limitations described in Paragraph 4. below, any organization in which a Named Insured has management control:

- a. on the effective date of this Coverage Part; or

CNA74705XX (1-15)	Policy No: 6016149399
Page 3 of 17	Endorsement No: 3
VALLEY FORGE INSURANCE COMPANY	Effective Date: 11/11/2018
Insured Name: B & D INDUSTRIES, INC.	

Copyright CNA All Rights Reserved. Includes copyrighted material of Insurance Services Office, Inc., with its permission.

CNA74705XX (1-15)	Policy No: 6016149399
Page 4 of 17	Endorsement No: 3
VALLEY FORGE INSURANCE COMPANY	Effective Date: 11/11/2018
Insured Name: B & D INDUSTRIES, INC.	

Copyright CNA All Rights Reserved. Includes copyrighted material of Insurance Services Office, Inc., with its permission.

b. by reason of a Named Insured creating or acquiring the organization during the policy period, qualifies as a Named Insured, provided that there is no other similar liability insurance, whether primary, contributory, excess, contingent or otherwise, which provides coverage to such organization, or which would have provided coverage but for the exhaustion of its limit, and without regard to whether its coverage is broader or narrower than that provided by this insurance.

But this BROAD NAMED INSURED provision does not apply to:

- (a) any partnership, limited liability company or joint venture; or
- (b) any organization for which coverage is excluded by another endorsement attached to this Coverage Part.

For the purpose of this provision, management control means:

- A. owning interests representing more than 50% of the voting, appointment or designation power for the selection of a majority of the Board of Directors of a corporation; or
- B. having the right, pursuant to a written trust agreement, to protect, control the use of, encumber or transfer or sell property held by a trust.

4. With respect to organizations which qualify as Named Insureds by virtue of Paragraph 3. above, this insurance does not apply to:

- a. bodily injury or property damage that first occurred prior to the date of management control, or that first occurs after management control ceases; nor
- b. personal or advertising injury caused by an offense that first occurred prior to the date of management control or that first occurs after management control ceases.

5. The insurance provided by this Coverage Part applies to Named Insureds when trading under their own names or under such other trading names or doing-business-as names (dba) as any Named Insured should choose to employ.

6. BROADENED LIABILITY COVERAGE FOR DAMAGE TO YOUR PRODUCT AND YOUR WORK

A. Under COVERAGES, Coverage A – Bodily Injury and Property Damage Liability, the paragraph entitled Exclusions is amended to delete exclusions k. and l. and replace them with the following:

This insurance does not apply to:

k. Damage to Your Product

Property damage to your product arising out of it, or any part of it except when caused by or resulting from:

- (1) fire;
- (2) smoke;
- (3) collapse; or
- (4) explosion.

l. 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:

- (1) if the damaged work, or the work out of which the damage arises, was performed on the Named Insured's behalf by a subcontractor; or

(2) If the cause of loss to the damaged work arises as a result of:

- (a) fire;
- (b) smoke;
- (c) collapse; or
- (d) explosion.

B. The following paragraph is added to LIMITS OF INSURANCE:

Subject to 5. above, \$100,000 is the most the Insurer will pay under Coverage A for the sum of damages arising out of any one occurrence because of property damage to your product and your work that is caused by fire, smoke, collapse or explosion and is included within the products-completed operations hazard. This limit does not apply to property damage to your work if the damaged work, or the work out of which the damage arises, was performed on the Named Insured's behalf by a subcontractor.

C. This Broadened Liability Coverage For Damage To Your Product And Your Work Provision does not apply if an endorsement of the same name is attached to this policy.

7. CONTRACTUAL LIABILITY – RAILROADS

With respect to operations performed within 50 feet of railroad property, the definition of Insured contract is replaced by the following:

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 damage by fire to premises while rented to a Named Insured or temporarily occupied by a Named Insured with permission of the owner is not an Insured contract;
- b. A sidetrack agreement;
- c. Any easement or license agreement;
- 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 the Named Insured's business (including an indemnification of a municipality in connection with work performed for a municipality) under which the Named Insured assumes the tort liability of another party to pay for bodily injury or property damage 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 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;
- (2) 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 (1) above and supervisory, inspection, architectural or engineering activities.

8. ELECTRONIC DATA LIABILITY

A. Under COVERAGES, Coverage A – Bodily Injury and Property Damage Liability, the paragraph entitled Exclusions is amended to delete exclusion p. Electronic Data and replace it with the following:

This insurance does not apply to:

p. Access Or Disclosure Of Confidential Or Personal Information And Data-related Liability

Damages arising out of:

- (1) any access to or disclosure of any person's or organization's confidential or personal information, including patents, trade secrets, processing methods, customer lists, financial information, credit card information, health information or any other type of nonpublic information; or
- (2) the loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate electronic data that does not result from physical injury to tangible property.

However, unless Paragraph (1) above applies, this exclusion does not apply to damages because of bodily injury.

This exclusion applies even if damages are claimed for notification costs, credit monitoring expenses, forensic expenses, public relation expenses or any other loss, cost or expense incurred by the Named Insured or others arising out of that which is described in Paragraph (1) or (2) above.

B. The following paragraph is added to LIMITS OF INSURANCE:

Subject to 5. above, \$100,000 is the most the Insurer will pay under Coverage A for all damages arising out of any one occurrence because of property damage that results from physical injury to tangible property and arises out of electronic data.

C. The following definition is added to DEFINITIONS:

Electronic data means information, facts or programs stored on or in, created or used on, or transmitted to or from computer software (including systems and applications software), hard or floppy disk, CD-ROMS, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

D. For the purpose of the coverage provided by this ELECTRONIC DATA LIABILITY Provision, the definition of property damage in DEFINITIONS is replaced by the following:

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;
- 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; or
- c. Loss of, loss of use of, damage to, corruption of, inability to access, or inability to properly manipulate electronic data, resulting from physical injury to tangible property. All such loss of electronic data 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.

E. If Electronic Data Liability is provided at a higher limit by another endorsement attached to this policy, then the \$100,000 limit provided by this ELECTRONIC DATA LIABILITY Provision is part of, and not in addition to, that higher limit.

9. ESTATES, LEGAL REPRESENTATIVES, AND SPOUSES

The estates, heirs, legal representatives and spouses of any natural person Insured shall also be insured under this policy; provided, however, coverage is afforded to such estates, heirs, legal representatives, and spouses only for

claims arising solely out of their capacity or status as such and, in the case of a spouse, where such claim seeks damages from marital community property, jointly held property or property transferred from such natural person Insured to such spouse. No coverage is provided for any act, error or omission of an estate, heir, legal representative, or spouse outside the scope of such person's capacity or status as such, provided however that the spouse of a natural person Named Insured and the spouses of members or partners of joint venture or partnership Named Insureds are Insureds with respect to such spouses' acts, errors or omissions in the conduct of the Named Insured's business.

10. EXPECTED OR INTENDED INJURY – EXCEPTION FOR REASONABLE FORCE

Under COVERAGES, Coverage A – Bodily Injury and Property Damage Liability, the paragraph entitled Exclusions is amended to delete the exclusion entitled Expected or Intended Injury and replace it with the following:

This insurance does not apply to:

Expected or Intended Injury

Bodily injury or property damage expected or intended from the standpoint of the Insured. This exclusion does not apply to bodily injury or property damage resulting from the use of reasonable force to protect persons or property.

11. GENERAL AGGREGATE LIMITS OF INSURANCE - PER PROJECT

A. For each construction project away from premises the Named Insured owns or rents, a separate Construction Project General Aggregate Limit, equal to the amount of the General Aggregate Limit shown in the Declarations, is the most the Insurer will pay for the sum of:

- 1. All damage under Coverage A, except damages because of bodily injury or property damage included in the products-completed operations hazard; and
- 2. All medical expense under Coverage C,

that arise from occurrences or accidents which can be attributed solely to ongoing operations at that construction project. Such payments shall not reduce the General Aggregate Limit shown in the Declarations, nor the Construction Project General Aggregate Limit of any other construction project.

B. All:

- 1. Damages under Coverage B, regardless of the number of locations or construction projects involved;
- 2. Damages under Coverage A, caused by occurrences which cannot be attributed solely to ongoing operations at a single construction project, except damages because of bodily injury or property damage included in the products-completed operations hazard; and
- 3. Medical expenses under Coverage C caused by accidents which cannot be attributed solely to ongoing operations of a single construction project.

will reduce the General Aggregate Limit shown in the Declarations.

C. The limits shown in the Declarations for Each Occurrence, for Damage To Premises Rented To You and for Medical Expenses shall apply, but will be subject to either the Construction Project General Aggregate Limit or the General Aggregate Limit shown in the Declarations, depending on whether the occurrence can be attributed solely to ongoing operations at a particular construction project.

D. When coverage for liability arising out of the products-completed operations hazard is provided, any payments for damages because of bodily injury or property damage included in the products-completed operations hazard will reduce the Products-Completed Operations Aggregate Limit shown in the Declarations, regardless of the number of projects involved.

- E. If a single construction project away from premises owned by or rented to the Insured has been abandoned and then restarted, or if the authorized contracting parties deviate from plans, blueprints, designs, specifications or timetables, the project will still be deemed to be the same construction project.
- F. The provisions of LIMITS OF INSURANCE not otherwise modified by this endorsement shall continue to apply as stipulated.

12. IN REM ACTIONS

A quasi in rem action against any vessel owned or operated by or for the Named Insured, or chartered by or for the Named Insured, will be treated in the same manner as though the action were in personam against the Named Insured.

13. INCIDENTAL HEALTH CARE MALPRACTICE COVERAGE

Solely with respect to bodily injury that arises out of a health care incident:

A. Under COVERAGES, Coverage A – Bodily Injury and Property Damage Liability, the paragraph entitled Insuring Agreement is amended to replace Paragraphs 1.b.(1) and 1.b.(2) with the following:

b. This insurance applies to bodily injury provided that the professional health care services are incidental to the Named Insured's primary business purpose, and only if:

- (1) such bodily injury is caused by an occurrence that takes place in the coverage territory,
- (2) the bodily injury first occurs during the policy period. All bodily injury arising from an occurrence will be deemed to have occurred at the time of the first act, error, or omission that is part of the occurrence; and

B. Under COVERAGES, Coverage A – Bodily Injury and Property Damage Liability, the paragraph entitled Exclusions is amended to:

I. add the following to the Employers Liability exclusion:

This exclusion applies only if the bodily injury arising from a health care incident is covered by other liability insurance available to the Insured (or which would have been available but for exhaustion of its limits).

II. delete the exclusion entitled Contractual Liability and replace it with the following:

This insurance does not apply to:

Contractual Liability

the Insured's actual or alleged liability under any oral or written contract or agreement, including but not limited to express warranties or guarantees.

III. add the following additional exclusions:

This insurance does not apply to:

Discrimination

any actual or alleged discrimination, humiliation or harassment, including but not limited to claims based on an individual's race, creed, color, age, gender, national origin, religion, disability, marital status or sexual orientation.

Dishonesty or Crime

Any actual or alleged dishonest, criminal or malicious act, error or omission.

Medicare/Medicaid Fraud

CNA74705XX (1-15) Policy No: 6016149399
 Page 9 of 17 Endorsement No: 3
 VALLEY FORGE INSURANCE COMPANY Effective Date: 11/11/2018
 Insured Name: B & D INDUSTRIES, INC.

Copyright CNA All Rights Reserved. Includes copyrighted material of Insurance Services Office, Inc., with its permission.

any actual or alleged violation of law with respect to Medicare, Medicaid, Tricare or any similar federal, state or local governmental program.

Services Excluded by Endorsement

Any health care incident for which coverage is excluded by endorsement.

C. DEFINITIONS is amended to:

I. add the following definitions:

Health care incident means an act, error or omission by the Named Insured's employees or volunteer workers in the rendering of:

- a. professional health care services on behalf of the Named Insured or
- b. Good Samaritan services rendered in an emergency and for which no payment is demanded or received.

Professional health care services means any health care services or the related furnishing of food, beverages, medical supplies or appliances by the following providers in their capacity as such but solely to the extent they are duly licensed as required:

- a. Physician;
- b. Nurse;
- c. Nurse practitioner;
- d. Emergency medical technician;
- e. Paramedic;
- f. Dentist;
- g. Physical therapist;
- h. Psychologist;
- i. Speech therapist;
- j. Other allied health professional, or

Professional health care services does not include any services rendered in connection with human clinical trials or product testing.

II. delete the definition of occurrence and replace it with the following:

Occurrence means a health care incident. All acts, errors or omissions that are logically connected by any common fact, circumstance, situation, transaction, event, advice or decision will be considered to constitute a single occurrence;

III. amend the definition of Insured to:

a. add the following:

the Named Insured's employees are insureds with respect to:

- (1) bodily injury to a co-employee while in the course of the co-employee's employment by the Named Insured or while performing duties related to the conduct of the Named Insured's business; and

CNA74705XX (1-15) Policy No: 6016149399
 Page 10 of 17 Endorsement No: 3
 VALLEY FORGE INSURANCE COMPANY Effective Date: 11/11/2018
 Insured Name: B & D INDUSTRIES, INC.

Copyright CNA All Rights Reserved. Includes copyrighted material of Insurance Services Office, Inc., with its permission.

(2) bodily injury to a volunteer worker while performing duties related to the conduct of the Named Insured's business;

when such bodily injury arises out of a health care incident.

the Named Insured's volunteer workers are insureds with respect to:

(1) bodily injury to a co-volunteer worker while performing duties related to the conduct of the Named Insured's business; and

(2) bodily injury to an employee while in the course of the employee's employment by the Named Insured or while performing duties related to the conduct of the Named Insured's business;

when such bodily injury arises out of a health care incident.

b. delete Subparagraphs (a), (b), (c) and (d) of Paragraph 2.a.(1) of WHO IS AN INSURED.

D. The Other Insurance condition is amended to delete Paragraph b.(1) in its entirety and replace it with the following:

Other Insurance

b. **Excess Insurance**

- (1) To the extent this insurance applies, it is excess over any other insurance, self insurance or risk transfer instrument, whether primary, excess, contingent or on any other basis, except for insurance purchased specifically by the Named Insured to be excess of this coverage.

14. JOINT VENTURES / PARTNERSHIP / LIMITED LIABILITY COMPANIES

WHO IS AN INSURED is amended to delete its last paragraph and replace it with the following:

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, except that if the Named Insured was a joint venturer, partner, or member of a limited liability company and such joint venture, partnership or limited liability company terminated prior to or during the policy period, such Named Insured is an Insured with respect to its interest in such joint venture, partnership or limited liability company but only to the extent that:

- a. any offense giving rise to personal and advertising injury occurred prior to such termination date, and the personal and advertising injury arising out of such offense first occurred after such termination date;
- b. the bodily injury or property damage first occurred after such termination date; and
- c. there is no other valid and collectible insurance purchased specifically to insure the partnership, joint venture or limited liability company; and

If the joint venture, partnership or limited liability company is or was insured under a consolidated (wrap-up) insurance program, then such insurance will always be considered valid and collectible for the purpose of paragraph c. above. But this provision will not serve to exclude bodily injury, property damage or personal and advertising injury that would otherwise be covered under the Contractors General Liability Extension Endorsement provision entitled WRAP-UP EXTENSION: OCIP, CCIP, OR CONSOLIDATED (WRAP-UP) INSURANCE PROGRAMS. Please see that provision for the definition of consolidated (wrap-up) insurance program.

15. LEGAL LIABILITY – DAMAGE TO PREMISES / ALIENATED PREMISES / PROPERTY IN THE NAMED INSURED'S CARE, CUSTODY OR CONTROL

A. Under COVERAGES, Coverage A – Bodily Injury and Property Damage Liability, the paragraph entitled Exclusions is amended to delete exclusion j, Damage to Property in its entirety and replace it with the following:

This insurance does not apply to:

CNA74705XX (1-15) Policy No: 6016149399
 Page 11 of 17 Endorsement No: 3
 VALLEY FORGE INSURANCE COMPANY Effective Date: 11/11/2018
 Insured Name: B & D INDUSTRIES, INC.

Copyright CNA All Rights Reserved. Includes copyrighted material of Insurance Services Office, Inc., with its permission.

j. **Damage to Property**

Property damage to:

(1) Property the Named Insured owns, rents, or occupies, 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 the Named Insured sells, gives away or abandons, if the property damage arises out of any part of those premises;

(3) Property loaned to the Named Insured;

(4) Personal property in the care, custody or control of the Insured;

(5) That particular part of real property on which the Named Insured or any contractors or subcontractors working directly or indirectly on the Named Insured's 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), (2) and (4) of this exclusion do not apply to property damage (other than damage by fire) to premises rented to the Named Insured or temporarily occupied by the Named Insured with the permission of the owner, nor to the contents of premises rented to the Named Insured for a period of 7 or fewer consecutive days. A separate limit of insurance applies to Damage To Premises Rented To You as described in LIMITS OF INSURANCE.

Paragraph (2) of this exclusion does not apply if the premises are your work.

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.

Paragraphs (3) and (4) of this exclusion do not apply to property damage to:

- i. tools, or equipment the Named Insured borrows from others, nor
- ii. other personal property of others in the Named Insured's care, custody or control while being used in the Named Insured's operations away from any Named Insured's premises.

However, the coverage granted by this exception to Paragraphs (3) and (4) does not apply to:

- a. property at a job site awaiting or during such property's installation, fabrication, or erection;
- b. property that is mobile equipment leased by an Insured;
- c. property that is an auto, aircraft or watercraft;
- d. property in transit; or
- e. any portion of property damage for which the Insured has available other valid and collectible insurance, or would have such insurance but for exhaustion of its limits, or but for application of one of its exclusions.

A separate limit of insurance and deductible apply to such property of others. See LIMITS OF INSURANCE as amended below.

CNA74705XX (1-15) Policy No: 6016149399
 Page 12 of 17 Endorsement No: 3
 VALLEY FORGE INSURANCE COMPANY Effective Date: 11/11/2018
 Insured Name: B & D INDUSTRIES, INC.

Copyright CNA All Rights Reserved. Includes copyrighted material of Insurance Services Office, Inc., with its permission.

CNA **CNA PARAMOUNT**
Contractors' General Liability Extension Endorsement

B. Under COVERAGES, Coverage A – Bodily Injury and Property Damage Liability, the paragraph entitled Exclusions is amended to delete its last paragraph and replace it with the following:

Exclusions c. through n. do not apply to damage by fire to premises while rented to a Named Insured or temporarily occupied by a Named Insured with permission of the owner, nor to damage to the contents of premises rented to a Named Insured for a period of 7 or fewer consecutive days.

A separate limit of insurance applies to this coverage as described in LIMITS OF INSURANCE.

C. The following paragraph is added to LIMITS OF INSURANCE:

Subject to 5. above, \$25,000 is the most the Insurer will pay under Coverage A for damages arising out of any one occurrence because of the sum of all property damage to borrowed tools or equipment, and to other personal property of others in the Named Insured's care, custody or control, while being used in the Named Insured's operations away from any Named Insured's premises. The Insurer's obligation to pay such property damage does not apply until the amount of such property damage exceeds \$1,000. The Insurer has the right but not the duty to pay any portion of this \$1,000 in order to effect settlement. If the Insurer exercises that right, the Named Insured will promptly reimburse the Insurer for any such amount.

D. Paragraph 8., Damage To Premises Rented To You Limit, of LIMITS OF INSURANCE is deleted and replaced by the following:

6. Subject to Paragraph 5. above, (the Each Occurrence Limit), the Damage To Premises Rented To You Limit is the most the Insurer will pay under Coverage A for damages because of property damage to any one premises while rented to the Named Insured or temporarily occupied by the Named Insured with the permission of the owner, including contents of such premises rented to the Named Insured for a period of 7 or fewer consecutive days. The Damage To Premises Rented To You Limit is the greater of:

- \$500,000; or
- The Damage To Premises Rented To You Limit shown in the Declarations.

E. Paragraph 4.b.(1)(a)(ii) of the Other Insurance Condition is deleted and replaced by the following:

(ii) That is property insurance for premises rented to the Named Insured, for premises temporarily occupied by the Named Insured with the permission of the owner; or for personal property of others in the Named Insured's care, custody or control;

16. LIQUOR LIABILITY

Under COVERAGES, Coverage A – Bodily Injury and Property Damage Liability, the paragraph entitled Exclusions is amended to delete the exclusion entitled Liquor Liability.

This LIQUOR LIABILITY provision does not apply to any person or organization who otherwise qualifies as an additional insured on this Coverage Part.

17. MEDICAL PAYMENTS

A. LIMITS OF INSURANCE is amended to delete Paragraph 7. (the Medical Expense Limit) and replace it with the following:

7. Subject to Paragraph 5. above (the Each Occurrence Limit), the Medical Expense Limit is the most the Insurer will pay under Coverage C – Medical Payments for all medical expenses because of bodily injury sustained by any one person. The Medical Expense Limit is the greater of:

- \$15,000 unless a different amount is shown here: \$N,NNN,NNN,NNN; or
- the amount shown in the Declarations for Medical Expense Limit.

CNA74705XX (1-15) Policy No: 6016149399
Page 13 of 17 Endorsement No: 3
VALLEY FORGE INSURANCE COMPANY Effective Date: 11/11/2018
Insured Name: B & D INDUSTRIES, INC.
Copyright CNA All Rights Reserved. Includes copyrighted material of Insurance Services Office, Inc., with its permission.

CNA **CNA PARAMOUNT**
Contractors' General Liability Extension Endorsement

B. Under COVERAGES, the Insuring Agreement of Coverage C – Medical Payments is amended to replace Paragraph 1.a.(3)(b) with the following:

(b) The expenses are incurred and reported to the Insurer within three years of the date of the accident; and

18. NON-OWNED AIRCRAFT

Under COVERAGES, Coverage A – Bodily Injury and Property Damage Liability, the paragraph entitled Exclusions is amended as follows:

The exclusion entitled Aircraft, Auto or Watercraft is amended to add the following:

This exclusion does not apply to an aircraft not owned by any Named Insured, provided that:

- the pilot in command holds a currently effective certificate issued by the duly constituted authority of the United States of America or Canada, designating that person as a commercial or airline transport pilot;
- the aircraft is rented with a trained, paid crew to the Named Insured; and
- the aircraft is not being used to carry persons or property for a charge.

19. NON-OWNED WATERCRAFT

Under COVERAGES, Coverage A – Bodily Injury and Property Damage Liability, the paragraph entitled Exclusions is amended to delete subparagraph (2) of the exclusion entitled Aircraft, Auto or Watercraft, and replace it with the following:

This exclusion does not apply to:

(2) a watercraft that is not owned by any Named Insured, provided the watercraft is:

- less than 75 feet long; and
- not being used to carry persons or property for a charge.

20. PERSONAL AND ADVERTISING INJURY – DISCRIMINATION OR HUMILIATION

A. Under DEFINITIONS, the definition of personal and advertising injury is amended to add the following text: Discrimination or humiliation that results in injury to the feelings or reputation of a natural person.

B. Under COVERAGES, Coverage B – Personal and Advertising Injury Liability, the paragraph entitled Exclusions is amended to:

- delete the Exclusion entitled Knowing Violation Of Rights Of Another and replace it with the following: This insurance does not apply to: 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. This exclusion shall not apply to discrimination or humiliation that results in injury to the feelings or reputation of a natural person, but only if such discrimination or humiliation is not done intentionally by or at the direction of:
 - the Named Insured; or
 - any executive officer, director, stockholder, partner, member or manager (if the Named Insured is a limited liability company) of the Named Insured.
- add the following exclusions:

CNA74705XX (1-15) Policy No: 6016149399
Page 14 of 17 Endorsement No: 3
VALLEY FORGE INSURANCE COMPANY Effective Date: 11/11/2018
Insured Name: B & D INDUSTRIES, INC.
Copyright CNA All Rights Reserved. Includes copyrighted material of Insurance Services Office, Inc., with its permission.

CNA **CNA PARAMOUNT**
Contractors' General Liability Extension Endorsement

This Insurance does not apply to:

Employment Related Discrimination

Discrimination or humiliation directly or indirectly related to the employment, prospective employment, past employment or termination of employment of any person by any Insured.

Premises Related Discrimination

discrimination or humiliation arising out of the sale, rental, lease or sub-lease or prospective sale, rental, lease or sub-lease of any room, dwelling or premises by or at the direction of any Insured.

Notwithstanding the above, there is no coverage for fines or penalties levied or imposed by a governmental entity because of discrimination.

The coverage provided by this PERSONAL AND ADVERTISING INJURY – DISCRIMINATION OR HUMILIATION Provision does not apply to any person or organization whose status as an Insured derives solely from Provision 1. ADDITIONAL INSURED of this endorsement; or attachment of an additional insured endorsement to this Coverage Part.

This PERSONAL AND ADVERTISING INJURY – DISCRIMINATION OR HUMILIATION Provision does not apply to any person or organization who otherwise qualifies as an additional insured on this Coverage Part.

21. PERSONAL AND ADVERTISING INJURY - CONTRACTUAL LIABILITY

A. Under COVERAGES, Coverage B – Personal and Advertising Injury Liability, the paragraph entitled Exclusions is amended to delete the exclusion entitled Contractual Liability.

B. Solely for the purpose of the coverage provided by this PERSONAL AND ADVERTISING INJURY - CONTRACTUAL LIABILITY provision, the following changes are made to the section entitled SUPPLEMENTARY PAYMENTS – COVERAGES A AND B:

- Paragraph 2.d. is replaced by the following:
 - The allegations in the suit and the information the Insurer knows about the offense alleged in such suit are such that no conflict appears to exist between the interests of the Insured and the interests of the indemnitee;
 - The first unnumbered paragraph beneath Paragraph 2.f.(3)(b) is deleted and replaced by the following: So long as the above conditions are met, attorney fees incurred by the Insurer in the defense of that indemnitee, necessary litigation expenses incurred by the Insurer, and necessary litigation expenses incurred by the indemnitee at the Insurer's request will be paid as defense costs. Such payments will not be deemed to be damages for personal and advertising injury and will not reduce the limits of insurance.

C. This PERSONAL AND ADVERTISING INJURY - CONTRACTUAL LIABILITY Provision does not apply if Coverage B – Personal and Advertising Injury Liability is excluded by another endorsement attached to this Coverage Part.

This PERSONAL AND ADVERTISING INJURY - CONTRACTUAL LIABILITY Provision does not apply to any person or organization who otherwise qualifies as an additional insured on this Coverage Part.

22. PROPERTY DAMAGE – ELEVATORS

A. Under COVERAGES, Coverage A – Bodily Injury and Property Damage Liability, the paragraph entitled Exclusions is amended such that the Damage to Your Product Exclusion and subparagraphs (3), (4) and (6) of the Damage to Property Exclusion do not apply to property damage that results from the use of elevators.

CNA74705XX (1-15) Policy No: 6016149399
Page 15 of 17 Endorsement No: 3
VALLEY FORGE INSURANCE COMPANY Effective Date: 11/11/2018
Insured Name: B & D INDUSTRIES, INC.
Copyright CNA All Rights Reserved. Includes copyrighted material of Insurance Services Office, Inc., with its permission.

CNA **CNA PARAMOUNT**
Contractors' General Liability Extension Endorsement

B. Solely for the purpose of the coverage provided by this PROPERTY DAMAGE – ELEVATORS Provision, the Other Insurance conditions is amended to add the following paragraph:

This insurance is excess over any of the other insurance, whether primary, excess, contingent or on any other basis that is Property insurance covering property of others damaged from the use of elevators.

23. SUPPLEMENTARY PAYMENTS

The section entitled SUPPLEMENTARY PAYMENTS – COVERAGES A AND B is amended as follows:

A. Paragraph 1.b. is amended to delete the \$250 limit shown for the cost of bail bonds and replace it with a \$5,000 limit; and

B. Paragraph 1.d. is amended to delete the limit of \$250 shown for daily loss of earnings and replace it with a \$1,000 limit.

24. UNINTENTIONAL FAILURE TO DISCLOSE HAZARDS

If the Named Insured unintentionally fails to disclose all existing hazards at the inception date of the Named Insured's Coverage Part, the Insurer will not deny coverage under this Coverage Part because of such failure.

25. WAIVER OF SUBROGATION – BLANKET

Under CONDITIONS, the condition entitled Transfer Of Rights Of Recovery Against Others To Us is amended to add the following:

The Insurer waives any right of recovery the Insurer may have against any person or organization because of payments the Insurer makes for injury or damage arising out of:

- the Named Insured's ongoing operations; or
- your work included in the products-completed operations hazard.

However, this waiver applies only when the Named Insured has agreed in writing to waive such rights of recovery in a written contract or written agreement, and only if such contract or agreement:

- is in effect or becomes effective during the term of this Coverage Part; and
- was executed prior to the bodily injury, property damage or personal and advertising injury giving rise to the claim.

26. WRAP-UP EXTENSION: OCIP, CCIP, OR CONSOLIDATED (WRAP-UP) INSURANCE PROGRAMS

Note: The following provision does not apply to any public construction project in the state of Oklahoma, nor to any construction project in the state of Alaska, that is not permitted to be insured under a consolidated (wrap-up) insurance program by applicable state statute or regulation.

If the endorsement EXCLUSION – CONSTRUCTION WRAP-UP is attached to this policy, or another exclusionary endorsement pertaining to Owner Controlled Insurance Programs (O.C.I.P.) or Contractor Controlled Insurance Programs (C.C.I.P.) is attached, then the following change apply:

A. The following wording is added to the above-referenced endorsement:

With respect to a consolidated (wrap-up) insurance program project in which the Named Insured is or was involved, this exclusion does not apply to those sums the Named Insured become legally obligated to pay as damages because of:

- Bodily injury, property damage, or personal or advertising injury that occurs during the Named Insured's ongoing operations at the project, or during such operations of anyone acting on the Named Insured's behalf; nor

CNA74705XX (1-15) Policy No: 6016149399
Page 16 of 17 Endorsement No: 3
VALLEY FORGE INSURANCE COMPANY Effective Date: 11/11/2018
Insured Name: B & D INDUSTRIES, INC.
Copyright CNA All Rights Reserved. Includes copyrighted material of Insurance Services Office, Inc., with its permission.



CNA PARAMOUNT

Contractors' General Liability Extension Endorsement

2. Bodily injury or property damage included within the products-completed operations hazard that arises out of those portions of the project that are not residential structures.

B. Condition 4. Other Insurance is amended to add the following subparagraph 4.b.(1)(e):

This insurance is excess over:

(e) Any of the other insurance whether primary, excess, contingent or any other basis that is insurance available to the Named Insured as a result of the Named Insured being a participant in a consolidated (wrap-up) insurance program, but only as respects the Named Insured's involvement in that consolidated (wrap-up) insurance program.

C. DEFINITIONS is amended to add the following definitions:

Consolidated (wrap-up) insurance program means a construction, erection or demolition project for which the prime contractor/project manager or owner of the construction project has secured general liability insurance covering some or all of the contractors or subcontractors involved in the project, such as an Owner Controlled Insurance Program (O.C.I.P.) or Contractor Controlled Insurance Program (C.C.I.P.).

Residential structure means any structure where 30% or more of the square foot area is used or is intended to be used for human residency, including but not limited to:

1. single or multifamily housing, apartments, condominiums, townhouses, co-operatives or planned unit developments; and
2. the common areas and structures appurtenant to the structures in paragraph 1. (including pools, hot tubs, detached garages, guest houses or any similar structures).

However, when there is no individual ownership of units, residential structure does not include military housing, college/university housing or dormitories, long term care facilities, hotels or motels. Residential structure also does not include hospitals or prisons.

This WRAP-UP EXTENSION: OCIP, CCIP, OR CONSOLIDATED (WRAP-UP) INSURANCE PROGRAMS Provision does not apply to any person or organization who otherwise qualifies as an additional insured on this Coverage Part.

All other terms and conditions of the Policy remain unchanged.

This endorsement, which forms a part of and is for attachment to the Policy issued by the designated Insurers, takes effect on the effective date of said Policy at the hour stated in said Policy, unless another effective date is shown below, and expires concurrently with said Policy.

CNA/74705XX (1-15)





December 08, 2015

Contract Award Letter

Nikki Parson
B&D INDUSTRIES, INC.
9720 Bell Ave SE
Albuquerque, NM 87123

Re: ACCEPTANCE OF OFFER and CONTRACT AWARD

16-01B-R124-ALL RSMMeans JOC Regions 1 through 8

Dear Ms. Parson,

On behalf of Cooperative Educational Services (CES), I thank you for responding to our 2016-001 solicitation. The responses have been reviewed and it is my pleasure to inform you that you have been selected to provide the products and services indicated in your response.

The enclosed Acceptance of Offer and Contract Award is from the cover sheet that you submitted in your bid. I suggest that you take this award and place it with your copy of the bid that you submitted. Please read carefully the paragraph above the authorized signature. It outlines the agreement and specifies the term of the award.

We would like to include information concerning your company in our procurement directory called the Blue Book. Each of our members and participating entities receives a copy of this Blue Book. It enables their staff to look up important information concerning each vendor before placing an order. Although space is limited, the description below is intended as a quick reference of your company. If you would like to revise the description, please provide any changes in writing to CES' procurement office.

B&D is a full service contractor offering general contracting, electrical, mechanical, HVAC services and low voltage services in the areas of fire and security, network and cabling, voice, video, intercom and data collection. They are highly qualified to assist CES Members and Participating Entities in obtaining and completing Job Order Contracting projects in a timely and cost effective manner. They are also able to provide energy-efficient, cost-effective and long-lasting heating, cooling, ventilation, lighting systems, doors/windows, building interior and external envelope systems, and other

On CES' website (www.ces.org), you can download contact information for all of CES' members and participating entities. You are invited to send marketing materials directly to these institutions.

We look forward to working with you. Please let us know if you have questions or if we can be of any further assistance.

Sincerely yours,

Cooperative Educational Services

David Chavez,
Executive Director
Ofc: 505.344.5470
Fax: 505.344.9343

•Your New Mexico Purchasing Cooperative Since 1979•

**ACCEPTANCE OF OFFER
and CONTRACT AWARD**

RFP NUMBER 2016-001

See attached cover letter for specific awarded contract number(s).

OFFER TO BE COMPLETED BY VENDOR

In compliance with the Request for Proposal, the undersigned warrants that I/we have examined the instruction to Offerors, and, being familiar with all of the conditions surrounding the proposed projects, hereby offer and agree to furnish all labor, materials, and supplies incurred in compliance with all terms, conditions, specifications and amendments in this Request for Proposal and any written exceptions in the offer. Signature also certifies understanding and compliance with the certification requirements of the Categorical Terms and Conditions. The under-signed understands that his/her competence and responsibility and that of his/her proposed subcontractors, time of completion, as well as other factors of interest to CES as stated in the evaluation section, will be a consideration in making the award.

Company Name B&D Industries, Inc.

Address 9720 Bell Avenue SE City S Albuquerque State NM Zip 87123

Contract Contact Person Nicole Parsons, Secretary

Authorized Signature *Nicole Parsons* Printed Name Nicole Parsons, Secretary

OFFER EXTENDED TO TEXAS SERVICE AGENCIES



If you are willing to enter into a contract with TexBuy (ESC16) Texas Educational Service Center Region 16 under the same terms and conditions as in this RFP, place initials in the box.

ACCEPTANCE OF OFFER AND CONTRACT AWARD TO BE COMPLETED ONLY BY CES

Contract period: It is CES' intent to award a multi-term contract for the specified materials, equipment and services. The initial contract term shall be for one (1) calendar year from the date of contract award. By mutual written agreement between CES and contractor, the contract may be extended for up to three (3) consecutive additional 12-month periods, beginning immediately after expiration of the prior term. However, no contract extension exists unless and until contractor is so notified by CES.

Month-to-month extensions: CES reserves the right to offer month-to-month extensions if that is determined to be in the best interests of Members/Participating Entities.

David Chase
CES Authorized Signature

Awarded this 24th day of November 2015





EXTENSION OF CONTRACT

made by and between
B&D INDUSTRIES, INC.
and
Cooperative Educational Services

Said Contract(s) being numbered:

16-01B-R124-ALL RSMMeans JOC Regions 1 through 8

The existing Contract initially commenced on November 24, 2015 and will expire on November 23, 2016. The Term of Contract and Extension in 2016-001 RFP C provides the Contract may be extended annually for up to three (3) additional one (1) year terms by mutual written agreement through November 23, 2019. Cooperative Educational Services desires to extend the Contract for an additional term of one (1) year until November 23, 2017. Upon the signature of an authorized officer of the above named company or corporation, the Contract is hereby extended.

This extension shall be subject to the same Terms and Conditions contained in the original Bid Document and in Contract Number 2016-001 RFP C

PRICE ADJUSTMENTS

A written request to CES for a price adjustment to this contract must in be accordance with the stated RFP terms, conditions and stipulations agreed upon at contract award. The request to adjust pricing shall include all documentation for consideration of approval. Upon CES approval, the documents shall be placed in the procurement file for audit purposes. Your request must be submitted prior to the yearly renewal date of the contract or at contract renewal. The price adjustments shall apply to all CES Members and Participating Entities. CES reserves the right to approve or disapprove such requests.

COOPERATIVE EDUCATIONAL SERVICES

Authorized Signature David Chavez Date September 16, 2016

Contractor agrees to provide complete information of any deleted and new products or price adjustments as allowed under headings (Discontinued Products) and (New Technology and Price Reduction) of the RFP.

Authorized Signature Nikki Parsons Date 11/1/16

Printed Name Nikki Parsons Title Director of Contracts

NOTE: This Contract Extension should be received by 4:00 p.m. at the offices of CES on 11/15/16

If you do not want to extend this Contract, please sign below and return this agreement.

Discontinue: We desire to discontinue the contract effective 11/23/2016

Authorized Signature _____ Date _____

“Your New Mexico Procurement Partner Since 1979”



EXTENSION OF CONTRACT

made by and between

B&D INDUSTRIES, INC.

and

Cooperative Educational Services

Said Contract(s) being numbered:

16-01B- R124-ALL RSMMeans JOC Regions 1 through 8

The existing Contract initially commenced on November 24, 2015 and will expire on November 23, 2017. The Term of Contract and Extension in 2016-001 RFP C provides the Contract may be extended annually for up to three (3) additional one (1) year terms by mutual written agreement through November 23, 2019. Cooperative Educational Services desires to extend the Contract for the final term of one (1) year until November 23, 2018. Upon the signature of an authorized officer of the above named company or corporation, the Contract is hereby extended.

This extension shall be subject to the same Terms and Conditions contained in the original Bid Document and in Contract Number 2016-001 RFP C

PRICE ADJUSTMENTS

A written request to CES for a price adjustment to this contract must in be accordance with the stated RFP terms, conditions and stipulations agreed upon at contract award. The request to adjust pricing shall include all documentation for consideration of approval. Upon CES approval, the documents shall be placed in the procurement file for audit purposes. Your request must be submitted prior to the yearly renewal date of the contract or at contract renewal. The price adjustments shall apply to all CES Members and Participating Entities. CES reserves the right to approve or disapprove such requests.

COOPERATIVE EDUCATIONAL SERVICES

Authorized Signature *David Chae* Date October 02, 2017

Contractor agrees to provide complete information of any deleted and new products or price adjustments as allowed under headings (Discontinued Products) and (New Technology and Price Reduction) of the RFP.

Authorized Signature *Nikki Parsons* Date 11/14/2017

Printed Name Nikki Parsons Title Corporate Secretary

NOTE: This Contract Extension should be received by 4:00 p.m. at the offices of CES on 11-23-2017

If you do not want to extend this Contract, please sign below and return this agreement.

Discontinue: We desire to discontinue the contract effective 11/23/2017

Authorized Signature _____ Date _____

“Your New Mexico Procurement Partner Since 1979”



EXTENSION OF CONTRACT

made by and between

B&D INDUSTRIES, INC.

and

Cooperative Educational Services

Said Contract(s) being numbered:

16-01B- R124-ALL RSMMeans JOC Regions 1 through 8

The existing Contract initially commenced on November 24, 2015 and will expire on November 23, 2018. The Term of Contract and Extension in 2016-001 RFP C provides the Contract may be extended annually for up to three (3) additional one (1) year terms by mutual written agreement through November 23, 2019. Cooperative Educational Services desires to extend the Contract for the final term of one (1) year until November 23, 2019. Upon the signature of an authorized officer of the above named company or corporation, the Contract is hereby extended.

This extension shall be subject to the same Terms and Conditions contained in the original Bid Document and in Contract Number 2016-001 RFP C

PRICE ADJUSTMENTS

A written request to CES for a price adjustment to this contract must in be accordance with the stated RFP terms, conditions and stipulations agreed upon at contract award. The request to adjust pricing shall include all documentation for consideration of approval. Upon CES approval, the documents shall be placed in the procurement file for audit purposes. Your request must be submitted prior to the yearly renewal date of the contract or at contract renewal. The price adjustments shall apply to all CES Members and Participating Entities. CES reserves the right to approve or disapprove such requests.

COOPERATIVE EDUCATIONAL SERVICES

Authorized Signature *David Chavez* Date November 26, 2018

Contractor agrees to provide complete information of any deleted and new products or price adjustments as allowed under headings (Discontinued Products) and (New Technology and Price Reduction) of the RFP.

Authorized Signature *Nikki Parsons* Date 11/29/2018

Printed Name Nikki Parsons Title Director of Contracts

NOTE: This Contract Extension should be received by 4:00 p.m. at the offices of CES on 11/23/19

If you do not want to extend this Contract, please sign below and return this agreement.

Discontinue: We desire to discontinue the contract effective 11/23/2018

Authorized Signature _____ Date _____

“Your New Mexico Procurement Partner Since 1979”



Contract Award Letter

December 13, 2019

B&D INDUSTRIES, INC.
9720 Bell Ave SE
Albuquerque, NM 87123

Re: ACCEPTANCE OF OFFER and CONTRACT AWARD For:

2020-08B-G2305-ALL JOC Electrical - Gordian
2020-08B-G1107-ALL JOC Mechanical - Gordian
2020-08B-G3507-ALL JOC Plumbing - Gordian

Dear Procurement Partner,

Cooperative Educational Services (CES) thanks you for responding to our 2020-08 solicitation. The responses have been reviewed and it is our pleasure to inform you that your company has been selected to provide the products and services indicated in your response.

The enclosed Acceptance of Offer and Contract Award, in conjunction with the RFP documents that you submitted with your proposal, constitute the Agreement between the parties. Please retain all documents for your records. The term of this Indefinite Quantity Contract Award as defined in NMSA 13-1-63; is for three (3) years beginning December 13, 2019 and expiring December 12, 2022, pursuant to 13-1-150 NMSA.

It is the vendor's responsibility to keep pricing up-to-date, throughout the life of the contract.

Sincerely Yours,

Cooperative Educational Services

David Chavez
Executive Director
Ofc: 505.344.5470
Fax: 505.344.9343

CITY OF SANTA FE OTHER METHOD PROCUREMENT CHECKLIST

Contractor Name: B&D Industries, Inc.

Procurement Title: Amendment No. 2: CIP #503A, Salvador Perez Recreation Building Structural and Building Envelope Rehabilitation

Other Methods: State Price Agreement Cooperative Sole Source Exempt Other _____

Department Requesting/Staff Member: Anson Rane

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	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Approved Procurement Checklist (by Purchasing)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Departments Recommendation of Award Memo addressed to Finance
<input type="checkbox"/>	<input checked="" type="checkbox"/>	State Price Agreement
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Cooperative Agreement
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Sole Source Request and Determination Form
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Contractors Exempt Letter
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Purchasing Officers approval for exempt procurement
<input type="checkbox"/>	<input checked="" type="checkbox"/>	BAR
<input type="checkbox"/>	<input checked="" type="checkbox"/>	FIR
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Contract, Agreement or Amendment
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Current Business Registration and CRS numbers on contract or agreement
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Summary of Contracts and Agreements form
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Certificate of Insurance
<input type="checkbox"/>	<input type="checkbox"/>	Other: _____

Anson Rane, Project Administrator, Public Works Dept./Facilities Division

Department Rep Printed Name and Title



Department Rep Signature attesting that all information included


Fran Dunaway (Aug 27 2020 11:42 MDT)

Purchasing Officer attesting that all information is reviewed

REQUIRED DOCUMENTS FOR OTHER METHOD FILE*

YES	N/A	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	State Price Agreement
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Cooperative Agreement
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Sole source Request and Determination Form
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Contractors Exempt Letter
<input type="checkbox"/>	<input checked="" type="checkbox"/>	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

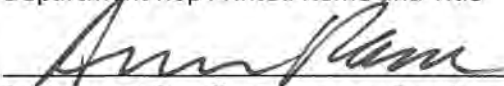
- Copy of Executed Contract
- Copy of all documentation presented to the Committees
- Finalized Council Committee Minutes
- Other: _____

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.

Anson Rane, Project Administrator, Public Works Dept./Facilities Division

Department Rep Printed Name and Title



Department Rep Signature attesting that all information included



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 B&D Industries, Inc.

3 Complete information requested Plus GRT
 Inclusive of GRT

Original Contract Amount: \$1,252,984.38

Termination Date: June 30, 2023

Approved by Council Date: July 31, 2019

or by City Manager Date: _____

Contract is for: CIP #503A, Salvador Perez Recreation Building Structural and Building Envelope Rehabilitation - Construction Services

Amendment # 2 to the Original Contract# 19-0648

Increase/(Decrease) Amount \$ 35,457.72

Extend Termination Date to: N/A

Approved by Council Date: Pending

or by City Manager Date: _____

Amendment is for: Added scope of work: New interior finishes (flooring and paint).
Additional days added to construction period (+30 days)

4 **History of Contract & Amendments:** (option: attach spreadsheet if multiple amendments) Plus GRT
 Inclusive of GRT

Amount \$ 1,252,984.38 of original Contract# 19-0648 Termination Date: 6/30/2023

Reason: Rehabilitation of Sal Perez Rec Bldg Structural and Building Envelope

Amount \$ 51,396.88 amendment # 1 Termination Date: 6/30/2023

Reason: Replacement and refinishing of building interior finishes (flooring and paint)

Amount \$ 35,457.72 amendment # 2 Termination Date: 6/30/2023

Reason: Additional deferred maintenance and code compliance work

Amount \$ _____ amendment # _____ Termination Date: _____

Reason: _____

Total of Original Contract plus all amendments: \$ 1,339,838.98



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 Cooperative Educational Services _____

6 Procurement History: New Contract, Amendment #1, Amendment #2
[Signature] CPO 6/25/20
Purchasing Officer Review

Comments or Exceptions: _____

7 Funding Source: GRT18355O2 / GRT18355A2 BU/Line Item: 3359980.572970: \$35,457.72

[Signature] Alexis Lotero
Alexis Lotero (Aug 27, 2020 11:04 MDT)

Budget Officer Approval

Comments or Exceptions: _____

8 Any out-of-the ordinary or unusual issues or concerns:

(Memo may be attached to explain detail.)

9 Staff Contact who completed this form: Anson Rane

Phone # 955-5935

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:



AIA[®]

Document A101™ – 2017

ITEM # 19-0648

Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum

AGREEMENT made as of the day of in the year
(In words, indicate day, month and year.)

BETWEEN the Owner:

City of Santa Fe
P.O. Box 909
Santa Fe, NM 87504-0909
(505)955-5937

and the Contractor:

B&D Industries, Inc.
9720 Bell Avenue SE
Albuquerque, New Mexico 87123
(505)299-4464

for the following Project:

CIP Project #503A, Salvador Perez Recreation Building
Structural and Building Envelope Rehabilitation

(Paragraph deleted)
The Design Professional:

WHPacific, Inc.
6501 Americas Pkwy NE, STE 400
Albuquerque, New Mexico 87110
(505)830-8752

The Owner and Contractor agree as follows.

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

The parties should complete A101™-2017, Exhibit A, Insurance and Bonds, contemporaneously with this Agreement. AIA Document A201™-2017, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

Init.

TABLE OF ARTICLES

1	THE CONTRACT DOCUMENTS
2	THE WORK OF THIS CONTRACT
3	DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION
4	CONTRACT SUM
5	PAYMENTS
6	DISPUTE RESOLUTION
7	TERMINATION OR SUSPENSION
8	MISCELLANEOUS PROVISIONS
9	ENUMERATION OF CONTRACT DOCUMENTS

ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary, and other Conditions), Drawings and Specifications: as indicated herein under Article 9, Addenda issued prior to execution of this Agreement, other documents and Exhibits listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. An enumeration of the Contract Documents, other than a Modification, appears in Article 9.

In the event of a conflict between or among the Contract Documents, the following order of priority shall be:

- (1) This Agreement (Exhibit 1)
- (2) AIA Document A201-2007, General Conditions of the Construction Contract (Exhibit 1,B)
- (3) *The City of Santa Fe General Conditions (Exhibit 1,C)*
- (4) *The City of Santa Fe Supplementary Conditions (Exhibit 1,D)*
- (5) Provisions of the Cooperative Education Services contract #16-01B-R124-ALL (Exhibit 1,E)
- (6) Provisions set forth in the Contract Documents issued by the Design Professional
- (7) Provisions set forth in other exhibited documents

ARTICLE 2 THE WORK OF THIS CONTRACT

The Contractor shall fully execute the Work described herein and in the Contract Documents. The Scope of Work includes Natatorium roof structure rehabilitation, building entry signage and beam structure replacement and building envelope rehabilitation and shall be carried out in accordance with the Contract Documents indicated under Article 9, Enumeration of Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others.

ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be:

(Paragraphs deleted)

- The date set forth in the Official Notice-to-Proceed issued by the Owner.

§ 3.2 The Contract Time shall be measured from the date of commencement of the Work.

§ 3.3 Substantial Completion

§ 3.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall achieve Substantial Completion of the entire Work:

(Paragraph deleted)

Int.

AIA Document A101™ – 2017. Copyright © 1915, 1918, 1925, 1937, 1951, 1958, 1961, 1963, 1967, 1974, 1977, 1987, 1991, 1997, 2007 and 2017 by The American Institute of Architects. All rights reserved. WARNING: This AIA® Document is protected by U.S. Copyright Law and International Treaties. Unauthorized reproduction or distribution of this AIA® Document, or any portion of it, may result in severe civil and criminal penalties, and will be prosecuted to the maximum extent possible under the law. This document was produced by AIA software at 15:35:13 ET on 06/24/2019 under Order No. 9630781084 which expires on 06/18/2020, and is not for resale.

User Notes:

(1231696696)

[X] Not later than one hundred forty five (145) calendar days from the date of commencement of the Work, subject to adjustments of this Contract Time as provided in the Contract Documents.

§ 3.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work are to be completed after Substantial Completion of the other Work, the Contractor shall achieve Substantial Completion of such portions by the following dates:

Portion of Work	Substantial Completion Date
Exterior insulation and finish system color coat if the Notice to Proceed is issued after September 23, 2019, and, substantiated inclimate and/or freezing weather conditions are incurred, prohibiting responsible completion of the stucco work within the one hundred forty five (145) day contract time. See Allowance #4 below.	May 10, 2020

§ 3.3.3 If the Contractor fails to achieve Substantial Completion as provided in this Section 3.3, liquidated damages, if any, shall be assessed as set forth in Section 4.5.

ARTICLE 4 CONTRACT SUM

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be one million, two hundred fifty two thousand, nine hundred eighty four dollars and thirty eight cents (\$ 1,252,984.38), inclusive of New Mexico Gross Receipts Tax, subject to additions and deductions as provided in the Contract Documents.

§ 4.2 Alternates

§ 4.2.1 Alternates, if any, included in the Contract Sum and as part of the Construction Contingency Reserve, applied as set forth in Section 4.3.2, and as described in the Contract Documents are hereby accepted by the Owner:

Item	Price
Alternate #1 - Remove and replace VCT tiled floors	\$21,825.10
Alternate #2 - Paint all interior walls other than in the Natatorium (in Base Bid)	\$21,828.46
Alternate #3 - Install rooftop TPO walk path.	\$13,638.07

(Table deleted)

(Paragraphs deleted)

§ 4.3

(Paragraphs deleted)

Allowances

§ 4.3.1 Allowances, if any, included in the Contract Sum and as part of the Construction Contingency Reserve, applied as set forth in Section 4.3.2, and as described in the Contract Documents are hereby accepted by the Owner:

Item	Allotted reserve dollar amount, subject to final pricing and approval per Section 4.3.2
Allowance #1 - Required roof membrane, roof deck and structural repairs and modifications necessitating additional performance of work by the Contractor beyond the base bid scope of work.	\$9,750.39
Allowance #2 - Required finishes, hardware, fittings and equipment removal and/or installation necessitating additional	\$9,000.00

IntL

performance of work by the Contractor beyond the base bid scope of work.
 Allowance #3 – Reserve for other construction remodeling related unforeseen conditions, testing and mitigation measures. \$5,000.00
 Allowance #4 – Delayed EFIS color coat installation remobilization, associated finish work and clean up. \$38,000.00

§ 4.3.2 The Construction Contingency Reserve of one hundred thousand nineteen, forty two dollars and two cents (\$119,042.02), exclusive of New Mexico Gross Receipts Tax, shall be applied toward the Allowance items enumerated under Section 4.3.1 addressing unanticipated conditions including required testing and mitigation measures, modifications to the scope of work required by regulatory agencies, Owner requested changes and design clarifications or required modifications that necessitate additional mobilization and/or performance of work by the Contractor beyond the base bid scope of work. Project Contingency Reserve funds not applied to these circumstances shall be applied toward the completion of the Alternates listed under Section 4.2.1, in the order listed. Construction Contingency Reserve funds not applied to contingency items or alternates shall be deducted from the Contract Sum on the Final Application for Payment and remain unbilled. All items funded by the Construction Contingency Reserve shall be authorized by written pre-approval from the Owner’s Representative, with the Design Professional’s concurrence, as applicable and shall be clearly documented with line item actual costs (not to exceed the total dollar amount of the allotted Construction Contingency Reserve without approval of a Change Order) on the Schedule of Values accompanying the relevant application for payment.

§ 4.4 Unit prices, if any:

Item	Units and Limitations	Price per Unit (\$0.00)
Not applicable	N/A	N/A

§ 4.5 Liquidated damages, if any:

(Paragraph deleted)

Liquidated damages of two hundred fifty dollars and zero cents (\$250.00) per calendar day will apply for work not completed by the Substantial Completion date(s).

(Paragraphs deleted)

ARTICLE 5 PAYMENTS

§ 5.1 Progress Payments

§ 5.1.1 Based upon Applications for Payment submitted to the Design Professional by the Contractor and approved Applications for Payment issued by the Design Professional, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

§ 5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month.

§ 5.1.3 Provided that an Application for Payment is received by the Design Professional not later than the 1st day of a month, the Owner shall make payment of the amount certified to the Contractor not later than the 30th day of the month. If an Application for Payment is received by the Design Professional after the application date fixed above, payment of the amount certified shall be made by the Owner not later than thirty (30) days after the Design Professional receives the Application for Payment.

§ 5.1.4 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Design Professional may require. This schedule of values shall be used as a basis for reviewing the Contractor’s Applications for Payment.

§ 5.1.5 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment. The Contractor shall stipulate a sum as a line item on the schedule

init.

of values for Completion of Work after issuance of the Certificate of Substantial Completion as listed on the Design Professional's official Punch list and for completion and submission of all Project Close Out documentation, including, but not limited to the documents listed below. The Certificate of Final Completion will be issued after acceptance of these documents by the Owner.

- .1 Certificate of Liability Insurance with an expiration date no earlier than one (1) year after the Substantial Completion date.
- .2 Contractor's Affidavit of Release of Liens (AIA Document G706A)
- .3 Contractor's Affidavit of Payment of Debts and Claims (AIA Document G706)
- .4 Contractor's Warranty
- .5 Manufacturer's Warranties (as applicable)
- .6 Operations and Maintenance Manual covering warranted equipment, materials requiring maintenance and including any reports or procedural documentation generated by third parties or subcontractors as part of, or necessitated by the Work.
- .7 Approved Construction Permit(s) with Construction Document set stamped by Permitting Authorities (as applicable)
- .8 As-Built Construction Document set and documentation of all other Work completed that is not included in the As-Built set
- .9 Final Inspection Report(s) from Permitting Authorities (as applicable)
- .10 Consent of Surety Company to Final Payment.
- .11 Application for Final Payment.
- .12 Lien Bond (as applicable)
- .13 Lien Discharge Fee(s) Refund (as applicable)
- .14 Certificate of Occupancy (as applicable)
- .15 New Mexico Dept. of Workforce Solutions Affidavit of Wages Paid
- .16 New Mexico Dept. of Workforce Solutions Payroll Statement of Compliance

§ 5.1.6 In accordance with AIA Document A201™–2017, General Conditions of the Contract for Construction, and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

§ 5.1.6.1 The amount of each progress payment shall first include:

- .1 That portion of the Contract Sum, including fully executed change orders, properly allocable to completed Work;
- .2 That portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction, or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing.

§ 5.1.6.2 The amount of each progress payment shall then be reduced by:

- .1 The aggregate of any amounts previously paid by the Owner;
- .2 The amount, if any, for Work that remains uncorrected and for which the Design Professional has previously withheld an Application for Payment as provided in Article 9 of AIA Document A201–2017;
- .3 Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;

(Paragraphs deleted)

§ 5.1.7 If final completion of the Work is materially delayed through no fault of the Contractor, the Owner shall pay the Contractor any additional amounts in accordance with Article 9 of AIA Document A201–2017.

(Paragraphs deleted)

§ 5.1.8 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

(Paragraph deleted)

Init.

§ 5.2 Final Payment

§ 5.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

- .1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Article 12 of AIA Document A201-2017, and to satisfy other requirements, if any, which extend beyond final payment; and
- .2 a final approved Application for Payment has been issued by the Design Professional.

§ 5.2.2 The Owner's final payment to the Contractor shall be made no later than 30 days after the issuance of the Design Professional's final approved Application for Payment, or as follows:

Within fifteen days of the Contractor's request for final payment being submitted to the City, provided the Owner has received from the Contractor the Consent of Surety, Waivers, Releases of Liens and all other items listed in Section 5.1.5.

(Paragraphs deleted)

ARTICLE 6 DISPUTE RESOLUTION

§ 6.1 Initial Decision Maker

The Owner will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document A201-2017, unless the parties appoint below another individual, not a party to this Agreement, to serve as the Initial Decision Maker.

6.2 Binding Dispute Resolution

(Paragraphs deleted)

For any Claim subject to, but not resolved by, mediation pursuant to Article 15 of AIA Document A201-2017, the method of binding dispute resolution shall be as follows:

- In accordance with New Mexico Public Works Mediation Act 13-4C-1 through 13-4C-11, NMSA 1978.

If the Owner and Contractor do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.

(Paragraphs deleted)

ARTICLE 7 TERMINATION OR SUSPENSION

§ 7.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A201-2017.

(Paragraphs deleted)

§ 7.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201-2017.

ARTICLE 8 MISCELLANEOUS PROVISIONS

§ 8.1 Where reference is made in this Agreement to a provision of AIA Document A201-2017 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 8.2 The Owner's representative:

Jason M. Kluck or other authorized Public Works Project Administrator or Director
 Project Administrator, Facilities Division
 City of Santa Fe
 2651 Siringo Road, Building E, Santa Fe, New Mexico 87505
 (505) 955-5937

§ 8.3 The Contractor's representative:

Clinton Beall
 Senior Vice President
 B&D Industries, Inc.
 9720 Bell Avenue SE, Albuquerque, NM 87123
 (505)299-4464

Init.

§ 8.4 Neither the Owner's nor the Contractor's representative shall be changed without ten days' prior notice to the other party.

§ 8.5 Other provisions:

(Paragraph deleted)

§ 8.5.1 Indemnification

§ 8.5.1.1 The Contractor shall indemnify, hold harmless and defend the City from all losses, damages, claims or judgements, including payments of all attorneys' fees and costs on account of any suit, judgment, execution, claim, action or demand whatsoever arising from Contractor's performance under this Agreement as well as the performance of Contractor's employees, agents, representatives and subcontractors.

§ 8.5.2 Appropriations

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

§ 8.5.3 Third Party Beneficiaries

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

§ 8.5.4 Status of Contractor; Responsibility for Payment of Employees and Subcontractors

§ 8.5.4.1 The Contractor and its agents and employees are independent contractors performing professional services for the City and are not employees of the City. The Contractor, and its agents and employees, shall not accrue leave, retirement, insurance, bonding, use of City vehicles, or any other benefits afforded to employees of the City as a result of this Agreement.

§ 8.5.4.2 Contractor shall be solely responsible for payment of wages, salaries and benefits to any and all employees or subcontractors retained by Contractor in the performance of the services under this Agreement.

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

§ 8.5.5 Conflict of interest

§ 8.5.5.1 The Contractor warrants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement. Contractor further agrees that in the performance of this Agreement no persons having any such interests shall be employed.

(Paragraphs deleted)

§ 8.5.6 Assignment: Subcontracting

(Paragraphs deleted)

§ 8.5.6.1 The Contractor shall not assign or transfer any rights, privileges, obligations or other interest under this Agreement, including any claims for money due, without the prior written consent of the City. The Contractor shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of the City.

§ 8.5.7 Release

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

§ 8.5.8 Insurance

§ 8.5.8.1 The contractor, at its own cost and expense, shall carry and maintain in full force and effect during the term of this Agreement, comprehensive general liability insurance covering bodily injury and property damage liability, in a form and with an insurance company acceptable to the City, with limits of coverage in the maximum amount which the City could be held liable under the New Mexico Tort Claims Act for each person injured and for each accident resulting in damage to property. Such insurance shall provide that the City is named as an additional insured and that the City is notified no less than 30 days in advance of cancellation for any reason. The Contractor shall furnish the City with a copy of a Certificate of Insurance as a condition prior to performing services under this Agreement.

§ 8.5.8.2 Contractor shall also obtain and maintain Workers' compensation insurance, required by law, to provide coverage for Contractor's employees throughout the term of this Agreement. Contractor shall provide the City with evidence of its compliance with such requirement.

§ 8.5.9 Records and Audit

§ 8.5.9.1 The contractor shall maintain, throughout the term of this Agreement and for a period of three years thereafter, detailed records that indicate the date, time and nature of services rendered. These records shall be subject to inspection by the City, the Department of Finance and Administration, and the State Auditor. The City shall have the right to audit the billing both before and after payment. Payment under this Agreement shall not foreclose the right of the City to recover excessive or illegal payments.

§ 8.5.10 Applicable Law: Choice of Law: Venue

§ 8.5.10.1 Contractor shall abide by all applicable federal and state laws and regulations, and all ordinances, rules and regulations of the City of Santa Fe. In any action, suit or legal dispute arising from this Agreement, the Contractor agrees that the laws of the State of New Mexico shall govern. The parties agree that any action or suit arising from this Agreement shall be commenced in a federal or state court of competent jurisdiction in New Mexico. Any action or suit commenced in the courts of the State of New Mexico shall be brought in the First Judicial District Court.

§ 8.5.11 Amendment

§ 8.5.11.1 This Agreement shall not be altered, changed or modified except by an amendment in writing executed by the parties hereto.

§ 8.5.12 Non-Discrimination

§ 8.5.12.1 During the term of this Agreement, Contractor shall not discriminate against any employee or applicant for an employment position to be used in the performance of services by Contractor hereunder, on the basis of ethnicity, race, age, religion, creed, color, national origin, ancestry, sex, gender, sexual orientation, physical or mental disability, medical condition, or citizenship status.

§ 8.5.13 Severability

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

§ 8.5.14 Notices

§ 8.5.14.1 Any and all notices provided for hereunder shall be in writing and shall be deemed delivered, given and received when (i) personally delivered, or (ii) five (5) days after the same are deposited in the United States Postal Service mail, postage prepaid, certified mail, return receipt requested, addressed to the applicable party at the address indicated below for each party, or at such other address as may be designated by either party in a written notice to the other party:

OWNER: City of Santa Fe
Public Works Department, Facilities Division
P.O. Box 909
Santa Fe, New Mexico 87504-0909

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

§ 8.5.15 New Mexico Tort Claims Act

§ 8.5.15.1 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 any limitation of liability pursuant to law. No provision in this Agreement modifies or waives any provision of the New Mexico Tort Claims Act.

§ 8.5.16 Term and Effective Date

§ 8.5.16.1 This Agreement shall be effective when signed by the City and the Contractor, which shall terminate on June 30, 2023 unless sooner pursuant to section 8.5.11.

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 This Agreement is comprised of the following documents:

- .1 This, executed, AIA Document A101™-2017, Standard Form of Agreement Between Owner and Contractor (Exhibit 1)
- .2 Contractor's Price Proposal dated 6/18/19 (Exhibit 1,A)
- .3 AIA Document A201™-2017, General Conditions of the Contract for Construction (Exhibit 1,B)
- .4 City of Santa Fe General Conditions (Exhibit 1,C)
- .5 City of Santa Fe Supplementary Conditions (Exhibit 1,D)
- .6 Cooperative Educational Services Contract #16-01B-R124-ALL (Exhibit 1,E)
- .7 Contractor's Certificate of Liability Insurance (Exhibit 1,F)
- .8 Project Schedule (Exhibit 1,G)
- .9 NMDWS Wage documents (Exhibit 1,H)
- .10 Construction Documents referenced below (Exhibit 1,I)

Where there is a conflict or duplication between the General Conditions documents, the AIA General Conditions shall prevail.

Drawings

Number	Title	Date
19 sheets: G-001 through S-501	CIP Project #503A, Salvador Perez Recreation Building Structural and Building Envelope Rehabilitation	06/04/2019

Specifications

Section	Title	Date	Pages
01 1000 through 12 2113	Design Specifications Salvador Perez Recreation Building Structural and Building Envelope Rehabilitation	06/04/2019	120

(Paragraphs deleted)

All Addenda transmitted to the Contractor prior to execution of this Agreement, if any, are included in the Agreement regardless of enumeration herein.

Addenda

Number	Date	Pages
001	6/13/19	2

§ 9.2 Indicated here for reference, the following documents are ancillary to the Agreement and are included in the City approval packet:

Init

AIA Document A101™ - 2017. Copyright © 1915, 1918, 1925, 1937, 1951, 1958, 1961, 1963, 1967, 1974, 1977, 1987, 1991, 1997, 2007 and 2017 by The American Institute of Architects. All rights reserved. WARNING: This AIA® Document is protected by U.S. Copyright Law and International Treaties. Unauthorized reproduction or distribution of this AIA® Document, or any portion of it, may result in severe civil and criminal penalties, and will be prosecuted to the maximum extent possible under the law. This document was produced by AIA software at 15:35:13 ET on 06/24/2019 under Order No.9630781084 which expires on 06/18/2020, and is not for resale.

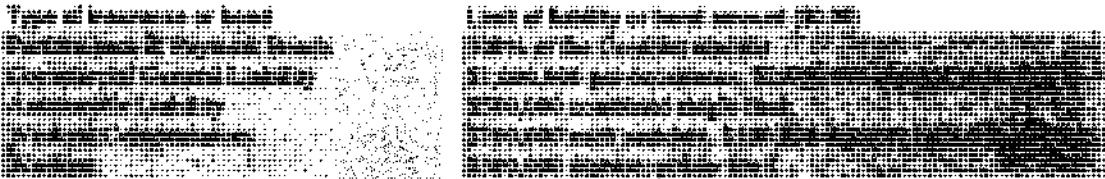
User Notes:

(1231696696)

- .1 Contractor's City of Santa Fe Business License (Exhibit 2)
- .2 Cooperative Educational Services Purchasing Agreement with the City, #18-0191 (Exhibit 3)

ARTICLE 10 INSURANCE AND BONDS

The Contractor shall purchase and maintain insurance and provide bonds as set forth in Article 11 of AIA Document A201-2017.



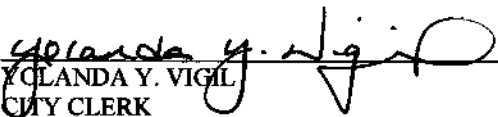
IN WITNESS WHEREOF, the parties have executed this Agreement on the date set forth below.

CITY OF SANTA FE:


 ALAN WEBBER, MAYOR

DATE: 8/2/19

ATTEST:


 GLENDA Y. VIGIL
 CITY CLERK
 CC Mtg. - 7-31-19
 APPROVED AS TO FORM:


 ERIN MCSHERRY,
 CITY ATTORNEY

6/28/19

CONTRACTOR:
 B&D INDUSTRIES, INC.


 BY: CLINTON BEALL, SENIOR VICE PRESIDENT

7.12.19

NM LICENSE # 1426
 CRS # 01-716872-004
 CITY BUSINESS REGISTRATION # 17-00110523
 NM RESIDENT PREFERENCE #: L1754397648

APPROVED:


 MARY MCCOY, FINANCE DIRECTOR

Business Unit/Line Item
 32151.572970.0119900: \$1,111,484.38, EXP Salvador Perez Building, WIP Construction (2018 GRT Bond)
 32125.572970: \$141,500.00, EXP Municipal Facility Repair, WIP Construction

**CITY OF SANTA FE
AMENDMENT No. 1 TO
AGREEMENT BETWEEN OWNER AND CONTRACTOR**

AMENDMENT No. 1 (the "Amendment") to the CITY OF SANTA FE AGREEMENT 19-0648 BETWEEN OWNER AND CONTRACTOR, dated July 31, 2019 (the "Agreement"), between the City of Santa Fe (the "Owner") and B&D Industries, Inc. (the "Contractor"). The date of this Amendment shall be the date when it is executed by the City and the Contractor whichever occurs last.

RECITALS

A. Under the terms of the Agreement, the Contractor has agreed to provide construction services for CIP Project #503A, Salvador Perez Recreation Building - Structural and Building Envelope Rehabilitation;

B. Pursuant to Article 8.5.11 of the Agreement, and for good and valuable consideration, the receipt and sufficiency of which are acknowledged by the parties, the Owner and the Contractor agree as follows:

1. SUBSTANTIAL COMPLETION:

Article 3 of the Agreement is amended to increase the Contract Time by thirty (30) calendar days for completion of the additional scope of work and for additional days for unforeseen conditions due to no fault of the Contractor, so that Article 3.3 reads as follows:

§ 3.3 Substantial Completion

§ 3.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall achieve Substantial Completion of the entire Work:

Not later than ~~one hundred seventy-five~~ (175) calendar days from the date of commencement of the Work, subject to adjustments of this Contract Time as provided in the Contract Documents.

2. CONTRACT SUM:

Article 4 of the Agreement is amended to increase the total contract sum dollar amount by \$51,396.88 to include provision for additional Work per the attached proposal dated December 13, 2019 (Exhibit 1,A), so that Article 4.1 reads as follows:

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be ~~one million, three hundred four thousand, three hundred eighty-one dollars and twenty-six cents~~ (\$ ~~1,304,381.26~~), inclusive of New Mexico Gross Receipts Tax, subject to additions and deductions as provided in the Contract Documents.

3. AGREEMENT IN FULL FORCE.

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

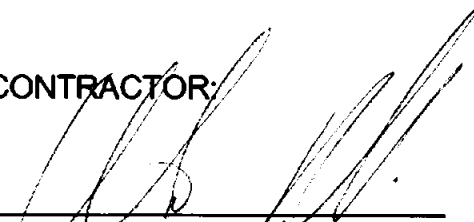
IN WITNESS WHEREOF, the parties have executed this Amendment No. 1 to the City of Santa Fe Agreement 19-6048 Between Owner and Contractor for CIP Project #503A, Salvador Perez Recreation Building Structural and Building Envelope Rehabilitation.

CITY OF SANTA FE:


ALAN WEBBER, MAYOR

DATE: 2/14/20

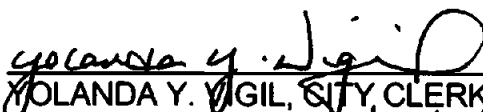
CONTRACTOR:


CLINTON BEALL, SENIOR VP
B&D INDUSTRIES, INC.

DATE: 2/19/2020

NM LICENSE #1426
CRS# 01-716872-004
City of Santa Fe Business
Registration# 17-00110523
NM Resident Pref # L1754397648

ATTEST:


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

CITY ATTORNEY'S OFFICE:

MTM *1/14/20*
SENIOR ASSISTANT CITY ATTORNEY

APPROVED:

Mary McCoy
MARY MCCOY, FINANCE DIRECTOR

Business Unit/Line Item

32151.572970.0119900: \$51,396.88, EXP Salvador Perez Building, WIP Construction (2-018 GRT Bond)










GB PWD B&D A 2 (Sal Perez) REVISED

Final Audit Report

2020-08-27

Created:	2020-08-21
By:	YODEL CATANACH (yocatanach@ci.santa-fe.nm.us)
Status:	Signed
Transaction ID:	CBJCHBCAABAAQ5Kwqm1nvVvY7yXyADuHhV4QGmRmy5KU

"GB PWD B&D A 2 (Sal Perez) REVISED" History

-  Document created by YODEL CATANACH (yocatanach@ci.santa-fe.nm.us)
2020-08-21 - 4:36:50 PM GMT- IP address: 63.232.20.2
-  Document emailed to Alexis Lotero (aclotero@santafenm.gov) for signature
2020-08-21 - 4:41:00 PM GMT
-  Email viewed by Alexis Lotero (aclotero@santafenm.gov)
2020-08-26 - 4:46:30 PM GMT- IP address: 104.47.64.254
-  Email viewed by Alexis Lotero (aclotero@santafenm.gov)
2020-08-27 - 5:02:35 PM GMT- IP address: 104.47.64.254
-  Document e-signed by Alexis Lotero (aclotero@santafenm.gov)
Signature Date: 2020-08-27 - 5:04:21 PM GMT - Time Source: server- IP address: 63.232.20.2
-  Document emailed to Fran Dunaway (fadunaway@santafenm.gov) for signature
2020-08-27 - 5:04:24 PM GMT
-  Email viewed by Fran Dunaway (fadunaway@santafenm.gov)
2020-08-27 - 5:41:52 PM GMT- IP address: 104.47.65.254
-  Document e-signed by Fran Dunaway (fadunaway@santafenm.gov)
Signature Date: 2020-08-27 - 5:42:02 PM GMT - Time Source: server- IP address: 63.232.20.2
-  Signed document emailed to Fran Dunaway (fadunaway@santafenm.gov), Alexis Lotero (aclotero@santafenm.gov), aerane@santafenm.gov, and YODEL CATANACH (yocatanach@ci.santa-fe.nm.us)
2020-08-27 - 5:42:02 PM GMT

City of Santa Fe, New Mexico

memo

DATE: August 20, 2020

TO: City Council
Mary McCoy, Chief Financial Officer

Via: Joshua Elicio, ITT Director Joshua Elicio, ITT Director Digitally signed by Joshua Elicio,
Director Director ITT Director
Date: 2020.08.25 13:26:09 -0600

From: David C. Tapia, Contracts Administrator 

ITEM & ISSUE:

Request for Approval of Amendment 1 to the Immix Technology Agreement Item # 20-0306 Contract #3201928 for the Kronos Workforce Telestaff Cloud Hosting Services for a 3 year contract procured through Immix Technology on GSA GS-35F-0265X. The current Immix Technology contract specific to Kronos Workforce Telestaff for the Fire Department expired on 5/31/2020 and are requesting a new 3 year contract to go from 7/1/2020 - 6/30/2023. Procurement method is GSA GS-35F-0265X. Product is Workforce Telestaff (\$111,204.38) from Kronos Inc, through Immix Technology Inc.

BACKGROUND

The City implemented a Kronos Workforce Telestaff solution back in 2016 for the City Fire Department that added shift bidding and advanced work scheduling capabilities. It is a three year agreement that ended on 5/31/20. This request is to approve a new 3 year agreement for the Enterprise Licensing, Bidding Functionality and Cloud Hosting Services.

Immix Technology Inc., has a GSA GS-35F-0265X that will be the procurement method used for this purchase. Existing purchase order # 22000999 has a sufficient amount available to pay for the gap in services from May 31, 2020 – June 30, 2020. This methodology was utilized to true up the termination date with the original contract and the end of the fiscal year.

Operating Budget for Annual Subscription Fees:

Munis Fund Number: 620, Munis Org Number: 6203600, Munis Object Code: 530710, Amount \$111,204.38 (3 years)

ACTION REQUESTED:

Approval of Amendment 1 for Enterprise licensing, Bidding Functionality and Cloud Hosting Services for Kronos Workforce Telestaff through Immix Technology Inc. (\$111,204.38)

DOCUMENTS:

Immix Sales Quote # QUO-1129175-H9Y5C8
GSA Contract GS-35F-0265X (selected pages) Term Through March 2, 2021
New PSA Contract Item # 20-0306



City of Santa Fe, New Mexico

200 Lincoln Avenue, P.O. Box 909, Santa Fe, NM 87504-0909

www.santafenm.gov

Alan Webber, Mayor

Councilors:

Signe I. Lindell, Mayor Pro Tem, District 1

Renee Villarreal, District 1

Peter N. Ives, District 2

Carol Romero-Wirth, District 2

Roman "Tiger" Abeyta, District 3

Chris Rivera, District 3

Mike Harris, District 4

JoAnne Vigil Coppler, District 4

MEMORANDUM

Date: August 6, 2020

To: **Immix Technology, Inc**

Attn: **Vinu Mohan**

From: Fran Dunaway, CPO, CNBM, City of Santa Fe Purchasing Division

RE: GSA Contract **GS-35F-0265X, General Services Administration Federal Supply Service Multiple Award Schedule Authorized Federal Supply Schedule Pricelist**

The City of Santa Fe by mutual agreement between the City and **Immix Technology, Inc.** is willing to enter into a GSA price agreement based on the following requirements:

1. Provide an updated Federal Supply Schedule to include current or updated contract dates.
2. *Purchases based on 13-1-129 (A)(1) NMSA 1978:* The Contractor is willing to extend their GSA pricing, terms and conditions to the City of Santa Fe at prices equal to or less than the contractor's current federal supply contract price (GSA), providing the contractor has indicated in writing a willingness to extend such contractor pricing, terms and conditions to the City of Santa Fe and the purchase order adequately identifies the contract relied upon.

Please respond by completing the information below. Check the proper box, fill in the requested information, including signature, scan and upload to the email you received with this request.

I agree to extend and/or renew the above referenced GSA price agreement.

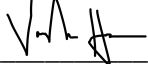
I DO NOT agree to extend and/or renew the above referenced GSA price agreement.

Vaughn Harman, Sr. Director

vaughn_harman@immixgroup.com

Print Name, Title

Email Address



immixGroup, Inc.

Signature

Company Name

8/7/2020

Date

Address



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

Section to be completed by department for each contract or contract amendment

1 **FOR:** ORIGINAL CONTRACT or CONTRACT AMENDMENT

2 Name of Contractor Immix technology Inc. Reseller for KRONOS

3 Complete information requested Plus GRT
 Inclusive of GRT

Original Contract Amount: \$383,516.62

Termination Date: June 30, 2023

Approved by Council Date: June 24, 2020

or by City Manager Date: _____

Contract is for: Enterprise Licensing, Bidding Functionality and Cloud Hosting Services for Kronos
Telestaff, Time Keeping and Attendance Software

Amendment # 1 to the Original Contract# 3201928 Item # 20-0306

Increase/(Decrease) Amount \$ \$111,204.38

Extend Termination Date to: _____

Approved by Council _____

or by City Manager Date: _____

Amendment is for:

4 **History of Contract & Amendments:** (option: attach spreadsheet if multiple amendments) Plus GRT
 Inclusive of GRT

Amount \$ 383,516.62 of original Contract# 3201928 Item# 20-0306 Termination Date: 6/30/2023

Reason: _____

Amount \$ 111,204.38 amendment # 1 Termination Date: 6/30/2023

Reason: Include Telestaff Software for Shift Bidding Public Safety

Amount \$ _____ amendment # _____ Termination Date: _____

Reason: _____

Amount \$ _____ amendment # _____ Termination Date: _____

Reason: _____

Total of Original Contract plus all amendments: \$ \$494,721.00

CITY OF SANTA FE OTHER METHOD PROCUREMENT CHECKLIST

Contractor Name: Immix Technology Inc. Kronos Telestaff

Procurement Title: Amendment to Immix Contract with City of Santa Fe 3201928 Item# 20-0306

Other Methods: State Price Agreement Cooperative Sole Source Exempt Other #GS-35F-0265X, __ Term Through March 2, 2021 _____

Department Requesting/Staff Member David C. Tapia

Procurement Requirements:


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

REQUIRED DOCUMENTS FOR APPROVAL BY PURCHASING*

YES	N/A	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Approved Procurement Checklist (by Purchasing)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Departments Recommendation of Award Memo addressed to Finance
<input type="checkbox"/>	<input checked="" type="checkbox"/>	State Price Agreement
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Cooperative Agreement
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Sole Source Request and Determination Form
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Contractors Exempt Letter
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Purchasing Officers approval for exempt procurement
<input type="checkbox"/>	<input checked="" type="checkbox"/>	BAR
<input type="checkbox"/>	<input checked="" type="checkbox"/>	FIR
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Contract, Agreement or Amendment
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Current Business Registration and CRS numbers on contract or agreement
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Summary of Contracts and Agreements form
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Certificate of Insurance
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Other: <u>Original Contract Attached</u> GS-35F-0265X

David C. Tapia
Department Rep Printed Name and Title

David C. Tapia
Department Rep Signature attesting that all information included


Fran Dunaway (Aug 25, 2020 15:38 MDT)

Purchasing Officer attesting that all information is reviewed

REQUIRED DOCUMENTS FOR OTHER METHOD FILE*

YES	N/A	
<input type="checkbox"/>	<input type="checkbox"/>	State Price Agreement
<input type="checkbox"/>	<input type="checkbox"/>	Cooperative Agreement

*

- | | | |
|-------------------------------------|--------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/> | Sole source Request and Determination Form |
| <input type="checkbox"/> | <input type="checkbox"/> | Contractors Exempt Letter |
| <input type="checkbox"/> | <input type="checkbox"/> | Purchasing Officers approval of exempt procurement |
| <input type="checkbox"/> | <input type="checkbox"/> | Copies of all Sole Source submittals |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Other: GS-35F-0265X, <u>Term Through March 2, 2021</u> |

AWARD*

YES N/A

- | | | |
|-------------------------------------|--------------------------|--|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Fully executed Memo to Committees from the Department with recommendation of award |
| <input type="checkbox"/> | <input type="checkbox"/> | Other: _____ |

CONTRACT*

YES N/A

- | | | |
|-------------------------------------|--------------------------|---|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Copy of Executed Contract |
| <input type="checkbox"/> | <input type="checkbox"/> | Copy of all documentation presented to the Committees |
| <input type="checkbox"/> | <input type="checkbox"/> | Finalized Council Committee Minutes |
| <input type="checkbox"/> | <input type="checkbox"/> | 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.

David C. Tapia

 Department Rep Printed Name and Title
 David C. Tapia

 Department Rep Signature attesting that all information included



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

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

RFP# 16/22 Date: January 29, 2016

RFQ _____ Date: _____

Sole Source _____ Date: _____

Other GS-35F-0265X Term March 2, 2020 through March 2, 2021

6 **Procurement History:** First year of a new 3 year contract (5th year of initial contract 16-0902/16-0903)
example: (First year of 4 year contract)

Fran Dunaway, COA Veto
Fran Dunaway (Aug 25, 2020 15:38 MDT)

Purchasing Officer Review

Comments or Exceptions: GSA/ letter attached.

7 **Funding Source:** ITT Enterprise Fund, Software Subscriptic **BU/Line Item:** 620, 6203600, 530710
Alexis Lotero Fund, Org, Object
Alexis Lotero (Aug 25, 2020 15:22 MDT)

Budget Officer Approval

Comments or Exceptions: _____

8 **Any out-of-the ordinary or unusual issues or concerns:**

(Memo may be attached to explain detail.)

9 **Staff Contact who completed this form:** David Tapia

Phone # 955-5523

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

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

To be recorded by City Clerk:

Contract # _____

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

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

Comments:

Item# _____
Munis Contract# _____

**CITY OF SANTA FE
AMENDMENT No. 1 TO
Immix Technology Inc, AGREEMENT
ITEM#20-0306**

This AMENDMENT No. 1 (the "Amendment") amends the CITY OF SANTA FE Immix Technology AGREEMENT, dated 6/24/20 (the "Agreement"), between the City of Santa Fe (the "City") and Immix Technology Inc., (the "Contractor"). The date of this Amendment shall be the date when it is executed by the City and the Contractor whichever occurs last.

RECITALS:

A. Under the terms of the Agreement, Contractor has agreed to provide the Kronos Workforce Telestaff Software Enterprise Licensing, Bidding Functionality and Cloud Hosting Services 7/1/2020 – 6/30/2023.

B. Pursuant to Article 8 of the Agreement, and for good and valuable consideration, the receipt and sufficiency of which are acknowledged by the parties, the City and the Contractor agree as follows:

1. SCOPE OF SERVICES

Article 2 of the Agreement is amended to add Kronos Workforce Telestaff, so that Article 2 reads as follows: Kronos Workforce Telestaff Software Enterprise Licensing, Bidding Functionality and Cloud Hosting Services 7/1/2020 – 6/30/2023 as described in Exhibit “J” attached hereto and incorporated herein. The relevant portions of GSA Contract #GS-35F-0265X, Terms and Conditions, and State Price Agreement are also attached hereto.

2. COMPENSATION.

Article 3, paragraph A of the Agreement is amended to increase the amount of compensation by a total of \$111,204.38 including Gross Receipts Tax so that Article 3, paragraph A reads in its entirety as follows:

<u>Deliverable item:</u>	<u>U/I (unit of issue)</u>	<u>Price</u>
05 Workforce Telestaff Bidding v5 7/1/2020 to 6/30/2021		\$ 2,286.60
06 Workforce Telestaff Enterprise v5 7/1/2020 to 6/30/2021		\$30,436.20
07 Workforce Telestaff Global Access v5 7/1/2020 to 6/30/2021		\$ 1,176.60
08 Workforce TeleStaff Bidding v5 v5 7/1/2021 to 6/30/2022		\$ 2,375.40
09 Workforce Telestaff Enterprise v5 7/1/2021 to 6/30/2022		\$31,635.00
10 Workforce Telestaff Global Access v5 7/1/2021 to 6/30/2022		\$ 1,221.00
11 Workforce TeleStaff Bidding v5 v5 7/1/2022 to 6/30/2023		\$ 2,486.40
12 Workforce Telestaff Enterprise v5 7/1/2022 to 6/30/2023		\$32,900.40
13 Workforce Telestaff Global Access v5 7/1/2022 to 6/30/2023		\$ 1,265.40

The total compensation under this Agreement shall not exceed four hundred ninety four thousand seven hundred twenty and ninety cents (\$494,720.90) including applicable gross receipts taxes as described in Exhibit “J” attached hereto and incorporated herein.

3. AGREEMENT IN FULL FORCE.

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

IN WITNESS WHEREOF, the parties have executed this Amendment No. 1 to the

Agreement as of the dates set forth below.

CITY OF SANTA FE:

ALAN WEBBER, MAYOR

DATE: _____

ATTEST:

YOLANDA Y. VIGIL, CITY CLERK

CITY ATTORNEY'S OFFICE:


SENIOR ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

MARY MCCOY, FINANCE DIRECTOR
620,620/3600,530710
Org. Name/Org.#

CONTRACTOR:

Immix Technology Inc



NAME Vaughn Harman

Sr. Director
TITLE

DATE: July 17, 2020
CRS#03140957001

Registration # 20-227362

Agreement as of the dates set forth below.

CITY OF SANTA FE:

CONTRACTOR:
Immix Technology Inc

ALAN WEBBER, MAYOR

NAME

DATE: _____

TITLE

DATE: _____
CRS#03140957001

Registration # 20-227362

ATTEST:

YOLANDA Y. VIGIL, CITY CLERK

CITY ATTORNEY'S OFFICE:

Marcos Martinez
Marcos Martinez (Jul 13, 2020 15:01 MDT)

SENIOR ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

MARY MCCOY, FINANCE DIRECTOR
620,620/3600,530710
Org. Name/Org.#

AL
AL

Sales Quotation

Manuel Gonzales
CITY OF SANTA FE
, PH: 505-231-1749
mmgonzales@santafenm.gov

Contract No.: GS-35F-0265X
CAGE Code: 3CA29
DUNS No.: 09-869-2374
TAX ID#: 54-1912608
Terms: NET 30
FOB: Destination

Quote Number: QUO-1129175-H9Y5C8
Quote Date: 8/5/2020
Expiration Date: 9/25/2020

Order Address:
immixTechnology, Inc.
8444 Westpark Drive, Suite 200
McLean, VA 22102
PH: 703-752-0610 FX: 703-752-0611

immixTechnology, Inc. Mohan, Vinu
Contact: Vinu_Mohan@immixgroup.com

Manufacturer Quote #:
Manufacturer Ref #: 6105679

Manufacturer Contact: Kelly, Jennifer
978-947-2843 jennifer.kelly@kronos.com

*****FUTURE YEARS PRICING FOR BUDGETING PURPOSE ONLY*****

BILLING: MONTHLY IN ARREARS

Group 1 = 30 days (6/01/20 - 6/30/20) = \$3,022.94 W/ TAX

Group 2 = "YEAR 1" (07/01/20 - 06/30/21) = \$35,636.74 W/ TAX

Group 3 = "YEAR 2" (07/01/21 - 06/30/22) = \$37,037.01 W/ TAX

Group 4 = "YEAR 3" (07/01/22 -06/30/23) = \$38,530.63 W/ TAX

TOTAL = \$114,227.32 W/TAX

Item	Part Number	Contract	Trans Type	Product Description	Qty	Price	Extended Price
1	8604489-000-SAAS	GS-35F-0265X	XAAS	WORKFORCE TELESTAFF BIDDING- PEPM V7.1+ (30 Days)** TRUSTED PRODUCT **	185	\$1.0800	\$199.80
		Period of Performance: 6/1/2020 to 6/30/2020.					
2	8604488-000-SAAS	GS-35F-0265X	XAAS	WORKFORCE TELESTAFF ENTERPRISE - PEPM V7.1+ (30 Days)** TRUSTED PRODUCT **	185	\$4.9400	\$913.90
		Period of Performance: 6/1/2020 to 6/30/2020.					
3	8604495-000-SAAS	GS-35F-0265X	XAAS	WORKFORCE TELESTAFF GLOBAL ACCESS- PEPM V7.1+ (30 Days)** TRUSTED PRODUCT **	185	\$0.5500	\$101.75
		Period of Performance: 6/1/2020 to 6/30/2020.					
4	HOSTING-69	GS-35F-0265X	XAAS	Cloud Hosting Workforce TeleStaff Enterprise Base Fee Per Month (ONE MONTH ONLY)** TRUSTED PRODUCT **	1	\$1,745.2000	\$1,745.20
		Period of Performance: 6/1/2020 to 6/30/2021.					
Group Total:							\$2,960.65

Sales Quotation

Continued

Item	Part Number	Contract	Trans Type	Product Description	Qty	Price	Extended Price
5	8604489-000-SAAS	GS-35F-0265X	XAAS	WORKFORCE TELESTAFF BIDDING- PEPM V7.1+ (185 Lic x 12 Months)** TRUSTED PRODUCT **	2220	\$1.0300	\$2,286.60
Period of Performance: 7/1/2020 to 6/30/2021.							
6	8604488-000-SAAS	GS-35F-0265X	XAAS	WORKFORCE TELESTAFF ENTERPRISE - PEPM V7.1+ (185 Lic x 12 Months)** TRUSTED PRODUCT **	2220	\$13.7100	\$30,436.20
Period of Performance: 7/1/2020 to 6/30/2021.							
7	8604495-000-SAAS	GS-35F-0265X	XAAS	WORKFORCE TELESTAFF GLOBAL ACCESS- PEPM V7.1+ (185 Lic x 12 Months)** TRUSTED PRODUCT **	2220	\$0.5300	\$1,176.60
Period of Performance: 7/1/2020 to 6/30/2021.							
Group Total:							\$33,899.40
8	8604489-000-SAAS	GS-35F-0265X	XAAS	WORKFORCE TELESTAFF BIDDING- PEPM V7.1+ (185 Lic x 12 Months)** TRUSTED PRODUCT **	2220	\$1.0700	\$2,375.40
Period of Performance: 7/1/2021 to 6/30/2022.							
9	8604488-000-SAAS	GS-35F-0265X	XAAS	WORKFORCE TELESTAFF ENTERPRISE - PEPM V7.1+ (185 Lic x 12 Months)** TRUSTED PRODUCT **	2220	\$14.2500	\$31,635.00
Period of Performance: 7/1/2021 to 6/30/2022.							
10	8604495-000-SAAS	GS-35F-0265X	XAAS	WORKFORCE TELESTAFF GLOBAL ACCESS- PEPM V7.1+ (185 Lic x 12 Months) ** TRUSTED PRODUCT **	2220	\$0.5500	\$1,221.00
Period of Performance: 7/1/2021 to 6/30/2022.							
Group Total:							\$35,231.40
11	8604489-000-SAAS	GS-35F-0265X	XAAS	WORKFORCE TELESTAFF BIDDING- PEPM V7.1+ (185 Lic x 12 Months)** TRUSTED PRODUCT **	2220	\$1.1200	\$2,486.40
Period of Performance: 7/1/2022 to 6/30/2023.							
12	8604488-000-SAAS	GS-35F-0265X	XAAS	WORKFORCE TELESTAFF ENTERPRISE - PEPM V7.1+ (185 Lic x 12 Months)** TRUSTED PRODUCT **	2220	\$14.8200	\$32,900.40
Period of Performance: 7/1/2022 to 6/30/2023.							
13	8604495-000-SAAS	GS-35F-0265X	XAAS	WORKFORCE TELESTAFF GLOBAL ACCESS- PEPM V7.1+ (185 Lic x 12 Months)** TRUSTED PRODUCT **	2220	\$0.5700	\$1,265.40
Period of Performance: 7/1/2022 to 6/30/2023.							
Group Total:							\$36,652.20
ANYTHING AS A SERVICE							\$108,743.65
Grand Total							\$108,743.65

SID: 6105679
POP: 06/01/2020 - 6/30/2023

Subject to the Terms and Conditions of GSA MAS Contract Number GS-35F-0265X; See GSA eLibrary:
<http://www.gsaelibrary.gsa.gov/ElibMain/home.do>

Taxes: Sales tax shall be added at the time of an invoice, unless a copy of a valid tax exemption or resale certificate is provided.

All Purchase Orders must include: End User Name, Phone Number, Email Address, Purchase Order Number, Government Contract Number or Our Quote Number, Bill-To and Ship-To Address (Cannot ship to a PO Box), Period of Performance (if applicable), and a Signature of a duly Authorized Representative.

The identified line items are Trusted Products under the immixGroup Trusted Supplier Program.
immixGroup Trusted Supplier Program Policies, Commitments and Guarantees/Warranties can be obtained at:
http://www.immixgroup.com/uploadedFiles/Trusted-Supplier-Program_Guarantee-and-Warranty.pdf

immixTechnology, Inc.

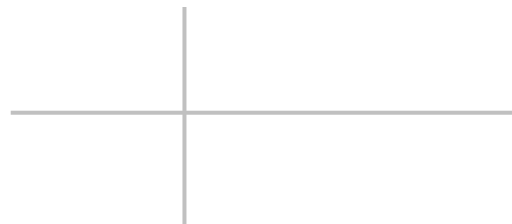
a subsidiary of  immixGroup



*General Services Administration
Federal Supply Service
Multiple Award Schedule
Authorized Federal Supply Schedule Pricelist
GS-35F-0265X*

Period Covered by Contract: March 3, 2011 through March 2, 2021.

Pricelist current through Modification #PO-2258 dated July 23, 2020.



Advantage![®]

www.gsaadvantage.gov

**GENERAL SERVICES ADMINISTRATION
FEDERAL SUPPLY SERVICE
MULTIPLE AWARD SCHEDULE
AUTHORIZED FEDERAL SUPPLY SCHEDULE PRICE
LIST**

On-line access to contract ordering information, terms and conditions, up-to-date pricing, and the option to create an electronic delivery order are available through GSA Advantage!®, a menu-driven database system. The INTERNET address GSA Advantage!® is: GSAAdvantage.gov.

Contract Number:
GS-35F-0265X

For more information on ordering from Federal Supply Schedules click on the FSS

Schedules button at <https://www.gsa.gov/buying-selling/purchasing-programs/gsa-schedules>.

Contract Period:
March 3, 2011 through March 2, 2021

Pricelist current through Modification #PO-2258 dated July 23, 2020.

Contractor:
immixTechnology, Inc.
8444 Westpark Drive, Suite 200
McLean, VA 22102

Phone:
703-752-0610

Email:
GSAteam@immixgroup.com

Website:
<https://www.immixgroup.com/contract-vehicles/gsa/it-70/0265X/>

Business Size:
Other than small

TABLE OF CONTENTS

TERMS AND CONDITIONS APPLICABLE TO PURCHASE OF GENERAL-PURPOSE COMMERCIAL INFORMATION TECHNOLOGY HARDWARE SUBCATEGORY, PURCHASING OF NEW ELECTRONIC EQUIPMENT (SPECIAL ITEM NUMBER 33411)..... 3

TERMS AND CONDITIONS APPLICABLE TO PURCHASE OF GENERAL-PURPOSE COMMERCIAL INFORMATION TECHNOLOGY SOFTWARE SUBCATEGORY, SOFTWARE LICENSES (SPECIAL ITEM NUMBER 511210) AND SOFTWARE MAINTENANCE SERVICES (SPECIAL ITEM NUMBER 54151) 6

TERMS AND CONDITIONS APPLICABLE TO PURCHASE OF GENERAL-PURPOSE COMMERCIAL INFORMATION TECHNOLOGY SOLUTIONS SUBCATEGORY, CLOUD AND CLOUD-RELATED IT PROFESSIONAL SERVICES (SPECIAL ITEM NUMBER 518210C) 11

TERMS AND CONDITIONS APPLICABLE TO PURCHASE OF GENERAL-PURPOSE COMMERCIAL INFORMATION TECHNOLOGY SOLUTIONS SUBCATEGORY, CONTINUOUS DIAGNOSTICS AND MITIGATION (CDM) TOOLS (SPECIAL ITEM NUMBER 541519CDM)..... 15

TERMS AND CONDITIONS APPLICABLE TO PURCHASE OF GENERAL-PURPOSE COMMERCIAL INFORMATION TECHNOLOGY TRAINING SUBCATEGORY, INFORMATION TECHNOLOGY TRAINING (SPECIAL ITEM NUMBER 611420)..... 18

TERMS AND CONDITIONS APPLICABLE TO PURCHASE OF GENERAL-PURPOSE COMMERCIAL INFORMATION TECHNOLOGY ELECTRONIC COMMERCE SUBCATEGORY, ELECTRONIC COMMERCE AND SUBSCRIPTION SERVICES (SPECIAL ITEM NUMBER 54151ECOM)..... 19

TERMS AND CONDITIONS APPLICABLE TO PURCHASE OF GENERAL-PURPOSE COMMERCIAL INFORMATION TECHNOLOGY TELECOMMUNICATIONS SUBCATEGORY, WIRELESS MOBILITY SOLUTIONS (SPECIAL ITEM NUMBER 517312)..... 22

USA COMMITMENT TO PROMOTE SMALL BUSINESS PARTICIPATION PROCUREMENT PROGRAMS 22

SUGGESTED FORMATS FOR BLANKET PURCHASE AGREEMENTS 23

BASIC GUIDELINES FOR USING “CONTRACTOR TEAM ARRANGEMENTS” 23

ATTACHMENT A - CONTRACTOR SUPPLEMENTAL PRICELIST INFORMATION AND TERMS 25

CUSTOMER INFORMATION

1a. Table of awarded special item number(s) with appropriate cross-reference to item descriptions and awarded price(s).

SIN	SIN Title
811212	Maintenance of Equipment, Repair Services and/or Repair/Spare Parts
511210	Software Licenses
54151	Software Maintenance Services
518210C	Cloud and Cloud-Related IT Professional Services
541519CDM	Continuous Diagnostics and Mitigation (CDM) Tools
611420	Information Technology Training
54151ECOM	Electronic Commerce and Subscription Services
517312	Wireless Mobility Solutions
33411	Purchasing of new electronic equipment

1b. Identification of the lowest priced model number and lowest unit price for that model for each special item number awarded in the contract. This price is the Government price based on a unit of one, exclusive of any quantity/dollar volume, prompt payment, or any other concession affecting price. Those contracts that have unit prices based on the geographic location of the customer, should show the range of the lowest price, and cite the areas to which the prices apply.

See attached authorized price list – Attachment B

1c. If the Contractor is proposing hourly rates, a description of all corresponding commercial job titles, experience, functional responsibility and education for those types of employees or subcontractors who will perform services shall be provided. If hourly rates are not applicable, indicate “Not applicable” for this item.

Not Applicable

2. Maximum order.

SIN	SIN Title	Maximum Order (\$)
811212	Maintenance of Equipment, Repair Services and/or Repair/Spare Parts	500,000
511210	Software Licenses	500,000
54151	Software Maintenance Services	500,000
518210C	Cloud and Cloud-Related IT Professional Services	500,000
541519CDM	Continuous Diagnostics and Mitigation (CDM) Tools	500,000
611420	Information Technology Training	250,000
54151ECOM	Electronic Commerce and Subscription Services	500,000
517312	Wireless Mobility Solutions	500,000
33411	Purchasing of new electronic equipment	500,000

3. Minimum order.

\$100.00

4. Geographic coverage (delivery area).

Domestic delivery

5. Point(s) of production (city, county, and State or foreign country).

For a current list of all Authorized Service and Distribution points by Manufacturer, visit: <https://www.immixgroup.com/contract-vehicles/gsa/it-70/0265X/>

6. Discount from list prices or statement of net price.

Prices shown herein are Net (discounts deducted)

7. Quantity discounts.

None unless otherwise specified in the pricelist

8. Prompt payment terms. Note: Prompt payment terms must be followed by the statement "Information for Ordering Offices: Prompt payment terms cannot be negotiated out of the contractual agreement in exchange for other concessions."

0% - Net 30 days from receipt of invoice or date of acceptance, whichever is later

9a. Notification that Government purchase cards are accepted at or below the micro-purchase threshold.

Government purchase cards are accepted at or below the micro-purchase threshold but above the Minimum order threshold.

9b. Notification whether Government purchase cards are accepted or not accepted above the micro-purchase threshold.

Government purchase cards are accepted above the micro-purchase threshold

10. Foreign items (list items by country of origin).

See attached authorized price list – Attachment B

11a. Time of delivery. (Contractor insert number of days.)

The Contractor shall deliver to destination within thirty (30) calendar days after receipt of order (ARO), unless set forth otherwise on the Schedule Contract Pricelist to this schedule pricelist appended hereto and incorporated herein

11b. Expedited Delivery. The Contractor will insert the sentence "Items available for expedited delivery are noted in this price list." under this heading. The Contractor may use a symbol of its choosing to highlight items in its price lists that have expedited delivery.

Quicker delivery times than those set forth in the Schedule Contract Pricelist are available from the Contractor based on the availability of product inventory. Improved delivery times in the number of days after receipt of an order (ARO) if available, are as negotiated between the ordering activity and the Contractor or its Authorized Government Resellers

11c. Overnight and 2-day delivery. The Contractor will indicate whether overnight and 2-day delivery are available. Also, the Contractor will indicate that the schedule customer may contact the Contractor for rates for overnight and 2-day delivery.

Unless otherwise specified by Manufacturer in the Schedule Contract Pricelist, when ordering activities require overnight or 2-day delivery, ordering activities are encouraged to contact the Contractor for the purpose of obtaining accelerated delivery. Overnight and 2-day delivery times are subject to the availability of product inventory

11d. Urgent Requirements. The Contractor will note in its price list the "Urgent Requirements" clause of its contract and advise agencies that they can also contact the Contractor's representative to affect a faster delivery.

When the Federal Supply Schedule contract delivery period does not meet the bona fide urgent delivery requirements of an ordering activity, ordering activities are encouraged, if time permits, to contact the Contractor for the purpose of obtaining accelerated delivery. The Contractor shall reply to the inquiry within 3 workdays after receipt. (Telephonic replies shall be confirmed by the Contractor in writing.) If the Contractor offers an accelerated delivery time acceptable to the Ordering Activity, any order(s) placed pursuant to the agreed upon accelerated delivery time frame shall be delivered within this shorter delivery time and in accordance with all other terms and conditions of the contract

12. F.O.B. point(s).

Destination

13a. Ordering address(es).

immixTechnology, Inc.
8444 Westpark Drive, Suite 200
McLean, VA 22102

Or

See Authorized Dealers Listing by Manufacturer for Ordering Address and Contact Information at: <https://www.immixgroup.com/contract-vehicles/gsa/it-70/0265X/>

13b. Ordering procedures: For supplies and services, the ordering procedures, information on Blanket Purchase Agreements (BPA's) are found in Federal Acquisition Regulation (FAR) 8.405-3.

14. Payment address(es).

immixTechnology, Inc.
8444 Westpark Drive, Suite 200
McLean, VA 22102

Or

See Authorized Dealers Listing by Manufacturer for Ordering Address and Contact Information at:
<https://www.immixgroup.com/contract-vehicles/gsa/it-70/0265X/>

15. Warranty provision.

See attached Contractor Supplemental Pricelist Information and Incorporated Terms – Attachment A

16. Export packing charges, if applicable.

Not applicable

17. Terms and conditions of Government purchase card acceptance (any thresholds above the micro-purchase level).

None

18. Terms and conditions of rental, maintenance, and repair (if applicable).

See attached Contractor Supplemental Pricelist Information and Incorporated Terms – Attachment A

19. Terms and conditions of installation (if applicable).

See attached Contractor Supplemental Pricelist Information and Incorporated Terms – Attachment A

20. Terms and conditions of repair parts indicating date of parts price lists and any discounts from list prices (if applicable).

See attached Contractor Supplemental Pricelist Information and Incorporated Terms – Attachment A

20a. Terms and conditions for any other services (if applicable).

See attached Contractor Supplemental Pricelist Information and Incorporated Terms – Attachment A

21. List of service and distribution points (if applicable).

For a current list of all Authorized Service and Distribution points by Manufacturer, visit: <https://www.immixgroup.com/contract-vehicles/gsa/it-70/0265X/>

22. List of participating dealers (if applicable).

For a current list of all Authorized Service and Distribution points by Manufacturer, visit: <https://www.immixgroup.com/contract-vehicles/gsa/it-70/0265X/>

23. Preventive maintenance (if applicable).

See attached Contractor Supplemental Pricelist Information and Incorporated Terms – Attachment A

24a. Special attributes such as environmental attributes (e.g., recycled content, energy efficiency, and/or reduced pollutants).

Please contact immixTechnology, Inc. at
GSAteam@immixgroup.com

24b. If applicable, indicate that Section 508 compliance information is available on Electronic and Information Technology (EIT) supplies and services and show where full details can be found (e.g. contractor's website or other location.) The EIT standards can be found at:
www.Section508.gov/.

Please contact immixTechnology, Inc. at
GSAteam@immixgroup.com

25. Data Universal Number System (DUNS) number.

098692374

26. Notification regarding registration in System for Award Management (SAM) database.

Registration active

27. Integration:

The Non-Disclosure provisions set forth in Section 9b.(7), the IP Infringement provisions set forth in Section 9b.(9) and the Limitation of Liability provisions set forth in Section 3c. of the Terms and Conditions Applicable to Software Licenses (Special Item Number 511210) and Software Maintenance Services (Special Item Number 54151) of General Purpose Commercial Information Technology Software are hereby incorporated into and made a part of the terms applicable to all SINs.

28. Glossary of Definitions:

- a. “Contractor” means immixTechnology, Inc.
- b. “Contractor and its affiliates” and “Contractor or its affiliates” refers to the Contractor, its chief executives, directors, officers, subsidiaries, affiliates, subcontractors at any tier, and consultants and any joint venture involving the Contractor, any entity into or with which the Contractor subsequently merges or affiliates, or any other successor or assignee of the Contractor.
- c. “Manufacturer” shall mean a manufacturer, supplier or producer of Equipment (as defined below) or a publisher or developer of Software or related Training Materials (as defined below) provided to Contractor through a letter of supply to be licensed or sold to Ordering Activities under this contract.
- d. “Ordering Activity” shall mean, 1) any entity authorized to use GSA sources of supply and services as set forth in GSA Directive OGP 4800.21 or such later issued version, and 2) any entity acting on behalf of an Ordering Activity pursuant to a properly issued letter of authorization per Section 24 above – “Prime Contractor Ordering from Federal Supply Schedules” under Information for Ordering Activities applicable to All Special Item Numbers.

29. Responsibilities of Contractor:

The parties understand and agree that Contractor acts as a reseller of all Equipment, Software, Documentation, and services offered under this contract. With regard to Equipment, Software, and Documentation, Contractor represents that it has the requisite right and authority under its reseller agreements with the Manufacturers

to offer the products and grant the rights specified in this contract, and Manufacturers shall have no privity of contract with an Ordering Activity hereunder. With regard to services, while some or all of the services ordered hereunder may be physically performed by Manufacturer, Service Provider, or other third-party personnel (as is specified under applicable SINs) acting under a subcontract or similar arrangement with Contractor, and while the scope and price of such services are defined by the applicable provider's policies (such as Maintenance Services Policies, Electronic Commerce Service Policies, or Wireless Services plans), Contractor remains solely responsible to the Ordering Activity for all such performance.

TERMS AND CONDITIONS APPLICABLE TO PURCHASE OF GENERAL-PURPOSE COMMERCIAL INFORMATION TECHNOLOGY HARDWARE SUBCATEGORY, PURCHASING OF NEW ELECTRONIC EQUIPMENT (SPECIAL ITEM NUMBER 33411)

1. GLOSSARY OF DEFINITIONS

- a. **“Documentation”** shall mean Manufacturer’s then current help guides, specifications and operating manuals issued by Manufacturer and made generally available by Manufacturer for the Equipment whether on-line or in hard copy.
- b. **“Equipment”** shall mean the computer hardware identified on Attachment B to this schedule pricelist.

2. MATERIAL AND WORKMANSHIP

All Equipment furnished hereunder must substantially perform the function for which it is intended as set forth in the accompanying Documentation.

3. ORDER

Written orders, EDI orders (GSA Advantage! and FACNET), credit card orders, and orders placed under blanket purchase agreements (BPA) agreements shall be the basis for purchase in accordance with the provisions of this contract. If time of delivery extends beyond the expiration date of the contract, the Contractor will be obligated to meet the delivery and installation date specified in the original order.

For credit card orders and BPAs, telephone orders are permissible.

4. TRANSPORTATION OF EQUIPMENT

FOB DESTINATION. Prices cover Equipment delivery to destination, for any location within the geographic scope of this contract.

5. INSTALLATION AND TECHNICAL SERVICES

- a. **INSTALLATION.** When the Equipment provided under this contract is not normally self-installable, the Contractor its Manufacturer or other authorized service provider’s technical personnel shall be available to the Ordering Activity, at the Ordering Activity’s location, to install the Equipment and to train Ordering Activity personnel in the use and maintenance of the Equipment. The charges, for such services are listed by Manufacturer, in the schedule pricelist.
- b. **OPERATING AND MAINTENANCE MANUALS.** The Contractor or its Manufacturer

shall furnish the Ordering Activity with one (1) copy of all Documentation, which is normally provided with the Equipment being purchased. For Documentation only available on-line, Contractor or its Manufacturer shall provide Ordering Activity access to such Documentation.

6. INSPECTION/ACCEPTANCE

The Contractor shall only deliver those items ordered that substantially conform to the requirements of this contract and the applicable Manufacturer’s Documentation. Therefore, items delivered shall be deemed accepted upon delivery to Ordering Activity’s designated receiving facility. The Ordering Activity reserves the right to inspect or test any equipment that has been delivered. The Ordering Activity may require repair or replacement of nonconforming equipment at no increase in contract price. The ordering activity must exercise its post-acceptance rights (1) within the applicable warranty period as set forth below; and (2) before any substantial change occurs in the condition of the item, unless the change is due to the defect in the item.

7. WARRANTY

- a. Unless specified otherwise in this contract, the warranties extended to the Ordering Activity for Equipment and Documentation, and the exclusions and disclaimers applicable to such warranties, shall be as set forth on Attachment A to this schedule pricelist (Contractor Supplemental Pricelist Information and Incorporated Terms). Notwithstanding anything to the contrary that may be marked on or provided with the Equipment or Documentation, the parties understand and agree that such warranties, exclusions and disclaimers follow the applicable Manufacturer’s standard commercial warranties, exclusions and disclaimers but are provided to the Ordering Activity by the Contractor, who will be responsible to the Ordering Activity for all compliance, service and remedies thereunder.
- b. **Limitation of Liability**
 - i. **Exclusion of Consequential Damages.** EXCEPT FOR A) A CLAIM OF IP INFRINGEMENT HEREUNDER, OR B) AS PROVIDED IN SUBSECTION (b)(iii) BELOW, IN NO EVENT SHALL CONTRACTOR BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES, INCLUDING WITHOUT LIMITATION DAMAGES FOR LOSS OF PROFITS, DATA OR USE, INCURRED BY EITHER PARTY OR ANY THIRD PARTY, WHETHER IN AN ACTION IN CONTRACT OR TORT, EVEN IF THE OTHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
 - ii. **Limitation of Direct Damages.** Except for a) a claim of IP Infringement, hereunder, or b) as provided in subsection (b)(iii) below, the aggregate and cumulative liability of

Contractor for damages hereunder shall in no event exceed the amount of fees paid by Ordering Activity under the order giving rise to such liability, and if such damages relate to particular Equipment such liability shall be limited to fees paid for the relevant Equipment.

- iii. Non-Applicability to Statutory or Regulatory Rights. Nothing herein shall operate to impair or prejudice the U.S. Government's right (a) to recover for fraud or crimes arising out of or relating to this contract under any Federal fraud statute, including without limitation the False Claims Act (31 USC §§3729 through 3733), or (b) to express remedies provided under any FAR, GSAR or Schedule 70 solicitation clauses incorporated into this contract, including without limitation the GSAR 552.215-72 Price Adjustment – Failure to Provide Accurate Information (August 1997) or GSAR 552.238-75 Price Reductions (May 2004) Alternate I (May 2003).
- c. Inspection and repair of defective Equipment under this warranty may be performed, at the option of the Contractor, at a service facility/plant authorized by the Contractor. The Ordering Activity may not return defective Equipment to the Contractor, the Manufacturer or its authorized service provider for repair or replacement without prior consultation and instruction.

8. PURCHASE PRICE FOR ORDERED EQUIPMENT

The purchase price that the Ordering Activity will be charged will be the Ordering Activity purchase price in effect at the time of order placement (which shall not exceed the price agreed to at the time of award of the GSA Schedule contract, as may be revised from time to time through a contract modification agreed to and issued by the GSA Schedule contracting officer), or the Ordering Activity purchase price in effect on the installation date (or delivery date when installation is not applicable), whichever is less. Provided, however, that the Ordering Activity shall only be entitled to a lower price if the installation date is no longer than thirty (30) days after the date of order placement.

9. RESPONSIBILITIES OF THE CONTRACTOR

The Contractor shall comply with all laws, ordinances, and regulations (Federal, State, City or otherwise) covering work of this character, and shall include all costs, if any, of such compliance in the prices quoted in this offer.

10. TRADE-IN OF INFORMATION TECHNOLOGY EQUIPMENT

When an Ordering Activity determines that Information Technology Equipment will be replaced, the Ordering Activity shall follow the contracting policies and procedures in the Federal Acquisition Regulation (FAR), the policies and procedures regarding disposition of information technology excess personal property in the Federal Property Management Regulations (FPMR) (41 CFR 101-43.6), and the policies and procedures on exchange/sale contained in the FPMR (41 CFR part 101-46).

TERMS AND CONDITIONS APPLICABLE TO PURCHASE OF GENERAL-PURPOSE COMMERCIAL INFORMATION TECHNOLOGY HARDWARE SUBCATEGORY, COMPUTER AND OFFICE MACHINE REPAIR AND MAINTENANCE (SPECIAL ITEM NUMBER 811212)

1. GLOSSARY OF DEFINITIONS

- a. **“Documentation”** shall mean Manufacturer’s then current help guides, specifications and operating manuals issued by Manufacturer and made generally available by Manufacturer for the Equipment whether on-line or in hard copy.
- b. **“Maintenance Services”** shall mean the services provided by Contractor through an applicable Manufacturer under this contract in accordance with the Manufacturer’s then current Maintenance Services Policy.
- c. **“Maintenance Services Policy”** shall mean the commercial terms describing a Manufacturer’s standard maintenance and support offerings, policies and procedures for its Equipment, a copy of which is set forth in Attachment A to this schedule pricelist.
- d. **“Equipment”** shall mean the computer hardware identified on Attachment B to this schedule pricelist.

2. SERVICE AREAS

- a. The types/levels of maintenance, geographic scope of availability, and applicable rates vary by Manufacturer and are generally set forth in an applicable Manufacturer’s Maintenance Services Policy. If any additional charge is to apply because of distance from the Contractor’s service locations, the mileage rate or other distance factor shall be negotiated at the Task Order level.
- b. When repair services cannot be performed at the Ordering Activity installation site, the repair services will be performed at the Contractor’s, Manufacturer’s or authorized service provider’s plant(s).

3. MAINTENANCE ORDER

- a. Agencies may use written orders, EDI orders, credit card orders, or BPAs, for ordering maintenance under this contract. The Contractor shall confirm orders within fifteen (15) calendar days from the date of receipt, except that confirmation of orders shall be considered automatic for renewals for maintenance (Special Item Number 132-12). Automatic acceptance of order renewals for maintenance service shall apply for machines which may have been discontinued from use for temporary periods of time not longer than 120 calendar days. If the order is not confirmed by the Contractor as prescribed by this paragraph, the order shall be considered to be confirmed by the Contractor.
- b. The Contractor shall honor orders for Maintenance Services for the duration of the contract period or a lesser period of time, for the Equipment shown in the schedule pricelist.

Maintenance Services shall commence on a mutually agreed upon date, which will be written into the maintenance order. Maintenance orders shall not be made effective before the expiration of any applicable maintenance and parts guarantee/warranty period associated with the purchase of Equipment. Orders for Maintenance Service shall not extend beyond the end of the contract period.

- c. Maintenance Services may be discontinued by the Ordering Activity on thirty (30) calendar days written notice, or shorter notice when agreed to by the Contractor; such notice to become effective thirty (30) calendar days from the date on the notification. However, the Ordering Activity may extend the original discontinuance date upon written notice to the Contractor, provided that such notice is furnished at least ten (10) calendar days prior to the original discontinuance date.
- d. Annual Funding. When annually appropriated funds are cited on a maintenance order, the period of maintenance shall automatically expire on September 30th of the contract period, or at the end of the contract period, whichever occurs first. Renewal of a maintenance order citing the new appropriation shall be required, if maintenance is to continue during any remainder of the contract period.
- e. Cross-year Funding Within Contract Period. Where an Ordering Activity's specific appropriation authority provides for funds in excess of a 12-month, fiscal year period, the Ordering Activity may place an order under this schedule contract for a period up to the expiration of the contract period, notwithstanding the intervening fiscal years.
- f. Ordering Activities should notify the Contractor in writing thirty (30) calendar days prior to the expiration of Maintenance Services, if maintenance is to be terminated at that time. Orders for continued maintenance will be required if maintenance is to be continued during the subsequent period.

4. REPAIR SERVICE AND REPAIR PARTS/SPARE PARTS ORDERS

Repair service and repair parts/spare parts orders are not available under the scope of this schedule contract.

5. LOSS OR DAMAGE

- a. When the Contractor, through the Manufacturer, or its authorized service provider removes equipment to its establishment for repairs, the Contractor shall be responsible for any damage or loss, from the time the Equipment is removed from the Ordering Activity installation, until the equipment is returned to such installation.
- b. When Equipment is returned by Ordering Activity to the Contractor through the Manufacturer's or its authorized service provider's facility for repairs, the Ordering Activity shall be responsible for any loss or damage to the Equipment being returned by the Ordering Activity for repair.

Contractor shall only be responsible for any loss or damage while the Equipment is at the Contractor's or its Manufacturer's or authorized service provider's facility and until it is returned to the Ordering Activity's location.

6. SCOPE

- a. In exchange for the applicable fees, the Contractor, through the Manufacturer or its authorized service provider shall provide Maintenance Services for all Equipment listed herein, as requested by the Ordering Activity during the contract term. Repair service and repair parts/spare parts shall apply exclusively to the Equipment types/models within the scope of this Information Technology Schedule.
- b. Equipment placed under Maintenance Service shall be in good operating condition.
 - 1) In order to determine that the Equipment is in good operating condition, the Equipment shall be subject to inspection by the Contractor through the Manufacturer or its authorized service provider without charge to the Ordering Activity.
 - 2) Costs of any repairs performed for the purpose of placing the Equipment in good operating condition shall be borne by the Contractor, provided the Equipment was under the Contractor's guarantee/warranty or maintenance responsibility prior to the effective date of the maintenance order.
 - 3) If the Equipment was not under the Contractor's responsibility, the costs necessary to place the Equipment in proper operating condition shall be borne by the Ordering Activity, in accordance with the provisions of Special Item Number 132-12 (or outside the scope of this contract).
 - 4) Contractor shall have no obligation to provide Maintenance Services for Equipment that has been modified by Ordering Activity, is in disrepair or subject to any other exclusions as set out in Manufacturer's Maintenance Services Policy.

7. RESPONSIBILITIES OF THE ORDERING ACTIVITY

- a. Ordering Activity personnel shall not perform maintenance or attempt repairs to Equipment while such Equipment is under the purview of a maintenance order, unless agreed to by the Contractor. The Ordering Activity will follow Contractor's designated procedures when returning Equipment to Contractor's, Manufacturer's or its authorized service provider's facility for repairs.
- b. Subject to security regulations, the Ordering Activity shall permit access to the Equipment, which is to be maintained or repaired by

Contractor, Manufacturer or its authorized service provider.

- c. If the Ordering Activity desires a factory authorized/certified service personnel, then this should be clearly stated in the task or delivery order.

8. RESPONSIBILITIES OF THE CONTRACTOR

- a. For Equipment not covered by a maintenance contract or warranty, the Contractor, through the Manufacturer's or its authorized service provider's repair service personnel shall complete repairs as soon as reasonably possible after notification by the Ordering Activity that service is required.
- b. If the Ordering Activity task or delivery order specifies factory authorized/certified service personnel then the Contractor is obligated to provide such factory authorized/certified service personnel for the Equipment to be repaired or serviced, unless otherwise agreed to in advance between the Ordering Activity and the Contractor.

9. MAINTENANCE RATE PROVISIONS

- a. For Equipment under monthly Maintenance Services, the Contractor shall bear all costs of maintenance, including labor, parts, and such other expenses as are necessary to keep the Equipment in good operating condition, provided that the required repairs are not occasioned by fault or negligence of the Ordering Activity.
- b. **REGULAR HOURS.** The basic monthly rate for each makes and model of Equipment shall entitle the Ordering Activity to the Maintenance Services as set forth in the applicable Manufacturer's Maintenance Services Policy.
- c. **AFTER HOURS.** Should the Ordering Activity require that maintenance be performed outside of Regular Hours, charges for such maintenance, if any, will be specified in the pricelist or in the applicable Manufacturer's Maintenance Services Policy. Periods of less than one hour will be prorated to the nearest quarter hour.
- d. **TRAVEL AND TRANSPORTATION.** If any charge is to apply, over and above the regular maintenance rates, because of the distance between the Ordering Activity location and the Contractor's service area, the charge will be negotiated at the Task Order level.
- e. **QUANTITY DISCOUNTS.** Quantity discounts from listed Maintenance Services rates for multiple Equipment owned and/or leased by a Ordering Activity are not provided under this schedule contract unless otherwise specified by a Manufacturer in the pricelist.

10. REPAIR SERVICE RATE PROVISIONS

Repair service rate fees and provisions for Equipment not under monthly Maintenance Services are not available under the scope of this schedule contract.

11. REPAIR PARTS/SPARE PARTS RATE PROVISIONS

Repair parts/spare parts rate provisions after the expiration of the guarantee/warranty provisions are not available under the scope of this schedule contract.

12. GUARANTEE/WARRANTY—REPAIR SERVICE AND REPAIR PARTS/SPARE PARTS

Guarantee/warranty-repair parts/spare parts after the expiration of the guarantee/warranty provisions are not available under the scope of this schedule contract.

13. INVOICES AND PAYMENTS

Invoices for Maintenance Services shall be submitted by the Contractor on a quarterly or monthly basis, after the completion of such period. Maintenance charges must be paid in arrears (31 U.S.C. 3324). PROMPT PAYMENT DISCOUNT, IF APPLICABLE, SHALL BE SHOWN ON THE INVOICE.

Payment for Maintenance Services of less than one month's duration shall be prorated at 1/30th of the monthly rate for each calendar day.

TERMS AND CONDITIONS APPLICABLE TO PURCHASE OF GENERAL-PURPOSE COMMERCIAL INFORMATION TECHNOLOGY SOFTWARE SUBCATEGORY, SOFTWARE LICENSES (SPECIAL ITEM NUMBER 511210) AND SOFTWARE MAINTENANCE SERVICES (SPECIAL ITEM NUMBER 54151)

1. GLOSSARY OF DEFINITIONS

- a. **“Documentation”** shall mean Manufacturer's then current help guides, and manuals issued by Manufacturer and made generally available by Manufacturer for the Software whether on-line or in hard copy. Documentation shall include any updated Documentation that Manufacturer provides with any updates.
- b. **“Maintenance Services”** shall mean the Software maintenance and support services provided by Contractor through an applicable Manufacturer under this contract in accordance with the Manufacturer's then current Maintenance Services Policy.
- c. **“Maintenance Services Policy”** shall mean the commercial terms describing a Manufacturer's standard Software maintenance and support offerings, policies and procedures, a copy of which is located on Attachment A to this schedule pricelist.
- d. **“Software”** shall mean (i) the version of the computer program identified on Attachment B and (ii) updates to such programs.

2. INSPECTION/ACCEPTANCE

The Contractor shall only deliver those items ordered that substantially conform to the requirements of this contract and the Software's Documentation. Therefore, items delivered shall be deemed accepted upon delivery. The Ordering Activity reserves the right to inspect or test any Software that has been delivered. The Ordering Activity may require repair or replacement of nonconforming Software at no increase in contract price. The Ordering Activity must exercise its post-acceptance rights (1)

within the warranty period as set forth below; and (2) before any substantial change occurs in the condition of the Software, unless the change is due to the defect in the Software.

3. GUARANTEE/WARRANTY

a. Unless specified otherwise in this contract, the warranties extended to the Ordering Activity for Software and Documentation, and the exclusions and disclaimers applicable to such warranties, shall be as set forth on Attachment A to this schedule pricelist (Contractor Supplemental Pricelist Information and Incorporated Terms). Notwithstanding anything to the contrary that may be marked on or provided with the Software or Documentation, the parties understand and agree that such warranties, exclusions and disclaimers follow the applicable Manufacturer's standard commercial warranties, exclusions and disclaimers but are provided to the Ordering Activity by the Contractor, who will be responsible to the Ordering Activity for all compliance, service and remedies thereunder.

b. Limitation of Liability.

- (1) Exclusion of Consequential Damages. EXCEPT FOR A) A CLAIM OF IP INFRINGEMENT HEREUNDER, OR B) AS PROVIDED IN (b)(iii) BELOW, IN NO EVENT SHALL CONTRACTOR BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES, INCLUDING WITHOUT LIMITATION DAMAGES FOR LOSS OF PROFITS, DATA OR USE, INCURRED BY EITHER PARTY OR ANY THIRD PARTY, WHETHER IN AN ACTION IN CONTRACT OR TORT, EVEN IF THE OTHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES provided however, that in the event Ordering Activity makes unauthorized copies of the Software, Contractor shall be entitled to recover the full amount of any license fees that would relate to such copies.
- (2) Limitation of Direct Damages. Except for a) a claim of IP Infringement hereunder, or b) as provided in (b)(iii) below, the aggregate and cumulative liability of Contractor and licensors for damages hereunder shall in no event exceed the amount of fees paid by Ordering Activity under the order giving rise to such liability, and if such damages relate to particular Software or Maintenance Services, such liability shall be limited to fees paid for the relevant Software or Maintenance Services giving rise to the liability.
- (3) Non-Applicability to Statutory or Regulatory Rights. Nothing herein shall operate to impair or prejudice the U.S. Government's right (a) to recover

for fraud or crimes arising out of or relating to this contract under any Federal fraud statute, including without limitation the False Claims Act (31 USC §§3729 through 3733), or (b) to express remedies provided under any FAR, GSAR or Schedule 70 solicitation clauses incorporated into this contract, including without limitation the GSAR 552.215-72 Price Adjustment – Failure to Provide Accurate Information (August 1997) or GSAR 552.238-75 Price Reductions (May 2004) Alternate I (May 2003).

4. TECHNICAL SERVICES

A hot line technical support number for the purpose of providing user assistance and guidance to the Ordering Activity in the implementation of the Software may be provided as part of Maintenance Services.

5. SOFTWARE MAINTENANCE

a. Software maintenance as it is defined:

- (1) Software Maintenance as a Product (SIN 511210)

Software maintenance as a product includes the publishing of bug/defect fixes via patches and updates/upgrades in function and technology to maintain the operability and usability of the software product. It may also include other no charge support that is included in the purchase price of the product in the commercial marketplace. No charge support includes items such as user blogs, discussion forums, on-line help libraries and FAQs (Frequently Asked Questions), hosted chat rooms, and limited telephone, email and/or web-based general technical support for user's self-diagnostics.

Software maintenance as a product does NOT include the creation, design, implementation, integration, etc. of a software package. These examples are considered software maintenance as a service.

Software Maintenance as a product is billed at the time of purchase.

- (2) Software Maintenance as a Service (SIN 54151)

Software maintenance as a service creates, designs, implements, and/or integrates customized changes to software that solve one or more problems and is not included with the price of the software. Software maintenance as a service includes person-to-person communications regardless of the medium used to communicate: telephone support, on-

line technical support, customized support, and/or technical expertise which are charged commercially. Software maintenance as a service is billed arrears in accordance with 31 U.S.C. 3324.

Software maintenance as a service is billed in arrears in accordance with 31 U.S.C. 3324.

- b. If purchased by Ordering Activity, Contractor, through the applicable Manufacturer, shall provide Maintenance Services for the Software pursuant to the applicable Manufacturer's then current Maintenance Services Policy. Fees or rates for such Maintenance Services are set forth in Attachment B.
- c. Invoices for maintenance service shall be submitted by the Contractor on a quarterly or monthly basis, after the completion of such period. Maintenance charges must be paid in arrears (31 U.S.C. 3324) for Maintenance as a Service. PROMPT PAYMENT DISCOUNT, IF APPLICABLE, SHALL BE SHOWN ON THE INVOICE.

6. PERIODS OF TERM LICENSES AND MAINTENANCE

- a. The Contractor shall honor orders for periods for the duration of the contract period or a lessor period of time.
- b. Term licenses and/or maintenance may be discontinued by the Ordering Activity on thirty (30) calendar days written notice to the Contractor.
- c. Annual Funding. When annually appropriated funds are cited on an order for term licenses and/or maintenance, the period of the term licenses and/or maintenance shall automatically expire on September 30 of the contract period, or at the end of the contract period, whichever occurs first. Renewal of the term licenses and/or maintenance orders citing the new appropriation shall be required, if the term licenses and/or maintenance is to be continued during any remainder of the contract period.
- d. Cross-Year Funding Within Contract Period. Where an Ordering Activity's specific appropriation authority provides for funds in excess of a 12-month (fiscal year) period, the Ordering Activity may place an order under this schedule contract for a period up to the expiration of the contract period, notwithstanding the intervening fiscal years.
- e. Ordering Activities should notify the Contractor in writing thirty (30) calendar days prior to the expiration of an order, if the term licenses and/or maintenance is to be terminated at that time. Orders for the continuation of term licenses and/or maintenance will be required if the term licenses and/or maintenance is to be continued during the subsequent period.

7. CONVERSION FROM TERM LICENSE TO PERPETUAL LICENSE

Conversion from term licenses to perpetual licenses for any or all Software is not available under the scope of this contract.

Outside the scope of this contract, the Ordering Activity may contact the Manufacturer directly to discuss the permissibility, costs and operation of such conversion(s). Contractor agrees to reasonably assist Ordering Activity in this regard.

8. TERM LICENSE CESSATION

If a term Software license granted hereunder terminates for any reason, Ordering Activity shall (i) cease using the applicable Software, Documentation, and related Confidential Information, and (ii) certify to Contractor within thirty (30) days after termination that Ordering Activity has destroyed, or has returned to Contractor or its Manufacturer the Software, Documentation, related Confidential Information of Contractor and all copies thereof, whether or not modified or merged into other materials.

9. UTILIZATION LIMITATIONS (SIN 511210 AND SIN 54151)

- a. Software acquisition is limited to commercial computer software defined in FAR Part 2.101.
- b. When acquired by the Ordering Activity, commercial computer Software and related Documentation shall be subject to the following:
 - (1) Title to and ownership of the Software and Documentation shall remain with the Contractor or its Manufacturer or licensors, unless otherwise specified. Contractor and its Manufacturers reserve all rights in and to the Software and Documentation not expressly granted to Ordering Activity herein.
 - (2) United States Government Legends. The Software, Documentation and any other technical data provided hereunder is commercial in nature and developed solely at private expense. The Software is delivered as "Commercial Computer Software" as defined in DFARS 252.227-7014 (June 1995) or as a "Commercial Item" as defined in FAR 2.101(a) and as such is provided with only such rights as are provided in Manufacturer's standard commercial license for the Software. Technical data is provided with limited rights only as provided in DFAR 252.227-7015 (Nov. 1995) or FAR 52.227-14 (June 1987), whichever is applicable.

Contractor grants Ordering Activity only those utilization rights (and reserves the same utilization limitations) as specified in the applicable Manufacturer's commercial license terms, a description of which is set forth on Attachment A to this schedule pricelist and incorporated herein.

Notwithstanding the forgoing, Contractor acknowledges and agrees that Ordering Activity shall have the minimum restricted rights as set forth in 9.b(4) below.

- (3) Except as is provided in paragraph 9.b(2) above, the Ordering Activity shall not provide or otherwise make available the Software or Documentation, or any portion thereof, in any form, to any third party without the prior written approval of the Contractor. Third parties do not include prime Contractors, subcontractors and agents of the Ordering Activity who have the Ordering Activity's permission to use the licensed software and documentation at the facility, and who have agreed to use the licensed Software and Documentation only in accordance with these restrictions. This provision does not limit the right of the Ordering activity to use Software, Documentation, or information therein, which the Ordering Activity may already have or obtains without restrictions.
- (4) The Ordering Activity shall have the right to use the computer Software and Documentation with the computer for which it is acquired at any other facility to which that computer may be transferred, or in cases of Disaster Recovery, the Ordering Activity has the right to transfer the Software to another site if the Ordering Activity site for which it is acquired is deemed to be unsafe for Ordering Activity personnel; to use the computer Software and Documentation with a backup computer when the primary computer is inoperative; and to copy computer Software for safekeeping (archive) or backup purposes; to modify the software and documentation or combine it with other software, provided that the unmodified portions shall remain subject to these restrictions.
- (5) "Commercial Computer Software" may be marked with the Contractor's standard commercial restricted rights legend, but the schedule contract and schedule pricelist, including this clause, "Utilization Limitations" are the only governing terms and conditions, and shall take precedence and supersede any different or additional terms and conditions included in the standard commercial legend.
- (6) The Software and Documentation hereunder is offered by the Contractor under licenses customarily provided to the public. The Contractor does not

furnish technical information related to commercial computer Software (or commercial computer software Documentation) that is not customarily provided to the public. Further, the Contractor does not relinquish rights to use, modify, reproduce, release, perform, display, or disclose commercial computer Software (or commercial computer Software Documentation) except as mutually agreed to by the parties. See 48 CFR 12.212.

- (7) Nondisclosure. Ordering Activity may have access to information that is confidential to Contractor or its Manufacturers ("Confidential Information"). Confidential Information shall include any information that is clearly identified in writing at the time of disclosure as confidential as well as any information that, based on the circumstances under which it was disclosed, a reasonable person would believe to be confidential. Contractor's Confidential Information shall include, but not be limited to, the Software, Documentation, all materials provided to Ordering Activity in the course of performing Maintenance Services hereunder, formulas, methods, know how, processes, designs, new products, developmental work, marketing requirements, marketing plans, customer names, prospective customer names, and the terms and pricing hereunder, regardless of whether such information is identified as confidential. Confidential Information includes all information received from third parties that Contractor is obligated to treat as confidential.

Confidential Information shall not include information that (i) is or becomes a part of the public domain through no act or omission of the other party; (ii) was in the other party's lawful possession prior to the disclosure and had not been obtained by the other party either directly or indirectly from the disclosing party; (iii) is lawfully disclosed to the other party by a third party without restriction on disclosure; (iv) is independently developed by the other party without use of or reference to the other party's Confidential Information. In addition, if Ordering Activity recommends to Contractor additional features, functionality, or performance or if Contractor retains generalized information hereunder that Contractor or its Manufacturer subsequently incorporates into its product or service offerings, then with respect to such recommendations and information, Ordering Activity hereby (a) grants

Contractor a worldwide, non-exclusive, royalty-free, perpetual right and license to use and incorporate such recommendations and such information into such offerings, and (b) acknowledges that all right and title to such offerings incorporating such recommendations and information shall be the sole and exclusive property of Contractor or its Manufacturer and all such recommendations and information shall be free from any confidentiality restrictions that might otherwise be imposed upon Contractor pursuant to this section.

Further, this section will not be construed to prohibit disclosure of Confidential Information to the extent that such disclosure is required by law or valid order of a court or other governmental authority.

Ordering Activity shall not disclose the results of any performance tests of the Software to any third party without Contractor's prior written approval. Ordering Activity agrees to hold Confidential Information in confidence and to take all reasonable steps to ensure that Confidential Information is not disclosed or distributed by its employees or agents in breach of these Terms and Conditions. Ordering Activity acknowledges and agrees that, due to the unique nature of Confidential Information, there can be no adequate remedy at law for breach of this section, and that such breach would cause irreparable harm to Contractor; therefore, Contractor shall be entitled to seek immediate injunctive relief, in addition to whatever remedies it might have at law or under these terms and conditions.

- (8) Verification. At Contractor's written request, but not more frequently than annually, Ordering Activity shall furnish Contractor with a document signed by Ordering Activity's authorized representative verifying that the Software is being used pursuant to the provisions of this contract. To the extent permitted by and subject to an Ordering Activity's security requirements (including, but not limited to, use of cleared personnel, badging and other requirements). Contractor reserves the right to audit Ordering Activity's use of the Software no more than once annually at Contractor's expense. Contractor shall schedule any audit at least thirty (30) days in advance. Any such audit shall be conducted during regular business hour at Ordering Activity's facilities and shall not unreasonably

interfere with Ordering Activity's business.

- (9) Intellectual Property Infringement. If a third party makes a claim against Ordering Activity that the Software directly infringes any patent, copyright, or trademark or misappropriate any trade secret ("IP Claim"); Contractor will (i) assist in defending Ordering Activity against the IP Claim at Contractor's cost and expense, and (ii) pay all costs, damages and expenses (including reasonable legal fees) finally awarded against Ordering Activity by a court of competent jurisdiction or agreed to in a written settlement agreement signed by Contractor arising out of such IP Claim; provided that: (i) Ordering Activity promptly notifies Contractor in writing no later than sixty (60) days after Ordering Activity's receipt of notification of a potential claim and (ii) Ordering Activity provides Contractor, at Contractor's request and expense, with the assistance, information and authority necessary to perform Contractor's obligations under this Section. Notwithstanding the foregoing, Contractor shall have no liability for any claim of infringement based on (a) the use of a superseded or altered release of the Software if the infringement would have been avoided by the use of a current unaltered release of the Software, (b) the modification of the Software, (c) the use of the Software other than in accordance with the Documentation or this contract, or (d) any materials or information provided to Contractor by Ordering Activity, for which Ordering Activity shall be solely responsible.

If the Software is held to infringe or are believed by Contractor to infringe, Contractor shall have the option, at its expense, to (a) replace or modify the Software to be non-infringing, or (b) obtain for Ordering Activity a license to continue using the Software. If it is not commercially reasonable to perform either of the foregoing options, then Contractor may terminate the Program license for the infringing Software and refund the license fees paid for the Software upon return of the Software by Ordering Activity. This section states Contractor's entire liability and Ordering Activity's exclusive remedy for any claim of infringement.

- (10) Delivery. All Software and Documentation provided by Contractor hereunder shall be deemed to be delivered by Contractor: 1) Upon physical delivery, or 2) Once the Software is made available to Ordering

Activity via electronic download by provision of a license key, link to a website, FTP site or similar site from which the Ordering Activity can electronically download or otherwise access the Software and Documentation.

10. SOFTWARE CONVERSIONS

Conversion from one version of the Software to another such as the result of a change in operating system, or from one computer system to another is not available under the scope of the contract.

Outside the scope of this contract, the Ordering Activity may contact the Manufacturer directly to discuss the permissibility, costs and operation of such conversion(s). Contractor agrees to reasonably assist Ordering Activity in this regard.

11. DESCRIPTIONS AND EQUIPMENT COMPATIBILITY

For information concerning supported hardware or compatibility requirements the Ordering Activity is advised to contact the Contractor or the applicable Manufacturer.

12. RIGHT TO COPY PRICING

Right-to-copy license pricing is not available under the scope of this contract unless specifically specified in the pricelist. The Ordering Activity must contact the Manufacturer directly to discuss the applicability and associated costs of right-to-copy pricing.

TERMS AND CONDITIONS APPLICABLE TO PURCHASE OF GENERAL-PURPOSE COMMERCIAL INFORMATION TECHNOLOGY SOLUTIONS SUBCATEGORY, CLOUD AND CLOUD-RELATED IT PROFESSIONAL SERVICES (SPECIAL ITEM NUMBER 518210C)

1. SCOPE

The prices, terms and conditions stated under Special Item Number (SIN) 518210C Cloud Computing Services apply exclusively to Cloud Computing Services within the scope of this Information Technology Schedule.

This SIN provides ordering activities with access to technical services that run-in cloud environments and meet the NIST Definition of Cloud Computing Essential Characteristics. Services relating to or impinging on cloud that do not meet all NIST essential characteristics should be listed in other SINs.

The scope of this SIN is limited to cloud capabilities provided entirely as a service. Hardware, software and other artifacts supporting the physical construction of a private or other cloud are out of scope for this SIN. Currently, an Ordering Activity can procure the hardware and software needed to build on premise cloud functionality, through combining different services on other Federal Supply Schedule SINs (e.g. 54151S).

Sub-categories in scope for this SIN are the three NIST Service Models: Software as a Service (SaaS), Platform as a Service (PaaS), and Infrastructure as a Service (IaaS). Offerors may optionally select a single sub-category that best fits a proposed cloud service offering. Only one sub-category may be selected per each proposed cloud service offering. Offerors may elect to submit multiple cloud service offerings, each with its own single sub-category. The selection of one of three sub-categories does not

prevent Offerors from competing for orders under the other two sub-categories.

See service model guidance for advice on sub-category selection.

Sub-category selection within this SIN is optional for any individual cloud service offering, and new cloud computing technologies that do not align with the aforementioned three sub-categories may be included without a sub-category selection so long as they comply with the essential characteristics of cloud computing as outlined by NIST.

See Table 1 for a representation of the scope and sub-categories.

Table 1: Cloud Computing Services SIN

SIN Description	Sub-Categories ¹
<ul style="list-style-type: none"> ● Commercially available cloud computing services ● Meets the National Institute for Standards and Technology (NIST) definition of Cloud Computing essential characteristics ● Open to all deployment models (private, public, community or hybrid), vendors specify deployment models 	<p>1. Software as a Service (SaaS): Consumer uses provider’s applications on cloud infrastructure. Does not manage/control platform or infrastructure. Limited application level configuration may be available.</p> <p>2. Platform as a Service (PaaS): Consumer deploys applications onto cloud platform service using provider-supplied tools. Has control over deployed applications and some limited platform configuration but does not manage the platform or infrastructure.</p> <p>3. Infrastructure as a Service (IaaS): Consumer provisions computing resources. Has control over OS, storage, platform, deployed applications and some limited infrastructure configuration, but does not manage the infrastructure.</p>

¹ Offerors may optionally select the single sub-category that best fits each cloud service offering, per Service Model Guidance, or select no sub-category if the offering does not fit an existing NIST service model.

2. DESCRIPTION OF CLOUD COMPUTING SERVICES AND PRICING

a. Service Description Requirements for Listing Contractors

The description requirements below are in addition to the overall Schedule 70 evaluation criteria described in SCP-FSS-001-N Instructions Applicable to New Offerors (Alternate I – MAR 2016) or SCP-FSS-001-S Instructions Applicable to Successful FSS Program Contractors, as applicable, SCP-FSS-004 and other relevant publications.

Refer to overall Federal Supply Schedule requirements for timelines related to description and other schedule updates, including but not limited to clauses 552.238-81 – section E and clause I-FSS-600.

Table 2 summarizes the additional Contractor-provided description requirements for services proposed under the Cloud Computing Services SIN. All mandatory description requirements must be complete, and adequate according to evaluation criteria.

In addition, there is one “Optional” reporting description which exists to provide convenient service selection by relevant criteria. Where provided, optional description requirements must be complete and adequate according to evaluation criteria:

- (1) The NIST Service Model provides sub-categories for the Cloud SIN and is strongly encouraged, but not required. The Service Model based sub-categories provide this SIN with a structure to assist ordering activities in locating and comparing services of interest. Contractors may optionally select the single service model most closely corresponding to the specific service offering.
- (2) If a sub-category is selected it will be evaluated with respect to the NIST Service Model definitions and guidelines in “Guidance for Contractors”.

Table 2: Cloud Service Description Requirements

#	Descriptions Requirement	Reporting Type	Instructions
1	Provide a brief written description of how the proposed cloud computing services satisfies each individual essential NIST Characteristic	Mandatory	The cloud service must be capable of satisfying each of the five NIST essential Characteristics as outlined in NIST Special Publication 800-145. See ‘GUIDANCE FOR CONTRACTORS: NIST Essential Characteristics’ below in this document for detailed overall direction, as well as guidance on inheriting essential characteristics.
2	Select NIST deployment models for the cloud computing service proposed.	Mandatory	Contractors must select at least one NIST deployment model as outlined in NIST Special Publication 800-145 describing how the proposed cloud computing service is deployed. Select multiple deployment models if the service is offered in more than one deployment model. See ‘GUIDANCE FOR CONTRACTORS: NIST Deployment Model’ below in this document for detailed direction on how to best categorize a service for the NIST deployment models.
3	Optionally select the most appropriate NIST service model that will be the designated sub-category or may select no sub-category.	Optional	Contractor may select a single NIST Service model to sub-categorize the service as outlined in NIST Special Publication 800-145. Sub-category selection is optional but recommended. See ‘GUIDANCE FOR CONTRACTORS: NIST Service Model’ below in this document for detailed direction on how to best categorize a service for the NIST IaaS, PaaS, and SaaS service models.

b. Pricing of Cloud Computing Services

All current pricing requirements for Schedule 70, including provision SCP-FSS-001-N (Section III Price Proposal), SCP-FSS-001-S, SCP-FSS-004 (Section III Price Proposal), and clause I-FSS-600 Contract Price Lists, apply. At the current time there is no provision for reducing or eliminating standard price list posting requirements to accommodate rapid cloud price fluctuations.

In addition to standard pricing requirements, all pricing models must have the core capability to meet the NIST Essential Cloud Characteristics, particularly with respect to on-demand self-service, while allowing alternate variations at the task order level at agency discretion, pursuant to the guidance on NIST Essential Characteristics.

3. RESPONSIBILITIES OF THE CONTRACTOR

The Contractor shall comply with all laws, ordinances, and regulations (Federal, State, City, or otherwise) covering work of this character.

a. Acceptance Testing

Any required Acceptance Test Plans and Procedures shall be negotiated by the Ordering Activity at task order level. The Contractor shall perform acceptance testing of the systems for Ordering Activity approval in accordance with the approved test procedures.

b. Training

If training is provided commercially the Contractor shall provide normal commercial installation, operation, maintenance, and engineering interface training on the system. Contractor is responsible for indicating if there are separate training charges.

c. Information Assurance/Security Requirements

The contractor shall meet information assurance/security requirements in accordance with the Ordering Activity requirements at the Task Order level.

d. Related Professional Services

The Contractor is responsible for working with the Ordering Activity to identify related professional services and any other services available on other SINs that may be associated with deploying a complete cloud solution. Any additional substantial and ongoing professional services related to the offering such as integration, migration, and other cloud professional services are out of scope for this SIN.

e. Performance of Cloud Computing Services

The Contractor shall respond to Ordering Activity requirements at the Task Order level with proposed capabilities to Ordering Activity performance specifications or indicate that only standard specifications are offered. In all cases the

Contractor shall clearly indicate standard service levels, performance and scale capabilities.

The Contractor shall provide appropriate cloud computing services on the date and to the extent and scope agreed to by the Contractor and the Ordering Activity.

f. Reporting

The Contractor shall respond to Ordering Activity requirements and specify general reporting capabilities available for the Ordering Activity to verify performance, cost and availability.

In accordance with commercial practices, the Contractor may furnish the Ordering Activity/user with a monthly summary Ordering Activity report.

4. RESPONSIBILITIES OF THE ORDERING ACTIVITY

The Ordering Activity is responsible for indicating the cloud computing services requirements unique to the Ordering Activity. Additional requirements should not contradict existing SIN or IT Schedule 70 Terms and Conditions. Ordering Activities should include (as applicable) Terms & Conditions to address Pricing, Security, Data Ownership, Geographic Restrictions, Privacy, SLAs, etc.

Cloud services typically operate under a shared responsibility model, with some responsibilities assigned to the Cloud Service Provider (CSP), some assigned to the Ordering Activity, and others shared between the two. The distribution of responsibilities will vary between providers and across service models. Ordering activities should engage with CSPs to fully understand and evaluate the shared responsibility model proposed. Federal Risk and Authorization Management Program (FedRAMP) documentation will be helpful regarding the security aspects of shared responsibilities, but operational aspects may require additional discussion with the provider.

a. Ordering Activity Information Assurance/Security Requirements Guidance

- (1) The Ordering Activity is responsible for ensuring to the maximum extent practicable that each requirement issued is in compliance with the Federal Information Security Management Act (FISMA) as applicable.
- (2) The Ordering Activity shall assign a required impact level for confidentiality, integrity and availability (CIA) prior to issuing the initial statement of work.¹

The Contractor must be capable of meeting at least the minimum-security requirements assigned against a low-impact information system in each CIA assessment area (per FIPS 200) and must detail the FISMA capabilities

of the system in each of CIA assessment area.

- (3) Agency level FISMA certification, accreditation, and evaluation activities are the responsibility of the Ordering Activity. The Ordering Activity reserves the right to independently evaluate, audit, and verify the FISMA compliance for any proposed or awarded Cloud Computing Services.
- (4) The Ordering Activity has final responsibility for assessing the FedRAMP status of the service, complying with and making a risk-based decision to grant an Authorization to Operate (ATO) for the cloud computing service, and continuous monitoring. A memorandum issued by the Office of Management and Budget (OMB) on Dec 8, 2011 outlines the responsibilities of Executive departments and agencies in the context of FedRAMP compliance.²
- (5) Ordering activities are responsible for determining any additional information assurance and security related requirements based on the nature of the application and relevant mandates.

b. Deployment Model

If a particular deployment model (Private, Public, Community, or Hybrid) is desired, Ordering Activities are responsible for identifying the desired model(s). Alternately, Ordering Activities could identify requirements and assess Contractor responses to determine the most appropriate deployment model(s).

c. Delivery Schedule

The Ordering Activity shall specify the delivery schedule as part of the initial requirement. The Delivery Schedule options are found in Information for Ordering Activities Applicable to All Special Item Numbers.

d. Interoperability

Ordering Activities are responsible for identifying interoperability requirements. Ordering Activities should clearly delineate requirements for API implementation and standards conformance.

e. Performance of Cloud Computing Services

The Ordering Activity should clearly indicate any custom minimum service levels, performance and scale requirements as part of the initial requirement.

¹ Per Federal Information Processing Standards Publication 199 & 200 (FIPS 199, "Standards for Security Categorization of Federal Information and Information Systems") (FIPS 200, "Minimum Security Requirements for Federal Information and Information Systems")

² MEMORANDUM FOR CHIEF INFORMATION OFFICERS: Security Authorization of Information Systems in Cloud Computing Environments. December 8, 2011

f. Reporting

The Ordering Activity should clearly indicate any cost, performance or availability reporting as part of the initial requirement.

Because of considerations arising from cloud shared responsibility models, ordering activities should engage with the Contractor to develop more cloud-specific understandings of the boundaries between data owned by the government and that owned by the cloud service provider, and the specific terms of data retrieval.

g. Privacy

The Ordering Activity should specify the privacy characteristics of their service and engage with the Contractor to determine if the cloud service is capable of meeting Ordering Activity requirements. For example, a requirement could be requiring assurance that the service is capable of safeguarding Personally Identifiable Information (PII), in accordance with NIST SP 800-1224³ and OMB memos M-06-16⁴ and M-07-16⁵. An Ordering Activity will determine what data elements constitute PII according to OMB Policy, NIST Guidance and Ordering Activity policy.

In all cases, the Ordering Activity should enter into an agreement with a clear and enforceable understanding of the boundaries between government and cloud service provider data, and the form, format and mode of delivery for each kind of data belonging to the government.

The Ordering Activity should expect that the Contractor shall transfer data to the government at the government's request at any time, and in all cases when the service or order is terminated for any reason, by means, in formats and within a scope clearly understood at the initiation of the service. Example cases that might require clarification include status and mode of delivery for:

- Configuration information created by the government and affecting the government's use of the cloud provider's service.
- Virtual machine configurations created by the government but operating on the cloud provider's service.
- Profile, configuration and other metadata used to configure SaaS application services or PaaS platform services.

The key is to determine in advance the ownership of classes of data and the means by which Government owned data can be returned to the Government.

h. Accessibility

The Ordering Activity should specify the accessibility characteristics of their service and engage with the Contractor to determine the cloud service is capable of meeting Ordering Activity requirements. For example, a requirement could require assurance that the service is capable of providing accessibility based on Section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d).

i. Geographic Requirements

Ordering activities are responsible for specifying any geographic requirements and engaging with the Contractor to determine that the cloud services offered have the capabilities to meet geographic requirements for all anticipated task orders. Common geographic concerns could include whether service data, processes and related artifacts can be confined on request to the United States and its territories, or the continental United States (CONUS).

k. Service Location Distribution

The Ordering Activity should determine requirements for continuity of operations and performance and engage with the Contractor to ensure that cloud services have adequate service location distribution to meet anticipated requirements. Typical concerns include ensuring that:

- (1) Physical locations underlying the cloud are numerous enough to provide continuity of operations and geographically separate enough to avoid an anticipated single point of failure within the scope of anticipated emergency events.
- (2) Service endpoints for the cloud are able to meet anticipated performance

j. Data Ownership and Retrieval and Intellectual Property

Intellectual property rights are not typically transferred in a cloud model. In general, CSPs retain ownership of the Intellectual Property (IP) underlying their services and the customer retains ownership of its intellectual property. The CSP gives the customer a license to use the cloud services for the duration of the contract without transferring rights. The government retains ownership of the IP and data they bring to the customized use of the service as spelled out in the FAR and related materials.

General considerations of data ownership and retrieval are covered under the terms of Schedule 70 and the FAR and other laws, ordinances, and regulations (Federal, State, City, or otherwise).

³ NIST SP 800-122, "Guide to Protecting the Confidentiality of Personally Identifiable Information (PII)"

⁴ OMB memo M-06-16: Protection of Sensitive Agency Information Hyperlink: <http://www.whitehouse.gov/sites/default/files/omb/memoranda/fy2006/m06-16.pdf>

⁵ OMB Memo M-07-16: Safeguarding Against and Responding to the Breach of Personally Identifiable Information. Hyperlink:

<http://www.whitehouse.gov/sites/default/files/omb/memoranda/fy2007/m07-16.pdf>

requirements in terms of geographic proximity to service requestors.

Note that cloud providers may address concerns in the form of minimum distance between service locations, general regions where service locations are available, etc.

1. Related Professional Services

Ordering activities should engage with Contractors to discuss the availability of limited assistance with initial setup, training and access to the services that may be available through this SIN.

Any additional substantial and ongoing professional services related to the offering such as integration, migration, and other cloud professional services are out of scope for this SIN. Ordering activities should consult the appropriate GSA professional services schedule.

TERMS AND CONDITIONS APPLICABLE TO PURCHASE OF GENERAL-PURPOSE COMMERCIAL INFORMATION TECHNOLOGY SOLUTIONS SUBCATEGORY, CONTINUOUS DIAGNOSTICS AND MITIGATION (CDM) TOOLS (SPECIAL ITEM NUMBER 541519CDM)

1. GLOSSARY OF DEFINITIONS

- a. **“Documentation”** shall mean Manufacturer’s then current help guides, specifications and operating manuals issued by Manufacturer and made generally available by Manufacturer for the Equipment and/or Software whether on-line or in hard copy.
- b. **“Equipment”** shall mean the computer hardware identified on Attachment B to this schedule pricelist.
- c. **“Equipment Maintenance Services”** shall mean the Equipment maintenance services provided by Contractor through an applicable Manufacturer under this contract in accordance with the Manufacturer’s then-current Maintenance Services Policy.
- d. **“Software Maintenance Services”** shall mean the Software maintenance and support services provided by Contractor through an applicable Manufacturer under this contract in accordance with the Manufacturer’s then current Maintenance Services Policy.
- e. **“Maintenance Services Policy”** shall mean the commercial terms describing a Manufacturer’s standard Equipment or Software maintenance and support offerings, policies and procedures, a copy of which is located on Attachment A to this schedule pricelist.
- f. **“Services”** shall mean services associated with products, other than Software Maintenance Services, Equipment Maintenance Services, and training.

- g. **“Software”** shall mean (i) the version of the computer program identified on Attachment B and (ii) updates to such programs.

2. SCOPE

- a. Special Item Number (SIN) 541519CDM Continuous Diagnostics and Mitigation (CDM) Tools is a solutions SIN. This SIN includes both Equipment and Software products and any associated services for the products to include installation, maintenance, and training.
- b. In addition to the terms and conditions of this CDM SIN: the terms and conditions of SIN 33411 shall apply to the purchase of Equipment provided under the CDM SIN; the terms and conditions of SIN 811212 shall apply to Equipment Maintenance Services provided under the CDM SIN; the terms and conditions of SINs 511210 and 54151 shall apply to Software and Software Maintenance Services provided under the CDM SIN; and the terms and conditions of SIN 611420 shall apply to the purchase of training courses provided under the CDM SIN.
- c. 541519CDM - Continuous Diagnostics and Mitigation Tools - SUBJECT TO COOPERATIVE PURCHASING - Includes Continuous Diagnostics and Mitigation (CDM) Approved Products List (APL) Equipment and Software products/tools and associated Services and Maintenance Services. The full complement of CDM subcategories includes tools, associated Maintenance Services, and other related activities such as training.
- d. The 5 subcategories CDM capabilities specified under this SIN are:
 - (1) Manage “What is on the network?”: Identifies the existence of hardware, software, configuration characteristics and known security vulnerabilities.
 - (2) Manage “Who is on the network?”: Identifies and determines the users or systems with access authorization, authenticated permissions and granted resource rights.
 - (3) Manage “How is the network protected?”: Determines the user/system actions and behavior at the network boundaries and within the computing infrastructure.
 - (4) Manage “What is happening on the network?”: Prepares for events/incidents, gathers data from appropriate sources; and identifies incidents through analysis of data.
 - (5) Emerging Tools and Technology: Includes CDM cybersecurity tools and technology not in any other subcategory.

5 subcategories represent the scope of the CDM program and reflect widely exercised functional

and operational scenarios that CDM is interested in identifying, monitoring and addressing from a security perspective.

To provide a holistic security approach, these capabilities adhere to the National Institute of Science and Technology (NIST) Cybersecurity Framework security functions to identify, protect, detect, respond and recover. CDM also supports and can be used in the NIST Risk Management Framework (RMF) to achieve ongoing assessment and authorization.

As shown in Table 1, the 5 CDM Tools SIN subcategories cover the previous CDM BPA 15 CDM Tool Functional Areas (TFAs) and allow for future innovation.

Table 1: SIN to TFA mapping

5 SIN Subcategories	15 CDM BPA TFAs
1. Manage “What is on the network?”	<ul style="list-style-type: none"> ● TFA 1 – Hardware Asset Management ● TFA 2 – Software Asset Management ● TFA 3 – Configuration Settings Management ● TFA 4 – Vulnerability Management
2. Manage “Who is on the network?”	<ul style="list-style-type: none"> ● TFA 6 – Manage Trust in People Granted Access ● TFA 7 – Manage Security-Related Behavior ● TFA 8 – Manage Credential and Authentication ● TFA 9 – Manage Account/Access/Manage Privileges
3. Manage “How is the boundary protected?” for BOUND	<ul style="list-style-type: none"> ● TFA 5 – Manage Network Access Controls
4. Manage “What is happening on the network?” for MNGEVT	<ul style="list-style-type: none"> ● TFA 10 – Prepare for Contingencies and Incidents ● TFA 11 – Respond to Contingencies and Incidents
4. Manage “What is happening on the network?” for DBS	<ul style="list-style-type: none"> ● TFA 12 – Design and Build in Requirements Policy and Planning ● TFA 13 – Design and Build in Quality
4. Manage “What is happening on the network?” for OMI	<ul style="list-style-type: none"> ● TFA 14 – Manage Audit Information ● TFA 15 – Manage Operation Security
5. Emerging Tools and Technologies	Future innovations

(1) Manage “What is on the network?”

Focus: The primary focus of Manage Assets is to identify “What is on the network?”; that is, to identify the existence of hardware, software, configuration characteristics and known security vulnerabilities.

Manage hardware and software baseline system inventory is based on Phase 1 Hardware Asset Management (HWAM) and Software Asset Management (SWAM) requirements that requires the discovery and identification of devices to define a baseline of inventory hardware and software assets to establish the Agency’s span of control.

Hardware and software configurations are based on Phase 1 Configuration Settings Management (CSM) requirements to ensure

that hardware and software (specifically the operating system and installed applications) assets are securely configured and hardened.

Manage vulnerabilities is based on Phase 1 Vulnerability Management (VUL) requirements to identify and manage vulnerabilities in software installed on network devices to minimize exploitation of known software weaknesses.

These CDM capabilities cover verification and validation for the existence of hardware infrastructure devices; the accurate identification of approved software components; verification and validation that hardware devices have the correct security configuration settings, and system platform is hardened to reduce the platform attack surface; and the identification and management of risks presented by known software weaknesses that are subject to exploitation.

These CDM capabilities support the Cybersecurity Framework functions of: identify, protect and detect.

(2) Manage “Who is on the network?”

Focus: The primary focus of Manage People is to determine “Who is on the network?”; that is, identify and determine the users or systems with authorized access.

Manage People is based on Phase 2 PRIV, CRED, TRUST and BEHAVE requirements that require the management of users/accounts as an asset to assure the appropriate individual has the right access to the right resource.

This CDM capability covers the verification and validation of allowed user privileges, issuance and management of user owned credentials, appropriate user security behavior training, trustworthiness, authenticated permissions, and management of resource access rights granted to users.

These CDM capabilities support the Cybersecurity Framework functions of: identify, protect and detect.

(3) Manage “How is the boundary protected?”

Focus: The primary focus of Manage Boundary Protection is to determine “How is the boundary protected?”; that is, to determine the user/system actions and behavior at the physical/logical network boundaries and within the computing infrastructure.

“How is the boundary protected?” is based on Phase 3 BOUND requirements to defend physical and logical network boundaries and identify abnormal behavior (of networks and users) that may identify that an incident has occurred.

This CDM capability covers verification and validation of logical and physical network interfaces to reduce intrusive, malicious, and disruptive attacks; cryptographic mechanisms ensure confidentiality and integrity of data on the network; and methods to identify security incidents.

These CDM capabilities support the Cybersecurity Framework functions of: identify, protect and detect.

(4) Manage “What is happening on the network?”

Due to the complexity to manage “What is happening on the network?”; this area is covered by three focus areas:

- a. Manage Events (MNGEVT)
- b. Operate, Monitor and Improve (OMI)
- c. Design and Build in Security (DBS)

Manage Events

Focus: Manage Events is responsible for preparing for events/incidents, gathering appropriate audit data from appropriate sources, identifying incidents through analysis of data, and performing ongoing assessment.

Manage Events is based on the Phase 3 MNGEVT requirements to prepare for incidents/events (through processes, policies, and procedures), gather appropriate audit/log data from appropriate sources, and identify events/incidents (network and user abnormal behavior) through the analysis of audit/log data.

Manage Events supports the runtime collection of attributes (actual state) and continuous monitoring of the policies related to attributes for Ongoing Assessment (actual state vs. desired state) to enhance current or apply new security and privacy controls and countermeasures. The results of the Ongoing Assessment will be used as inputs to OMI Ongoing Authorization risk assessment process to determine if the level of risk remains acceptable for a given information system to support continued authorization and operation.

Ongoing Assessment is the continuous process of comparing security related attributes between the Actual State and the Desired State. This comparison is performed by the CDM Policy Decision Point (PDP). The discrepancy between Actual State and Desired state impacts the security posture of the implementation of NIST SP 800-53 controls and countermeasures. The results of the Ongoing Assessment are used to evaluate the changes in risk posture associated with the discrepancy. Ideally, the Ongoing Assessment process is fully automated with the Desired State being encoded in the CDM PDP and the Actual State being measured using CDM sensors.

This CDM capability covers verification and validation of processes, policies, and procedures supporting cybersecurity preparation, audit and log data collection, security analysis of audit/log data, incident reporting to provide forensic evidence of malicious or suspicious behavior, and ongoing assessment.

To provide a holistic security approach, this capability adheres to the Cybersecurity Framework security functions to identify, protect, detect, respond and recover CDM also supports and can be used in the NIST Risk Management Framework (RMF) to achieve ongoing assessment and authorization.

Operate, Monitor and Improve

Focus: Operate, Monitor and Improve is responsible for audit data aggregation, correlation, and analysis, incident prioritization and response, and post-incident activities (e.g., information sharing).

Operate, Monitor and Improve is based on Phase 3 OMI requirements for audit data aggregation, correlation and analysis, incident prioritization and response, and post incident activities (e.g., information sharing).

Ongoing Authorization is the continuous evaluation of the change in risk level related to changes in security policies concerning static object attributes (i.e., actual state and desired state) for threat behaviors that impact the security posture. This impact to security is measured by capturing changes in existing safeguards (e.g., NIST SP 800-53 controls and countermeasures) and identification of new component weaknesses and vulnerabilities.

This CDM capability covers verification and validation of processes/procedures to aggregate, correlate, and analyze audit/log data, to prioritize incidents and associated response actions, to quickly mitigate the impact of an incidents, to take appropriate remediation actions to eliminate the impact (restore normal

operations) of the same incident, to support information sharing and collaboration (both internal and external) to minimize or prevent impact of future incidents, and ongoing authorization.

To provide a holistic security approach, this capability adheres to the Cybersecurity Framework security functions to identify, protect, detect, respond and recover. CDM also supports and can be used in the NIST Risk Management Framework (RMF) to achieve ongoing assessment and authorization.

Design and Build in Security

Focus: Design and Build in Security is responsible for preventing exploitable vulnerabilities from being effective in the software/system while in development or deployment. The Design and Build in Security process is focused on identifying, controlling and removing weaknesses/vulnerabilities from the software/system. Exploitable vulnerabilities may include software/system design, coding errors, software/system designs that leave a large and complex attack surface that cannot be defended, and weaknesses that can only be exploited during system/software execution.

Design and Build in Security is based on the Phase 3 DBS requirements that extend the focus of Phase 1 Software Asset Management and Vulnerability Management to achieve a level of confidence that software is free from vulnerabilities, either intentionally designed into the software or accidentally inserted at any time during its life cycle and that the software functions in the intended manner.

The U.S. government and critical infrastructure sectors are increasingly dependent on commercial products and systems, which present significant benefits including low cost, interoperability, rapid innovation, a variety of product features, and choice among competing vendors. However, with some of these benefits there is an increase in the risk of a threat event which can directly or indirectly affect the supply chain, which often go undetected, and may result in risks to the acquirer. The purpose of Supply Chain Risk Management (SCRM) is to enable the provisioning of the least vulnerable solutions to agencies, through a robust assessment of supply chain risks, communication about those risks to the agencies, and appropriate response and monitoring of those risks throughout the entire system lifespan.

This CDM capability covers verification and validation of processes/procedures to prevent and detect software vulnerabilities, to determine the provenance of system components, and to measure software assurance for built and acquired software components.

To provide a holistic security approach, this capability adheres to the Cybersecurity Framework security functions to identify, protect, detect, respond and recover to security infractions due to malicious behavior and unintentional user actions during normal operations.

(5) Emerging Tools and Technologies

Focus: Innovative capabilities to cybersecurity not currently encompassed by the other capability areas.

3. STANDARDS COMPLIANCE

Contractors providing offerings through the CDM Tools SIN must provide compliant products and services in accordance with the laws and standards cited herein. Additional laws and standards may be applicable to specific orders and Blanket Purchase Agreements.

4. ORDER

- a. Written orders, EDI orders (GSA Advantage! and FACNET), credit card orders, and orders placed under blanket purchase agreements (BPA) agreements shall be the basis for purchase in accordance with the provisions of this contract. If time of delivery extends beyond the expiration date of the contract, the Contractor will be obligated to meet the delivery and installation date specified in the original order.
- b. All delivery or task orders are subject to the terms and conditions of the contract. In the event of conflict between an order and the contract, the contract will take precedence.

5. ENTERPRISE USER LICENSE AGREEMENTS REQUIREMENTS (EULA)/COMMERCIAL SUPPLIER AGREEMENTS (CSAs)

The Contractor shall provide all Commercial Supplier Agreements (CSAs) to include End User License Agreements (EULAs) or Terms of Service (ToS) in an editable Microsoft Office (Word) format.

6. TECHNICAL SERVICES

A hotline technical support number for the purpose of providing user assistance and guidance in the implementation of any software provided as part of Equipment Maintenance Services or Software Maintenance Services.

7. PERFORMANCE OF SERVICES ASSOCIATED WITH PRODUCTS

- a. The Contractor shall commence performance of Services on the date agreed to by the Contractor and the Ordering Activity.
- b. The Contractor agrees to render Services during normal working hours, unless otherwise agreed to by the Contractor and the Ordering Activity.
- c. The Ordering Activity should include the criteria for satisfactory completion of each order. Services shall be completed in a good and workmanlike manner.
- d. Any Contractor travel required in the performance of the CDM Tools SIN for a specific requirement at the order level must comply with the Federal Travel Regulation or Joint Travel Regulations, as applicable, in effect on the date(s) the travel is performed. Established Federal Government per diem rates will apply to all Contractor travel. Contractors cannot use GSA city pair contracts. All travel will be agreed upon with the Ordering Activity prior to the Contractor's travel.

8. RESPONSIBILITIES OF THE CONTRACTOR

- a. The Contractor shall comply with all laws, ordinances, and regulations (Federal, State, City, or otherwise) covering work of this character. If the end product of an order is custom-developed software, FAR 52.227-14 Rights in Data may apply.

- b. The Contractor shall comply with contract clause (FAR 52.204-21) for the basic safeguarding of contractor information systems that process, store, or transmit Federal contract information (as defined in the contract clause) received by the Contractor in performance of the contract.

9. INVOICES FOR SERVICES

The Contractor, upon completion of the Services ordered, shall submit invoices. FAR 52.212-4 in the contract contains terms for commercial items. Progress payments may be authorized by the ordering activity on individual orders if appropriate. Progress payments shall be based upon completion of defined milestones or interim products. Invoices shall be submitted monthly for recurring Services performed during the preceding month

10. DESCRIPTION OF PRODUCTS AND SERVICES AND PRICING

The Contractor shall provide a description of offerings under CDM Tools SIN in the same manner as the Contractor sells to its commercial and Ordering Activity customers. The Contractor shall provide pricing and a description with part numbers for products and the associated services that have been approved as part of the Product Qualification Requirements of the SIN. Any applicable delivery and licensing terms should be included.

11. TOTAL SOLUTION

Labor categories/qualifications are not included in this SIN; however, ordering activities may acquire a total solution to meet a specific requirement for an order or BPA involving multiple Federal Supply Schedule SINs. Contractors report the sales to GSA under the SINs the items are sold. For example, an agency may post an RFQ requesting a total solution anticipating offerings from multiple SINs, such as IT Professional Services 54151S or Highly Adaptive Cybersecurity Services (HACS) 54151HACS along with CDM Tools 541519CDM for products and product associated services.

TERMS AND CONDITIONS APPLICABLE TO PURCHASE OF GENERAL-PURPOSE COMMERCIAL INFORMATION TECHNOLOGY TRAINING SUBCATEGORY, INFORMATION TECHNOLOGY TRAINING (SPECIAL ITEM NUMBER 611420)

1. GLOSSARY OF DEFINITIONS

- a. **“Training Materials”** shall mean the, manuals, handbooks, texts, handouts, etc. normally provided with course offerings.
- b. **“Training Catalog”** shall mean the document setting out a description of the training services and courses offered along with the related policies and procedures in regard to such training.

2. SCOPE

- a. The Contractor through the Manufacturer shall provide training courses normally available to commercial customers, which will permit Ordering Activity users to make full, efficient use of general-purpose commercial IT products. Training is restricted to training courses for those products within the scope of this solicitation.
- b. The Contractor shall provide training at the Contractor's or Manufacturer's facility and/or at

the Ordering Activity's location, as agreed to by the Contractor and the Ordering Activity.

3. ORDER

Written orders, EDI orders (GSA Advantage! and FACNET), credit card orders, and orders placed under blanket purchase agreements (BPAs) shall be the basis for the purchase of training courses in accordance with the terms of this contract. Orders shall include the student's name, course title, course date and time, and contracted dollar amount of the course.

4. TIME OF DELIVERY

The Contractor or its Manufacturer shall conduct training on the date (time, day, month, and year) agreed to by the Contractor and the Ordering Activity.

5. CANCELLATION AND RESCHEDULING

- a. Terms and conditions governing a Manufacturer's cancellation and rescheduling policies are as set forth in the applicable Manufacturer's Training Catalog.
- b. The Ordering Activity reserves the right to substitute one student for another up to the first day of class.
- c. In the event the Contractor is unable to conduct training on the date agreed to by the Contractor and the Ordering Activity, Contractor must notify the Ordering Activity at least seventy-two (72) hours before the scheduled training date.

6. FOLLOW-UP SUPPORT

Follow-up support to training courses is not available under the scope of this schedule contract unless expressly set forth in an applicable Manufacturer's Training Catalog and, in that case, follow-up support shall be provided as stated therein.

7. PRICE FOR TRAINING

The price that the Ordering Activity will be charged will be the Ordering Activity training price in effect at the time of order placement, or the Ordering Activity price in effect at the time the training course is conducted, whichever is less.

8. INVOICES AND PAYMENT

Invoices for training shall be submitted by the Contractor after Ordering Activity completion of the training course. Charges for training must be paid in arrears (31 U.S.C. 3324). PROMPT PAYMENT DISCOUNT, IF APPLICABLE, SHALL BE SHOWN ON THE INVOICE.

9. FORMAT AND CONTENT OF TRAINING

- a. The Contractor or its Manufacturer shall provide the Training Materials normally provided with course offerings. Unless stated otherwise in an applicable Manufacturer's Training Catalog, such documentation will become the property of the student upon completion of the training class, provided, however, Contractor and or its Manufacturer shall retain all right, title and interest to the intellectual property rights contained therein (e.g., copyrights) and provided further, however, that such Training Materials

shall be considered the Confidential Information of Manufacturer and subject to the non-disclosure provisions set forth above in the terms applicable to SINS 511210 and 54151.

- b. For hands-on training courses, there must be a one-to-one assignment of IT equipment to students.
- c. The Contractor shall provide each student with a Certificate of Training at the completion of each training course.
- d. The Training Catalog shall provide most of the following information for each training course offered:
 - (1) The course title and a brief description of the course content, to include the course format (e.g., lecture, discussion, hands-on training);
 - (2) The length of the course;
 - (3) Mandatory and desirable prerequisites for student enrollment;
 - (4) The minimum and maximum number of students per class;
 - (5) The locations where the course is offered;
 - (6) Class schedules; and
 - (7) Price (per student, per class (if applicable)).
- e. For those courses conducted at the Ordering Activity's location, instructor travel charges (if applicable), including mileage and daily living expenses (e.g., per diem charges) are governed by Pub. L. 99-234 and FAR Part 31.205-46, and are reimbursable by the ordering activity on orders placed under the Multiple Award Schedule, as applicable, in effect on the date(s) the travel is performed. Contractors cannot use GSA city pair contracts. The Industrial Funding Fee does NOT apply to travel and per diem charges.
- f. For Online Training Courses, a copy of all training material must be available for electronic download by the students.

10. "NO CHARGE" TRAINING

"No charge" training is not available under the scope of this schedule contract.

TERMS AND CONDITIONS APPLICABLE TO PURCHASE OF GENERAL-PURPOSE COMMERCIAL INFORMATION TECHNOLOGY ELECTRONIC COMMERCE SUBCATEGORY, ELECTRONIC COMMERCE AND SUBSCRIPTION SERVICES (SPECIAL ITEM NUMBER 54151ECOM)

1. GLOSSARY OF DEFINITIONS

- a. "Service Provider" shall mean a provider of the Electronic Commerce Services

offered to Contractor through a letter of supply to be sold to Ordering Activities under this contract.

- b. “Statement of Work” shall mean the mutually agreed upon document between Contractor and Ordering Activity setting forth the description of services to be performed including milestones, any specifications and evaluation criteria.

2. SCOPE

- a. The prices, terms and conditions stated under Special Item Number 54151ECOM Electronic Commerce (EC) Services apply exclusively to EC Services within the scope of this Information Technology Schedule.
- b. The Contractor, through Service Provider, shall provide services at a location, as agreed to by the Contractor and the Ordering Activity.

3. PERFORMANCE INCENTIVES I-FSS-60 Performance Incentives (April 2000)

- a. Performance incentives may be agreed upon between the Contractor and the Ordering Activity on individual fixed price orders or Blanket Purchase Agreements under this contract.
- b. The Ordering Activity must establish a maximum performance incentive price for the services and/or total solutions on individual orders or Blanket Purchase Agreements.
- c. Incentives should be designed to relate results achieved by the contractor to specified targets. To the maximum extent practicable, Ordering Activities shall consider establishing incentives where performance is critical to the Ordering Activity’s mission and incentives are likely to motivate the contractor. Incentives shall be based on objectively measurable tasks.

4. ORDER

- a. Agencies may use written orders, EDI orders, blanket purchase agreements, individual purchase orders, or task orders for ordering services under this contract. Blanket Purchase Agreements shall not extend beyond the end of the contract period; all services and delivery shall be made, and the contract terms and conditions shall continue in effect until the completion of the order. Orders for tasks which extend beyond the fiscal year for which funds are available shall include FAR 52.232-19 (Deviation – May 2003) Availability of Funds for the Next Fiscal Year. The purchase order shall specify the availability of funds and the period for which funds are available.

- b. All task orders are subject to the terms and conditions of the contract. In the event of conflict between a task order and the contract, the contract will take precedence.

5. PERFORMANCE OF SERVICES

- a. The Contractor shall commence performance of services on the date agreed to by the Contractor and the Ordering Activity.
- b. The Ordering Activity should include the criteria for satisfactory completion for each task in the Statement of Work or Delivery Order. Services shall be completed in a good and workmanlike manner.
- c. Any Contractor travel required in the performance of EC Services must comply with the Federal Travel Regulation or Joint Travel Regulations, as applicable, in effect on the date(s) the travel is performed. Established Federal Government per diem rates will apply to all Contractor travel. Contractors cannot use GSA city pair contracts.

6. STOP-WORK ORDER (FAR 52.242-15) (AUG 1989)

- a. The Contracting Officer may, at any time, by written order to the Contractor, require the Contractor to stop all, or any part, of the work called for by this contract for a period of 90 days after the order is delivered to the Contractor, and for any further period to which the parties may agree. The order shall be specifically identified as a stop-work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Within a period of 90 days after a stop-work is delivered to the Contractor, or within any extension of that period to which the parties shall have agreed, the Contracting Officer shall either:
 - i. Cancel the stop-work order; or
 - ii. Terminate the work covered by the order as provided in the Default, or the Termination for Convenience of the Government, clause of this contract.
- b. If a stop-work order issued under this clause is canceled or the period of the order or any extension thereof expires, the Contractor shall resume work. The Contracting Officer shall make an equitable adjustment in the delivery schedule or contract price, or both, and the contract shall be modified, in writing, accordingly, if-
- c. The stop-work order results in an increase in the time required for, or in the Contractor's cost properly allocable to, the performance of any part of this contract; and

- d. The Contractor asserts its right to the adjustment within 30 days after the end of the period of work stoppage; provided, that, if the Contracting Officer decides the facts justify the action, the Contracting Officer may receive and act upon the claim submitted at any time before final payment under this contract.
- e. If a stop-work order is not canceled and the work covered by the order is terminated for the convenience of the Government, the Contracting Officer shall allow reasonable costs resulting from the stop-work order in arriving at the termination settlement.

conflicts of interest that might otherwise exist in situations related to individual orders placed against the schedule contract. Examples of situations, which may require restrictions, are provided at FAR 9.508.

12. INVOICES

The Contractor, upon completion of the work ordered, shall submit invoices for EC services. Progress payments may be authorized by the Ordering Activity on individual orders if appropriate. Progress payments shall be based upon completion of defined milestones or interim products. Invoices shall be submitted monthly for recurring services performed during the preceding month.

13. PAYMENTS

- a. For firm-fixed price orders the Ordering Activity shall pay the Contractor, upon submission of proper invoices or vouchers, the prices stipulated in this contract for service rendered and accepted. Progress payments shall be made only when authorized by the order. For time and materials orders, the Payments under Time and Materials and Labor Hour Contracts at FAR 52.212-4 (MAR 2009) (ALTERNATE I – OCT 2008) (DEVIATION I – FEB 2007) applies to time and materials orders placed under this contract. For labor hour orders, the Payment under Time and Materials and Labor Hour Contracts at FAR 52.212-4 (MAR 2009) (ALTERNATE I – OCT 2008) (DEVIATION I – FEB 2007) applies to labor hour orders placed under this contract. 52.216-31 (Feb 2007) Time-and-Materials/Labor-Hour Proposal Requirements—Commercial Item Acquisition. As prescribed in 16.601(e)(3), insert the following provision:
 - b. The Government contemplates award of a Time-and-Materials or Labor-Hour type of contract resulting from this solicitation.
 - c. The offeror must specify fixed hourly rates in its offer that include wages, overhead, general and administrative expenses, and profit. The offeror must specify whether the fixed hourly rate for each labor category applies to labor performed by—
 - i. The offeror;
 - ii. Subcontractors; and/or
 - iii. Divisions, subsidiaries, or affiliates of the offeror under a common control.

7. INSPECTION OF SERVICES

The Inspection of Services—Fixed Price (AUG 1996) (Deviation – May 2003) clause at FAR 52.246-4 applies to firm-fixed price orders placed under this contract. The Inspection—Time and Materials and Labor-Hour (MAY 2001) (Deviation – May 2003) clause at FAR 52.246-6 applies to time and materials and labor-hour orders placed under this contract.

8. RESPONSIBILITIES OF THE CONTRACTOR

The Contractor shall comply with all laws, ordinances, and regulations (Federal, State, City, or otherwise) covering work of this character. If the end product (i.e., deliverable) of a Statement of Work is custom developed software, then FAR 52.227-14 (Deviation – May 2003) Rights in Data – General, may apply.

9. RESPONSIBILITIES OF THE ORDERING ACTIVITY

Subject to security regulations, the Ordering Activity shall permit Contractor access to all facilities necessary to perform the requisite EC Services.

10. INDEPENDENT CONTRACTOR

All EC Services performed by the Contractor under the terms of this contract shall be as an independent Contractor, and not as an agent or employee of the Ordering Activity.

11. ORGANIZATIONAL CONFLICTS OF INTEREST

- a. Definitions.

An “Organizational conflict of interest” exists when the nature of the work to be performed under a proposed Ordering Activity contract, without some restriction on ordering activities by the Contractor and its affiliates, may either (i) result in an unfair competitive advantage to the Contractor or its affiliates or (ii) impair the Contractor’s or its affiliates’ objectivity in performing contract work.
- b. To avoid an organizational or financial conflict of interest and to avoid prejudicing the best interests of the Ordering Activity, ordering activities may place restrictions on the Contractors, its affiliates, chief executives, directors, subsidiaries and subcontractors at any tier when placing orders against schedule contracts. Such restrictions shall be consistent with FAR 9.505 and shall be designed to avoid, neutralize, or mitigate organizational

14. INCIDENTAL SUPPORT COSTS

Incidental support costs are available outside the scope of this contract. The costs will be negotiated separately with the Ordering Activity in accordance with the guidelines set forth in the FAR.

15. APPROVAL OF SUBCONTRACTS

The Ordering Activity understands that Contractor, as an authorized reseller, will ultimately subcontract or furnish any of the work called for in a task order or Statement of Work through an applicable Service Provider.

16. DESCRIPTION OF ELECTRONIC COMMERCE (EC) SERVICES AND PRICING

- a. A description of each type of EC Service offered under Special Item Numbers 54151ECOM E-Commerce is set forth in Attachment A. Services and rates should be presented in the same manner as the Contractor sells to its commercial customers and other Ordering Activity customers.
- b. Pricing for all EC Services shall be in accordance with the Contractor's customary commercial practices: e.g., hourly rates, monthly rates, term rates, unit prices and/or fixed prices.

TERMS AND CONDITIONS APPLICABLE TO PURCHASE OF GENERAL-PURPOSE COMMERCIAL INFORMATION TECHNOLOGY TELECOMMUNICATIONS SUBCATEGORY, WIRELESS MOBILITY SOLUTIONS (SPECIAL ITEM NUMBER 517312)

1. GLOSSARY OF DEFINITIONS

- a. "Service Provider" shall mean a provider of the Wireless Services offered to Contractor through a letter of supply to be sold to Ordering Activities under this contract.

2. ACCEPTANCE TESTING

The Contractor shall provide acceptance test plans and procedures for ordering activity approval. The Contractor shall perform acceptance testing of the systems for ordering activity approval in accordance with the approved test procedures.

3. EQUIPMENT

The Contractor shall make available cellular voice and data devices. The cellular devices offered shall be compatible with the cellular access standards employed within the geographical scope of contract.

The Contractor shall provide programming of any cellular telephone device, including Contractor-provided and ordering activity-furnished devices, that conforms to the cellular service furnished by the Contractor.

4. WARRANTY

The Contractor shall provide a warranty covering each Contractor-provided device. The minimum duration of the warranty shall be the duration of the manufacturer's commercial warranty.

The warranty shall commence upon the later of the following:

- a. Activation of the user's service
- b. Installation/delivery of the equipment

The Contractor, by repair or replacement of the defective item, shall use reasonable commercial efforts to complete all warranty services promptly upon notification of the defect. Warranty service shall be deemed complete when the user has possession of the repaired or replaced item. If the Contractor renders warranty service by replacement, the user shall return the defective item(s) to the Contractor as soon as possible but not later than ten (10) working days after notification.

5. MANAGEMENT AND OPERATIONS PRICING

The Contractor shall provide management and operations pricing on a uniform basis. All management and operations requirements for which pricing elements are not specified shall be provided as part of the basic service.

6. TRAINING

The Contractor shall provide normal commercial installation, operation, maintenance, and engineering interface training on the system at the prices specified in Attachment B.

7. MONTHLY REPORTS

In accordance with commercial practices, the Contractor may furnish the Ordering Activity/user with a monthly summary Ordering Activity report.

8. WIRELESS SERVICE PLAN

The wireless service plans offered by Contractor hereunder are listed by applicable Service Provider in Attachment A.

USA COMMITMENT TO PROMOTE SMALL BUSINESS PARTICIPATION PROCUREMENT PROGRAMS

PREAMBLE

(Name of Company) provides commercial products and services to ordering activities. We are committed to promoting participation of small, small disadvantaged and women-owned small businesses in our contracts. We pledge to provide opportunities to the small business community through reselling opportunities, mentor-protégé programs, joint ventures, teaming arrangements, and subcontracting.

COMMITMENT

To actively seek and partner with small businesses.

To identify, qualify, mentor and develop small, small disadvantaged and women-owned small businesses by purchasing from these businesses whenever practical.

To develop and promote company policy initiatives that demonstrate our support for awarding contracts and subcontracts to small business concerns.

To undertake significant efforts to determine the potential of small, small disadvantaged and women-owned small business to supply products and services to our company.

To insure procurement opportunities are designed to permit the maximum possible participation of small, small disadvantaged, and women-owned small businesses.

To attend business opportunity workshops, minority business enterprise seminars, trade fairs, procurement conferences, etc., to identify and increase small businesses with whom to partner.

To publicize in our marketing publications our interest in meeting small businesses that may be interested in subcontracting opportunities.

We signify our commitment to work in partnership with small, small disadvantaged and women-owned small businesses to promote and increase their participation in ordering activity contracts.

Here is a general outline on how it works:

- The customer identifies their requirements.
- Federal Supply Schedule Contractors may individually meet the customer's needs, or - Federal Supply Schedule Contractors may individually submit a Schedules "Team Solution" to meet the customer's requirement.
- Customers make a best value selection.

ATTACHMENT A - CONTRACTOR SUPPLEMENTAL PRICELIST INFORMATION AND TERMS

Next Page

**ATTACHMENT A
CONTRACTOR SUPPLEMENTAL PRICELIST INFORMATION AND TERMS**

INSTRUCTIONS: Select the Manufacturer whose supplemental pricelist information and terms you want to view.

Manufacturer Name	
Anakam, Inc.	Micro Focus
BeyondTrust Software, Inc.	MSC.Software Corporation
Bivio Networks, Inc.	Napatech, Inc.
BT Federal	Nehemiah Security
Cambium Networks	Oracle America, Inc.
Carbon Black (FKA Bit9, Inc.)	Oversight Systems, Inc.
Citrix Online, LLC (GetGo, Inc.)	The Paciello Group
Convergys Customer Management Group, Inc	Parasoft Corporation
Dataguise, Inc.	Pegasystems, Inc.
Decision Lens, Inc.	Pitney Bowes Software, Inc.
DS Government Solutions Corp.	Planview, Inc.
Dynatrace, LLC	Pragma Systems, Inc.
Egenera, Inc.	PTC, Inc.
Entco Government Software, LLC.	QlikTech
FireMon, LLC	Qualys, Inc.
Flexera Software, Inc.	RedSeal Systems, Inc.
ForeScout Technologies, Inc.	RES Software, Inc.
Freedom Scientific	SailPoint Technologies, Inc.
Gigamon	SecureLogix Corporation
Hewlett-Packard Company	Serena Software, Inc.
IBM	Silver Peak Systems, Inc.
Infor, Inc.	Thunderhead, Inc.
Information Builders, Inc.	Upland Software
Kaseva	Verint Americas, Inc.
Klas Telecom, Inc.	Worksoft
Kronos Incorporated	ZyLab North America, LLC
MarkLogic Corporation	

Anakam, Inc.
11710 Plaza America Drive
Suite 500
Reston, VA 20193

immixTechnology Rider to Product Specific License Terms and Conditions (for U.S. Government End Users)

1. **Scope.** This Rider and the attached **Anakam, Inc.** ("Manufacturer") product specific license terms establish the terms and conditions enabling immixTechnology ("Contractor") to provide Manufacturer's information technology products and services to Ordering Activities under immixTechnology's GSA MAS IT70 contract number GS-35F-0265X (the "Schedule Contract"). Installation and use of the information technology shall be in accordance with this Rider and Manufacturer Specific Terms attached hereto, unless an Ordering Activity determines that it requires different terms of use and Manufacturer agrees in writing to such terms in a valid delivery order placed pursuant to the Schedule Contract.
2. **Applicability.** Whereas GSA and immixTechnology agreed at the time of Schedule Contract award upon a base set of terms and conditions applicable to all manufacturers and items represented on the Schedule Contract; and Whereas, the parties further agreed that all product specific license, warranty and software maintenance terms and conditions would be submitted at the time each new manufacturer was to be added to the Schedule Contract; Now, Therefore, the parties hereby agree that the product specific license, warranty and software maintenance terms set forth in Attachment A hereto (the "Manufacturer Specific Terms" or the "Attachment A Terms") are incorporated into the Schedule Contract, but only to the extent that they are consistent with federal law (e.g., the Anti-Deficiency Act (31 U.S.C. § 1341), the Contracts Disputes Act of 1978 (41 U.S.C. §§ 7101 *et seq.*), the Prompt Payment Act (31 U.S.C. §§ 3901 *et seq.*), the Anti-Assignment statutes (31 U.S.C. § 3727 and 41 U.S.C. § 15), DOJ's jurisdictional statute 28 U.S.C. § 516 (Conduct of Litigation Reserved to the Department of Justice (DOJ), and 28 U.S.C. § 1498 (Patent and copyright cases)). To the extent any Attachment A Terms are inconsistent with federal law (See, FAR 12.212(a)), such inconsistent terms shall be superseded, unenforceable and of no legal force or effect in all resultant orders under the Schedule Contract, including but not limited to the following provisions:
 - a) **Contracting Parties.** The GSA Customer ("Licensee") is the "Ordering Activity", defined as the entity authorized to order under GSA MAS contracts as set forth in GSA ORDER ADM 4800.2G (Feb 2011), as may be revised from time to time.
 - b) **Changes to Work and Delays.** Subject to GSAR Clause 552.243-72, Modifications (Federal Supply Schedule) (July 2000) (Deviation I – SEPT 2010), and 52.212-4(f) Excusable Delays (JUN 2010) regarding which the GSAR and the FAR provisions take precedence.
 - c) **Contract Formation.** Subject to FAR 1.601(a) and FAR 43.102, the GSA Customer Purchase Order must be signed by a duly warranted Contracting Officer, in writing. The same requirement applies to contract modifications affecting the rights of the parties. All terms and conditions intended to bind the Government must be included within the contract signed by the Government.
 - d) **Termination.** Clauses in the Manufacturer Specific Terms referencing termination or cancellation are superseded and not applicable to any GSA Customer order. Termination shall be governed by the FAR, the underlying GSA Schedule Contract and the terms in any applicable GSA Customer Purchase Orders. If the Contractor believes the GSA Customer to be in breach, it must file a claim with the Contracting Officer and continue to diligently pursue performance. In commercial item contracting under FAR 12.302(b), the FAR provisions dealing with disputes and continued performance cannot be changed by the Contracting Officer.
 - e) **Choice of Law.** Subject to the Contracts Disputes Act, the validity, interpretation and enforcement of this Rider shall be governed by and construed in accordance with the laws of the United States. In the event the Uniform Computer Information Transactions Act (UCITA) or any similar federal laws or regulations are enacted, to the extent allowed by federal law, they will not apply to this Rider or the underlying Schedule Contract.
 - f) **Equitable remedies.** Equitable remedies are generally not awarded against the Government absent a statute providing therefore. In the absence of a direct citation to such a statute, all clauses in the Manufacturer Specific Terms referencing equitable remedies are superseded and not applicable to any GSA Customer order.
 - g) **Unilateral Termination.** Unilateral termination by the Contractor does not apply to a GSA Customer Purchase Order and all clauses in the Manufacturer Specific Terms referencing unilateral termination rights of the Manufacturer are hereby superseded.
 - h) **Unreasonable Delay.** Subject to FAR 52.212-4(f) Excusable delays, the Contractor shall be liable for default unless the nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence such as, acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.

- i) **Assignment.** All clauses regarding the Contractor's assignment are subject to FAR 52.232-23, Assignment of Claims (JAN 1986) and FAR 42.12 Novation and Change-of-Name Agreements (Sep. 2013). All clauses governing the Contractor's assignment in the Manufacturer Specific Terms are hereby superseded.
- j) **Waiver of Jury Trial.** Waivers of Jury Trials are subject to FAR 52.233-1 Disputes (JULY 2002). The Government will not agree to waive any right that it may have under federal law. All clauses governing a waiver of jury trial in the Manufacturer Specific Terms are hereby superseded.
- k) **Government Indemnities.** This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered. The Interim FAR Rule dated June 21, 2013 and the Office of Legal Counsel opinion dated March 12, 2012 prohibit such indemnifications. All Manufacturer Specific Terms referencing customer indemnities are hereby superseded.
- l) **Contractor Indemnities.** All Manufacturer Specific Terms that violate DOJ's jurisdictional statute (28 U.S.C. § 516) by requiring that the Government give sole control over the litigation and/or settlement to the Contractor are hereby superseded. Nothing contained in the Manufacturer's Specific terms shall be construed in derogation of the U.S. Department of Justice's right to defend any claim or action brought against the U.S., pursuant to its jurisdictional statute.
- m) **Renewals.** All Manufacturer Specific Terms that provide for automatic renewals violate the Anti-Deficiency Act and are hereby superseded. This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered.
- n) **Future Fees or Penalties.** All Manufacturer Specific Terms that require the Government to pay any future fees, charges or penalties are hereby superseded unless specifically authorized by existing statutes, such as the Prompt Payment Act (31 U.S.C. § 3901 et seq.) or Equal Access To Justice Act (5 U.S.C. § 504; 28 U.S.C. § 2412).
- o) **Taxes.** Taxes are subject to FAR 52.212-4(k), which provides that the contract price includes all applicable federal, state, local taxes and duties. Contractor shall state separately on its invoices, taxes excluded from the fees, and the GSA Customer agrees to either pay the amount of the taxes (based on the current value of the equipment or services) to Contractor or provide it evidence necessary to sustain an exemption, in accordance with FAR 52.229-1 and FAR 52.229-3.
- p) **Third Party Terms.** When the end user is an instrumentality of the U.S., no license terms bind the GSA Customer unless included verbatim (not by reference) in the EULA, and the EULA is made an attachment to the underlying GSA Schedule Contract. All terms and conditions affecting the GSA Customer must be contained in a writing signed by a duly warranted Contracting Officer. Any third party manufacturer shall be brought into the negotiation, or the components acquired separately under federally-compatible agreements, if any. All Manufacturer Specific Terms that incorporate third party terms by reference are hereby superseded.
- q) **Dispute Resolution and Standing.** Any disputes relating to the Manufacturer Specific Terms or to this Rider shall be resolved in accordance with the FAR, the underlying GSA Schedule Contract, any applicable GSA Customer Purchase Orders, and the Contract Disputes Act. The Ordering Activity expressly acknowledges that ImmixTechnology as contractor, on behalf of the Manufacturer, shall have standing to bring such claim under the Contract Disputes Act.
- r) **Advertisements and Endorsements.** Pursuant to GSAR 552.203-71, use of the name or logo of any U.S. Government entity is prohibited. All Manufacturer Specific Terms that allow the Contractor to use the name or logo of a Government entity are hereby superseded.
- s) **Public Access to Information.** immixTechnology agrees that the attached Manufacturer Specific Terms and this Rider contain no confidential or proprietary information and acknowledges the Rider shall be available to the public.
- t) **Confidentiality.** Any provisions in the attached Manufacturer Specific Terms that require the Ordering Activity to keep certain information confidential are subject to the Freedom of Information Act (5 U.S.C. § 552), and any order by a United States Federal Court. When the end user is an instrumentality of the U.S. Government, neither this Rider, the Manufacturer's Specific Terms nor the Schedule Price List shall be deemed "confidential information" notwithstanding marking to that effect. Notwithstanding anything in this Rider, the Manufacturer's Specific Terms or the Schedule Contract to the contrary, the GSA Customer may retain such Confidential Information as required by law, regulation or its bonafide document retention procedures for legal, regulatory or compliance purposes; provided however, that such retained Confidential Information will continue to be subject to the confidentiality obligations of this Rider, the Manufacturer's Specific Terms and the Schedule Contract.

- u) **Alternate Dispute Resolution.** The GSA Customer cannot be forced to mediate or arbitrate. Arbitration requires prior guidance by the head of a federal agency promulgated via administrative rulemaking according to 5 U.S.C. § 575(c). GSA has not issued any because it considers the Board of Contract Appeals to be an adequate, binding ADR alternative. All Manufacturer Specific Terms that allow the Contractor to choose arbitration, mediation or other forms of alternate dispute resolution are hereby superseded.
 - v) **Ownership of Derivative Works.** Provisions purporting to vest exclusive ownership of all derivative works in the licensor of the standard software on which such works may be based are superseded. Ownership of derivative works should be as set forth in the copyright statute, 17 U.S.C. § 103 and the FAR clause at 52.227-14, but at a minimum, the GSA Customer shall receive unlimited rights to use such derivative works at no further cost.
3. **Order of Precedence/Conflict.** To the extent there is a conflict between the terms of this Rider and the terms of the underlying Schedule Contract or a conflict between the terms of this Rider and the terms of an applicable GSA Customer Purchase Order, the terms of the GSA Schedule Contract or any specific, negotiated terms on the GSA Customer Purchase Order shall control over the terms of this Rider. Any capitalized terms used herein but not defined, shall have the meaning assigned to them in the underlying Schedule Contract.

ATTACHMENT A CONTRACTOR SUPPLEMENTAL PRICELIST INFORMATION AND TERMS

ANAKAM, INC.

ANAKAM LICENSE, WARRANTY AND SUPPORT TERMS

Section 1 - SOFTWARE LICENSE AND SERVICES AGREEMENT

1. DEFINITIONS

- **"Affiliate(s)"** shall mean, with respect to the Ordering Activity: (1) all business units and divisions of Ordering Activity, and (2) any entity controlled by, controlling, or under common control with Ordering Activity. Such entity shall be deemed to be an "Affiliate" only so long as such control exists. Upon request, Ordering Activity agrees to confirm the Affiliate status of a particular entity.
- **"Anakam Materials"** shall mean any materials provided to Ordering Activity by Anakam in the course of performing Services other than Maintenance Services.
- **"Ancillary Program(s)"** shall mean the third party materials delivered with the Programs as specified in one or more Order Forms or the Documentation.
- **"Commencement Date"** shall mean the date on which the Program(s) specified in an Order Form is first delivered to

Ordering Activity.

- **"Documentation"** shall mean Anakam's then current on-line help, guides, and manuals published by Anakam and made generally available by Anakam for the Programs. Documentation shall include any updated Documentation that Anakam provides with Updates.
 - **"Maintenance Services"** shall mean the services provided by Anakam pursuant to its then current Maintenance Services Policy.
- **"Order Form(s)"** shall mean a document by which Ordering Activity orders Program licenses and related Services and which is executed by the parties. Each Order Form shall incorporate this Agreement by reference.
- **"Program(s)"** shall mean (i) the version of the Anakam software identified as Program(s) specified in an Order Form, and (ii) Updates to such Programs. Programs shall not include Ancillary Programs.
- **"Services"** shall mean all services provided by Anakam under this Agreement, including Maintenance Services, Training Services, the Programs, Ancillary Programs, Documentation and Anakam Materials.
- **"Supported Platform"** shall mean the hardware and software platforms (e.g., database server systems, application server systems, and client systems) that operate with the Programs as expressly set forth in the Documentation.
- **"Update(s)"** shall mean (a) subsequent releases of the Programs that Anakam makes generally available to its Ordering Activities, and that (i) add new features, functionality, and/or improved performance, (ii) operate on new or other databases, operating systems, or client or server platforms, or (iii) add new foreign language capabilities; (b) bug or error fixes, patches,



CERTIFICATE OF LIABILITY INSURANCE

DATE(MM/DD/YYYY)
07/30/2020

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

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

PRODUCER Aon Risk Services Northeast, Inc. New York NY Office One Liberty Plaza 165 Broadway, Suite 3201 New York NY 10006 USA	CONTACT NAME: _____															
	PHONE (A/C. No. Ext): (866) 283-7122	FAX (A/C. No.): (800) 363-0105														
E-MAIL ADDRESS: _____																
INSURED Arrow Electronics, Inc. and Subsidiaries immixGroup, Inc.; immixTechnology Inc.; EC America 9201 East Dry Creek Road Centennial CO 80112 USA		<table border="1"> <thead> <tr> <th>INSURER(S) AFFORDING COVERAGE</th> <th>NAIC #</th> </tr> </thead> <tbody> <tr> <td>INSURER A: ACE Fire Underwriters Insurance Co.</td> <td>20702</td> </tr> <tr> <td>INSURER B: Indemnity Insurance Co of North America</td> <td>43575</td> </tr> <tr> <td>INSURER C: ACE American Insurance Company</td> <td>22667</td> </tr> <tr> <td>INSURER D: Federal Insurance Company</td> <td>20281</td> </tr> <tr> <td>INSURER E: Allianz Global Risks US Insurance Co.</td> <td>35300</td> </tr> <tr> <td>INSURER F:</td> <td></td> </tr> </tbody> </table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A: ACE Fire Underwriters Insurance Co.	20702	INSURER B: Indemnity Insurance Co of North America	43575	INSURER C: ACE American Insurance Company	22667	INSURER D: Federal Insurance Company	20281	INSURER E: Allianz Global Risks US Insurance Co.	35300	INSURER F:	
INSURER(S) AFFORDING COVERAGE	NAIC #															
INSURER A: ACE Fire Underwriters Insurance Co.	20702															
INSURER B: Indemnity Insurance Co of North America	43575															
INSURER C: ACE American Insurance Company	22667															
INSURER D: Federal Insurance Company	20281															
INSURER E: Allianz Global Risks US Insurance Co.	35300															
INSURER F:																

COVERAGES **CERTIFICATE NUMBER:** 570083375031 **REVISION NUMBER:**

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
C	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER: _____			XSLG71451616 SIR applies per policy terms & conditions	06/15/2020	06/15/2021	EACH OCCURRENCE	\$2,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence)	\$2,000,000
							MED EXP (Any one person)	
							PERSONAL & ADV INJURY	\$1,000,000
							GENERAL AGGREGATE	\$4,000,000
							PRODUCTS - COMP/OP AGG	\$4,000,000
B	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY			CAL H25306545	06/15/2020	06/15/2021	COMBINED SINGLE LIMIT (Ea accident)	\$2,000,000
							BODILY INJURY (Per person)	
							BODILY INJURY (Per accident)	
							PROPERTY DAMAGE (Per accident)	
D	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input type="checkbox"/> RETENTION			79656842	06/15/2020	06/15/2021	EACH OCCURRENCE	\$10,000,000
							AGGREGATE	\$10,000,000
B A B C	<input type="checkbox"/> WORKERS COMPENSATION AND EMPLOYERS' LIABILITY <input type="checkbox"/> ANY PROPRIETOR / PARTNER / EXECUTIVE OFFICER/MEMBER (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below			WLR C66921980 C66926709 C66922029 C66921943	01/01/2020 01/01/2020 01/01/2020 01/01/2020	01/01/2021 01/01/2021 01/01/2021 01/01/2021	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER E.L. EACH ACCIDENT E.L. DISEASE-EA EMPLOYEE E.L. DISEASE-POLICY LIMIT	 \$1,000,000 \$1,000,000 \$1,000,000

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

CERTIFICATE HOLDER Arrow Electronics, Inc. and Subsidiaries ; Immix Technology Inc.; EC America 9201 E. Dry Creek Road Centennial CO 80112 USA	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE <i>Aon Risk Services Northeast, Inc.</i>
---	--

Holder Identifier :

570083375031

Certificate No :



ITEM # 20-0304

Item# _____
Munis Contract# _____

**City of Santa Fe Contract
Between IMMIX Technology and the City of Santa Fe**

THIS AGREEMENT is made and entered into by and between the City of Santa Fe, herein after referred to as the "City", and IMMIXTECHNOLOGY, INC. herein after referred to as the "Contractor."

IT IS MUTUALLY AGREED BETWEEN THE PARTIES:

- 1. **Definitions**
 - A. "Under the terms of the Agreement, Contractor has agreed to provide Kronos Time and Attendance software and services.
 - B. "Business Hours" means 8:00 a.m. to 5:00 p.m. Mountain Time.
 - C. "You" and "your" refers to (Immix Technology). "We," "us" or "our" refers to the City and whose accounts are created under this Agreement.

- 2. **Scope of Services**
 - A. Kronos Software as a Service (SaaS) and Software Subscription Services 7/1/2020 – 6/30/2023 as described in Exhibit "I" attached hereto and incorporated herein. The relevant portions of GSA Contract #GS-35F-0265X, Terms and Conditions, and State Price Agreement are also attached hereto.

- 3. **Compensation**

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

<u>Deliverable item:</u>	<u>U/I (unit of issue)</u>	<u>Price</u>
01 Subscription Services 7/1/2020 – 6/30/2023		\$383,516.62

The total compensation under this Agreement shall not exceed three hundred eighty three thousand five hundred sixteen dollars and fifty two cents (\$383,516.52) including applicable gross receipts taxes as described in quote number (QUO-1109691-G4M3P3) attached hereto and incorporated herein.

4. **Payment Provisions**

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

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

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

5. **Term**

THIS AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED IN WRITING BY THE CITY. This Agreement shall begin on date approved by the City, and end on 06/30/2023 The City reserves the right to renew the contract on an annual basis by mutual Agreement not exceed a total of four years in accordance with NMSA 1978, §§ 13-1-150 through 152.

6. **Default and Force Majeure**

The City reserves the right to cancel all or any part of any orders placed under this contract without cost to the City, if the Contractor fails to meet the provisions of this contract and, except as otherwise provided herein, to hold the Contractor liable for any excess cost occasioned by the City due to the Contractor's default. The Contractor shall not be liable for any excess costs if failure to perform the order arises out of causes beyond the control and without the fault or negligence of the Contractor; such causes include, but are not restricted to, acts of

God or the public enemy, acts of the State or Federal Government, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather and defaults of sub-contractors due to any of the above, unless the City shall determine that the supplies or services to be furnished by the sub-contractor were obtainable from other sources in sufficient time to permit the Contractor to meet the required delivery scheduled. The rights and remedies of the City provided in this paragraph shall not be exclusive and are in addition to any other rights now being provided by law or under this contract.

7. **Termination**

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

B. **Notice; City Opportunity to Cure.**

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

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

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

C. **Liability.** Except as otherwise expressly allowed or provided under this Agreement, the City's sole liability upon termination shall be to pay for acceptable work performed prior to the Contractor's receipt or issuance of a notice of termination; provided, however, that a notice of termination shall not nullify or otherwise affect either party's liability for pre-termination defaults under or breaches of this Agreement. The Contractor shall submit an invoice for such work within thirty (30) days of receiving or sending the notice of termination. **THIS PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE THE CITY'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THIS AGREEMENT.**

8. **Amendment**

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

B. If the City proposes an amendment to the Agreement to unilaterally reduce funding due to budget or other considerations, the Contractor shall, within thirty (30) days of receipt of the proposed Amendment, have the option to terminate the Agreement, pursuant to the termination provisions as set forth in Paragraph 7 herein, or to agree to the reduced funding.

9. **Status of Contractor**

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

10. **Assignment**

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

11. **Subcontracting**

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

12. **Non-Collusion**

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

13. **Inspection of Plant**

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

14. **Commercial Warranty**

The Contractor agrees that the tangible personal property or services furnished under this Agreement shall be covered by the most favorable commercial warranties the Contractor gives to any customer for such tangible personal property or services, and that the rights and remedies

provided herein shall extend to the City and are in addition to and do not limit any rights afforded to the City by any other clause of this order. Contractor agrees not to disclaim warranties of fitness for a particular purpose or merchantability.

15. **Condition of Proposed Items**

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

16. **Records and Audit**

During the term of this Agreement and for three years thereafter, the Contractor shall maintain detailed records pertaining to the services rendered and products delivered. These records shall be subject to inspection by the City, the State Auditor and other appropriate state and federal authorities. The City shall have the right to audit billings both before and after payment. Payment under this Agreement shall not foreclose the right of the City to recover excessive or illegal payments.

17. **Appropriations**

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

18. **Release**

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

19. **Confidentiality**

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

20. **Conflict of Interest**

A. The Contractor represents and warrants that it presently has no interest and, during the term of this Agreement, shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under the Agreement. The Contractor shall comply with any applicable provisions of the New Mexico Governmental Conduct Act and the New Mexico Financial Disclosures Act.

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

C. Contractor's representations and warranties in Paragraphs A and B of this Paragraph are material representations of fact upon which the City relied when this Agreement was entered into by the parties. Contractor shall provide immediate written notice to the City if, at any time during the term of this Agreement, Contractor learns that Contractor's representations and warranties in Paragraphs A and B of this Paragraph 20 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances. If it is later determined that Contractor's representations and warranties in Paragraphs A and B of this Paragraph 20 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances, in addition to other remedies available to the City and notwithstanding anything in the Agreement to the contrary, the City may immediately terminate the Agreement.

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

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

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

22. **Scope of Agreement; Merger**

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

23. **Notice**

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

24. **Equal Opportunity Compliance**

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

25. **Indemnification**

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

26. **New Mexico Tort Claims Act**

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

27. **Applicable Law**

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

28. **Limitation of Liability**

The Contractor's liability to the City, for any cause whatsoever shall be limited to the purchase price paid to the Contractor for the products and services that are the subject of the City's, claim. The foregoing limitation does not apply to paragraph 25 of this Agreement or to damages resulting from personal injury caused by the Contractor's negligence.

29. **Incorporation by Reference and Precedence**

In the event of a dispute under this Agreement, applicable documents will be referred to for the purpose of clarification or for additional detail in the following order of precedence: (1) the terms and conditions of GSA Contract number GS-35F-0265X; (2) the NM state price agreement; (3) this Agreement; (4) the Quote attached to this agreement.

30. **Workers' Compensation**

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

31. **Inspection**

If this contract is for the purchase of tangible personal property (goods), final inspection and acceptance shall be made at Destination. Tangible personal property rejected at Destination for non-conformance to specifications shall be removed at Contractor's risk and expense promptly after notice of rejection and shall not be allowable as billable items for payment.

32. **Inspection of Services**

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

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

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

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

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

- (1) require the Contractor to take necessary action(s) to ensure that future performance conforms to the requirements of this Agreement; and
- (2) reduce the contract price to reflect the reduced value of the services performed.

E. If the Contractor fails to promptly re-perform the services or to take the necessary action(s) to ensure future performance in conformity with the requirements of this Agreement, the City may:

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

33. **Insurance**

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

A. **Commercial General Liability** insurance shall be written on an occurrence basis and be 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. **Impracticality of Performance**

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

35. **Invalid Term or Condition**

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

36. **Enforcement of Agreement**

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

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

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

- 1) give the Contractor prompt written notice within 48 hours of any claim;
- 2) allow the Contractor to control the defense of settlement of the claim; and
- 3) cooperate with the Contractor in a reasonable way to facilitate the defense or settlement of the claim.

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

- 1) provide the City the right to continue using the product or service and fully indemnify the City against all claims that may arise out of the City's use of the product or service;
 - 2) replace or modify the product or service so that it becomes non-infringing;
- or,
- 3) accept the return of the product or service and refund an amount equal to the value of the returned product or service, less the unpaid portion of the purchase price and any other amounts, which are due to the Contractor. The Contractor's obligation will be void as to any product or service modified by the City to the extent such modification is the cause of the claim.

38. **Survival**

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

39. **Disclosure Regarding Responsibility**

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

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

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

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

E. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the disclosure required by this document. The knowledge and information of a Contractor is not required to exceed that which is the normally possessed by a prudent person in the ordinary course of business dealings.

F. The disclosure requirement provided is a material representation of fact upon which reliance was placed when making an award and is a continuing material representation of the facts during the term of this Agreement. If during the performance of the contract, the Contractor is indicted for or otherwise criminally or civilly charged by any government entity (federal, state or local) with commission of any offenses named in this document the Contractor must provide immediate written notice to the City. If it is later determined that the Contractor knowingly rendered an erroneous disclosure, in addition to other remedies available to the Government, the City may terminate the involved contract for cause. Still further the City may suspend or debar the Contractor from eligibility for future solicitations until such time as the matter is resolved to the satisfaction of the City.

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

The City may, without cause, order the Contractor, in writing, to suspend, delay or interrupt the work in whole or in part for such period of time as the City may determine. The contract sum and contract time shall be adjusted for increases in cost and/or time associated with

Contractor's compliance therewith. Upon receipt of such notice, Contractor shall leave the jobsite and any equipment in a safe condition prior to departing. Contractor must assert rights to additional compensation within thirty (30) days after suspension of work is lifted and return to work is authorized. Any compensation requested for which entitlement is granted and the contract sum adjusted, shall have profit included (for work completed) and for cost only (not profit) for Contractor costs incurred directly tied to the suspension itself and not otherwise covered by Contract remedy. Any change in Total Compensation must be reflected in an Amendment executed pursuant to Section 8 of this Agreement.

41. **Notification**

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

To the City:

City of Santa Fe/IT Department
P.O. Box 909
Santa Fe, NM 87504-0909

To the Contractor:

IMMIX Technology, Inc.
8444 Westpark Drive, Ste. 200
McLean, VA 22102

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

To the Contractor:

IMMIX Technology, Inc.
8444 Westpark Drive, Ste. 200
McLean, VA 22102


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

42. **Succession**

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

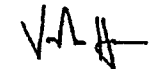
IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date of the signature by the required approval authorities below.

CITY OF SANTA FE:


ALAN WEBBER, MAYOR

DATE: July 1, 2020

CONTRACTOR:
IMMIXTECHNOLOGY, INC.

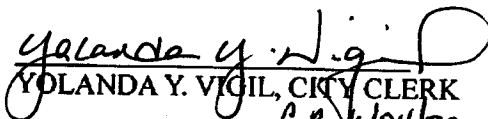
Vaughn Harman 
NAME

Sr. Director
TITLE

DATE: June 4, 2020
CRS# 03140957001

Registration # 20-227362

ATTEST:


YOLANDA Y. VIGIL, CITY CLERK
BIB 6/24/20

CITY ATTORNEY'S OFFICE:

Marcos Martinez
Marcos Martinez (Jun 5, 2020 12:31 PM)

SENIOR ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:



MARY MCCOY, FINANCE DIRECTOR

620, 6203600, 530710
Org.Name/Org.#









GB ITT A1 to IMMIX to add TeleStaff

Final Audit Report

2020-08-25

Created:	2020-08-25
By:	YODEL CATANACH (yocatanach@ci.santa-fe.nm.us)
Status:	Signed
Transaction ID:	CBJCHBCAABAAgfCbKFvJ7taCIYd2QITuPyPaK6cQ6KRd

"GB ITT A1 to IMMIX to add TeleStaff" History

-  Document created by YODEL CATANACH (yocatanach@ci.santa-fe.nm.us)
2020-08-25 - 8:36:08 PM GMT- IP address: 63.232.20.2
-  Document emailed to Alexis Lotero (aclotero@santafenm.gov) for signature
2020-08-25 - 8:46:41 PM GMT
-  Email viewed by Alexis Lotero (aclotero@santafenm.gov)
2020-08-25 - 9:20:28 PM GMT- IP address: 104.47.65.254
-  Document e-signed by Alexis Lotero (aclotero@santafenm.gov)
Signature Date: 2020-08-25 - 9:22:08 PM GMT - Time Source: server- IP address: 63.232.20.2
-  Document emailed to Fran Dunaway (fadunaway@santafenm.gov) for signature
2020-08-25 - 9:22:10 PM GMT
-  Email viewed by Fran Dunaway (fadunaway@santafenm.gov)
2020-08-25 - 9:35:06 PM GMT- IP address: 104.47.64.254
-  Document e-signed by Fran Dunaway (fadunaway@santafenm.gov)
Signature Date: 2020-08-25 - 9:38:50 PM GMT - Time Source: server- IP address: 63.232.20.2
-  Signed document emailed to Fran Dunaway (fadunaway@santafenm.gov), Alexis Lotero (aclotero@santafenm.gov), YODEL CATANACH (yocatanach@ci.santa-fe.nm.us), and dctapia@santafenm.gov
2020-08-25 - 9:38:50 PM GMT

ACTION SHEET
PUBLIC WORKS AND UTILITES COMMITTEE MEETING OF 09/08/2020

ISSUE NO. 9A

Request for Approval of Amendment 1 to the Immix Technology Agreement
 Item # 20-0306 Contract #3201928 for the Kronos Workforce Telestaff
 Cloud Hosting Services for a 3 year Contract Procured Through Immix
 Technology on GSA GS-35F-0265X in the Amount of \$111,204.38
 Budgeted in ITT Applications Software Subscriptions 6203600.530710
 (Manuel Gonzales, ITT Project Manager, mmgonzales@santafenm.gov
 955-5531)

COMMITTEE REVIEW
 Finance Committee (Scheduled) 09/21/2020
 Governing Body (Scheduled) 09/30/2020

PUBLIC WORKS AND UTILITES COMMITTEE ACTION: Approved on Consent Agenda.

SPECIAL CONDITIONS OR AMENDMENTS:

STAFF FOLLOW UP:

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



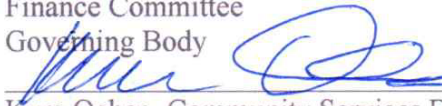
City of Santa Fe New Mexico

Memorandum



Date: August 26, 2020

To: Public Works Committee
Finance Committee
Governing Body

Via: 
Kyra Ochoa, Community Services Department Director

From: Gino Rinaldi, Division of Senior Services Director

ITEM AND ISSUE:

A RESOLUTION ADOPTING THE 2022-2026 SENIOR INFRASTRUCTURE CAPITAL IMPROVEMENTS PLAN (ICIP) FOR THE DIVISION OF SENIOR SERVICES, COMMUNITY SERVICES DEPARTMENT.

BACKGROUND AND SUMMARY:

The state-coordinated Senior Program Infrastructure Capital Improvements Plan (ICIP) establishes priorities for anticipated capital projects. It encourages entities to plan for the development of capital improvements of Senior Programs so they do not find themselves in emergency situations, but plan for, fund, and develop infrastructure at a pace that sustains their activities. In an attempt by the State to gain a full assessment of the infrastructure needs for Senior Citizen facilities, this category was added to the ICIP and requires all Senior Citizen facilities to submit an ICIP separately from their respective fiscal agent. Complying with this requirement allows Senior Services to compete for capital outlay grants from the Aging and Long Term Services Department.

Attached is the 2022-2026 ICIP for the City of Santa Fe, Division of Senior Services (DSS). As in years past, this process is completely beholden to the rules and regulation of the State Department of Finance and Administration. It includes the top ten projects for DSS for 2022-2026. The Fiscal Impact Report which is also attached shows no direct impact on the City's operating budget.

ACTION REQUESTED:

Request for approval of a resolution to adopt the 2022-2026 Senior ICIP.

ATTACHMENTS:

Resolution, FIR, 2022-2026 Senior ICIP

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2020-__

INTRODUCED BY:

A RESOLUTION

ADOPTING THE 2022-2026 SENIOR INFRASTRUCTURE CAPITAL IMPROVEMENTS PLAN (ICIP) FOR THE DIVISION OF SENIOR SERVICES, COMMUNITY SERVICES DEPARTMENT.

WHEREAS, the City of Santa Fe, New Mexico recognizes that the financing of public capital projects has become a major concern in New Mexico and nationally; and

WHEREAS, in times of scarce resources, it is necessary to find new financing mechanisms and maximize the use of existing resources; and

WHEREAS, systematic capital improvements planning is an effective tool for communities to define their development needs, establish priorities, and pursue concrete actions and strategies to achieve necessary project development; and

WHEREAS, this process contributes to local and regional efforts in project identification and selection in short and long range capital planning efforts; and

WHEREAS, these capital outlay projects are for improving seniors' access to various services and programs that the Division of Senior Services provide; and

Infrastructure Capital Improvement Plan FY 2022-2026

Mary Ester Gonzales Senior Center Project Summary

ID	Year	Rank	Project Title	Category	Funded to date	2022	2023	2024	2025	2026	Total	Amount	Phases?
											Project Cost	Not Yet Funded	
35925	2022	001	MEG Senior Center Electrical System Upgrade	Facilities - Senior Facilities	0	100,000	0	0	0	0	100,000	100,000	No
34245	2022	002	MEG Senior Center Vehicles	Vehicles - Senior Facility Vehicle	0	862,005	0	0	0	0	862,005	862,005	No
34803	2022	003	MEG Senior Center Corral Improvements	Facilities - Senior Facilities	0	628,019	0	0	0	0	628,019	628,019	No
34813	2022	004	MEG Senior Center Remodelling	Facilities - Senior Facilities	0	1,956,852	0	0	0	0	1,956,852	1,956,852	No
34814	2022	005	New Senior Center	Facilities - Senior Facilities	0	368,865	0	6,615,000	0	0	6,983,865	6,983,865	Yes
35931	2022	006	MEG Senior Center Meals Equipment	Equipment - Senior Center Equipment	0	75,000	0	0	0	0	75,000	75,000	No
34247	2022	007	MEG Senior Center HVAC Replacement	Equipment - Senior Center Equipment	0	140,000	0	0	0	0	140,000	140,000	No
34248	2022	008	MEG Senior Center Carpet Flooring Replacement	Facilities - Senior Facilities	0	90,000	0	0	0	0	90,000	90,000	No
31794	2022	009	MEG Senior Center Landscaping	Facilities - Senior Facilities	0	50,000	0	0	0	0	50,000	50,000	No
31793	2022	010	MEG Senior Center Roof Replacement	Facilities - Senior Facilities	36,500	324,710	0	0	0	0	361,210	324,710	No

Number of projects: 10

	Funded to date:	Year 1:	Year 2:	Year 3:	Year 4:	Year 5:	Total Project Cost:	Total Not Yet Funded:
Grand Totals	36,500	4,595,451	0	6,615,000	0	0	11,246,951	11,210,451

Infrastructure Capital Improvement Plan FY2022-2026

ICIP Capital Project Description

Year/Rank 2022 001 **Priority:** High **ID:**35925
Project Title: MEG Senior Center Electrical System Upgrade **Class:** New **Type/Subtype:** Facilities - Senior Facilities
Contact Name: Gino Rinaldi **Contact Phone:** (505)955-4710 **Contact E-mail:** earinaldi@santafenm.gov
Total project cost: 100,000 **Proposed project start date:** 2023
Project Location: 1121 Alto St., Santa Fe, NM Santa Fe NM 87504-0909 **Latitude:** 35.685592 **Longitude:** -105.961254
Legislative Language: To plan, design, construct and upgrade the electrical system at the Mary Esther Gonzales Senior Center in the City of Santa Fe, County of Santa Fe, NM.
Scope of Work: Construct a new infrastructure to accommodate an additional service at 480 V. This will include an installation of a new transformer (480 V to 120/208 V; 600 A 3 phase transformer), a new meter and a second MDP for distribution purposes.

Secured and Potential Funding Budget:

State Grant Funding should only be requested when all other funding sources have been exhausted if entity is providing matching funds, i.e. Federal, Local Taxes, Fees, NM Finance Authority Loans (NMFA), Tribal Infrastructure Fund (TIF), Water Trust Board (WTB), Public School Facility Authority (PSFA), Colonia's Infrastructure Board (CIB), etc. Please complete table below with all secured and potential funding sources.

Funding Source(s)	Funding Amount	Applied For? Yes or No	Amount Secured	Amt Expended to Date	Date(s)	
					Received	Comment
ALTSD	100,000	No	0	0		
	0	No	0	0		
	0	No	0	0		
	0	No	0	0		
	0	No	0	0		
	0	No	0	0		
	0	No	0	0		
	0	No	0	0		
TOTALS	100,000		0	0		

Project Budget - Complete the Budget below. Only include unfunded or unsecured funds under each project year. Note: Funded to Date column must equal the amounts listed above here.

	Completed	Funded to Date	Estimated Costs Not Yet Funded					Total Project Cos
			2022	2023	2024	2025	2026	
Water Rights	N/A	0	0	0	0	0	0	

Infrastructure Capital Improvement Plan FY2022-2026

Easements and Rights of Way	N/A	0	0	0	0	0	0	
Acquisition	N/A	0	0	0	0	0	0	
Archaeological Studies	N/A	0	0	0	0	0	0	
Environmental Studies	N/A	0	0	0	0	0	0	
Planning	N/A	0	0	0	0	0	0	
Design (Engr./Arch.)	No	0	10,000	0	0	0	0	10,00
Construction	No	0	90,000	0	0	0	0	90,00
Furnishing/Equipment	N/A	0	0	0	0	0	0	
TOTALS		0	100,000	0	0	0	0	100,00
Amount Not Yet Funded		100,000						

PHASING BUDGET

Can this project be phased? No

Phasing: Stand Alone: Yes Multi-Phased: No

A project single phase approach is used for projects that can be completed with one process because it is manageable, affordable, and will not require any foreseeable additional resources or activities to be fully operational when complete.

A project multi-phased approach is used for breaking down very large projects into manageable standalone parts that are independently functional and easier to fund.

If the multi-phase approach is being used it is required to provide accurate dates, costs, and funding sources for prior phases, and be able to provide reasonable projections of dates, costs, and funding sources for future phases. In addition, each multi-phase has three main levels: Planning, Design, and Construction. Each level can be funded individually, however strong emphasis is put on completing all three levels.

Phase	Amount	Plan	Design	Construct	Furnish/Equip	Other (Wtr Rights, Easements, Acq)	# Mos to Complete
1	0	No	No	No	No	No	0
2	0	No	No	No	No	No	0
3	0	No	No	No	No	No	0
4	0	No	No	No	No	No	0
5	0	No	No	No	No	No	0
TOTAL	0						

Infrastructure Capital Improvement Plan FY2022-2026

Has your local government/agency budgeted for operating expenses for the project when it is completed?						Yes
If no, please explain why:						
ANNUAL OPERATING BUDGET	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	TOTAL
Annual Operating Expenses plus Debt Service	3,808,046	3,808,046	3,808,046	3,808,046	3,808,046	19,040,230
Annual Operating Revenues	3,808,046	3,808,046	3,808,046	3,808,046	3,808,046	19,040,230

Does the project lower operating costs? No
 If yes, please explain and provide estimates of operating savings Not applicable.

Entities who will assume the following responsibilities for this project:

	Fiscal Agent:	Own:	Operate:	Own Land:	Own Asset:	Maintain:
	City of Santa Fe	City of Santa Fe	City of Santa Fe	City of Santa Fe	City of Santa Fe	City of Santa Fe
Lease/operating agreement in place?	No	No		No	No	No

More detailed information on project.

- (a) How many years is the requested project expected to be in use before needing Renovate/Repair or Replacement? 16 years or more
- (b) Has the project had public input and buy-in? Yes
- (c) Is the project necessary to address population or client growth and if so, will it provide services to that population or clientele? Yes

- (d) Regionalism - Does the project directly benefit an entity other than itself? Yes
 If yes, please list the other entity. County of Santa Fe
- (e) Are there oversight mechanisms built in that would ensure timely construction and completion of the project on budget? Yes
 Please explain. Every capital infrastructure project that Senior Services administers, the contractor is asked for work schedule based on approved Scope of Work submitted to ALTSD which the contractor adheres to.
- (f) Other than the temporary construction jobs associated with the project, does the project maintain or advance the region's economy? Yes
 If yes, please explain. The project indirectly advances the region's economy by maintaining the health of the Seniors. Participating in activities at Senior Centers reduces isolation and loneliness among Seniors.
- (g) Does the project benefit all citizens within a recognized region, district or political subdivision? Yes

Infrastructure Capital Improvement Plan FY2022-2026

If yes, please explain and provide the number of people that will benefit from the project.

Potentially, all Senior citizens residing in Santa Fe (21,401) could benefit from the project. In addition, hundreds of caregivers would also benefit from the project.

(h) Does the project eliminate a risk or hazard to public health and/or safety that immediately endangers occupants of the premises such that corrective action is urgent and unavoidable? Emergencies must be documented by a Subject Matter Expert. Yes

If yes, please explain. (If mandatory, provide Summary Page of the Federal, State or Judiciary Agency who issued the mandate.)

If the electrical system is not upgraded, the electrical snowmelt system installed at back parking lot could not be operated posing danger (i.e. slip & falls) to staff & clients in winter season.

Infrastructure Capital Improvement Plan FY2022-2026

ICIP Capital Project Description

Year/Rank 2022 002 **Priority:** High **ID:**34245
Project Title: MEG Senior Center Vehicles **Class:** Replace Existing **Type/Subtype:** Vehicles - Senior Facility Vehicle
Contact Name: Gino Rinaldi **Contact Phone:** (505) 955-4710 **Contact E-mail:** earinaldi@santafenm.gov
Total project cost: 862,005 **Proposed project start date:** 2023
Project Location: 1121 Alto St. Santa Fe NM 87504-0909 **Latitude:** 35.685592 **Longitude:** -105.961254
Legislative Language: To purchase, replace and equip program vehicles for Mary Esther Gonzales Senior Center in City of Santa Fe, Santa Fe County, NM.
Scope of Work: To purchase, replace and equip seventeen (17) program vehicles : a) nine (9) sedans for In-Home Support and Activities Use; b) two (2) regular transit vans and five (5) wheelchair vans in Transportation Section; and c) one (1) Hot shot for Meals on Wheels use. These vehicles will be purchased and equipped according to the City of Santa Fe's procurement procedures which will be a combination of Statewide Price Agreement and bidding.

Secured and Potential Funding Budget:

State Grant Funding should only be requested when all other funding sources have been exhausted if entity is providing matching funds, i.e. Federal, Local Taxes, Fees, NM Finance Authority Loans (NMFA), Tribal Infrastructure Fund (TIF), Water Trust Board (WTB), Public School Facility Authority (PSFA), Colonia's Infrastructure Board (CIB), etc.

Please complete table below with all secured and potential funding sources.

Funding Source(s)	Funding Amount	Applied For? Yes or No	Amount Secured	Amt Expended to Date	Date(s)	
					Received	Comment
ALTSD	862,005	Yes	0	0		
	0	No	0	0		
	0	No	0	0		
	0	No	0	0		
	0	No	0	0		
	0	No	0	0		
	0	No	0	0		
	0	No	0	0		
TOTALS	862,005		0	0		

Project Budget - Complete the Budget below. Only include unfunded or unsecured funds under each project year. Note: Funded to Date column must equal the amounts listed above here.

Completed	Funded to Date	Estimated Costs Not Yet Funded				Total Project Cos
		2022	2023	2024	2025	

Infrastructure Capital Improvement Plan FY2022-2026

Water Rights	N/A	0	0	0	0	0	0
Easements and Rights of Way	N/A	0	0	0	0	0	0
Acquisition	N/A	0	0	0	0	0	0
Archaeological Studies	N/A	0	0	0	0	0	0
Environmental Studies	N/A	0	0	0	0	0	0
Planning	N/A	0	0	0	0	0	0
Design (Engr./Arch.)	N/A	0	0	0	0	0	0
Construction	N/A	0	0	0	0	0	0
Furnishing/Equipment	No	0	862,005	0	0	0	862,000
TOTALS		0	862,005	0	0	0	862,000
Amount Not Yet Funded		862,005					

PHASING BUDGET

Can this project be phased? No

Phasing: Stand Alone: Yes Multi-Phased: No

A project single phase approach is used for projects that can be completed with one process because it is manageable, affordable, and will not require any foreseeable additional resources or activities to be fully operational when complete.

A project multi-phased approach is used for breaking down very large projects into manageable standalone parts that are independently functional and easier to fund.

If the multi-phase approach is being used it is required to provide accurate dates, costs, and funding sources for prior phases, and be able to provide reasonable projections of dates, costs, and funding sources for future phases. In addition, each multi-phase has three main levels: Planning, Design, and Construction. Each level can be funded individually, however strong emphasis is put on completing all three levels.

Phase	Amount	Plan	Design	Construct	Furnish/Equip	Other (Wtr Rights, Easements, Acq)	# Mos to Complete
1	0	No	No	No	No	No	0
2	0	No	No	No	No	No	0
3	0	No	No	No	No	No	0
4	0	No	No	No	No	No	0
5	0	No	No	No	No	No	0
TOTAL	0						

Infrastructure Capital Improvement Plan FY2022-2026

Has your local government/agency budgeted for operating expenses for the project when it is completed?						Yes
If no, please explain why:						
ANNUAL OPERATING BUDGET	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	TOTAL
Annual Operating Expenses plus Debt Service	3,808,046	3,808,046	3,808,046	3,808,046	3,808,046	19,040,230
Annual Operating Revenues	3,808,046	3,808,046	3,808,046	3,808,046	3,808,046	19,040,230

Does the project lower operating costs? Yes
If yes, please explain and provide estimates of operating savings All the 17 vehicles are older than 10 years old and have more than 100,000 miles. Cost of repairs and maintenance which averages about \$2,000 a year per vehicle would be prohibitive.

Entities who will assume the following responsibilities for this project:

	Fiscal Agent:	Own:	Operate:	Own Land:	Own Asset:	Maintain:
	City of Santa Fe	Senior Services, City of Santa Fe	Senior Services, City of Santa Fe	City of Santa Fe	City of Santa Fe	Senior Services, City of Santa Fe
Lease/operating agreement in place?	No	No		No	No	No

More detailed information on project.

- (a) How many years is the requested project expected to be in use before needing Renovate/Repair or Replacement? 10-15 years
- (b) Has the project had public input and buy-in? Yes
- (c) Is the project necessary to address population or client growth and if so, will it provide services to that population or clientele? Yes
- (d) **Regionalism - Does the project directly benefit an entity other than itself?** Yes
If yes, please list the other entity. County of Santa Fe, Santa Fe Civic Housing Authority, ALTSD.
- (e) **Are there oversight mechanisms built in that would ensure timely construction and completion of the project on budget?** Yes
Please explain. If funded, ALTSD requires a monthly and final report on project status. Also, they require DSS to obtain a Notice of Obligation before DSS can start expending the funds.
- (f) **Other than the temporary construction jobs associated with the project, does the project maintain or advance the region's economy?** Yes
If yes, please explain. By improving access to employment (20% of Seniors are employed), health care & other services, transportation projects like this one can increase economic productivity & development.

Infrastructure Capital Improvement Plan FY2022-2026

(g) Does the project benefit all citizens within a recognized region, district or political subdivision?

If yes, please explain and provide the number of people that will benefit from the project.

Yes

Based on the 2017 statistics, 10% of Senior population (some 830 people) residing within the City don't own a vehicle which matches the no. of Seniors (860) we transported in 2017.

(h) Does the project eliminate a risk or hazard to public health and/or safety that immediately endangers occupants of the premises such that corrective action is urgent and unavoidable? Emergencies must be documented by a Subject Matter Expert.

Yes

If yes, please explain. (If mandatory, provide Summary Page of the Federal, State or Judiciary Agency who issued the mandate.)

Several vehicular studies involving the elderly indicate that older drivers cause more accidents than any other age groups & their rate of fatal collisions per mile travelled is also the highest.

Infrastructure Capital Improvement Plan FY2022-2026

ICIP Capital Project Description

Year/Rank 2022 003 **Priority:** High **ID:**34803
Project Title: MEG Senior Center Corral Improvements **Class:** New **Type/Subtype:** Facilities - Senior Facilities
Contact Name: Eugene Rinaldi **Contact Phone:** (505)955-4710 **Contact E-mail:** earinaldi@santafenm.gov
Total project cost: 628,019 **Proposed project start date:** 2022
Project Location: 1121 Alto Street Santa Fe NM 87504-0909 **Latitude:** 35.685592 **Longitude:** -105.961254
Legislative Language: To plan, design, and improve the Senior Center's corralled area at Mary Esther Gonzales Senior Center, City of Santa Fe, in Santa Fe County, NM.
Scope of Work: Expand the existing corralled area, add more parking spaces, build new storage facility and construct a new wire fence to protect Senior Center's assets and improve safety and security. Detailed work includes: 1) demolish the existing wire fence; 2) expand the corralled area to include the expanded parking lot; 3) Resurface parking lot; 4) build new storage facility; 5) construct new wire fence; and 6) landscaping. This project will be co-managed by Senior Services and Public Works and will follow City of Santa Fe's procurement procedures.

Secured and Potential Funding Budget:

State Grant Funding should only be requested when all other funding sources have been exhausted if entity is providing matching funds, i.e. Federal, Local Taxes, Fees, NM Finance Authority Loans (NMFA), Tribal Infrastructure Fund (TIF), Water Trust Board (WTB), Public School Facility Authority (PSFA), Colonia's Infrastructure Board (CIB), etc. Please complete table below with all secured and potential funding sources.

Funding Source(s)	Funding Amount	Applied For? Yes or No	Amount Secured	Amt Expended to Date	Date(s)	
					Received	Comment
ALTSD	628,019	Yes	0	0		
	0	No	0	0		
	0	No	0	0		
	0	No	0	0		
	0	No	0	0		
	0	No	0	0		
	0	No	0	0		
	0	No	0	0		
TOTALS	628,019		0	0		

Project Budget - Complete the Budget below. Only include unfunded or unsecured funds under each project year. Note: Funded to Date column must equal the amounts listed above here.

Completed	Funded to Date	Estimated Costs Not Yet Funded					Total Project Cos
		2022	2023	2024	2025	2026	

Infrastructure Capital Improvement Plan FY2022-2026

Water Rights	N/A	0	0	0	0	0	0	0
Easements and Rights of Way	N/A	0	0	0	0	0	0	0
Acquisition	N/A	0	0	0	0	0	0	0
Archaeological Studies	N/A	0	0	0	0	0	0	0
Environmental Studies	N/A	0	0	0	0	0	0	0
Planning	No	0	0	0	0	0	0	0
Design (Engr./Arch.)	No	0	10,300	0	0	0	0	10,300
Construction	No	0	617,719	0	0	0	0	617,719
Furnishing/Equipment	N/A	0	0	0	0	0	0	0
TOTALS		0	628,019	0	0	0	0	628,019
Amount Not Yet Funded			628,019					

PHASING BUDGET

Can this project be phased? No

Phasing: Stand Alone: Yes Multi-Phased: No

A project single phase approach is used for projects that can be completed with one process because it is manageable, affordable, and will not require any foreseeable additional resources or activities to be fully operational when complete.

A project multi-phased approach is used for breaking down very large projects into manageable standalone parts that are independently functional and easier to fund.

If the multi-phase approach is being used it is required to provide accurate dates, costs, and funding sources for prior phases, and be able to provide reasonable projections of dates, costs, and funding sources for future phases. In addition, each multi-phase has three main levels: Planning, Design, and Construction. Each level can be funded individually, however strong emphasis is put on completing all three levels.

Phase	Amount	Plan	Design	Construct	Furnish/Equip	Other (Wtr Rights, Easements, Acq)	# Mos to Complete
1	0	No	No	No	No	No	0
2	0	No	No	No	No	No	0
3	0	No	No	No	No	No	0
4	0	No	No	No	No	No	0
5	0	No	No	No	No	No	0
TOTAL	0						

Infrastructure Capital Improvement Plan FY2022-2026

Has your local government/agency budgeted for operating expenses for the project when it is completed?							Yes
If no, please explain why:							
ANNUAL OPERATING BUDGET	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	TOTAL	
Annual Operating Expenses plus Debt Service	3,808,046	3,808,046	3,808,046	3,808,046	3,808,046	19,040,230	
Annual Operating Revenues	3,808,046	3,808,046	3,808,046	3,808,046	3,808,046	19,040,230	

Does the project lower operating costs?

Yes

If yes, please explain and provide estimates of operating savings

Four DSS vehicles were vandalized and 1 was stolen because they were not parked in the corralled area for lack of parking space. DSS spent a couple of thousand dollars in repairs.

Entities who will assume the following responsibilities for this project:

	Fiscal Agent:	Own:	Operate:	Own Land:	Own Asset:	Maintain:
	City of Santa Fe	City of Santa Fe	Senior Services, City of Santa Fe	City of Santa Fe	City of Santa Fe	Senior Services, City of Santa Fe
Lease/operating agreement in place?	No	No		No	No	No

More detailed information on project.

(a) How many years is the requested project expected to be in use before needing Renovate/Repair or Replacement? 16 years or more

(b) Has the project had public input and buy-in? Yes

(c) Is the project necessary to address population or client growth and if so, will it provide services to that population or clientele? Yes

(d) Regionalism - Does the project directly benefit an entity other than itself? Yes

If yes, please list the other entity. Sheriff's Office, Santa Fe County, ALTSD.

(e) Are there oversight mechanisms built in that would ensure timely construction and completion of the project on budget? Yes

Please explain. ALTSD requires a monthly report (both online and hard copies) of the status of the project. They also require a Notice of Obligation before funds can be expended.

(f) Other than the temporary construction jobs associated with the project, does the project maintain or advance the region's economy? Yes

If yes, please explain. We transport an average of 800 Seniors to grocery shopping, medical appointments, etc. Last FY, DSS served about 2,000 Seniors; some were County residents (MOW and In-Home Support).

Infrastructure Capital Improvement Plan FY2022-2026

(g) Does the project benefit all citizens within a recognized region, district or political subdivision?

If yes, please explain and provide the number of people that will benefit from the project.

Yes

All the 21,000+ Seniors residing in the City of Santa Fe have the opportunity to benefit from various programs and services Senior Services provides.

(h) Does the project eliminate a risk or hazard to public health and/or safety that immediately endangers occupants of the premises such that corrective action is urgent and unavoidable? Emergencies must be documented by a Subject Matter Expert.

Yes

If yes, please explain. (If mandatory, provide Summary Page of the Federal, State or Judiciary Agency who issued the mandate.)

Our drivers, respite care providers, and homemakers will feel more secured when they park or take out their vehicles to transport their clients.

Infrastructure Capital Improvement Plan FY2022-2026

ICIP Capital Project Description

Year/Rank 2022 004 **Priority:** High **ID:**34813
Project Title: MEG Senior Center Remodelling **Class:** Renovate/Repair **Type/Subtype:** Facilities - Senior Facilities
Contact Name: Eugene Rinaldi **Contact Phone:** (505) 955-4710 **Contact E-mail:** earinaldi@santafenm.gov
Total project cost: 1,956,852 **Proposed project start date:** 2022
Project Location: 1121 Alto Street Santa Fe NM 87504-0909 **Latitude:** 35.685592 **Longitude:** -105.961254
Legislative Language: To plan, design, and remodel the Mary Esther Gonzales Senior Center located at the City of Santa Fe, Santa Fe County, NM.
Scope of Work: This project will add another 5,150 sq ft of floor space to the MEG Senior Center which includes 1) expanding and converting the current fitness room into an adaptive gym to accommodate handicapped Seniors; 2) building two ADA multi-purpose rooms (arts and crafts rooms); and 3) adding Title III offices/rooms to be used for client re/assessment, respite rooms for clients with Alzheimer's and dementia, and records room per HIPA code and regulations.

Secured and Potential Funding Budget:

State Grant Funding should only be requested when all other funding sources have been exhausted if entity is providing matching funds, i.e. Federal, Local Taxes, Fees, NM Finance Authority Loans (NMFA), Tribal Infrastructure Fund (TIF), Water Trust Board (WTB), Public School Facility Authority (PSFA), Colonia's Infrastructure Board (CIB), etc.

Please complete table below with all secured and potential funding sources.

Funding Source(s)	Funding Amount	Applied For? Yes or No	Amount Secured	Amt Expended to Date	Date(s) Received	Comment
ALTSD	1,956,852	Yes	0	0		
	0	No	0	0		
	0	No	0	0		
	0	No	0	0		
	0	No	0	0		
	0	No	0	0		
	0	No	0	0		
	0	No	0	0		
TOTALS	1,956,852		0	0		

Project Budget - Complete the Budget below. Only include unfunded or unsecured funds under each project year. Note: Funded to Date column must equal the amounts listed above here.

Completed	Funded to Date	Estimated Costs Not Yet Funded				Total Project Cos
		2022	2023	2024	2025	

Infrastructure Capital Improvement Plan FY2022-2026

Water Rights	N/A	0	0	0	0	0	0	0
Easements and Rights of Way	N/A	0	0	0	0	0	0	0
Acquisition	N/A	0	0	0	0	0	0	0
Archaeological Studies	N/A	0	0	0	0	0	0	0
Environmental Studies	N/A	0	0	0	0	0	0	0
Planning	N/A	0	0	0	0	0	0	0
Design (Engr./Arch.)	No	0	109,280	0	0	0	0	109,280
Construction	No	0	1,847,572	0	0	0	0	1,847,572
Furnishing/Equipment	N/A	0	0	0	0	0	0	0
TOTALS		0	1,956,852	0	0	0	0	1,956,852
Amount Not Yet Funded			1,956,852					

PHASING BUDGET

Can this project be phased? No

Phasing: Stand Alone: Yes Multi-Phased: No

A project single phase approach is used for projects that can be completed with one process because it is manageable, affordable, and will not require any foreseeable additional resources or activities to be fully operational when complete.

A project multi-phased approach is used for breaking down very large projects into manageable standalone parts that are independently functional and easier to fund.

If the multi-phase approach is being used it is required to provide accurate dates, costs, and funding sources for prior phases, and be able to provide reasonable projections of dates, costs, and funding sources for future phases. In addition, each multi-phase has three main levels: Planning, Design, and Construction. Each level can be funded individually, however strong emphasis is put on completing all three levels.

Phase	Amount	Plan	Design	Construct	Furnish/Equip	Other (Wtr Rights, Easements, Acq)	# Mos to Complete
1	0	No	No	No	No	No	0
2	0	No	No	No	No	No	0
3	0	No	No	No	No	No	0
4	0	No	No	No	No	No	0
5	0	No	No	No	No	No	0
TOTAL	0						

Infrastructure Capital Improvement Plan FY2022-2026

Has your local government/agency budgeted for operating expenses for the project when it is completed?						Yes
If no, please explain why:						
ANNUAL OPERATING BUDGET	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	TOTAL
Annual Operating Expenses plus Debt Service	3,808,046	3,808,046	3,808,046	3,808,046	3,808,046	19,040,230
Annual Operating Revenues	3,808,046	3,808,046	3,808,046	3,808,046	3,808,046	19,040,230

Does the project lower operating costs?

Yes

If yes, please explain and provide estimates of operating savings

Like anything else, maintaining an old(er) facility is more expensive than a new(er) one.

Entities who will assume the following responsibilities for this project:

	Fiscal Agent:	Own:	Operate:	Own Land:	Own Asset:	Maintain:
	City of Santa Fe	City of Santa Fe	Senior Services, City of Santa Fe	City of Santa Fe	City of Santa Fe	Senior Services, City of Santa Fe
Lease/operating agreement in place?	No	No		No	No	No

More detailed information on project.

(a) How many years is the requested project expected to be in use before needing Renovate/Repair or Replacement? 16 years or more

(b) Has the project had public input and buy-in? Yes

(c) Is the project necessary to address population or client growth and if so, will it provide services to that population or clientele? Yes

(d) Regionalism - Does the project directly benefit an entity other than itself? Yes

If yes, please list the other entity. ALTSD because we carry out part of their mandate.

(e) Are there oversight mechanisms built in that would ensure timely construction and completion of the project on budget? Yes

Please explain. ALTSD requires a monthly report (both online via CPMS and notarized hard copy) of project status. They also require obtaining a Notice of Obligation before funding can be expended.

(f) Other than the temporary construction jobs associated with the project, does the project maintain or advance the region's economy? Yes

If yes, please explain. In the last FY, we serviced about 4,000 Seniors. These are 4,000 Seniors who are healthier, socially active, living in their homes and community and not being a burden to the State.

Infrastructure Capital Improvement Plan FY2022-2026

(g) Does the project benefit all citizens within a recognized region, district or political subdivision?

If yes, please explain and provide the number of people that will benefit from the project.

Yes

Potentially, all senior citizens (age 60 and older) residing in the City of Santa Fe, which was 21,401 based on 2015 Census Bureau estimates.

(h) Does the project eliminate a risk or hazard to public health and/or safety that immediately endangers occupants of the premises such that corrective action is urgent and unavoidable? Emergencies must be documented by a Subject Matter Expert.

If yes, please explain. (If mandatory, provide Summary Page of the Federal, State or Judiciary Agency who issued the mandate.)

Yes

Avoid trips and falls due to small spaces (not ADA compliant especially arts and crafts room, fitness room and toilets).

Infrastructure Capital Improvement Plan FY2022-2026

ICIP Capital Project Description

Year/Rank 2022 005 **Priority:** High **ID:**34814
Project Title: New Senior Center **Class:** New **Type/Subtype:** Facilities - Senior Facilities
Contact Name: Eugene Rinaldi **Contact Phone:** (505) 955-4710 **Contact E-mail:** earinaldi@santafenm.gov
Total project cost: 6,983,865 **Proposed project start date:** 2025
Project Location: 1121 Alto Street Santa Fe NM 87504-0909 **Latitude:** 35.685592 **Longitude:** -105.961254
Legislative Language: To plan, design, and construct a new Senior Center to serve the growing Senior population residing in the City of Santa Fe, in Santa Fe County, NM.
Scope of Work: 1) As part of planning process, to conduct a feasibility study of building a new senior center within the City of Santa Fe. 2) If deemed feasible, produce architectural plans and design including architectural drawings and specifications. 3) Construct the new Senior Center according to architectural specifications and code. 4) Parking and landscaping. 5) Outdoor amenities.

Secured and Potential Funding Budget:

State Grant Funding should only be requested when all other funding sources have been exhausted if entity is providing matching funds, i.e. Federal, Local Taxes, Fees, NM Finance Authority Loans (NMFA), Tribal Infrastructure Fund (TIF), Water Trust Board (WTB), Public School Facility Authority (PSFA), Colonia's Infrastructure Board (CIB), etc. Please complete table below with all secured and potential funding sources.

Funding Source(s)	Funding Amount	Applied For? Yes or No	Amount Secured	Amt Expended to Date	Date(s)	
					Received	Comment
ALTSD	6,983,865	Yes	0	0		
	0	No	0	0		
	0	No	0	0		
	0	No	0	0		
	0	No	0	0		
	0	No	0	0		
	0	No	0	0		
	0	No	0	0		
TOTALS	6,983,865		0	0		

Project Budget - Complete the Budget below. Only include unfunded or unsecured funds under each project year. Note: Funded to Date column must equal the amounts listed above here.

	Completed	Funded to Date	Estimated Costs Not Yet Funded					Total Project Cos
			2022	2023	2024	2025	2026	
Water Rights	N/A	0	0	0	0	0	0	

Infrastructure Capital Improvement Plan FY2022-2026

Easements and Rights of Way	N/A	0	0	0	0	0	0
Acquisition	N/A	0	0	0	0	0	0
Archaeological Studies	N/A	0	0	0	0	0	0
Environmental Studies	N/A	0	0	0	0	0	0
Planning	No	0	10,000	0	0	0	10,000
Design (Engr./Arch.)	No	0	358,865	0	0	0	358,865
Construction	No	0	0	0	6,615,000	0	6,615,000
Furnishing/Equipment	N/A	0	0	0	0	0	0
TOTALS		0	368,865	0	6,615,000	0	6,983,865
Amount Not Yet Funded		6,983,865					

PHASING BUDGET

Can this project be phased? Yes

Phasing: Stand Alone: No Multi-Phased: Yes

A project single phase approach is used for projects that can be completed with one process because it is manageable, affordable, and will not require any foreseeable additional resources or activities to be fully operational when complete.

A project multi-phased approach is used for breaking down very large projects into manageable standalone parts that are independently functional and easier to fund.

If the multi-phase approach is being used it is required to provide accurate dates, costs, and funding sources for prior phases, and be able to provide reasonable projections of dates, costs, and funding sources for future phases. In addition, each multi-phase has three main levels: Planning, Design, and Construction. Each level can be funded individually, however strong emphasis is put on completing all three levels.

Phase	Amount	Plan	Design	Construct	Furnish/Equip	Other (Wtr Rights, Easements, Acq)	# Mos to Complete
1	368,865	Yes	Yes	No	No	No	0
2	6,615,000	No	No	Yes	No	No	0
3	0	No	No	No	No	No	0
4	0	No	No	No	No	No	0
5	0	No	No	No	No	No	0
TOTAL	6,983,865						

Infrastructure Capital Improvement Plan FY2022-2026

Has your local government/agency budgeted for operating expenses for the project when it is completed?							No
If no, please explain why: This is a proposed new facility.							
ANNUAL OPERATING BUDGET	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	TOTAL	
Annual Operating Expenses plus Debt Service	0	0	0	0	0	0	
Annual Operating Revenues	0	0	0	0	0	0	

Does the project lower operating costs? No

If yes, please explain and provide estimates of operating savings

Entities who will assume the following responsibilities for this project:

	Fiscal Agent:	Own:	Operate:	Own Land:	Own Asset:	Maintain:
	City of Santa Fe	City of Santa Fe	Senior Services, City of Santa Fe	City of Santa Fe	City of Santa Fe	Senior Services, City of Santa Fe
Lease/operating agreement in place?	No	No		No	No	No

More detailed information on project.

(a) How many years is the requested project expected to be in use before needing Renovate/Repair or Replacement? 16 years or more

(b) Has the project had public input and buy-in? Yes

(c) Is the project necessary to address population or client growth and if so, will it provide services to that population or clientele? Yes

(d) Regionalism - Does the project directly benefit an entity other than itself? Yes

If yes, please list the other entity. ALTSD because we carry out part of their mandate. Also, Santa Fe Civic Housing Authority.

(e) Are there oversight mechanisms built in that would ensure timely construction and completion of the project on budget? Yes

Please explain. If funded, ALTSD will require DSS to submit monthly reports on the status of the project. In addition, ALTSD requires obtaining Notice of Obligation before DSS can start expending.

(f) Other than the temporary construction jobs associated with the project, does the project maintain or advance the region's economy? Yes

If yes, please explain. If this facility is built, it will require additional City staff working full-time and/or part-time. It may also offer more jobs to Seniors through Senior Employment Program.

Infrastructure Capital Improvement Plan FY2022-2026

(g) Does the project benefit all citizens within a recognized region, district or political subdivision?

If yes, please explain and provide the number of people that will benefit from the project.

Yes

The project would potentially benefit 21,401 seniors residing in Santa Fe City based on 2015 US Census.

(h) Does the project eliminate a risk or hazard to public health and/or safety that immediately endangers occupants of the premises such that corrective action is urgent and unavoidable? Emergencies must be documented by a Subject Matter Expert.

Yes

If yes, please explain. (If mandatory, provide Summary Page of the Federal, State or Judiciary Agency who issued the mandate.)

If built, it will follow all OSHA safety standards, ADA requirements, and comply with applicable local, state and federal laws and regulations.

Infrastructure Capital Improvement Plan FY2022-2026

ICIP Capital Project Description

Year/Rank 2022 006 **Priority:** High **ID:**35931
Project Title: MEG Senior Center Meals Equipment **Class:** New **Type/Subtype:** Equipment - Senior Center Equipment
Contact Name: Gino Rinaldi **Contact Phone:** (505)955-4710 **Contact E-mail:** earinaldi@santafenm.gov
Total project cost: 75,000 **Proposed project start date:** 2023
Project Location: 1121 Alto St. Santa Fe NM 87504-0909 **Latitude:** 35.685592 **Longitude:** -105.961254
Legislative Language: To plan, design, purchase and install a hot/cold steam serving table and salad bar for Mary Esther Gonzales Senior Center Cafeteria in City of Santa Fe, Santa Fe County, NM.
Scope of Work: 1) Plan and design a hot/cold steam serving table and salad table that is ADA accessible; 2) solicit 3 bids; 3) purchase and install the equipment.

Secured and Potential Funding Budget:

State Grant Funding should only be requested when all other funding sources have been exhausted if entity is providing matching funds, i.e. Federal, Local Taxes, Fees, NM Finance Authority Loans (NMFA), Tribal Infrastructure Fund (TIF), Water Trust Board (WTB), Public School Facility Authority (PSFA), Colonia's Infrastructure Board (CIB), etc. Please complete table below with all secured and potential funding sources.

Funding Source(s)	Funding Amount	Applied For? Yes or No	Amount Secured	Amt Expended to Date	Date(s)	
					Received	Comment
ALTSD	75,000	No	0	0		
	0	No	0	0		
	0	No	0	0		
	0	No	0	0		
	0	No	0	0		
	0	No	0	0		
	0	No	0	0		
	0	No	0	0		
TOTALS	75,000		0	0		

Project Budget - Complete the Budget below. Only include unfunded or unsecured funds under each project year. Note: Funded to Date column must equal the amounts listed above here.

	Completed	Funded to Date	Estimated Costs Not Yet Funded					Total Project Cos
			2022	2023	2024	2025	2026	
Water Rights	N/A	0	0	0	0	0	0	
Easements and Rights of Way	N/A	0	0	0	0	0	0	

Infrastructure Capital Improvement Plan FY2022-2026

Acquisition	N/A	0	0	0	0	0	0
Archaeological Studies	N/A	0	0	0	0	0	0
Environmental Studies	N/A	0	0	0	0	0	0
Planning	N/A	0	0	0	0	0	0
Design (Engr./Arch.)	N/A	0	0	0	0	0	0
Construction	N/A	0	0	0	0	0	0
Furnishing/Equipment	No	0	75,000	0	0	0	75,000
TOTALS		0	75,000	0	0	0	75,000
Amount Not Yet Funded		75,000					

PHASING BUDGET

Can this project be phased? No

Phasing: Stand Alone: Yes Multi-Phased: No

A project single phase approach is used for projects that can be completed with one process because it is manageable, affordable, and will not require any foreseeable additional resources or activities to be fully operational when complete.

A project multi-phased approach is used for breaking down very large projects into manageable standalone parts that are independently functional and easier to fund.

If the multi-phase approach is being used it is required to provide accurate dates, costs, and funding sources for prior phases, and be able to provide reasonable projections of dates, costs, and funding sources for future phases. In addition, each multi-phase has three main levels: Planning, Design, and Construction. Each level can be funded individually, however strong emphasis is put on completing all three levels.

Phase	Amount	Plan	Design	Construct	Furnish/Equip	Other (Wtr Rights, Easements, Acq)	# Mos to Complete
1	0	No	No	No	No	No	0
2	0	No	No	No	No	No	0
3	0	No	No	No	No	No	0
4	0	No	No	No	No	No	0
5	0	No	No	No	No	No	0
TOTAL	0						

Infrastructure Capital Improvement Plan FY2022-2026

Has your local government/agency budgeted for operating expenses for the project when it is completed?							Yes
If no, please explain why:							
ANNUAL OPERATING BUDGET	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	TOTAL	
Annual Operating Expenses plus Debt Service	3,808,046	3,808,046	3,808,046	3,808,046	3,808,046	19,040,230	
Annual Operating Revenues	3,808,046	3,808,046	3,808,046	3,808,046	3,808,046	19,040,230	

Does the project lower operating costs?

Yes

If yes, please explain and provide estimates of operating savings

The current steam table and salad bar are falling apart and costing too much money to repair.

Entities who will assume the following responsibilities for this project:

	Fiscal Agent:	Own:	Operate:	Own Land:	Own Asset:	Maintain:
	City of Santa Fe	Senior Services, City of Santa Fe	Senior Services, City of Santa Fe	City of Santa Fe	Senior Services, City of Santa Fe	Senior Services, City of Santa Fe
Lease/operating agreement in place?	No	No		No	No	No

More detailed information on project.

(a) How many years is the requested project expected to be in use before needing Renovate/Repair or Replacement? 10-15 years

(b) Has the project had public input and buy-in? Yes

(c) Is the project necessary to address population or client growth and if so, will it provide services to that population or clientele? Yes

(d) Regionalism - Does the project directly benefit an entity other than itself? Yes

If yes, please list the other entity. NMAAA, ALTSD

(e) Are there oversight mechanisms built in that would ensure timely construction and completion of the project on budget? Yes

Please explain. If the project is funded via ALTSD, a detailed scope of work (including schedule & budget) has to be submitted to Capital Outlay Bureau & we need to adhere to it.

(f) Other than the temporary construction jobs associated with the project, does the project maintain or advance the region's economy? Yes

If yes, please explain. The salad bar encourages seniors to eat healthy & healthy seniors volunteer their time & energy in many organizations like MEG. Seniors volunteering in Santa Fe worth more than \$1M.

(g) Does the project benefit all citizens within a recognized region, district or political subdivision? Yes

Infrastructure Capital Improvement Plan FY2022-2026

If yes, please explain and provide the number of people that will benefit from the project.

Seniors control 80% of US aggregate net worth thus they spend more than any other age group. Healthy seniors has more money to spend that benefits everyone of workin age.

(h) Does the project eliminate a risk or hazard to public health and/or safety that immediately endangers occupants of the premises such that corrective action is urgent and unavoidable? Emergencies must be documented by a Subject Matter Expert.

Yes

If yes, please explain. (If mandatory, provide Summary Page of the Federal, State or Judiciary Agency who issued the mandate.)

The new hot/cold steam table & salad bar can maintain the correct temperature of food served at MEG cafeteria.

Infrastructure Capital Improvement Plan FY2022-2026

ICIP Capital Project Description

Year/Rank 2022 007 **Priority:** High **ID:**34247
Project Title: MEG Senior Center HVAC Replacement **Class:** Replace Existing **Type/Subtype:** Equipment - Senior Center Equipment
Contact Name: Eugene Rinaldi **Contact Phone:** (505) 955-4710 **Contact E-mail:** earinaldi@santafenm.gov
Total project cost: 140,000 **Proposed project start date:** 2023
Project Location: 1121 Alto St Santa Fe NM 87504-0909 **Latitude:** 35.685592 **Longitude:** -105.961254
Legislative Language: To purchase, replace, equip and install HVAC units at Mary Esther Gonzales Senior Center in the City of Santa Fe, Santa Fe County, NM.
Scope of Work: Purchase, replace, equip and install four (4) HVAC units at the Mary Esther Gonzales Senior Center. Senior Services will follow the State and City of Santa Fe procurement procedures and work will be supervised/ monitored by a City of Santa Fe Public Works Project Administrator.

Secured and Potential Funding Budget:

State Grant Funding should only be requested when all other funding sources have been exhausted if entity is providing matching funds, i.e. Federal, Local Taxes, Fees, NM Finance Authority Loans (NMFA), Tribal Infrastructure Fund (TIF), Water Trust Board (WTB), Public School Facility Authority (PSFA), Colonia's Infrastructure Board (CIB), etc. Please complete table below with all secured and potential funding sources.

Funding Source(s)	Funding Amount	Applied For? Yes or No	Amount Secured	Amt Expended to Date	Date(s) Received	Comment
ALTSB	140,000	No	0	0		
	0	No	0	0		
	0	No	0	0		
	0	No	0	0		
	0	No	0	0		
	0	No	0	0		
	0	No	0	0		
	0	No	0	0		
TOTALS	140,000		0	0		

Project Budget - Complete the Budget below. Only include unfunded or unsecured funds under each project year. Note: Funded to Date column must equal the amounts listed above here.

	Completed	Funded to Date	Estimated Costs Not Yet Funded					Total Project Cos
			2022	2023	2024	2025	2026	
Water Rights	N/A	0	0	0	0	0	0	

Infrastructure Capital Improvement Plan FY2022-2026

Easements and Rights of Way	N/A	0	0	0	0	0	0	0
Acquisition	N/A	0	0	0	0	0	0	0
Archaeological Studies	N/A	0	0	0	0	0	0	0
Environmental Studies	N/A	0	0	0	0	0	0	0
Planning	N/A	0	0	0	0	0	0	0
Design (Engr./Arch.)	N/A	0	0	0	0	0	0	0
Construction	N/A	0	0	0	0	0	0	0
Furnishing/Equipment	No	0	140,000	0	0	0	0	140,000
TOTALS		0	140,000	0	0	0	0	140,000
Amount Not Yet Funded		140,000						

PHASING BUDGET

Can this project be phased? No

Phasing: Stand Alone: No Multi-Phased: No

A project single phase approach is used for projects that can be completed with one process because it is manageable, affordable, and will not require any foreseeable additional resources or activities to be fully operational when complete.

A project multi-phased approach is used for breaking down very large projects into manageable standalone parts that are independently functional and easier to fund.

If the multi-phase approach is being used it is required to provide accurate dates, costs, and funding sources for prior phases, and be able to provide reasonable projections of dates, costs, and funding sources for future phases. In addition, each multi-phase has three main levels: Planning, Design, and Construction. Each level can be funded individually, however strong emphasis is put on completing all three levels.

Phase	Amount	Plan	Design	Construct	Furnish/Equip	Other (Wtr Rights, Easements, Acq)	# Mos to Complete
1	0	No	No	No	No	No	0
2	0	No	No	No	No	No	0
3	0	No	No	No	No	No	0
4	0	No	No	No	No	No	0
5	0	No	No	No	No	No	0
TOTAL	0						

Infrastructure Capital Improvement Plan FY2022-2026

Has your local government/agency budgeted for operating expenses for the project when it is completed?						Yes
If no, please explain why:						
ANNUAL OPERATING BUDGET	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	TOTAL
Annual Operating Expenses plus Debt Service	3,808,046	3,808,046	3,808,046	3,808,046	3,808,046	19,040,230
Annual Operating Revenues	3,808,046	3,808,046	3,808,046	3,808,046	3,808,046	19,040,230

Does the project lower operating costs?

If yes, please explain and provide estimates of operating savings

Yes

Constant repair of these units has become prohibitive. Also, when the units are down, we cannot serve food at the cafeteria because it's too hot which is dangerous to seniors' health & safety.

Entities who will assume the following responsibilities for this project:

Fiscal Agent:	Own:	Operate:	Own Land:	Own Asset:	Maintain:
City of Santa Fe	City of Santa Fe	Senior Services, City of Santa Fe	City of Santa Fe	Senior Services, City of Santa Fe	Senior Services, City of Santa Fe
Lease/operating agreement in place?	No	No	No	No	No

More detailed information on project.

(a) How many years is the requested project expected to be in use before needing Renovate/Repair or Replacement? 10-15 years

(b) Has the project had public input and buy-in? Yes

(c) Is the project necessary to address population or client growth and if so, will it provide services to that population or clientele? Yes

(d) Regionalism - Does the project directly benefit an entity other than itself? Yes

If yes, please list the other entity. ALTSD as we carry out part of their mandate.

(e) Are there oversight mechanisms built in that would ensure timely construction and completion of the project on budget? Yes

Please explain. If funded, ALTSD will require DSS to submit monthly reports on the status of the project. They will also require DSS to obtain a Notice of Obligation before funds can be expended.

(f) Other than the temporary construction jobs associated with the project, does the project maintain or advance the region's economy? Yes

If yes, please explain. The congregate meals DSS provides 5 days a week has both direct and indirect impact to the regional economy which may be discontinued if our HVACs malfunction

Infrastructure Capital Improvement Plan FY2022-2026

or stop working.

- (g) Does the project benefit all citizens within a recognized region, district or political subdivision?
If yes, please explain and provide the number of people that will benefit from the project.**

Yes

The project has the potential to benefit 21,401 senior citizens residing in City of Santa Fe based on US Census Bureau.

- (h) Does the project eliminate a risk or hazard to public health and/or safety that immediately endangers occupants of the premises such that corrective action is urgent and unavoidable? Emergencies must be documented by a Subject Matter Expert.**

Yes

If yes, please explain. (If mandatory, provide Summary Page of the Federal, State or Judiciary Agency who issued the mandate.)

Yes, especially when room temperature doesn't meet OSHA recommended workplace temperature of not lower than 68F (Winter) & not higher than 78F (Summer) for institutional buildings.

Infrastructure Capital Improvement Plan FY2022-2026

ICIP Capital Project Description

Year/Rank 2022 008 **Priority:** High **ID:**34248
Project Title: MEG Senior Center Carpet Flooring Replacement **Class:** Replace Existing **Type/Subtype:** Facilities - Senior Facilities
Contact Name: Eugene Rinaldi **Contact Phone:** (505) 955-4710 **Contact E-mail:** earinaldi@santafenm.gov
Total project cost: 90,000 **Proposed project start date:** 2023
Project Location: 1121 Alto St. Santa Fe NM 87504-0909 **Latitude:** 35.685543 **Longitude:** -105.961347
Legislative Language: To purchase, replace and install new carpets at the Mary Esther Gonzales Senior Center, in the City of Santa Fe, Santa Fe County, NM.
Scope of Work: Purchase, replace and install carpeting at Mary Esther Gonzales Senior Center with a 10-year abrasion resistant and a 20-year stain resistant carpet fiber. Work includes: 1) removing and disposing of existing carpet and cove base (approximately 10,000 sq ft); preparing substrate for application of new carpet/ cove base; and 3) installing the new carpet/cove base. Senior Services will follow the State and City of Santa Fe procurement procedures and work will be supervised/ monitored by a City of Santa Fe Public Works Project Administrator.

Secured and Potential Funding Budget:

State Grant Funding should only be requested when all other funding sources have been exhausted if entity is providing matching funds, i.e. Federal, Local Taxes, Fees, NM Finance Authority Loans (NMFA), Tribal Infrastructure Fund (TIF), Water Trust Board (WTB), Public School Facility Authority (PSFA), Colonia's Infrastructure Board (CIB), etc. Please complete table below with all secured and potential funding sources.

Funding Source(s)	Funding	Applied For?	Amount	Amt Expended	Date(s)	
	Amount	Yes or No	Secured	to Date	Received	Comment
ALTSD	90,000	No	0	0		
	0	No	0	0		
	0	No	0	0		
	0	No	0	0		
	0	No	0	0		
	0	No	0	0		
	0	No	0	0		
	0	No	0	0		
TOTALS	90,000		0	0		

Project Budget - Complete the Budget below. Only include unfunded or unsecured funds under each project year. Note: Funded to Date column must equal the amounts listed above here.

Completed	Funded to Date	Estimated Costs Not Yet Funded				Total Project Cos
		2022	2023	2024	2025	

Infrastructure Capital Improvement Plan FY2022-2026

Water Rights	N/A	0	0	0	0	0	0	0
Easements and Rights of Way	N/A	0	0	0	0	0	0	0
Acquisition	N/A	0	0	0	0	0	0	0
Archaeological Studies	N/A	0	0	0	0	0	0	0
Environmental Studies	N/A	0	0	0	0	0	0	0
Planning	N/A	0	0	0	0	0	0	0
Design (Engr./Arch.)	N/A	0	0	0	0	0	0	0
Construction	No	0	90,000	0	0	0	0	90,00
Furnishing/Equipment	N/A	0	0	0	0	0	0	0
TOTALS		0	90,000	0	0	0	0	90,00
Amount Not Yet Funded		90,000						

PHASING BUDGET

Can this project be phased? No

Phasing: Stand Alone: No Multi-Phased: No

A project single phase approach is used for projects that can be completed with one process because it is manageable, affordable, and will not require any foreseeable additional resources or activities to be fully operational when complete.

A project multi-phased approach is used for breaking down very large projects into manageable standalone parts that are independently functional and easier to fund.

If the multi-phase approach is being used it is required to provide accurate dates, costs, and funding sources for prior phases, and be able to provide reasonable projections of dates, costs, and funding sources for future phases. In addition, each multi-phase has three main levels: Planning, Design, and Construction. Each level can be funded individually, however strong emphasis is put on completing all three levels.

Phase	Amount	Plan	Design	Construct	Furnish/Equip	Other (Wtr Rights, Easements, Acq)	# Mos to Complete
1	0	No	No	No	No	No	0
2	0	No	No	No	No	No	0
3	0	No	No	No	No	No	0
4	0	No	No	No	No	No	0
5	0	No	No	No	No	No	0
TOTAL	0						

Infrastructure Capital Improvement Plan FY2022-2026

Has your local government/agency budgeted for operating expenses for the project when it is completed?							Yes
If no, please explain why:							
ANNUAL OPERATING BUDGET	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	TOTAL	
Annual Operating Expenses plus Debt Service	3,808,046	3,808,046	3,808,046	3,808,046	3,808,046	19,040,230	
Annual Operating Revenues	3,808,046	3,808,046	3,808,046	3,808,046	3,808,046	19,040,230	

Does the project lower operating costs? Yes
 If yes, please explain and provide estimates of operating savings Maintenance costs would be much less.

Entities who will assume the following responsibilities for this project:

	Fiscal Agent:	Own:	Operate:	Own Land:	Own Asset:	Maintain:
	City of Santa Fe	City of Santa Fe	City of Santa Fe	City of Santa Fe	City of Santa Fe	City of Santa Fe
Lease/operating agreement in place?	No	No		No	No	No

More detailed information on project.

- (a) How many years is the requested project expected to be in use before needing Renovate/Repair or Replacement? 1-9 years
- (b) Has the project had public input and buy-in? Yes
- (c) Is the project necessary to address population or client growth and if so, will it provide services to that population or clientele? Yes
- (d) Regionalism - Does the project directly benefit an entity other than itself? Yes
 If yes, please list the other entity. This project is completed as soon as the carpeting is replaced.
- (e) Are there oversight mechanisms built in that would ensure timely construction and completion of the project on budget? Yes
 Please explain. Department of Finance, Shirley Coca-Barela (Financial Analyst)
- (f) Other than the temporary construction jobs associated with the project, does the project maintain or advance the region's economy? Yes
 If yes, please explain. All services we provide at Mary Esther Gonzales Senior Center are supported by the County of Santa Fe as we act as their secondary provider for residents of County of Santa Fe.
- (g) Does the project benefit all citizens within a recognized region, district or political subdivision? Yes
 If yes, please explain and provide the number of people that will benefit from the project. The project could potentially benefit 21,401 senior citizens residing within the City of

Infrastructure Capital Improvement Plan FY2022-2026

Santa Fe ba

(h) Does the project eliminate a risk or hazard to public health and/or safety that immediately endangers occupants of the premises such that corrective action is urgent and unavoidable? Emergencies must be documented by a Subject Matter Expert.

Yes

If yes, please explain. (If mandatory, provide Summary Page of the Federal, State or Judiciary Agency who issued the mandate.)

A 2013 study on fall injuries in adults associated with rugs & carpets reveal that 54.2% of older adults treated in US' Emergency Depts. for falls are due to damaged carpets.

Infrastructure Capital Improvement Plan FY2022-2026

Water Rights		0	0	0	0	0	0
Easements and Rights of Way	N/A	0	0	0	0	0	0
Acquisition	N/A	0	0	0	0	0	0
Archaeological Studies	N/A	0	0	0	0	0	0
Environmental Studies	N/A	0	0	0	0	0	0
Planning	No	0	5,000	0	0	0	5,000
Design (Engr./Arch.)	N/A	0	0	0	0	0	0
Construction	No	0	45,000	0	0	0	45,000
Furnishing/Equipment	N/A	0	0	0	0	0	0
TOTALS		0	50,000	0	0	0	50,000
Amount Not Yet Funded		50,000					

PHASING BUDGET

Can this project be phased? No

Phasing: Stand Alone: Yes Multi-Phased: No

A project single phase approach is used for projects that can be completed with one process because it is manageable, affordable, and will not require any foreseeable additional resources or activities to be fully operational when complete.

A project multi-phased approach is used for breaking down very large projects into manageable standalone parts that are independently functional and easier to fund.

If the multi-phase approach is being used it is required to provide accurate dates, costs, and funding sources for prior phases, and be able to provide reasonable projections of dates, costs, and funding sources for future phases. In addition, each multi-phase has three main levels: Planning, Design, and Construction. Each level can be funded individually, however strong emphasis is put on completing all three levels.

Phase	Amount	Plan	Design	Construct	Furnish/Equip	Other (Wtr Rights, Easements, Acq)	# Mos to Complete
1	0	No	No	No	No	No	0
2	0	No	No	No	No	No	0
3	0	No	No	No	No	No	0
4	0	No	No	No	No	No	0
5	0	No	No	No	No	No	0
TOTAL	0						

Infrastructure Capital Improvement Plan FY2022-2026

Has your local government/agency budgeted for operating expenses for the project when it is completed?							Yes
If no, please explain why:							
ANNUAL OPERATING BUDGET	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	TOTAL	
Annual Operating Expenses plus Debt Service	3,808,046	3,808,046	3,808,046	3,808,046	3,808,046	19,040,230	
Annual Operating Revenues	3,808,046	3,808,046	3,808,046	3,808,046	3,808,046	19,040,230	

Does the project lower operating costs? No

If yes, please explain and provide estimates of operating savings

Entities who will assume the following responsibilities for this project:

	Fiscal Agent:	Own:	Operate:	Own Land:	Own Asset:	Maintain:
	City of Santa Fe	City of Santa Fe	Senior Services, City of Santa Fe	City of Santa Fe	City of Santa Fe	Senior Services, City of Santa Fe
Lease/operating agreement in place?	No	No		No	No	No

More detailed information on project.

(a) How many years is the requested project expected to be in use before needing Renovate/Repair or Replacement? 16 years or more

(b) Has the project had public input and buy-in? Yes

(c) Is the project necessary to address population or client growth and if so, will it provide services to that population or clientele? Yes

(d) Regionalism - Does the project directly benefit an entity other than itself? No

If yes, please list the other entity. Parks and Recreation,

(e) Are there oversight mechanisms built in that would ensure timely construction and completion of the project on budget? Yes

Please explain. The City of Santa Fe follows the NM State Purchasing Procurement Code and Senior Services along with Public Works oversee the project from start to finish.

(f) Other than the temporary construction jobs associated with the project, does the project maintain or advance the region's economy? Yes

If yes, please explain. Beautiful landscaping will increase property values of surrounding neighborhoods. Might attract tourists to move to Santa Fe and 2nd homeowners to live permanently in Santa Fe.

(g) Does the project benefit all citizens within a recognized region, district or political subdivision? Yes

Infrastructure Capital Improvement Plan FY2022-2026

If yes, please explain and provide the number of people that will benefit from the project.

Everyone will benefit living in areas with attractive green spaces to recreate, walk, breathe in fresh air, contemplate and relax.

(h) Does the project eliminate a risk or hazard to public health and/or safety that immediately endangers occupants of the premises such that corrective action is urgent and unavoidable? Emergencies must be documented by a Subject Matter Expert.

No

If yes, please explain. (If mandatory, provide Summary Page of the Federal, State or Judiciary Agency who issued the mandate.)

Infrastructure Capital Improvement Plan FY2022-2026

ICIP Capital Project Description

Year/Rank 2022 010 **Priority:** High **ID:**31793
Project Title: MEG Senior Center Roof Replacement **Class:** Replace Existing **Type/Subtype:** Facilities - Senior Facilities
Contact Name: Eugene Rinaldi **Contact Phone:** 505-955-4710 **Contact E-mail:** earinaldi@santafenm.gov
Total project cost: 361,210 **Proposed project start date:** 2023
Project Location: 1121 Alto St Santa Fe NM 87504-0909 **Latitude:** 35.685592 **Longitude:** -105.961254
Legislative Language: To plan, design, construct and replace existing roof at Mary Esther Gonzales Senior Center building, in the City of Santa Fe, Santa Fe County, NM.
Scope of Work: During the 2016 Legislative session, the City of Santa Fe received funding in the amount of \$36,500 which was fully executed on March 8, 2018. However, this funding would not be enough to replace the whole section of the roof which is now 40 years old, therefore more funding is needed. Scope of work includes planning, design and replacement of the 40-year old roof at the MEG Center with modified bitumen roof as per Carlisle Thermoplastic Polyolefin (TPO) 60 ML roofing system. Detailed activities consists of 1) tearing-off existing BRAI-APP roof layer; 2) cleaning and disposing of all debris; 3) preparing roof deck area for new application; 4) applying Carlisle-TPO 60 ML roofing system fully adhered with TPO bonding adhesive glue; and ventilating roof and sealing all roof penetrations with NovaLink elastomeric sealant for finish. Senior Services will follow the State and City of Santa Fe procurement procedures and work to be supervised/ monitored by a City of Santa Fe Public Works Project Administrator.

Secured and Potential Funding Budget:

State Grant Funding should only be requested when all other funding sources have been exhausted if entity is providing matching funds, i.e. Federal, Local Taxes, Fees, NM Finance Authority Loans (NMFA), Tribal Infrastructure Fund (TIF), Water Trust Board (WTB), Public School Facility Authority (PSFA), Colonia's Infrastructure Board (CIB), etc.

Please complete table below with all secured and potential funding sources.

Funding Source(s)	Funding Amount	Applied For? Yes or No	Amount Secured	Amt Expended to Date	Date(s) Received	Comment
ALTSD	98,000	Yes	36,500	0	3/8/2018	Proj begins mid Nov.
ALTSD	263,210	No	0	0		
	0	No	0	0		
	0	No	0	0		
	0	No	0	0		
	0	No	0	0		
	0	No	0	0		
TOTALS	361,210		36,500	0		

Project Budget - Complete the Budget below. Only include unfunded or unsecured funds under each project year. Note: Funded to Date column must equal the amounts listed above here.

Infrastructure Capital Improvement Plan FY2022-2026

	Completed	Funded to Date	Estimated Costs Not Yet Funded					Total Project Cos
			2022	2023	2024	2025	2026	
Water Rights	N/A	0	0	0	0	0	0	
Easements and Rights of Way	N/A	0	0	0	0	0	0	
Acquisition	N/A	0	0	0	0	0	0	
Archaeological Studies	N/A	0	0	0	0	0	0	
Environmental Studies	N/A	0	0	0	0	0	0	
Planning	N/A	0	0	0	0	0	0	
Design (Engr./Arch.)	No	0	10,000	0	0	0	0	10,000
Construction	No	36,500	314,710	0	0	0	0	351,210
Furnishing/Equipment	N/A	0	0	0	0	0	0	
TOTALS		36,500	324,710	0	0	0	0	361,210
Amount Not Yet Funded		324,710						

PHASING BUDGET

Can this project be phased? No

Phasing: Stand Alone: No Multi-Phased: No

A project single phase approach is used for projects that can be completed with one process because it is manageable, affordable, and will not require any foreseeable additional resources or activities to be fully operational when complete.

A project multi-phased approach is used for breaking down very large projects into manageable standalone parts that are independently functional and easier to fund.

If the multi-phase approach is being used it is required to provide accurate dates, costs, and funding sources for prior phases, and be able to provide reasonable projections of dates, costs, and funding sources for future phases. In addition, each multi-phase has three main levels: Planning, Design, and Construction. Each level can be funded individually, however strong emphasis is put on completing all three levels.

Phase	Amount	Plan	Design	Construct	Furnish/Equip	Other (Wtr Rights, Easements, Acq)	# Mos to Complete
1	0	No	No	No	No	No	0
2	0	No	No	No	No	No	0
3	0	No	No	No	No	No	0
4	0	No	No	No	No	No	0

Infrastructure Capital Improvement Plan FY2022-2026

5	0	No	No	No	No	No	0
TOTAL	0						

Has your local government/agency budgeted for operating expenses for the project when it is completed?							Yes
If no, please explain why:							
ANNUAL OPERATING BUDGET	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	TOTAL	
Annual Operating Expenses plus Debt Service	3,808,046	3,808,046	3,808,046	3,808,046	3,808,046	19,040,230	
Annual Operating Revenues	3,808,046	3,808,046	3,808,046	3,808,046	3,808,046	19,040,230	

Does the project lower operating costs?

Yes

If yes, please explain and provide estimates of operating savings

Cost of repairing leaking, old roof over and over again is expensive.

Entities who will assume the following responsibilities for this project:

	<u>Fiscal Agent:</u>	<u>Own:</u>	<u>Operate:</u>	<u>Own Land:</u>	<u>Own Asset:</u>	<u>Maintain:</u>
	City of Santa Fe	City of Santa Fe	Senior Services, City of Santa Fe	City of Santa Fe	City of Santa Fe	Senior Services, City of Santa Fe
Lease/operating agreement in place?	No	No		No	No	No

More detailed information on project.

(a) How many years is the requested project expected to be in use before needing Renovate/Repair or Replacement? 16 years or more

(b) Has the project had public input and buy-in? Yes

(c) Is the project necessary to address population or client growth and if so, will it provide services to that population or clientele? Yes

(d) Regionalism - Does the project directly benefit an entity other than itself? Yes

If yes, please list the other entity. ALTSD and DOH.

(e) Are there oversight mechanisms built in that would ensure timely construction and completion of the project on budget? Yes

Please explain. If funded, ALTSD will require DSS to submit monthly reports on the status of the project. DSS is also required to obtain a Notice of Obligation before funds can be expended

(f) Other than the temporary construction jobs associated with the project, does the project maintain or advance the region's economy? Yes

Infrastructure Capital Improvement Plan FY2022-2026

If yes, please explain. Healthier older adults cost less to Medicare and Medicaid programs.

(g) Does the project benefit all citizens within a recognized region, district or political subdivision?

Yes

If yes, please explain and provide the number of people that will benefit from the project.

All senior City residents numbering 21,041 based on 2015 US Census Bureau have the opportunity to benefit from various programs and services DSS provides.

(h) Does the project eliminate a risk or hazard to public health and/or safety that immediately endangers occupants of the premises such that corrective action is urgent and unavoidable? Emergencies must be documented by a Subject Matter Expert.

Yes

If yes, please explain. (If mandatory, provide Summary Page of the Federal, State or Judiciary Agency who issued the mandate.)

Health-Yes Safety-Yes Liability-Yes
Potential slip and fall liability due to roof leaks and potential mold issues if leaks go undetected in the sub-ceiling area.

Infrastructure Capital Improvement Plan FY 2022-2026

ICIP for Mary Ester Gonzales Senior Center

Contact: Eugene Rinaldi
1121 Alto St (Physical Address)
PO BOX 909 87504-0909 (Mailing address)
Santa Fe, NM 87501

Telephone No.: 505-955-4710
Email Address: earinaldi@santafenm.gov

County: Santa Fe

Entity Type: SF

Procurement Officer Name: Frances Dunaway
Telephone No.: 505-955-6432
Email Address: fadunaway@santafenm.gov

Financial Officer Name: Mary McCoy
Telephone No.: 505-955-6171
Email Address: mtmccoy@santafenm.gov

Executive Order 2013-006 Compliance

Is your entity compliant with Executive Order 2013-006? Yes

Does your entity have an asset management plan and/or inventory listing of capital assets? Yes

Entity Planning: Process, Nature/Effect/Options/Recommendations of Trends

Process

In March 2019, in preparation for formulating the 2022-2026 Area Plan on Aging, the Division of Senior Services has developed a preliminary strategic plan. Facilitated by an outside strategic planning consultant, this undertaking was participated by DSS Staff (Program Managers, Program Coordinators, Special Project Administrator and Administrative Assistant), 11-member of the Senior Advisory Council and other external key stakeholders (2 City Councillors, Community Services Department Director, AARP CEO, NMAAA Executive Director, etc). In the context of DSS' goals (see below), their strengths and weaknesses were assessed and analyzed vis-a-vis external opportunities and threats (SWOT Analysis) for successful delivery of Senior Services programs: door-to-door transportation, nutrition (congregate and home-delivered meals), in-home support (homemaker and respite care), preventive healthcare, volunteer opportunities, advocacy, outreach and activities/recreation for the elderly. Preliminary strategy and tactics addressing the challenges/issues identified for efficient and effective program delivery were developed including identification capital outlay needs to support the programs (e.g. a new senior center; how to attract Baby Boomers; etc.). Capital outlay needs/ projects were then prioritized through Asset Management Planning with a view to operating, maintaining and renewing our assets in the most cost effective manner possible, while providing a specific level of service. We conduct a full cycle Asset Management Plan that includes vehicle inventory, establishing remaining lifespan, developing level of service (LOS) that relates to stakeholders values and needs, establishing evaluation cycle and rating system, identifying replacement schedule, and establishing life cycle curve/costs. On the other hand, Senior Services Programs are prioritized by conducting a public hearing at the beginning of each year. In addition, in compliance with Non-Metro Area Agency on Aging funding requirement, each program (i.e. In-Home Support Services, Nutrition, Transportation and Volunteer Programs) conducts a Quality Survey annually to ensure that consumers are engaged in the development of services that will assist them. All these sources, along with an open-door policy for all seniors, resulted to providing some 4,251 Seniors with 62,214 hot meals served at five congregate meal sites and 96,596 meals delivered to home-bound Seniors; 34,722 rides to medical appointments, grocery shopping, meals, social services and other social activities and functions; 17,926 hours of in-home service and respite care provided to clients with Alzheimer's and Dementia, etc. in FY 2018-2019.

Goals

The City of Santa Fe, through its Division of Senior Services (DSS), provides a comprehensive array of programs to serve its elderly population. Our main goal is to enable Seniors residing in the City of Santa Fe to remain in their homes with a high quality of life for as long as possible through the provision of a broad spectrum of services including in-home support services, nutrition, transportation, volunteer opportunities, health and wellness programs. In this larger context, DSS' capital improvement goals are to: 1. Ensure the safety of all Seniors participating in various activities at Senior Centers by complying with all applicable Federal, State and local health and environmental regulations and building codes; 2) Ensure that all facilities and infrastructure are adequately provided and maintained to meet the needs and demands of a growing elderly population in the City of Santa Fe; 3) Ensure that our services and facilities are as accessible as possible and ADA compliant so seniors can stay living in their own homes as long as possible; and 4) Develop financial capability to build, maintain and staff necessary infrastructure to deliver critical services in a culturally appropriate, timely and cost-effective manner.

Infrastructure Capital Improvement Plan FY 2022-2026

Factors/Trends Considered

Following the US Census population projection, within a decade, the City of Santa Fe will see a marked increase in population of 65 years and older mainly because of retiring Baby Boomers. Nationally, from now until 2030, 10,000 Baby Boomers each day will hit retirement age. In City of Santa Fe, the projection is 4 residents retiring each day. And by the year 2020, the senior population in Santa Fe will be larger than the youth population (ages 0-19), perhaps for the first time in Santa Fe's history. The senior population is projected to grow to 25% of the city's total population, 30% by 2030 (10% higher than the US forecast) and 33% by 2040. This forecast does not include thousands of Baby Boomers living in Santa Fe as second homeowners as Census only counts permanent residents.

This fast growing population of older adults in today's society brings many issues and challenges. In the 2013 National Health & Aging Trend Study, 67% of seniors need help doing one or more daily activities while up to 75% of older adults have multiple (2 or more) chronic conditions. In addition, poverty is prevalent among senior citizens. In the City of Santa Fe, based on the 2015 US Census, 9% of seniors (1% higher than the national figure) were living below the poverty threshold and relying solely on Social Security retirement income. This condition may be attributed to higher percentage of Hispanics and female residing in Santa Fe. Adding to the complexity of meeting future challenges is the attitude and behavior of Baby Boomer retirees which are markedly different from the previous generation of older adults. Nationally, we see a decline of Senior citizens participating in Senior Centers. And while Seniors participating at MEG Senior Center has increased from previous years, it still the traditional retirees; not the Baby Boomer retirees.

Appendix I: ICIP Completion Certification Form

FY 2022-2026 ICIP Completion Certification

Form This certifies that

City of Santa Fe Senior Services

01142

Official Entity Name

ICIP Entity Code

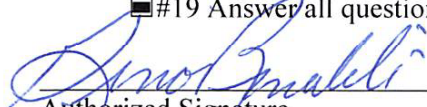
has completed and entered the information required for the FY 2022-2026 Infrastructure Capital Improvement Plan (ICIP), to include the following for each project (please check mark each item completed):

1. Entity Information.

- ICIP Officer, Procurement Officer, Financial Officer: name, telephone, email
- Legislative District
- COG District number
- Address Information
- Entity type
- Compliant with Executive Order 2013-006
- Asset management plan and/or inventory listing of capital assets
- Project Priority Process
- Capital Improvement Goals
- Factors/Trends Considered

2. Capital Project Detail.

- Priority
- Year/Rank
- Project Title
- Project Contact Information
- Total Project Cost
- Class
- Type/Subtype
- Project Location (include Latitude/Longitude)
- Legislative Language
- Scope of Work
- Secured/Potential Funding Budget
- Project Budget
- Phasing Budget
- Operating Budget
- Who will Own, Operate, Fiscal Agent, Own Land, Own Asset, and Maintain
- #19 Answer all questions as related to each specific project



Authorized Signature

08/26/2020

Date (xx/xx/xxxx)

Anna Binaldi

Printed Name

FISCAL IMPACT REPORT

General Information:

(Check) Bill: _____ Resolution: X

Short Title(s): Senior Services ICIP 2022-2026

Sponsor(s): Councilor Abeyta

Reviewing Department(s): Community Services

Staff Completing FIR: Anya Alarid Date: 08/26/20 Phone: 505-955-4744

Reviewed by City Attorney: *Eric McGray* Date: Sep 10, 2020

Reviewed by Finance Director: *Mary McCoy* Date: Sep 9, 2020

Summary:

The purpose of the Resolution is to adopt the 2022-2026 Senior Infrastructure Capital Improvements Plan (ICIP) for the Division of Senior Services. The community of Santa Fe will benefit from the adoption of the ICIP resolution which will enable City to apply for State senior capital outlay funding. The capital grants will provide capital funds for DSS facilities, vehicles, and other operating equipment.

Departments Affected:

Community Services/ Division of Senior Services

Consequences of Not Enacting Legislation:

The Division of Senior Services would not be able to apply for funding under General Obligation Bond (2022) and Severance Tax Bond (2021). In addition, we will not be in compliance with Department of Finance Authority's Policies, Rules and Regulations.

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

None identified.

Performance and Administrative Implications:

Yes. Existing personnel will be utilized to spend grant funds.

Fiscal Implications:

This Resolution allows the City to be eligible to apply for State Legislative Capital Outlay grants. Existing personnel will be utilized to spend grant funds. Submission of this plan is a requirement of the State's Department of Aging and Long-Term Services and Department of Finance.

Fiscal Impact

X Check here if no fiscal impact

Expenditures

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

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

Expenditure Narrative:

Revenue

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

Revenue Narrative:

Senior Services 2022-2026 ICIP (For Signature)

Final Audit Report

2020-09-10

Created:	2020-09-10
By:	Jesse Guillen (jbguillen@ci.santa-fe.nm.us)
Status:	Signed
Transaction ID:	CBJCHBCAABAATqZwd7s81jsQswRO0PFcQ3RPySu8PoGh

"Senior Services 2022-2026 ICIP (For Signature)" History

-  Document created by Jesse Guillen (jbguillen@ci.santa-fe.nm.us)
2020-09-10 - 0:20:27 AM GMT- IP address: 63.232.20.2
-  Document emailed to Erin McSherry (ekmcsherry@santafenm.gov) for signature
2020-09-10 - 0:25:30 AM GMT
-  Document emailed to Mary McCoy (mtmccoy@santafenm.gov) for signature
2020-09-10 - 0:25:30 AM GMT
-  Email viewed by Mary McCoy (mtmccoy@santafenm.gov)
2020-09-10 - 2:36:11 AM GMT- IP address: 104.47.64.254
-  Document e-signed by Mary McCoy (mtmccoy@santafenm.gov)
Signature Date: 2020-09-10 - 2:37:02 AM GMT - Time Source: server- IP address: 63.232.20.2
-  Email viewed by Erin McSherry (ekmcsherry@santafenm.gov)
2020-09-10 - 2:35:27 PM GMT- IP address: 67.180.3.211
-  Document e-signed by Erin McSherry (ekmcsherry@santafenm.gov)
Signature Date: 2020-09-10 - 2:38:29 PM GMT - Time Source: server- IP address: 67.180.3.211
-  Signed document emailed to Mary McCoy (mtmccoy@santafenm.gov), Jesse Guillen (jbguillen@ci.santa-fe.nm.us), earinaldi@santafenm.gov, and Erin McSherry (ekmcsherry@santafenm.gov)
2020-09-10 - 2:38:29 PM GMT

City of Santa Fe, New Mexico

memo

Date: July 1, 2020

To: Jarel La Pan Hill, City Manager

Via: *Kyra Ochoa*
Kyra Ochoa (Jul 20, 2020 08:40 MDT)
Kyra R. Ochoa, Community Services Dept. Director

From: Gino Rinaldi, Senior Services Division Director
Yvette Sweeney, DSS Nutrition Program Manager

RE: North Central New Mexico Economic Development District – Non Metro
Area Agency on Aging – Nutrition Services Incentive Program (NSIP)
Contract NO. 60026 (MUNIS Contract# 3201993)

Item an Issue:

Attached for your review and approval is MUNIS Project #SSD212401-NSIP 2021, North Central New Mexico Economic Development District, Non Metro Area Agency on Aging (AAA) Nutrition Service Incentive Program Contract # 60026 in the amount of **\$111,126.00**.

Background and Summary:

The Nutrition Service Incentive Program funds will be used to purchase raw food supplies for meal preparation for eligible senior citizens participating in our meal program. The contract funds represent cash payment to the City of Santa Fe for Fiscal Year 2021. Furthermore, this grant is funded at 100% Federal dollars which will subsidize the City's general fund account for its intended purpose.

Recommended Action:

For your review and approval.

c: Sandra Duran, Financial Analyst
Lugi Gonzales, DSS Project Manager



CITY OF SANTA FE PROCUREMENT CHECKLIST

Contractor Name: North Central New Mexico Economic Development District Non Metro AAA

Procurement Title: Nutrition Incentive Program (NSIP)

Procurement Method: State Price Agreement Cooperative Sole Source Other

Exempt Request For Proposal (RFP) Invitation To Bid (ITB) Contract under 60K Contract over 60K

Department Requesting Community/Senior Services Staff Name Anya Alarid

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	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Approved Procurement Checklist (by Purchasing)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Memo addressed to City Manager (under 60K) Committees/City Council (over 60K)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	State Price Agreement
<input type="checkbox"/>	<input checked="" type="checkbox"/>	RFP
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Evaluation Committee Report
<input type="checkbox"/>	<input checked="" type="checkbox"/>	ITB
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Bib Tab
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Quotes (3 valid current quotes)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Cooperative Agreement
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Sole Source Request and Determination Form
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Contractors Exempt Letter
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Purchasing Officers approval for exempt procurement
<input checked="" type="checkbox"/>	<input type="checkbox"/>	BAR
<input type="checkbox"/>	<input checked="" type="checkbox"/>	FIR
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Executed Contract, Agreement or Amendment
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Current Business Registration and CRS numbers on contract or agreement
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Summary of Contracts and Agreements form
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Certificate of Insurance
<input type="checkbox"/>	<input checked="" type="checkbox"/>	All documentation presented to Committees
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Other:

Anya Alarid Project Administrator 07/13/20
Title Date

Department Rep Printed Name (attesting that all information included) Title Date

Frank Dunaway Purchasing Officer (attesting that all information is reviewed) Title Date
Frank Dunaway (Jul 24, 2020 13:58 MDT)

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



City of Santa Fe

Real Estate Summary of Contracts, Agreements, Amendments & Leases

Section to be completed by department

1. Munis Contract # 3201993

Contractor: North Central New Mexico Economic Development District-Non Metro AAA

Description: NCNMEDD Non-Metro AAA Nutrition Service Incentive Program. Grant award in the amount of \$111,126.00. Procurement method utilized will be under the State Price agreement for Sysco, Ben E. Keith, Shamrock, and Labatt under CES Price agreement.

Contract Agreement Lease / Rent Amendment

Term Start Date: 07/01/2020 Term End Date: 06/31/2021

Approved by Council Date: _____

Contract / Lease: 60026

Amendment # _____ to the Original Contract / Lease # _____

Increase/(Decrease) Amount \$ _____

Extend Termination Date to: _____

Approved by Council Date: _____

Amendment is for:

2. **HISTORY of Contract, Amendments & Lease / Rent - Please Elaborate** (option: attach spreadsheet if multiple amendments)

3. **Procurement History:** _____

[Signature] 7/24/20
From: Dunaway (Jul 24, 2020 11:58 MDT) Date:

Purchasing Officer Review:

Comment & Exceptions: _____

4. **Funding Source: Federal Funds** _____ **Org / Object: 2410114/490715**

Alexis Lotero 7/24/20
Alexis Lotero (Jul 24, 2020 09:06 MDT) Date:

Budget Officer Approval:

Comment & Exceptions: _____

Staff Contact who completed this form: Anya Alarid Phone # 505-955-4744

Email: aalarid@santafenm.gov

To be recorded by City Clerk:

Clerk # _____

Date of Execution: _____

**North Central New Mexico Economic Development District
Non-Metro Area Agency on Aging**

**NUTRITION SERVICE INCENTIVE PROGRAM (NSIP)
SUBRECIPIENT CONTRACTOR SUB-AWARD**

This Agreement is made and entered into this 1st day of July 2020, by and between the North Central New Mexico Economic Development District(NCNMEDD) Non-Metro Area Agency on Aging (Non-Metro AAA), hereinafter referred to as the "Agency" and City of Santa Fe, hereinafter referred to as the "Subrecipient Contractor."

IT IS AGREED BETWEEN THE PARTIES:

1. Scope of Work

The Subrecipient Contractor will:

- A. Establish procedures to ensure that such cash payments are used solely for the purchase of United States agricultural commodities and other foods produced in the United States for use in their feeding operations. No imported foods may be purchased with these funds, e.g. coffee, tea, cocoa, and bananas.
- B. Ensure that NSIP funds are used exclusively for the purchase of food, not meal preparation.
- C. Ensure that meals furnished under contractual arrangement with food service management companies, caterers, restaurants, or institutions, contain United States produced commodities or foods.
- D. Encourage the purchase and use of locally sourced farm fresh food products that meet the nutritional standards of the Agency. Subrecipient Contractors must ensure that the farm food products meet the state New Mexico Environment Department (MED) requirements.
- E. Ensure that meals meet Title III-C standards for nutritional adequacy and sanitation.
- F. Maintain accounting records for NSIP separate and apart from other accounting records maintained for other nutrition funding sources (i.e., Title III-C1 and C2 and other cash used for raw food).
- G. Report monthly to the Agency on forms provided by the Agency and submit such other reports as deemed necessary by the Agency.
 1. Submit timely and accurate consumer/client tracking service documentation (rosters and transmittals) as required by the AAA by the close of business on the fifth (5th) work-day of each month following the last day of the month in which services were provided. If the fifth (5th) day falls on a weekend or AAA holiday, the information shall be delivered by close of business on the next business day.
 2. Submit supporting backup documentation (receipts) per the month that the NSIP funding is requested per the timelines established in item F.1.
- H. Maintain and retain for three years from close of the federal year to which they pertain, complete and accurate records of all amounts received and disbursed under this Agreement.
- I. Allow the Agency to monitor periodically the Subrecipient Contractor's fiscal

accountability of NSIP.

J. Abide by and comply with the conditions and requirements set forth in Title 45, Part 74 dated August 2, 1978 (Grant Administration); Implementation of OMB Circular No. A 110; Uniform Policies). Moreover, the Subrecipient Contractor will abide by Volume 38, No. 181 dated September 19, 1973 (Part II-Administration of Grants) as well as other applicable federal regulations that are currently in effect or will come into effect during the term of this contract.

K. Ensure eligible participants are assessed and registered in SAMS.

L. Ensure meals served meet the following:

Congregate Meals – A hot or other appropriate meal served to an eligible person which meets one-third (1/3) of the dietary reference intakes (DRI) as established by the Food and Nutrition Board of the Institute of Medicine of the National Academy of Sciences and complies with the most recent Dietary Guidelines for Americans, published by the Secretary and the Secretary of Agriculture, and which is served in a congregate setting 5 or more days per week. There are two types of congregate meals:

- **Standard meal** – A regular meal from the standard menu that is served to the majority of the participants.
- **Therapeutic meal or liquid supplement** – A special meal or liquid supplement that has been prescribed by a physician and is planned specifically for the participant by a dietician (e.g., diabetic diet, renal diet, tube feeding).

Home Delivered Meals – Hot, cold, frozen, dried, canned or supplemental food (with a satisfactory storage life) which provides a minimum of one-third (1/3) of the dietary reference intakes (DRI) as established by the Food and Nutrition Board of the Institute of Medicine of the National Academy of Sciences and complies with the Dietary Guidelines for Americans, published by the Secretary and the Secretary of Agriculture, and is delivered to an eligible person in the place of residence. The objective is to assist the recipient sustain independent living in a safe and healthful environment 5 or more days per week. Home delivered meals may be served as breakfast, lunch, dinner or weekend meals.

M. As recommended by the Agency, these funds be expended prior to Title III-C funds and/or state funds.

2. **Compensation**

A. The total amount payable to the Subrecipient Contractor under this Agreement shall not exceed \$111,126.00 for eligible meals served during the period July 1, 2020 through June 30, 2021 regardless of funding sources, to eligible participants and their spouses.

B. All subsequent payments will be disbursed upon receipt of actual service delivery data from the Subrecipient Contractor.

3. **Gross Receipts Tax**

Not applicable. Tax exempt.

4. **Term**

No terms of this Agreement shall become effective until approved by the Department of Finance and Administration and shall terminate on June 30, 2021, unless terminated pursuant to paragraph 5, infra.

5. **Termination**

A. This Agreement may be terminated by the Agency without cause upon written notice delivered to the Subrecipient Contractor at least thirty (30) days prior to the intended date of termination. By such termination, neither party may nullify obligations already incurred for performance or failure to perform prior to the date of termination. This Agreement may be terminated immediately upon written notice to the Subrecipient Contractor if the Subrecipient Contractor becomes unable to perform the services contracted for, as determined by the Agency, or if, during the term of this Agreement, the Subrecipient Contractor or any of its officers, employees or agents, is indicted for fraud, embezzlement or other crime due to misuse of state funds or due to the Appropriations paragraph herein, or if the Subrecipient Contractor fails to comply with any of the terms contained herein or is in breach of this Agreement. This provision is not exclusive and does not waive the Agency's other legal rights and remedies caused by the Subrecipient Contractor's default or breach of this Agreement. This Agreement also may be terminated by the Subrecipient Contractor upon thirty (30) days written notice to the Agency.

B. **Termination Management.** Immediately upon receipt by either the Agency or the Subrecipient Contractor of notice of termination of this Agreement, the Subrecipient Contractor shall: 1) not incur any further obligations for salaries, services or any other expenditure of funds under this Agreement without written approval of the Agency; 2) comply with all directives issued by the Agency in the notice of termination as to the performance of work under this Agreement; and 3) take such action as the Agency shall direct for the protection, preservation, retention or transfer of all property titled to the Agency and client records generated under this Agreement and any non-expendable personal property or equipment purchased by the Subrecipient Contractor with contract funds shall become property of the Agency upon termination. On the date the notice of termination is received, the Subrecipient Contractor shall furnish to the Agency a complete, detailed inventory of non-expendable personal property purchased with funds provided under the existing and previous Agency agreements with the Subrecipient Contractor; the property listed in the inventory report including client records and a final closing of the financial records and books of accounts which were required to be kept by the Subrecipient Contractor under the paragraph of this Agreement regarding financial records.

6. **Status of Subrecipient Contractor**

The Subrecipient Contractor, his agents and employees, are independent Subrecipient Contractors performing services for the Agency and are not employees of the Agency. The Subrecipient Contractor, his agents and employees, shall not accrue leave, retirement, insurance, bonding, or any other benefit afforded to employees of the Agency as a result of this Agreement.

7. **Assignment**

The Subrecipient Contractor shall not assign any portion of the services to be performed under this Agreement without the prior written approval of the Agency.

8. **Subcontracting**

The Subrecipient Contractor shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of the Agency.

9. Records and Audit

A. The Subrecipient Contractor shall maintain detailed records which indicate the date, time, and nature of services rendered. These records shall be subject to inspection by the Agency, Aging & Long-Term Services Department (ALTSD), the Department of Finance and Administration, the State Auditor, the U.S. Department of Agriculture, and the U.S. General Accounting Office. The Agency shall have the right to audit billings both before and after payment; payment under this Agreement shall not foreclose the right of the Agency to recover excessive, improper, or illegal payments.

B. The Subrecipient Contractor will provide a financial and compliance audit report to the Agency covering the period July 1, 2020 to June 30, 2021. The audit reports provided to the Agency must include a copy of the Auditor's management letter. This audit shall be conducted in accordance with generally accepted auditing standards and shall encompass the following provisions.

- 1. The Vendor, expending equal to \$750,000 but less than or equal to \$25,000,000 more in combined federal funds, shall have an audit conducted in accordance with Revised OmniCircular 200.518(b)(1), which streamlines eight different grant circulars into one set. A fair allocation of the audit costs may be charged to both federal and state funds under this Agreement. A copy of the complete report package as required to be submitted by A-133 to the designated clearinghouse shall also be provided to the Agency. The audit report shall include a schedule of administrative and program expenses for each separate federal title or program (Title IIB, Title IIIC-1, Title IIIC-II, Title IIID, Title IIIE, NSIP, etc.), which facilitates a reconciliation of audited costs to the final report. The NCNMEDD Non-Metro AAA further requires the inclusion of the final units of services provided and final number of persons served. This information may be included within the supplementary section of the audit report .**
- 2. Governmental type vendors/Subrecipient Contractors expending less than \$500,000 in combined federal awards shall continue to follow the guidance of the New Mexico State Auditor. Since a full scope audit will continue to be required by the State Auditor, only a fair allocation of state funds within this Agreement may be expended for such audit costs. The audit report shall include a schedule of administrative and program expenses for each separate federal title or program (Title IIB, Title IIIC-1, Title IIIC-II, Title IIID, Title IIIE, NSIP, etc.) which facilitates a reconciliation of these audited costs to the final report. The NCNMEDD Non-Metro AAA further requires the inclusion of the final units of services provided and final number of persons served by this Agreement. This information may be included within the supplementary section of the audit report.**
- 3. Non-governmental vendors/Subrecipient Contractors expending between \$25,000 in federal and state funds combined less than \$500,000 in federal funds, shall have an audit conducted in accordance with the GAO Government Auditing Standards. A fair allocation of the audit costs may be charged to the state funds awarded under the Agreement. Federal funds shall not be charged for audit costs under this section. The audit report shall include a schedule of administrative and program expenses for each separate title or program (Title IIB, Title IIIC-I, Title IIIC-II, Title IIID, Title IIIE, NSIP, etc.), which facilitates a reconciliation of these audited costs to the final report. The NCNMEDD Non-Metro AAA further**

requires the inclusion of the final units of services provided and final number of persons served by this agreement. This information may be included within the supplementary section of the audit report.

4. For those Subrecipient Contractors/vendors that expend less than \$15,000 in federal and state dollars, no audit is required. The close out of this grant will be based on information required by the Non-Metro AAA such as financial reports (trial balances, general ledgers, etc.), monitoring efforts and final numbers of services provided and final number of individuals served.
5. Submittal of the audit report for government entities shall be within ten (10) working days after releases by the New Mexico State Auditor's Office. For non-governmental entities, the audit report is due four (4) months after the end of the entity's fiscal year.
6. The Subrecipient Contractor's/vendor's independent auditor shall be made aware of Office of Management and Budget Circular (OMB) A-87, Cost Principles for State, Local and Indian Tribal Governments, and OMB Circular A-122, Cost Principles of Nonprofit Organizations in determining the allowability of costs. (A-87 and A-122 have been reclassified under the CFR as 2 CFR Part 225, and 2 CFR Part 230, respectively.)

10. Appropriations

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

11. Release

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

12. Product of Service: Copyright

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

13. Conflict of Interest

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

14. Equal Opportunity Compliance

The Subrecipient Contractor agrees to abide by all federal and state laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws of the State of New Mexico, the Subrecipient 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 Subrecipient Contractor is found not to be in compliance with these requirements during the life of this Agreement, Subrecipient Contractor agrees to take appropriate steps to correct these deficiencies.

15. Non-Discriminating Service Delivery

The Subrecipient Contractor will not, on the ground of race, religion, color, ancestry, sex, sexual preference, national origin, age or handicap:

1. Deny any individual receiving services under this Agreement any service or other benefits provided under the program;
2. Provide any services or other benefits to an individual which is different, than those funded under this Agreement;
3. Subject any individual to segregation or separate treatment in any manner related to his receipt of any services or other benefits provided under the funding for this program;
4. Restrict an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any services or other benefits provided under this program;
5. Treat an individual differently from others in determining whether he satisfies any eligibility or other requirements or condition which individuals must meet in order to receive any aid, care, services, or other benefits provided under the funding for this program;
6. Deny any individual an opportunity to participate in the program through the provision of services or otherwise afford him/her an opportunity to do so which is different from that afforded others under the program.
7. The Subrecipient Contractor, in determining (1) the types of services or other benefits to be provided under the program, (2) the class of individuals to whom, or the situation in which such services or other benefits will be provided under this program, or (3) the class of individuals to be afforded an opportunity to participate in the program, will not utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, color, sex, sexual preference, national origin, or handicap, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program in respect to individuals of a particular race, color, sex, sexual preference, national origin, or handicap.

16. Confidentiality

The use or disclosure of any information concerning a recipient of assistance or service for

any purpose not collected with the administration of the Agency's or the Subrecipient Contractor's responsibilities with respect to services hereunder, is prohibited, except on written consent of recipient, his attorney, or his responsible parent or guardian. Disclosure of confidential information shall only be made in accordance with the NM Inspection of Public Records Act, or applicable state or federal law or regulations.

17. **Amendment**

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

18. **Penalties for Violation of Law**

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

19. **Scope of Agreement**

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

20. **Applicable Laws**

This Agreement shall be governed by the laws and regulations of the (a) State of New Mexico, (b) the Older Americans Act of 1965, as amended, (c) the Agricultural Act of 1949, as amended; and (d) any other applicable laws and regulations of the federal government.

21. **Internal Dispute Mediation**

The Subrecipient Contractor shall attempt to resolve all disputes with participants by negotiation in good faith and with such mediators as may be acceptable to the parties involved. The Subrecipient Contractor shall implement an internal grievance policy with procedures in place to effectively and fairly negotiate and resolve disputes with participants. The Subrecipient Contractor must provide all participants with notice, at the commencement of the contract year, that disputes may be resolved in this manner. If negotiation and mediation through the grievance procedure fail, any party may submit the dispute to the ALTSD in accordance with the following provisions:

1. In any dispute submitted, the Agency and the Subrecipient Contractor hereby agree to and consent to the ALTSD mediation of the dispute.
2. Mediation may only be instituted by written request, which request shall include a statement of the matter in controversy.
3. Initial contacts and negotiation shall be conducted by the appropriate Agency staff.
4. Any resolution of the matter shall be binding and final on the Subrecipient Contractor and the Subrecipient Contractor hereby agrees to be bound by said resolution.
5. Failure of the Subrecipient Contractor to resolve any dispute pursuant to the procedures set forth herein or to comply with a resolution ordered by the ALTSD shall amount to a material breach of Agreement.

6. Internal Dispute Mediation does not supersede the appeal hearing policies and procedures.

22. **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.

23. **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.

24. **Notices**

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

Agency:

NCNMEDD
Attn: Marcia Medina
3900 Paseo del Sol
Santa Fe, NM 87507

Subrecipient Contractor:

City of Santa Fe
Senior Services Division

25. **Other Provisions**

Compliance with Grant conditions. The Subrecipient Contractor shall abide by all grant conditions set out in the Notification of Grant Award (NGA) attached hereto and hereby incorporated by reference.

26. **Indemnification**

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

27. **Authority**

The individual(s) signing this Agreement on behalf of Subrecipient Contractor represents and warrants that he or she has the power and authority to bind Subrecipient Contractor, and

that no further action, resolution, or approval from Subrecipient Contractor is necessary to enter into a binding contract.

28. Signatures

For the faithful performance of the terms of this agreement, the parties affix their signatures and bind themselves effective July 1, 2020.

City of Santa Fe

Legal Name of Subrecipient Contractor

Jarel LaPan Hill

Jarel LaPan Hill (Aug 5, 2020 10:12 MDT)

Signature

Jarel LaPan Hill

Printed/Typed Name of Signatory

8/5/2020

Date

NCNMEDD Non-Metro Area Agency on Aging
Name of Area Agency on Aging

Monica Abeita

Signature

Monica Abeita, Executive Director

Printed/Typed Name of Signatory

06/26/2020

Date



NORTH CENTRAL NEW MEXICO ECONOMIC DEVELOPMENT DISTRICT
 NOTIFICATION OF GRANT AWARD
 (NGA)

GRANTEE: Santa Fe City of ADDRESS: PHONE:		APPROVED BUDGET PERIOD FROM: 7/1/2020 TO: 6/30/2021				Grant/Action New/Cont: <input checked="" type="checkbox"/> Revision: <input type="checkbox"/> BAR: <input type="checkbox"/> Other: <input type="checkbox"/>		NGA DATE 6/26/2020	
DESCRIPTION		FEDERAL	STATE	LOCAL	IN-KIND	PROJ. INC.	TOTAL		
AAA Administration	Title III B	0	0	0	0	0	0		
	Title III C1	37040.71	0	0	0	0	37040.71		
	Title III C2	74085.29	0	0	0	0	74085.29		
	Title III D	0	0	0	0	0	0.00		
	Title III E	0	0	0	0	0	0		
		111126.00	0.00	0.00	0.00	0.00	0.00	111126.00	
Title III B	Access	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
	In-Home	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
	Community	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
	All Other	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
	Subtotal	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
Title III C1	Meal Costs	\$ 37,040.71	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 37,040.71	
	Subtotal	\$ 37,040.71	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 37,040.71	
Title III C2	Meal Costs	\$ 74,085.29	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 74,085.29	
	Subtotal	\$ 74,085.29	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 74,085.29	
Title III D	Sub Total	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
Title III E	Sub Total	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
ALL STATE OTHER	Sub Total	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
SUB TOTALS	Title III B	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
	Title III C1	\$ 37,040.71	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 37,040.71	
	Title III C2	\$ 74,085.29	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 74,085.29	
	Title III D	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
	Title III E	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
	Abolisher Respite Care	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
	All State Other	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
	GRAND TOTAL	\$111,126.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 111,126.00	
COMPUTATION OF GRANT		3. Federal/State Shares will be comprised of: a. Federal/State grant unearned in previous project year(s)							
1. Estimated Total Cost.....	\$ 111,126.00	FY 20 Federal 0 State 0							
2. LESS Anticipated Proj. Inc.	\$ -	b. Carry Over FY 20 Federal 0 State 0							
3. Estimated Net Cost.....	\$ 111,126.00	c. New Obligational Authority Herein Awarded FY-2020 Federal 0 \$ 111,126.00 State 0 \$ -							
4. Non-federal and Non-state Share of Net Cost.....	\$ -								
5. Proj. Inc. (Used as Match).....	\$ -								
6. Federal Share of Net Cost.....	\$ 111,126.00								
7. State Share of Net Cost.....	\$ -								
All accounting records are to be kept in accordance with federal and state policy and readily available for examination by Area Agency personnel or other federal and/or state officials authorized examine any or all financial and programmatic records. Such records shall be retained in accordance with the following: 1. Keep adequate and complete financial records, and to report promptly and fully to the Area Agency. 2. If a federal and/or state audit has not been made within three (3) years after project termination, project records may then be destroyed, on approval of the Agency. 3. In all cases, an over-riding requirement exists to retain records until resolution of any audit questions relating to individual grants. 4. Non-federal resources shall be contributed equally to the percentage of the non-federal share of actual net costs for a project year. If a Grantee reports federal and/or state cash received but unearned on the final project report for a project year, the Grantee then owes the Area Agency this amount. This amount may constitute a cash advance on any funds awarded to the Grantee by the Area Agency for the following project year. 5. The disposition of unearned portions of federal and/or state funds at the end of the project year shall be made in accordance with current state policies. 6. Unexpended federal and/or state cash at the time the project is terminated shall be returned in full to the Area Agency. 7. All obligations shall be liquidated within 30 days after the end of the project year and before final program and financial reports are submitted. 8. Inventory of project equipment will be constructed and submitted as requested. 9. Project records will be preserved and kept available to federal and state auditors at the primary offices of the Grantee.									
Signature of Area Agency NSIP Administrator: Monica Abaita, Executive Director		Signature of Grantee Representative: Binobnaldi							
Date: 06-26-2020		Date: 08/06/2020							

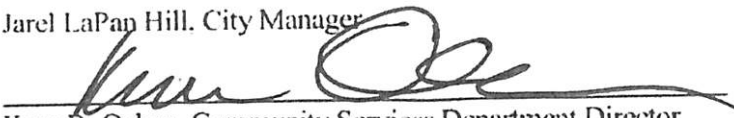
City of Santa Fe, New Mexico

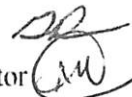

MEMO

Date: June 26, 2020

To: Jarel LaPan Hill, City Manager

Via:


Kyra R. Ochoa, Community Services Department Director

From: Gino Rinaldi, Senior Services Division Director 
Anya Alarid, Senior Services Project Administrator 

Re: North Central New Mexico Economic Development District Non-Metro Area
Agency on Aging COVID-19 FFCRA Federal Sub-Award
Munis Contract #3201960
Project: SSD2024105 FAMILIES FIRST CORONAVIRUS RESPONSE ACT

Background and Summary:

New Mexico has received the Major Disaster Declaration (MDD) which allows maximum flexibility for use of federal OAA funding for any disaster relief activities for older individuals or family caregivers served under the OAA. Non-Metro Area Agency on Aging (Non-Metro AAA) as part of the North Central New Mexico Economic Development District (NCNMEEDD) is providing guidance for the utilization of Families First Coronavirus Relief Act (FFCRA) disaster relief funds as of March 2020 through September 30, 2021. This Federal Sub-Award has been awarded to the City of Santa Fe Senior Services Division in the amount of \$61,325.10.

The awarded grant funding will be utilized to provide services to our eligible senior clientele who receive nutrition assistance (Congregate and Home-Delivered Meals) during Fiscal Year 2020/21.

Recommended Action:

For your review and approval.

Approved Disapproved

Jarel LaPan Hill, City Manager

Date



CITY OF SANTA FE PROCUREMENT CHECKLIST

Contractor Name: North Central New Mexico Economic Development District Non-Metro AAA

Procurement Title: COVID-19 FFCRA FEDERAL SUB-AWARD

Procurement Method: State Price Agreement Cooperative Sole Source Other

Exempt Request For Proposal (RFP) Invitation To Bid (ITB) Contract under 60K Contract over 60K

Department Requesting Community/Senior Services Staff Name Anya Alarid

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

- | | | |
|-------------------------------------|-------------------------------------|---|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Approved Procurement Checklist (by Purchasing) |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Memo addressed to City Manager (under 60K) Committees/City Council (over 60K) |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | State Price Agreement |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | RFP |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Evaluation Committee Report |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | ITB |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Bib Tab |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Quotes (3 valid current quotes) |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Cooperative Agreement |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Sole Source Request and Determination Form |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Contractors Exempt Letter |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Purchasing Officers approval for exempt procurement |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | BAR |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | FIR |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Executed Contract, Agreement or Amendment |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Current Business Registration and CRS numbers on contract or agreement |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Summary of Contracts and Agreements form |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Certificate of Insurance |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | All documentation presented to Committees |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Other: |

Anya Alarid Project Administrator 05/20/2020 
Department Rep Printed Name (attesting that all information included) Title Date

Christina...
Purchasing Officer (attesting that all information is reviewed) Title Date

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



City of Santa Fe

Real Estate Summary of Contracts, Agreements, Amendments & Leases

Section to be completed by department

1. Munis Contract # 3201960

Contractor: North Central New Mexico Economic Development District Non-Metro AAA

Description: This emergency award is specifically for: Program (CM-C2 and HD-C2) pursuant to the Family First Coronavirus Response Act (FFCRA), Older Americans Act Title III- Congregate Meals and Home Delivered Meals awarded to New Mexico 3/20/2020.

Contract Agreement Lease / Rent Amendment

Term Start Date: 03/20/20 Term End Date: 09/30/2021

Approved by Council Date: 06/18/2020

Contract / Lease: Federal Sub-Award 2019-20-60026 FFCRA

Amendment # _____ to the Original Contract / Lease # _____

Increase/(Decrease) Amount \$ _____

Extend Termination Date to: _____

Approved by Council Date: _____

Amendment is for:

2. **HISTORY** of Contract, Amendments & Lease / Rent - Please Elaborate (option: attach spreadsheet if multiple amendments)

3. Procurement History: _____

Frank Dunaway (Jul 21, 2020 16:59 MDT)

Purchasing Officer Review: _____ Date: 7/21/20

Comment & Exceptions: _____

4. Funding Source: _____ Org / Object: 2410114/490715

Alexis Lotero (Jul 21, 2020 16:33 MDT)

Budget Officer Approval: _____ Date: 7/21/2020

Comment & Exceptions: _____

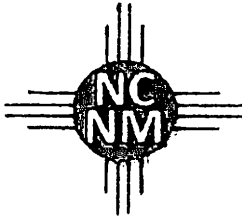
Staff Contact who completed this form: Anya Alarid *Anya Alarid* Phone # 955-4744

Email: aalarid@santafenm.gov

To be recorded by City Clerk:

Clerk # _____

Date of Execution: _____



North Central New Mexico
Economic Development District
Non Metro Area Agency on Aging
3900 Paseo Del Sol Santa Fe, New Mexico 87507
505.395.2668 Toll Free 866.699.4627 www.ncnmedd.com



MEMORANDUM 2020-02

Date: May 1, 2020 Constant Contact Correspondence
To: Non-Metro Area Agency on Aging Vendors/Providers
From: Marcia A. Medina, Community Services Director
Monica Abeita, NCNEMEDD Executive Director
Re: FFRAC COVID-19 Contract Guidance

New Mexico has received the Major Disaster Declaration (MDD) which allows maximum flexibility for use of federal OAA funding for any disaster relief activities for older individuals or family caregivers served under the OAA. Non-Metro Area Agency on Aging (Non-Metro AAA) as part of North Central New Mexico Economic Development District (NCNEMEDD) is providing guidance for the utilization of Families First Coronavirus Relief Act (FFRCRA) disaster relief funds as of March 2020 through September 30, 2021.

Attached you will find the following:

1. FFCRA COVID-19 Contract effective March 1, 2020 – September 30, 2021
2. Notice of Grant Award
3. Excel Budget Expense Report to be submitted monthly.

Guidance:

1. As of March 1, 2020, the MDD allows all expenditures to be tied to actual expenditures and not be tied to a unit or unit cost. This applies to the FFCRA award and your FY 19-20 Title III DPS Funds (federal and state). The attached Budget Expense Report document allows you to expense out all operations of your organization and be reimbursed based on actual expenses for disaster relief activities.
2. Use all of the FY19-20 Title III DPS contracted funds first. The MDD allows for flexibility for use of all funds to be directed to any disaster relief activities.
3. The extended end date of the FFCRA allows you to utilize funds if needed immediately, however, waiting to tap into FFCRA funds allows you to plan for supply and food purchases as we enter the FY 2020-2021 program period.
4. On the Budget Expense Report Document please complete the Contact Name, Telephone number and Email address of the person completing the form. Remember to keep all receipts and invoices.

5. You are to continue to report units utilizing the SAMS COVID Rosters developed in collaboration with ALTSD and the Non-Metro AAA Tucumcari Data Center staff. Contact Joe Rey jrey@ncnmedd.com if you need assistance or have questions regarding the COVID Rosters.
6. Follow the staff salary guidance letter from ALTSD sent on May 1, 2020 via Non-Metro constant contact communication.

It has been announced that a second COVID-19 Coronavirus Aid, Relief, and Economic Response Act (CARES) will be awarded to Non-Metro AAA by ALTSD. At the time of release of the FFCRA contracts, Non-Metro AAA has not yet received that award. Be advised that it is forthcoming and will also have an end date for utilization of September 30, 2021.

Please have the authorized individual *sign and date* both the FFCRA Contract and the NGA then scan and return to the attention of your point of contact and:

Rosa Lira, rosal@ncnmedd.com
cc to Marcia Medina, marciam@ncnmedd.com

Call 505-395-2668, your point of contact or 505-356-9379 if you have any questions.

Thank you for your commitment and dedication to serve New Mexico's precious older and most vulnerable adults and children.

Item #20-0402

Federal Sub-Award 2019-20-60026 FFCRA

**North Central New Mexico Economic Development District
Non-Metro Area Agency on Aging**

COVID-19 FFCRA FEDERAL SUB-AWARD

This Award is made and entered into by and between North Central New Mexico Economic Development District (NCNMEDD) Non-Metro Area Agency on Aging (Non-Metro AAA), hereinafter referred to as "Agency", and City of Santa Fe, hereinafter referred to as "Subrecipient", and is effective as of the date set forth below upon which it is executed by the Agency and collectively as the "Parties". This emergency award is specifically for: Program (CM-C2 and HD-C2) pursuant to the Families First Coronavirus Response Act (FFCRA), Older Americans Act Title III - Congregate Meals and Home-Delivered Meals awarded to New Mexico on March 20, 2020.

IT IS IN AGREEMENT BETWEEN THE PARTIES:

1. Scope of Services.

A. The Subrecipient shall perform the work outlined in Attachment 1, Scope of Work.

2. Compensation.

A. The Agency shall pay to the Subrecipient, in full, payment for services satisfactorily performed based upon deliverables as outlined in Attachment 1, Scope of Work. The amount payable to the Subrecipient under this Award, including gross receipts tax, shall not exceed **\$61,352.10**. The Subrecipient shall ensure that the COVID-19 Emergency funds are to be used exclusively as outlined in Attachment 1, Scope of Work. The Subrecipient is responsible for notifying the Agency when the services provided under this Award reach the total compensation amount. In no event will the Subrecipient be paid for services provided in excess of the total compensation amount without this Award being amended in writing prior to those services in excess of the total compensation amount being provided.

B. Payment for services shall be consistent with all applicable federal and state laws and regulations.

C. Payments to the Subrecipient will be made subsequent to receipt of funds by the Agency. Any expenditure made prior to the receipt of funds or pending the Agency's approval shall be made at the Subrecipient's own risk, and the Agency shall not be liable for such expenditures.

D. Payments to the Subrecipient may be withheld or denied by the Agency for expenditures which are not authorized by, or are in excess of, the regulations, terms and conditions contained in this Award or for expenditures which are not properly documented or substantiated by the Subrecipient. The Subrecipient agrees to hold the Agency harmless against all audit exceptions arising from the Subrecipient's

violation and shall make restitution to the Agency of such amounts of money due to the Subrecipient's non-compliance.

- E. The total payments for services rendered by the Agency under the terms and conditions of this Award shall not exceed those listed in this Award.
- F. Payments to the Subrecipient will be made electronically through the Automated Clearing House (ACH) Network.

3. Terms of the Award

This Award shall become effective March 1, 2020 and shall terminate on September 30, 2021, unless terminated pursuant to the Families First Coronavirus Response Act (FFCRA), Older Americans Act Title III - Congregate Meals and Home-Delivered Meals awarded to New Mexico Aging and Long-Term Services Department on March 20, 2020.

4. TERMINATION.

- A. This Award may be terminated by the Agency without cause upon written notice delivered to the Subrecipient at least thirty (30) days prior to the intended date of termination. By such termination, neither party may nullify obligations already incurred for performance or failure to perform prior to the date of termination. This Award may be terminated immediately, upon written notice to the Subrecipient, if the Subrecipient becomes unable to perform the services contracted for, as determined by the Agency, or if, during the term of this Award, the Subrecipient or any of its officers, employees or agents is indicted for fraud, embezzlement or other crime due to misuse of state funds or due to the Appropriations paragraph herein, or if the Subrecipient fails to comply with any of the terms contained herein or is in breach of this Award as set forth in Paragraph 6, below. This provision is not exclusive and does not waive the Agency's other legal rights and remedies caused by the Subrecipient's default or breach of this Award. This Award may also be terminated by the Subrecipient upon thirty (30) days written notice to the Agency.
- B. Termination Management. Immediately upon receipt of notice of termination of this Award by either the Agency or the Subrecipient, the Subrecipient shall: 1) not incur any further obligations for salaries, services or any other expenditure of funds under this Award without written approval of the Agency; 2) comply with all directives issued by the Agency in the notice of termination as to the performance of work under this Award; and 3) take such action as the Agency shall direct for the protection, preservation, retention or transfer of all property titled to the Agency and client records generated under this Award and any non-expendable personal property or equipment purchased by the Subrecipient with award funds shall become property of the Agency upon termination. On the date the notice of termination is received, the Subrecipient shall furnish to the Agency a complete, detailed inventory of non-expendable personal property purchased with funds provided under the existing and previous Agency agreements with the Subrecipient; the property listed in the inventory report including client records and a final closing of the financial records and books of accounts which were required to be kept by the Subrecipient under the paragraph of this Award regarding financial records.

5. **Status of Subrecipient.**

The Subrecipients, its agents, and employees are independent contractors performing professional services for the Agency and are not employees of the Agency. The Subrecipient, its agents and employees shall not accrue leave, retirement, insurance, bonding, use of Agency vehicles, or any other benefits afforded to employees of the Agency as a result of this Award. The Subrecipient acknowledges that all sums received hereunder are reportable for income tax purposes.
6. **Assignment.**

The Subrecipient shall not assign or transfer any interest in this Award or assign any claims for money due or to become due under this Award without the prior written approval of the Agency.
7. **Subcontracting.**

The Subrecipient shall not subcontract any portion of the services to be performed under this Award without the prior written approval of the Agency. No such subcontract shall relieve the primary Subrecipient from its obligations and liabilities under this Award, nor shall any subcontract obligate direct payment from the Agency.
8. **Release.**

The Subrecipient acceptance of final payment of the amount due under this Award shall operate as a release of the Agency, its officers and employees from all liabilities, claims and obligations, whatsoever, arising from or under this Award. The Subrecipient agrees not to purport to bind the Agency unless the Subrecipient has express written authority to do so, and then only within the strict limits of that authority.
9. **Confidentiality.**

Any information provided to or developed by the Subrecipient in the performance of this Award shall be kept confidential and shall not be made available to any individual or organization, by the Subrecipient without the prior written approval of the Agency. Disclosure of confidential information shall only be made in accordance with the Inspection of Public Records Act or the applicable state or federal laws or regulations. Subrecipient shall establish a method to guarantee the confidentiality of all information relating to clients in accordance with applicable federal, state and local laws, rules and regulations, as well as the terms of this Award. However, this provision shall not be construed as limiting the rights of the Agency or any other federal or state authorized representative to access client case records or other information relating to clients served under this Award.
10. **Product of Service – Copyright.**

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

11. Conflict of Interest.

The Subrecipient warrants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree, with the performance or services required under the Award. The Subrecipient certifies that the requirements of the Governmental Conduct Act, Sections 10-16-1 through 10-16-18, NMSA 1978, regarding contracting with a public officer or state employee or former state employee have been followed.

12. Amendment.

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

13. Merger.

This Award 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 Award. No prior agreement or understanding, oral or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Award.

14. Penalties.

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

15. Applicable Law.

The laws of the State of New Mexico shall govern this agreement.

16. Workers Compensation.

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

17. Records and Financial Audit.

The Subrecipient shall maintain detailed time and expenditure records, including, but not limited to, client records, books, supporting documents pertaining to services provided, that indicate the date, time, nature and cost of services rendered during the Award's term and effect and retain them for a period of three (3) years from the date of final payment under this Award. The records shall be subject to inspection by the Agency, the Department of Finance and Administration and the State Auditor. The Agency shall have the right to audit billings both before and after payment. Payment under this Award shall not foreclose the right of the Agency to recover excessive or illegal payments. If, pursuant

to this Award, the Subrecipient receives federal funds subject to the Single Audit Act, the Subrecipient shall submit to the Agency an audit conducted by a certified public accountant in compliance with the Single Audit Act.

18. Indemnification.

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

19. Internal Dispute Mediation.

The Subrecipient shall attempt to resolve all disputes with participants by negotiation in good faith and with such mediators as may be acceptable to the parties involved. The Subrecipient shall implement an internal grievance policy with procedures in place to effectively and fairly negotiate and resolve disputes with participants. The Subrecipient must provide all participants with notice, at the commencement of the contract year that disputes may be resolved in this manner. If negotiation and mediation through the grievance procedure fail, any party may submit the dispute to the ALTSD in accordance with the following provisions:

1. In any dispute submitted, the Agency and the Subrecipient hereby agree and consent to the ALTSD mediation of the dispute.
2. Mediation may only be instituted by written request, which request shall include a statement of the matter in controversy.
3. Initial contacts and negotiation shall be conducted by the appropriate Agency staff.
4. Any resolution of the matter shall be binding and final on the Subrecipient and the Subrecipient hereby agrees to be bound by said resolution.
5. Failure of the Subrecipient to resolve any dispute pursuant to the procedures set forth herein or to comply with a resolution ordered by the ALTSD shall amount to a material breach of this Award.
6. Internal Dispute Mediation does not supersede the appeal hearing policies and procedures.

20. Participant Grievance.

The Subrecipient will establish a system through which applicants for, and recipients of services, may present grievances about the operation of the service program. The Subrecipient will advise applicants and recipients of their right to appeal denial of service and their right to a fair hearing of these respects. The Subrecipient shall notify the Agency of termination of services, to a client, as part of a monthly service report, on any services funded by this Award. The Agency reserves the right to perform follow-up investigations with the client to determine adequate performance and adherence to due process.

21. KEY PERSONNEL.

The Agency shall be notified of changes in, and must concur with the selection process for, Key Personnel. The Agency considers the following positions as Key Personnel:

1. Program Director
2. Financial Manager

The Subrecipient will maintain full-time Key Personnel throughout the term of this agreement.

22. Invalid Term Or Condition.

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

23. Enforcement Of Award.

A party's failure to require strict performance of any provision of this Award 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 Award shall be effective unless expressed in writing, and no effective waiver by a party of any of its rights shall be effective to waive any other rights.

24. Notices.

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

AGENCY:
NCNMEDD
Attn: Marcia A. Medina
3900 Paseo Del Sol
Santa Fe, NM 87507

SUBRECIPIENT:

25. Insurance.

The Subrecipient shall secure and maintain, during the term of this Award, at its own expense, comprehensive and general public liability insurance and/or other types of insurance as the Agency may require. The Subrecipient shall secure and maintain, during the term of this Award, at its own expense, workers' compensation insurance in the amounts required by the applicable laws of the State of New Mexico covering the Subrecipient's employees. All policies of liability insurance that Subrecipient is obligated to maintain, according to this Award, except for any policy of workers' compensation insurance, shall name Agency as an additional insured. The Subrecipient shall furnish to the Agency, directly from its insurance carrier, a memorandum or certification of all insurance carried, before the payment of any monies as consideration for the services rendered hereunder shall be made. Upon such certificates and/or memoranda being furnished to the Agency, the same shall be annexed to this Award and by reference made a part hereof.

26. Authority.

The individual(s) signing this Award on behalf of Subrecipient represents and warrants that he or she has the power and authority to bind Subrecipient, and that no further action, resolution, or approval from Subrecipient is necessary to enter into a binding contract.

27. Signatures.

For the faithful performance of the terms of this Award, the parties affix their signatures and bind themselves **retroactive to March 1, 2020.**

City Manager

Legal Name of Subrecipient

Jarel LaPan Hill

Jarel LaPan Hill (Aug 18, 2020 10:25 MDT)

Signature

Jarel LaPan Hill

Printed/Typed Name of Signatory

8/18/2020

Date

NCNMEDD Non-Metro Area Agency on Aging

Name of Area Agency on Aging

Monica Abeita

Signature

Monica Abeita, Executive Director

Printed/Typed Name of Signatory

04/30/2020

Date

**North Central New Mexico Economic Development District
Non-Metro Area Agency on Aging
COVID-19 FFCRA FEDERAL SUB-AWARD**

ATTACHMENT 1 –SCOPE OF WORK

A. Purpose.

The purpose of this Scope of Work is to assure the delivery of home delivered and congregate meal services pursuant to and in accordance with the Family First Coronavirus Response Act, (FFCRA), Title III of the Older Americans Act of 1965 and all relevant amendments and state and federal enabling regulations, within the Service Area. The services provided shall support older adults in maintaining independent and healthy lifestyles, address food insecurity and nutrition.

B. Target Population.

1. Target populations include persons age 60 or older and their spouses of any age, younger disabled persons who reside with persons age 60 or older, caregivers of any age who care for persons age 60 or older, caregivers age 60 or older who care for children or younger disabled persons, and the recipients of their care.
2. Per the Older Americans Act, an effort must be given to serving eligible persons with the greatest social or economic need, with particular attention to minority individuals with low incomes. Efforts must also be given to targeting individuals residing in rural areas, individuals with limited English proficiency, and individuals with Alzheimer's disease and related disorders, with severe disabilities or at-risk of institutionalization and their caregivers.

C. Guidelines for FFCRA funds.

1. This Award acknowledges New Mexico's Major Disaster Declaration (MDD) (<https://www.fema.gov/disaster/4529>) which allows flexibility for use of the Families First Coronavirus Relief Act (FFRCRA) by subrecipients.
2. The MDD allows for maximum flexibility in FFCRA and does not need a separate application, transfer request, or request for a waiver --to use existing Title C-1 and C-2 for disaster relief. This means subrecipient contractors may use Title C-1 and C-2 funds **for any disaster relief activities** for older individuals or family caregivers served under the OAA.
3. The flexibility applies to funding awarded in current FY20 contracts, and any future contracts issued for FFCRA funding. **As of March 2020, all expenditures should be based upon actual expenditures and should not be tied to a unit or unit cost.** Please

note the reporting requirement below to use the COVID-19 SAMS roster to capture units of service.

4. Meals funded through FFCRA following a declaration of a major disaster, are not required to meet the DGAs and the DRIs, *however*, ACL recommends the use of these standards to help older adults maintain their health and manage their chronic conditions and to provide quality service.
5. When meals that meet the DRIs/DRAs are unavailable, subrecipients should try to provide meals that meet, at a minimum, no less than 1/3 of the recommended daily caloric intake for an older individual.

D. Responsibilities of the Subrecipient.

1. Allowable Activities
 - a. Increase the number of congregate and home delivered meals provided.
 - b. Restore or reinstate staff positions that have been eliminated or reduced.
 - c. Create jobs that will support the increase in number of meals provided.
2. Funding Requirements
 - a. FFCRA funding was originally granted specifically for C-1 and C-2 services. The MDD means this funding can be used for any disaster relief activities for older individuals or family caregivers served under the OAA.
 - b. FFCRA funds are transferable between Title III -C1 and Title III-C2
 - c. Subrecipients have flexibility on allocating funds.
3. Reporting Requirements
 - a. FFCRA funding will be tracked separately from the Older Americans Act program funds.
 - b. Subrecipients are required to submit separate reports specifically related to the Award.
 - c. Subrecipients shall utilize the COVID-19 SAMS roster to capture units of service – regardless of what they are.
 - d. Subrecipients must maintain a separate accounting fund for FFCRA dollars.
 - e. C-1 and C-2 reporting must be separate for both program and fiscal reports.
 - f. Subrecipients shall only be compensated for expenses itemized in their approved FFCRA budget form which is to be completed and returned each month per the reporting requirements.

{end}

**NORTH CENTRAL NEW MEXICO ECONOMIC DEVELOPMENT DISTRICT
NOTIFICATION OF GRANT AWARD
(NGA)**

GRANTEE: City of Santa Fe		APPROVED BUDGET PERIOD		Grant/Action		NGA DATE	
ADDRESS:		FROM: 4/1/2020		New/Cont:		4/30/2020	
PHONE:		TO: 9/30/2021		Revision:			
				BAR:			
				Other:			
DESCRIPTION		FEDERAL	STATE	LOCAL	IN-KIND	PROJ. INC.	TOTAL
AAA Administration	Title IIIB	0	0	0	0	0	0
	Title IIIC1	20449.99	0	0	0	0	20449.99
	Title IIIC2	40902.11	0	0	0	0	40902.11
	Title IIID	0	0	0	0	0	0
	Title IIIE	0	0	0	0	0	0
Subtotal		\$ 61,352.10	\$ -	\$ -	\$ -	\$ -	\$ 61,352.10
Title IIIB	Access	\$ -			\$ -		\$ -
	In-Home				\$ -		\$ -
	Community All Other	\$ -		\$ -	\$ -		\$ -
Subtotal		\$ -			\$ -		\$ -
Title IIIC1	Meal Costs	\$ 20,449.99					\$ 20,449.99
	Subtotal	\$ 20,449.99					\$ 20,449.99
Title IIIC2	Meal Costs	\$ 40,902.11					\$ 40,902.11
	Sub Total	\$ 40,902.11					\$ 40,902.11
Title IIID	Health Promotion	\$ -					\$ -
	Sub Total	\$ -					\$ -
Title IIIE	Alzheimer Care Giver Support	\$ -					\$ -
	Sub Total	\$ -					\$ -
DEMONSTRATION DEMO GRANT							
ALZHEIMER	Respite Care	\$ -					\$ -
Sub Total		\$ -					\$ -
ALL STATE OTHER							
Sub Total		\$ -					\$ -
SUB TOTALS							
	Title IIIB	\$ -					\$ -
	Title IIIC1	\$ 20,449.99					\$ 20,449.99
	Title IIIC2	\$ 40,902.11					\$ 40,902.11
	Title IIID	\$ -					\$ -
	Title IIIE	\$ -					\$ -
	Alzheimer Respite Care	\$ -					\$ -
	All State Other	\$ -					\$ -
GRAND TOTAL		\$ 61,352.10	\$ -	\$ -	\$ -	\$ -	\$ 61,352.10
COMPUTATION OF GRANT		8. Federal/State Shares will be comprised of:					
1. Estimated Total Cost.....	\$ 61,352.10	a. Federal/State		FY 20	Federal	0	
2. LESS Anticipated Proj. Inc.	\$ -	grant unearned			State	0	
3. Estimated Net Cost.....	\$ 61,352.10	in previous project year(s)				0	
4. Non-federal and Non-state Share of Net Cost.....		b. Carry Over		FY 20	Federal	0	
5. Proj. Inc. (Used as Match).....	\$ -				State	0	
6. Federal Share of Net Cost.....	\$ 61,352.10	c. New Obligational Authority Herein Awarded		FY-2020	Federal	0	\$ 61,352.10
7. State Share of Net Cost....	\$ -				State	0	\$ -
<small> All accounting records are to be kept in accordance with federal and state policy and readily available for examination by Area Agency personnel for federal and/or state officials authorized examine any or all financial and programmatic records. Such records shall be retained in accordance with the following: </small>							
<small> 1. Keep accurate and complete financial records, and to report promptly and fully to the Area Agency. </small>							
<small> 2. All federal records shall be maintained for three (3) years after project termination, or until research may then be destroyed, on approval of the Agency. </small>							
<small> 3. In all cases, an over-riding principle shall be to retain records until completion of any such questions relating to individual grants. </small>							
<small> 4. Non-federal resources must be contributed equally to the percentage of the non-federal share of actual net costs for a project year. If a Grantee reports federal and/or state cash received but unearned on the final project report for a project year, the Grantee shall owe the Area Agency this amount. This amount may be payable in cash advance on any funds awarded to the Grantee by the Area Agency for the following project year. </small>							
<small> 5. The disposition of unearned portions of federal and/or state funds at the end of the project year shall be made in accordance with current state policies. </small>							
<small> 6. Unearned federal and/or state cash at the end of the project is forfeited and shall be returned in full to the Area Agency. </small>							
<small> 7. All obligations will be liquidated within 90 days after the end of the project year and failure to liquidate program and financial reports are submitted. </small>							
<small> 8. Inventory of project equipment will be maintained and submitted as requested. </small>							
<small> 9. Project records will be preserved and kept available to federal and state auditors at the discretion of the Grantee. </small>							
Signature of Area Agency on Aging Administrator: Monica Abaita, Executive Director				We, the undersigned, have read the Notice of Grant Award, hereby state our agreement with the terms and conditions of the award.			
<i>Monica Abaita</i>				_____			
Date: 04-30-20				Date: _____			

ATTEST:

Jarel LaPan Hill

Jarel LaPan Hill (Aug 18, 2020 10:25 MDT)

YOLANDA Y. VIGIL, CITY CLERK

YV
XIV

CITY ATTORNEY'S OFFICE:

Marcos Martinez

Marcos Martinez (May 21, 2020 16:49 MDT)

SENIOR ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

Mary McCoy

MARY MCCOY, FINANCE DIRECTOR

2410114.490715

BUSINESS UNIT/LINE ITEM

AL
AL






NCNMEDD COVID-19 FFCRA Federal Sub Award.pdf City Attorney Signature

Final Audit Report

2020-05-21

Created:	2020-05-21
By:	Irene Romero (ikromero@ci.santa-fe.nm.us)
Status:	Signed
Transaction ID:	CBJCHBCAABAA5vZJff_J3CF2rjJB0vi7UaCZlgVOiL4e

"NCNMEDD COVID-19 FFCRA Federal Sub Award.pdf City Attorney Signature" History

-  Document created by Irene Romero (ikromero@ci.santa-fe.nm.us)
2020-05-21 - 10:03:20 PM GMT- IP address: 63.232.20.2
-  Document emailed to Marcos Martinez (mdmartinez@santafenm.gov) for signature
2020-05-21 - 10:04:44 PM GMT
-  Email viewed by Marcos Martinez (mdmartinez@santafenm.gov)
2020-05-21 - 10:49:30 PM GMT- IP address: 63.232.20.2
-  Document e-signed by Marcos Martinez (mdmartinez@santafenm.gov)
Signature Date: 2020-05-21 - 10:49:39 PM GMT - Time Source: server- IP address: 63.232.20.2
-  Signed document emailed to Irene Romero (ikromero@ci.santa-fe.nm.us) and Marcos Martinez (mdmartinez@santafenm.gov)
2020-05-21 - 10:49:39 PM GMT

Signature:

Email:

Signature: 
Xavier Vigil (Aug 18, 2020 10:06 MDT)

Email: xivigil@santafenm.gov

Signature: 

Email: yyvigil@santafenm.gov











CM SENIORS__FFRCA_COVID-19_Contract_for_CM_approval


Final Audit Report

2020-08-18


Created:	2020-08-13
By:	YODEL CATANACH (yocatanach@ci.santa-fe.nm.us)
Status:	Signed
Transaction ID:	CBJCHBCAABAAF8T1fnn-GuJN5t1HrxcJytiM4_bk50w4

"CM SENIORS__FFRCA_COVID-19_Contract_for_CM_approval" History

-  Document created by YODEL CATANACH (yocatanach@ci.santa-fe.nm.us)
2020-08-13 - 8:15:08 PM GMT- IP address: 63.232.20.2
-  Document emailed to Xavier Vigil (xivigil@santafenm.gov) for signature
2020-08-13 - 8:20:04 PM GMT
-  Email viewed by Xavier Vigil (xivigil@santafenm.gov)
2020-08-13 - 8:33:56 PM GMT- IP address: 63.232.20.2
-  Email viewed by Xavier Vigil (xivigil@santafenm.gov)
2020-08-18 - 3:40:35 PM GMT- IP address: 63.232.20.2
-  Document e-signed by Xavier Vigil (xivigil@santafenm.gov)
Signature Date: 2020-08-18 - 4:06:28 PM GMT - Time Source: server- IP address: 63.232.20.2- Signature captured from device with phone number XXXXXXXX8657- Initials captured from device with phone number XXXXXXXX8657
-  Document emailed to Jarel LaPan Hill (jlapanhill@santafenm.gov) for signature
2020-08-18 - 4:06:30 PM GMT
-  Email viewed by Jarel LaPan Hill (jlapanhill@santafenm.gov)
2020-08-18 - 4:23:34 PM GMT- IP address: 104.47.64.254
-  Document e-signed by Jarel LaPan Hill (jlapanhill@santafenm.gov)
Signature Date: 2020-08-18 - 4:25:34 PM GMT - Time Source: server- IP address: 73.26.163.62
-  Document emailed to Yolanda Vigil (yyvigil@santafenm.gov) for signature
2020-08-18 - 4:25:39 PM GMT
-  Email viewed by Yolanda Vigil (yyvigil@santafenm.gov)
2020-08-18 - 8:39:27 PM GMT- IP address: 104.47.65.254

 Document e-signed by Yolanda Vigil (yyvigil@santafenm.gov)

Signature Date: 2020-08-18 - 8:40:37 PM GMT - Time Source: server- IP address: 63.232.20.2

 Signed document emailed to Jarel LaPan Hill (jlapanhill@santafenm.gov), Xavier Vigil (xivigil@santafenm.gov), YODEL CATANACH (yocatanach@ci.santa-fe.nm.us), Yolanda Vigil (yyvigil@santafenm.gov), and 1 more

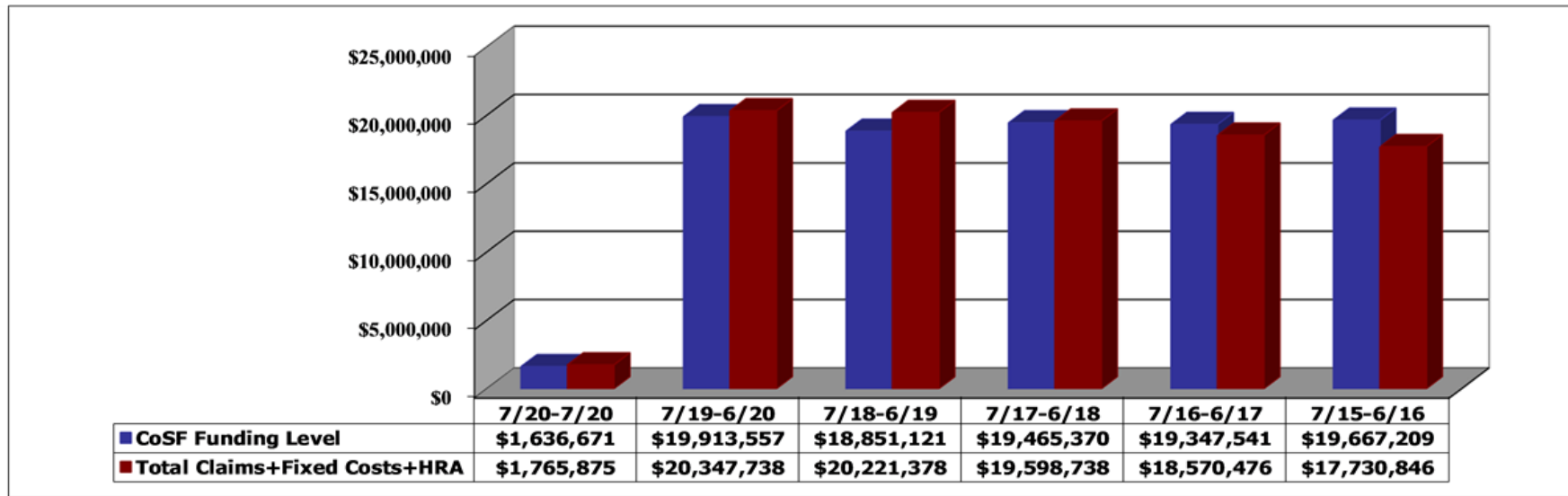
2020-08-18 - 8:40:37 PM GMT



City of Santa Fe Finance Committee Medical/Dental Utilization Review

Meeting Date: August 31, 2020

Medical Utilization Update



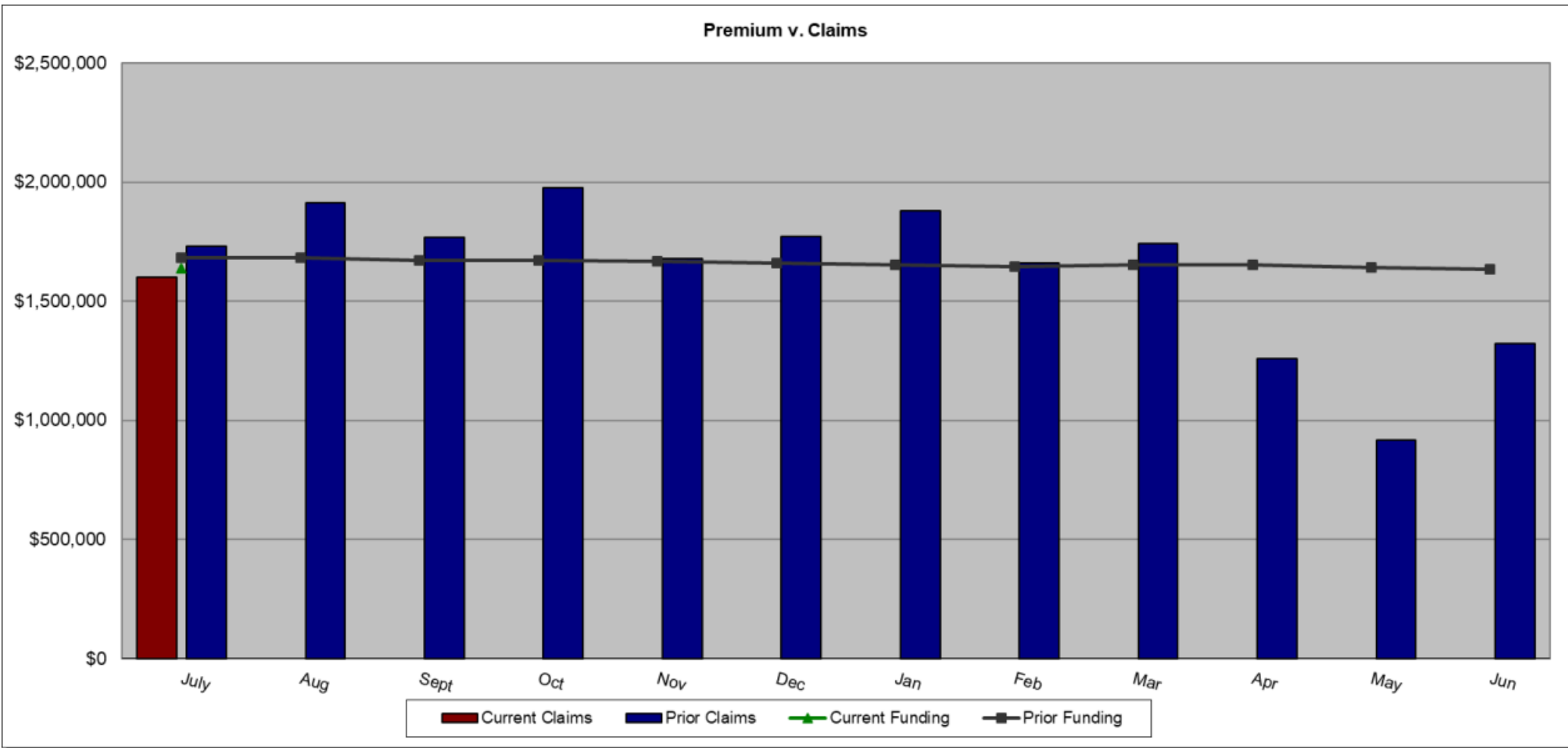
CARRIER PLAN YEAR	Cigna COMBINED					
	7/20-7/20	7/19-6/20	7/18-6/19	7/17-6/18	7/16-6/17	7/15-6/16
1 Average Contracts	1,174	1,184	1,203	1,230	1,220	1,233
2 % Variance to Prior Year	-0.8%	-1.6%	-2.2%	0.8%	-1.0%	-1.6%
3 Average Members	2,740	2,769	2,849	2,986	2,979	3,041
4 % Variance to Prior Year	-1.0%	-2.8%	-4.6%	0.2%	-2.0%	-3.8%
5 Average Contract Size	2.33	2.34	2.37	2.43	2.44	2.47
UTILIZATION						
7 CoSF Funding Level	\$1,636,671	\$19,913,557	\$18,851,121	\$19,465,370	\$19,347,541	\$19,667,209
8 CoSF Funding Level PMPM	\$597.33	\$599.34	\$551.41	\$543.25	\$541.30	\$538.99
9 % Variance to Prior Year	-0.3%	8.7%	1.5%	0.4%	0.4%	6.4%
10 Medical and RX Claims	\$1,602,231	\$19,621,182	\$18,833,676	\$18,010,627	\$17,458,924	\$16,378,717
11 Actual Stop Loss Recovery	\$0	-\$1,146,226	-\$402,188	-\$163,563	-\$387,027	\$0
12 Claims (net of SL recoveries)	\$1,602,231	\$18,474,956	\$18,431,488	\$17,847,064	\$17,071,897	\$16,378,717
13 Fixed Costs	\$163,644	\$1,870,656	\$1,787,218	\$1,750,151	\$1,497,862	\$1,351,155
14 TOTAL CLAIMS + FIXED COSTS	\$1,765,875	\$20,345,613	\$20,218,706	\$19,597,215	\$18,569,759	\$17,729,872
15 HRA Spend	\$0	\$2,126	\$2,672	\$1,523	\$717	\$974
16 Total Claims+Fixed Costs+HRA	\$1,765,875	\$20,347,738	\$20,221,378	\$19,598,738	\$18,570,476	\$17,730,846
17 Surplus / Deficit	(\$129,204)	(\$434,181)	(\$1,370,257)	(\$133,368)	\$777,066	\$1,936,363
18 TOTAL PMPM	\$644.48	\$612.40	\$591.49	\$546.98	\$519.56	\$485.92
19 % Variance to Prior Year PMPM	5.2%	3.5%	8.1%	5.3%	6.9%	5.8%
20 COMPARE TO FUNDING	107.9%	102.2%	107.3%	100.7%	96.0%	90.1%

Medical Claims by Month

A		B	C	D		E	F	G	H	I	J
Current Period 2020-2021		Subscribers	Members	Funding		Total Medical Claims	Claims			Loss Ratio	
				Plan Funding	Funding PMPM		Managed Pharmacy	Total Claims*	Paid Claims PMPM		
1	July	1,174	2,740	\$1,636,671	\$597.33	\$1,412,424	\$189,806	\$1,602,231	\$584.76	97.9%	
2	August										
3	September										
4	October										
5	November										
6	December										
7	January 2020										
8	February										
9	March										
10	April										
11	May										
12	June										
13	Year-to-Date Totals	1,174	2,740	\$1,636,671	\$597.33	\$1,412,424	\$189,806	\$1,602,231	\$584.76	97.9%	
14	% Change to 19-20				-0.3%				-1.0%	-0.6%	

A		B	C	D		E	F	G	H	I	J
Prior Period 2019-2020		Subscribers	Members	Funding		Total Medical Claims	Claims			Loss Ratio	
				Plan Funding	Funding PMPM		Managed Pharmacy	Total Claims*	Paid Claims PMPM		
1	July	1,196	2,790	\$1,681,324	\$602.63	\$1,504,099	\$227,555	\$1,731,654	\$620.66	103.0%	
2	August	1,195	2,794	\$1,682,150	\$602.06	\$1,691,717	\$222,673	\$1,914,390	\$685.18	113.8%	
3	September	1,185	2,794	\$1,672,379	\$598.56	\$1,590,324	\$179,303	\$1,769,627	\$633.37	105.8%	
4	October	1,189	2,785	\$1,669,432	\$599.44	\$1,792,928	\$182,655	\$1,975,583	\$709.37	118.3%	
5	November	1,188	2,786	\$1,668,376	\$598.84	\$1,480,664	\$197,130	\$1,677,795	\$602.22	100.6%	
6	December	1,180	2,765	\$1,658,418	\$599.79	\$1,573,502	\$196,788	\$1,770,290	\$640.25	106.7%	
7	January 2020	1,177	2,757	\$1,653,745	\$599.83	\$1,683,519	\$196,184	\$1,879,703	\$681.79	113.7%	
8	February	1,173	2,752	\$1,646,093	\$598.14	\$1,441,633	\$217,311	\$1,658,944	\$602.81	100.8%	
9	March	1,182	2,761	\$1,651,435	\$598.13	\$1,441,787	\$301,115	\$1,742,902	\$631.26	105.5%	
10	April	1,187	2,765	\$1,654,431	\$598.35	\$1,019,508	\$239,311	\$1,258,819	\$455.27	76.1%	
11	May	1,177	2,741	\$1,640,110	\$598.36	\$701,260	\$217,187	\$918,447	\$335.08	56.0%	
12	June	1,176	2,736	\$1,635,662	\$597.83	\$1,135,819	\$187,209	\$1,323,028	\$483.56	80.9%	
13	Year-to-Date Totals	14,205	33,226	\$19,913,557	\$599.34	\$17,056,760	\$2,564,422	\$19,621,182	\$590.54	98.5%	
14	% Change to 18-19	-1.6%	-2.8%	5.6%	8.7%	4.5%	2.2%	4.2%	7.2%	-1.4%	

Medical Claims by Month – All Plans Combined



Large Claims – July 2019 – June 2020

July 2020 - July 2020

Claimant	Relationship	Diagnosis	Payments	Anticipated Stop Loss Recovery
1	Spouse	Leukemia	\$188,281	-
Total:			\$188,281	\$0

Total Medical+Rx Claims: \$1,602,231

Large Claims % of Total: 11.8%

Individual Stop Loss (Includes Rx): \$250,000

July 2019 - June 2020

Claimant	Relationship	Diagnosis	Payments	Anticipated Stop Loss Recovery
1	Subscriber	Myelofibrosis	\$838,458	\$588,458
2	Subscriber	Breast Cancer	\$517,026	\$267,026
3	Spouse	Leukemia	\$406,454	\$156,454
4	Subscriber	Stomach Cancer	\$355,031	\$105,031
5	Child	ESRD	\$279,255	\$29,255
6	Subscriber	Lupus	\$245,121	-
7	Child	Nephritic Syndrome	\$218,971	-
8	Child	Fracture	\$213,650	-
9	Subscriber	Throat Cancer	\$170,316	-
10	Spouse	Spondylolisthesis	\$169,898	-
11	Subscriber	Sepsis	\$167,176	-
12	Child	Newborn	\$148,912	-
13	Child	Sepsis	\$143,326	-
14	Spouse	Pulmonary Eosinophilia	\$142,331	-
15	Spouse	Sepsis	\$128,851	-
Total:			\$4,144,777	\$1,146,226

Total Medical+Rx Claims: \$19,621,182

Large Claims % of Total: 21.1%

Individual Stop Loss (Includes Rx): \$250,000

Dental Claims by Month

	A	B	C	D	E	F	G
	2020-2021		Claims			Administration	Total Claims + Fees
	Subscribers	City of SF Funding	Paid Claims	Paid Claims PEPM			
1	Jul-20	1,150	\$79,690	\$83,332	\$72.46	\$4,221	\$87,552
2	Aug-20						
3	Sep-20						
4	Oct-20						
5	Nov-20						
6	Dec-20						
7	Jan-21						
8	Feb-21						
9	Mar-21						
10	Apr-21						
11	May-21						
12	Jun-21						
13	Totals	1,150	\$79,690	\$83,332	\$72.46	\$4,221	\$87,552
14	% Change to 19-20				41.8%		

	A	B	C	D	E	F	G
	2019-2020		Claims			Administration	Total Claims + Fees
	Subscribers	City of SF Funding	Paid Claims	Paid Claims PEPM			
1	Jul-19	1,176	\$82,079	\$72,765	\$61.88	\$4,316	\$77,081
2	Aug-19	1,177	\$82,243	\$78,434	\$66.64	\$4,320	\$82,754
3	Sep-19	1,165	\$81,598	\$57,522	\$49.38	\$4,276	\$61,798
4	Oct-19	1,167	\$81,464	\$78,844	\$67.56	\$4,283	\$83,127
5	Nov-19	1,167	\$81,492	\$62,413	\$53.48	\$4,283	\$66,696
6	Dec-19	1,159	\$80,966	\$60,992	\$52.62	\$4,254	\$65,246
7	Jan-20	1,157	\$80,673	\$70,418	\$60.86	\$4,246	\$74,664
8	Feb-20	1,150	\$80,175	\$67,249	\$58.48	\$4,221	\$71,470
9	Mar-20	1,159	\$80,481	\$66,481	\$57.36	\$4,254	\$70,735
10	Apr-20	1,160	\$80,387	\$23,737	\$20.46	\$4,257	\$27,994
11	May-20	1,153	\$79,916	\$15,728	\$13.64	\$4,232	\$19,960
12	Jun-20	1,151	\$79,762	\$57,751	\$50.17	\$4,224	\$61,975
13	Totals	13,941	\$971,236	\$712,337	\$51.10	\$51,163	\$763,500
14	% Change to 18-19	-2.0%	8.6%	-19.5%	-17.8%	4.2%	-18.2%

Dental Claims by Month

