AGENDA

SWMA JOINT POWERS BOARD
OCTOBER 15, 2020
5:00 PM
ATTEND VIRTUALLY

SFSWMA
Santa Fe Solid Waste Management Agency
Buckman Road Recycling & Transfer Station (BuRRT)
Caja del Rio Landfill

SPECIAL PROCEDURES FOR SOLID WASTE MANAGEMENT AGENCY JOINT POWERS BOARD MEETING

Due to the COVID-19 pandemic, members of the public are encouraged to attend the Joint Powers Board meeting via Cisco WebEx video conferencing.

Meeting Link using a computer/laptop/smartphone – must download the WebEx app on the device:
https://santafesolidwastemanagementagency.my.webex.com/santafesolidwastemanagementagency.my/e.php?MTID=m785592785d97a6a08210dc2ef73185a9
Meeting Number (Access Code): 126 713 6886
Meeting Password: 58393627
Join by Telephone: (415) 655-0001

The agenda and packet material for the meeting will be posted at santafe.primegov.com/public/portal.

I. **CALL TO ORDER**

II. **ROLL CALL**

III. **APPROVAL OF AGENDA**

IV. **APPROVAL OF CONSENT CALENDAR**

V. **APPROVAL OF MINUTES**

A. Regular Meeting – August 20, 2020

VI. **MATTERS FROM THE PUBLIC**

VII. **CONSENT CALENDAR**

A. Request for Approval of the Material Transfer Agreement by and Between Momentum Recycling and Santa Fe Solid Waste Management Agency for the Purpose of Transporting and Recycling Glass at the Momentum's Recycling Facility in Broomfield, CO; and

1. Authorize the Executive Director to Execute the Agreement and Act as the Contract Representative for the Agreement.

B. Request for Approval to Repair Unit 1359 (Caterpillar 836K Landfill Compactor) by Wagner Equipment Company of Albuquerque, NM, under ITB No. '20/27/B in the Amount of $85,767.19; and

1. Approval of Budget Increase to 8100851.520400 (Repair & Maintenance of Equipment and Machinery) from 810.100700 (Operating Fund Cash Balance) in the Amount of $85,767.19.

C. Request for Approval to Repair Unit 1369 (Caterpillar 623K Wheel Tractor-Scraper) by Wagner Equipment Company of Albuquerque, NM, under ITB No. '20/27/B in the Amount of $30,767.06; and

1. Approval of Budget Increase to 8100851.520400 (Repair & Maintenance of Equipment and Machinery) from 810.100700 (Operating Fund Cash Balance) in the Amount of $30,767.06.

D. Request for Approval of Amendment No. 2 to the Price Agreements for Motor Oils, Lubricants, Antifreeze and Related Products (RFB No.' 19/03/B) with:

1. Brewer Oil Company, Albuquerque, NM
   a. Extend the Term of the Agreement through October 4, 2021.
2. Senergy Petroleum, LLC, Santa Fe, NM (Formerly Honstein Oil and Distributing)
   a. Extend the Term of the Agreement through October 4, 2021.
   b. Change the Notice Information for the Contractor.
3. Stewart and Stevenson Power Products, Albuquerque, NM
   a. Extend the Term of the Agreement through October 4, 2021.
4. Wagner Equipment Company, Albuquerque, NM
   a. Extend the Term of the Agreement through October 4, 2021.
   b. Amend the Contractor's Unit Pricing for Items/Services.

E. Request for Approval of Amendment No. 1 to the Services Agreement with Familia Rios, LLC, d/b/a Nelly's Cleaning Service of Santa Fe, NM, for Cleaning Services for the Santa Fe Solid Waste Management Agency (RFB No. '20/01/B); and

1. Extend the Term of the Agreement through October 17, 2021.
2. Increase the Amount of Compensation by $69,400 for a Total Amount Not-To-Exceed $138,800.

F. Request for Approval of Amendment No. 1 to the Services Agreement with Rusty's Weigh Scales & Service, Inc. of Albuquerque, NM, for On-Call Truck Scale Calibration, Maintenance and Repair Services for the Santa Fe Solid Waste Management Agency (RFB No. '20/04/B); and

1. Extend the Term of the Agreement through October 17, 2021.

G. Request for Approval of 2021 Meeting Calendar

AGENDA

SWMA JOINT POWERS BOARD
OCTOBER 15, 2020
5:00 PM
ATTEND VIRTUALLY

SFSWMA
Santa Fe Solid Waste Management Agency
Buckman Road Recycling & Transfer Station (BuRRT)
Caja del Rio Landfill

VIII. MATTERS FROM THE EXECUTIVE DIRECTOR

A. Update on Free Amnesty Days
1. Free Tire Days – September 5-6, October 3-4, November 7-8
2. Free Trash Day – September 19
3. Free E-Waste Day – October 3
4. Free HHW Day – November 7

IX. MATTERS FROM THE BOARD

X. MATTERS FROM STAFF - AGENCY, CITY, COUNTY

A. Shirlene Sitton, Division Director, City of Santa Fe Environmental Services Division.
B. Les Francisco, Solid Waste Superintendent, Santa Fe County Public Works.

XI. NEXT MEETING: Thursday, November 19, 2020

XII. ADJOURNMENT

SUMMARY OF ACTION
SANTA FE SOLID WASTE MANAGEMENT AGENCY
JOINT POWERS BOARD
ATTENDED VIRTUALLY
THURSDAY, AUGUST 20, 2020, 5:00 PM

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SANTA FE SOLID WASTE MANAGEMENT AGENCY
JOINT POWERS BOARD
ATTENDED VIRTUALLY
THURSDAY, AUGUST 20, 2020, 5:00 PM

I. CALL TO ORDER

The meeting of the Santa Fe Solid Waste Management Joint Powers Board was called to order by Commissioner Anna Hansen, Chair, via Cisco Webex Video Conferencing, on Thursday, August 20, 2020, at 5:04 pm.

II. ROLL CALL

BOARD MEMBERS PRESENT
Commissioner Anna Hansen, Chair
Councilor JoAnne Vigil Coppler, Vice Chair
Commissioner Ed Moreno
Councilor Michael Garcia
Commissioner Anna Hamilton
Councilor Roman Abeyta

BOARD MEMBERS ABSENT

OTHERS PRESENT
Randall Kippenbrock, Executive Director, SWMA
Rosalie Cardenas, SWMA
Nancy Long, Long, Komer and Associates
Erica Martinez, SWMA
Les Francisco, Santa Fe County
Yvonne Herrera, Santa Fe County
Randy Watkins, SWMA
Shirleen Sitton, Environmental Services
Danita Boettner, SWMA
Hank Hughes, Santa Fe County Commissioner Elect
Ryan Jones, CPA, CliftonLarsonAllen LLP
Elizabeth Martin, Stenographer

III. APPROVAL OF AGENDA

Mr, Kippenbrock said there is a misspelling in item 7C. It should be stewart, not steward.

MOTION A motion was made by Commissioner Moreno, seconded by

Commissioner Hamilton, to approve the agenda as amended.

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

Chair Hansen, yes; Councilor Vigil Coppler, yes; Commissioner Moreno, yes; Councilor Garcia, yes; Commissioner Hamilton, yes; Councilor Abeyta, yes.

IV. APPROVAL OF CONSENT CALENDAR

MOTION A motion was made by Councilor Vigil Coppler, seconded by Commissioner Moreno to approve the consent calendar.

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

Chair Hansen, yes; Councilor Vigil Coppler, yes; Commissioner Moreno, yes; Councilor Garcia, yes; Commissioner Hamilton, yes; Councilor Abeyta, yes.

V. APPROVAL OF MINUTES JULY 16, 2020

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

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

Chair Hansen, yes; Councilor Vigil Coppler, yes; Commissioner Moreno, yes; Councilor Garcia, yes; Commissioner Hamilton, yes; Councilor Abeyta, yes.

VI. MATTERS FROM THE PUBLIC

None.

VII. CONSENT CALENDAR

A. REQUEST FOR APPROVAL OF PROFESSIONAL SERVICES AGREEMENT WITH BLUEWATER ENVIRONMENTAL CONSULTING, LLC OF SANTA FE, NM, FOR ENVIRONMENTAL SERVICES FOR THE SANTA TE SOLID WASTE MANAGEMENT AGENCY IN THE AMOUNT OF $68,575 (RFP NO. '20/37/P).

Approved on consent.

B. REQUEST FOR APPROVAL TO AWARD ITB NO. '20/23/B - SECURITY

SERVICES FOR THE SANTA FE WASTE MANAGEMENT AGENCY TO UNIVERSAL PROTECTION SERVICES, LP D/B/A ALLIED UNIVERSAL SECURITY SERVICES OF ALBUQUERQUE, NM, IN THE AMOUNT OF $108,979.59.

Approved on consent.

C. REQUEST FOR APPROVAL TO AWARD ITB NO. '21/01/B - FLEET VEHICLE, HEAVY-DUTY TRUCK AND TRAILER REPAIRS (PARTS AND LABOR) TO MULTIPLE VENDORS; AND

1. APPROVAL OF PRICE AGREEMENTS FOR FLEET VEHICLES, HEAVY-DUTY TRUCK AND TRAILER REPAIRS (PARTS AND LABOR) WITH:

a. BATTERY SYSTEMS, GARDEN GROVE, CA, THROUGH ITS ALBUQUERQUE LOCATION

b. CAPITOL FORD LINCOLN, SANTA FE, NM

c. CHEVROLET CADILLAC OF SANTA FE, NM

d. CLARK TRUCK EQUIPMENT COMPANY, ALBUQUERQUE, NM

e. CUMMINS, ALBUQUERQUE, NM

f. HAL BURNS TRUCK AND EQUIPMENT SERVICE, SANTA FE, NM

g. MCT, ALBUQUERQUE, NM

h. PARTS PLUS OF NEW MEXICO, ALBUQUERQUE, NM, THROUGH ITS SANTA FE LOCATION

I. RUSH TRUCK CENTERS OF NEW MEXICO, ALBUQUERQUE, NM

j. SAN LOMA D/B/A WESTFLEET, ALBUQUERQUE, NM

k. STEWARD AND STEVENSON POWER PRODUCTS, ALBUQUERQUE, NM

I. WEISE AUTO SUPPLY D/B/A NAPA, SANTA FE, NM

Approved on consent.

D. REQUEST FOR APPROVAL OF AMENDMENT NO. 2 TO THE PRICE AGREEMENT FOR BULK FUEL WITH SENERGY PETROLEUM, LLC OF SANTA FE, NM (FORMERLY HONESTEIN OIL AND DISTRIBUTION, LLC) AT THE SAME PRICE, TERMS AND CONDITIONS (RFB NO '19/02/B); AND

1. EXTEND THE TERM OF THE AGREEMENT THROUGH AUGUST 24, 2021.

2. CHANGE THE NOTICE INFORMATION FOR THE CONTRACTOR.

Approved on consent.

VIII. MATTERS FROM THE EXECUTIVE DIRECTOR

A. REQUEST FOR APPROVAL OF AUDITED FINANCIAL STATEMENTS AND SUPPLEMENTARY INFORMATION FOR THE YEAR ENDED JUNE 30, 2019 (RYAN JONES, CPA, CLIFTONLARSONALLEN LLP).

Mr. Kippenbrock stated that the audit had been completed and needed Board approval.

Mr. Jones thanked Mr. Kippenbrock and Ms. Martinez for being so easy to work with and for being forthcoming and timely in their audit preparation.

Mr. Jones reported that there were two findings in the audit. The first was that the audit was late. We knew the audit would be late because SWMA is dependent on the City to provide information to them on a few things that are required to complete the audit. The second item was a small asset that was not recorded correctly. It was a clean audit and we issued an unmodified opinion, which is the best opinion available.

Chair Hansen thanked Mr. Jones and thanked Mr. Kippenbrock and Ms. Martinez for their hard work.

Commissioner Hamilton reminded the Board that a few months ago, when we knew the audit would be late because of the City we talked about looking at how SWMA could become independent from the City.

Mr. Jones said the cash relationship between the City and SWMA is

interdependent. It took us a bit to get the City's numbers. His idea for next year, as a work around, is for the City to work with us to do a confirmation certification of our numbers for us so we can move forward and complete the audit. That way the City can be viewed as your bank. The City would have to be willing to do that.

Commissioner Hamilton said maybe Randall and Erica could work with the City to make the cash balance accounting independent. She would like to have that possibility investigated and reported back to the Board at the next meeting.

Ms. Martinez said next year, when the overall audit is complete, we can have the City verify the SWMA cash balances at the time of our audit so our audit can be sent in.

Commissioner Hamilton said she would still like to look at making our accounting independent.

Ms. Martinez stated that it could be done with a separate account.

Chair Hansen said we have two ideas. She would like these to be looked into and reported back at the next meeting.

Mr. Ryan encouraged the staff and Board to work with Mary McCoy, the City Finance Director, on this issue. The funds are co-mingled. We need to make our relationship a collaborative relationship.

B. UPDATE ON COVID-19 (CORONAVIRUS).

Mr. Kippenbrock reported that the Tire Amnesty Day went well. We had about twenty cars that brought four tires each. The next day scheduled is the Trash Amnesty Day in September. Due to the definition of a mass gathering, that is something we are unable to do. We will cancel that event due to the restrictions. As to the Household Waste Amnesty Day, we will wait to make a determination as we follow the COVID-19 virus progression and will follow what the Governor says.

Chair Hansen said it is important to follow the Governor's orders and Department of Health. We can assess this as we go along.

Councilor Garcia stated that he understood that we want to be in compliance with the Governor's orders and the Department of Health, but we would be providing a service. Folks look forward to these amnesty days. He would like us to ask the Department of Health for clarification as to the restrictions and how retailers get around the designation.

Commissioner Hamilton said she supported Councilor Garcia's request.

Councilor Vigil Coppler said she has received complaints from constituents that

there is illegal dumping going on. If there is a way to continue with this event she thinks that would be a good thing. She thinks we ought to investigate that further.

Chair Hansen said lets check in and ask for a clarification. We, at the County, have let people dump trash at our transfer station for free and have not been punching cards for several months. We have started punching cards again now. She would like to look into the possibility of having the amnesty days.

IX. MATTERS FROM THE BOARD

Chair Hansen said she would like to say that she is very sorry to hear that this is Commissioner Moreno's last meeting. She is going to miss him very much. He has been a great partner for her. Thank you for your service Ed. She looks forward to working with Hank Hughes, but will miss you.

Commissioner Moreno said SWMA has been his favorite Committee. At his heart he is a little boy playing with trucks and building things. A lot of his efforts have been in that vein. He appreciates having been a good partner in this agency.

Councilor Vigil Coppler thanked Commissioner Moreno for his years of service. She wished he and Janet well in the future.

Councilor Vigil Coppler thanked Randall and Erica and everyone who worked on the audit. We appreciate all of your work.

The Board, collectively, gave recognition to Commissioner Moreno.

X. MATTERS FROM STAFF - AGENCY, CITY, COUNTY

A. SHIRLEEN SITTON, DIVISION DIRECTOR, CITY OF SANTA FE ENVIRONMENTAL SERVICES DIVISION.

Ms. Sitton reported that she had spoken with Mr. Kippenbrock about amnesty days and Toss No Mas. Toss No Mas will still happen over multiple days. People can come pick up their bags to do neighborhood clean ups. As to amnesty days, there is some education that needs to be done around those. The programs are still happening for a very minimal fee. That includes Household Waste and Electronics. The problem with those high profile free days is that people perceive that they are the only days they can dispose of the waste. We will do everything we can to let the public know the options.

Mr. Kippenbrock said the fee is fifty cents for every twenty pounds of household or electronic waste. They are nominal charges.

Chair Hansen said maybe we need to advertise that more and include the reasonable rates.

Ms. Sitton said we continue to work with our developers on the Recycle Coach App. We will push that out and inform people. Also they are working on the website components. This year we are in an improve position in the Water Pledge Challenge. We are in fourth place.

Chair Hansen asked Ms. Sitton to send out the link to everyone.

B. LES FRANCISCO, SOLID WASTE SUPERINTENDENT, SANTA FE COUNTY PUBLIC WORKS

Mr. Francisco reported that they have been very busy and are now back to punching cards. Everyone is doing well. In May and June we had 11,000 visits. 250 tons a month in solid waste. Everything is running smoothly. He is proud of his employees. We are short three staff members and they are still working along as if nothing happened.

Chair Hansen said thank you to all the staff who are here with us today.

XI. NEXT MEETING DATE
SEPTEMBER 17, 2020

XII. ADJOURNMENT

There being no further business before the Board the meeting adjourned at 5:54 pm.

Attested to by:

_____
Commissioner Anna Hansen, Chair

_____
Geraldine Salazar
Santa Fe County Clerk

_____
Elizabeth Martin, Stenographer

MEMORANDUM

To: SFSWMA Joint Powers Board Members
From: Randall Kippenbrock, P.E., Executive Director RLK
Date: October 12, 2020
Subject: Request for Approval of the Material Transfer Agreement by and Between Momentum Recycling and Santa Fe Solid Waste Management Agency for the Purpose of Transporting and Recycling Glass at the Momentum's Recycling Facility in Broomfield, CO

SUMMARY

The Agency is requesting the Board approve a new Material Transfer Agreement (Agreement) between Momentum Recycling (Momentum) and the Agency for continued glass recycling at the Momentum's recycling facility in Broomfield, CO.

The Agency is also requesting the Board authorize the Executive Director to execute the Agreement and act as the contract representative for the Agreement.

The Agreement is for two years and will expire on October 31, 2022. Per the Agreement, Momentum will pay the Agency a purchase price of $35 per ton for glass delivered to Momentum's facility.

BACKGROUND

On October 18, 2018, the Board approved a two-year material transfer agreement with Momentum Recycling for glass recycling. The Board also authorized the Executive Director to execute the agreement and act as the contract representative for the agreement. The agreement will expire on October 31, 2020.

Momentum Recycling has two glass recycling facilities in Broomfield, CO, and Salt Lake City, UT. The Colorado facility opened in 2016 and is a state-of-the-art bottle-to-bottle glass recycling plant. The plant processes approximately 10,000 tons of glass each month.

Momentum Recycling will accept up to 25% non-glass materials in glass loads such as ceramics, laminated glass, light bulbs, mirrors, porcelain, concrete, and rocks.

If the level of non-glass materials in the load exceeds twenty-five percent (25%), Momentum may, at its discretion, accept the material with no price paid to the Agency, or to reject the material at the Agency's expense. As to date, one load was rejected by Momentum. The load was returned to Caja del Rio Landfill for disposal.

From October 19, 2018, to September 25, 2020, the Agency used Promotion Transportation to transport 134 loads of glass to Momentum for a total of 3,053 tons. Momentum paid the Agency $106,876 for the glass at $35 per ton.

Crushing glass at BuRRT using the existing Andela glass pulverizer, which was purchased in 2003, or a new crusher is more costly than to transport to Momentum primarily due to the operation and maintenance of the current pulverizer. A replacement cost for the old machine ranges from $300,000 to $500,000 depending on the model and layout, which will increase the cost to crush glass.

ACTION REQUESTED

The Agency requests the Board to approve the Material Transfer Agreement between Momentum Recycling and the Agency to transport and recycle glass at the Momentum's recycling facility in Broomfield, CO.

The Agency also requests approval to authorize the Executive Director to execute the Agreement and act as the contract representative for the Agreement.

Attachment: Material Transfer Agreement

M:\Memo\Memo.101220.1

ATTACHMENT

Material Transfer Agreement

MATERIAL TRANSFER AGREEMENT

This MATERIAL TRANSFER AGREEMENT (the "Agreement") is made and entered into by Santa Fe Solid Waste Management Agency ("SFSWMA") and Momentum Recycling, LLC a Utah limited liability company ("Momentum"). The Effective Date shall be the date it is executed by SFSWMA. SFSWMA and Momentum are collectively referred to herein as the "Parties" and individually as a "Party."

RECITALS

SFSWMA receives recyclable products in the Santa Fe, NM area and desires to transfer and convey any recyclable post-consumer glass products received pursuant to this Agreement exclusively to Momentum, and Momentum desires to receive all of SFSWMA's recyclable glass products.

The Parties desire to enter into this Agreement to set forth their rights and understandings relating to the agreement of the Parties relating to the subject matter hereof.

AGREEMENT

NOW, THEREFORE, in consideration of the covenants, agreements, representations and warranties contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

1. **Product.** As used herein, the term "Product" shall mean all colors of glass received by SWSFMA that is not processed with SWSFMA's glass crusher for local sale, and recycled by Momentum during the term of this Agreement. SFSWMA shall exercise its reasonable best efforts to avoid the transmittal of all ceramics, laminated glass, light bulbs, mirrors, porcelain, concrete, rocks and such other materials as are designated by Momentum from time to time, from the Product delivered to Momentum. It is understood by both Parties that if the level of non-glass materials exceeds twenty-five percent (25%), based on sampling and testing performed at Momentum upon delivery, using tested methods already established and in use at Momentum's processing facility, then, at Momentum's discretion, the load may be accepted with no price paid to SFSWMA, or the load may be rejected at SFSWMA's expense.

2. **Supply and Acceptance of the Glass Products**. For each month during the term of this Agreement, SFSWMA shall have the obligation to supply, and Momentum shall accept, all Product received by SFSWMA during such month.

3. **Collection and Transportation of Product**. Each month during the term of this Agreement, SFSWMA shall deliver the Product received by SFSWMA during the month. SFSWMA shall deliver all Product, Free on Board, to Momentum's recycling facility located at 11331 Dillon Rd., Broomfield, CO 80020. SFSWMA shall arrange for shipment of the Product from SFSWMA's place of business and shall bear all costs, responsibilities, risk of loss, and obligations arising from or resulting from such shipping of the Product to Momentum's facility.

4. **Price and Payment**. Momentum shall pay SFSWMA a purchase price of thirty-five dollars ($35.00 USD) per ton of glass. If the level of non-glass materials in the load exceeds twenty-five percent (25%), as determined by both Parties, Momentum may, at its sole discretion, choose to accept the material with no price paid to SFSWMA, or to reject the material at SFSWMA's expense. Momentum shall deliver the purchase price for all Product delivered during each month within thirty (30) days of the end of such month. The amount of Product delivered to Momentum shall be finally determined upon delivery of the Product to Momentum's facility. During the term of this Agreement, the Parties may agree to adjust the purchase price, and in such event, this Agreement will be amended to reflect the new price. If no such amendment occurs, the purchase prices specified herein will remain in effect during the life of this contract.

5. **Term and Termination**.

(a) **Term**. This Agreement and the obligations of the Parties hereunder shall commence on the Effective Date and shall expire on October 31, 2022.

(b) **Termination**. This Agreement may be terminated by either Party upon one-hundred twenty (120) days written notice to the other Party or upon a material breach of this Agreement by the other Party, after notice and a reasonable opportunity to cure.

6. **Miscellaneous**.

(a) **Force Majeure**. No Party shall be deemed to be in default of its obligations hereunder because of a delay in its performance to the extent that such delay is caused by factors beyond its control which it could not reasonably have foreseen, including, without limitation, fire, explosion, accident, riot, flood, earthquake, civil insurrection, act of God or the public enemy, or a labor dispute, strike or lockout.

(b) **Notices**. All notices and other communications hereunder shall be in writing and will be deemed to have been given if delivered in person (including by national delivery service), mailed by first class mail with receipt effective three (3) days after mailing or by email upon receipt confirmation, to the Parties at the following addresses (or at such other address for a Party as shall be specified by it by like notice):

MOMENTUM: John Lair
President and CEO
Momentum Recycling, LLC
658 S. 4050 W.
Salt Lake City, UT 84104
Email: john@momentumrecycling.com

SFSWMA: Randall Kippenbrock, P.E.
Executive Director
Santa Fe Solid Waste Management Agency
149 Wildlife Way
Santa Fe, NM 87506
Email: rkippenbrock@sfswma.org

(c) **No Agency or Partnership; Limited Rights**. This Agreement does not create any agency or partnership relationship between any of the Parties.

(d) **Opportunity to Review**. Each Party has had the opportunity to review the matters contemplated by this Agreement and to obtain assistance from legal and other counsel such Party has deemed advisable relative to the foregoing.

(e) **Assignability**. This Agreement shall be binding upon and inure to the benefit of the Parties, their legal representatives, successors and assigns. This Agreement may be assigned to Momentum's affiliates or any purchaser of all or substantially all of the assets of Momentum, subject to SFSWMA's reasonable approval.

(f) **Waiver.** No failure or delay by any Party in exercising any right, power or remedy will operate as a waiver of such right, power or remedy, and no waiver will be effective unless it is in writing and signed by the waiving Party.

(g) **Governing Law Venue**. This Agreement shall be governed by and construed in accordance with the laws of State of New Mexico, without regard to the principles of conflicts of laws. By executing this Agreement, the Parties agree to submit to the exclusive jurisdiction of and agree to the venue of the courts of the State of New Mexico, whether state courts or federal courts located in the State of New Mexico. The Parties hereto agree not to bring an action in any court of law located outside the State of New Mexico.

(h) **Severability**. The provisions of this Agreement will be deemed severable, and the unenforceability of any one or more provisions will not affect the enforceability of any other provisions. In addition, if any provision of this Agreement, for any reason, is declared to be unenforceable, the Parties will substitute an enforceable provision that, to the maximum extent possible in accordance with applicable law, preserves the original intentions and economic positions of the Parties.

(i) **Complete Understanding and Agreement**. This Agreement constitutes the entire Agreement between the Parties and supersedes all other prior or contemporaneous communications between the Parties (whether written or oral) relating to the subject matter of this Agreement. This Agreement may be modified or amended solely in a writing signed by the Parties.

(j) **Third Party Beneficiaries**. There are no third-party beneficiaries under this Agreement.

(k) **Headings**. The title or section headings of the various provisions hereof are intended solely for convenience and ease of reference and shall not in any manner amplify, limit or modify or otherwise be used in interpretation of any of said provisions.

(l) **Counterparts and Electronic Transmission**. This Agreement may be executed in any number of counterparts, each of which, when taken together, will constitute one and the same instrument. The Parties agree electronically transmitted copies of signatures, notices, or amendments to this Agreement shall be binding, the same as originals of such signatures.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date set forth below.

SANTA FE SOLID WASTE MANAGEMENT AGENCY:

_____ _____

Randall Kippenbrock, P.E. Date:
Executive Director

MOMENTUM RECYCLING, LLC:

_____ _____

John Lair Date:
President and CEO

APPROVED AS TO FORM:

_____ _____

Nancy R. Long Date:
Agency Attorney

MEMORANDUM

To: SFSWMA Joint Powers Board
From: Randall Kippenbrock, P.E., Executive Director RLK
Date: October 9, 2020
Subject: Request for Approval to Repair Unit 1359 (Caterpillar 836K Landfill Compactor) by Wagner Equipment Company of Albuquerque, NM, under ITB No. '20/27/B in the Amount of $85,767.19

SUMMARY:

Unit 1359 (2015 Caterpillar 836K landfill compactor) needs repairs, including transmission and torque converter reconditioning, and fire suppression system repairs. The repairs are necessary to continue using the compactor as a backup.

On September 15, 2020, Wagner Equipment Company of Albuquerque, NM, provided an estimate to repair Unit 1359 of $85,767.19 for parts and labor under ITB No. '20/27/B. The estimated time to complete the repairs is 4 to 6 weeks. Wagner Equipment provides a Wagner Pro-Rated Extended Warranty on the transmission and torque converter for six months or 1,000 hours, whichever comes first, and pro-rated after that for up to 36 months or 6,000 hours.

Wagner Equipment has records of the unit's equipment repair, service, and warranty history. They provide Original Equipment Manufacturer (OEM) parts and diagnostic/repair services for Caterpillar equipment.

Funding is available via a budget increase to 8100851.520400 (Repair & Maintenance of Equipment and Machinery) from 810.100700 (Operating Fund Cash Balance).

BACKGROUND:

On August 28, 2014, the Board approved purchasing a Caterpillar 836K landfill compactor (Unit 1359) from Wagner Equipment under GSA Contract No. GS-30F-0018U for $836,837.

On February 20, 2020, the Board approved the repair of Unit 1359, including engine reconditioning, radiator cleaning and repair, and inspecting the suction screen on the transmission for $50,500.51. Wagner Equipment warranted the work for six months or 1,000 hours, whichever comes first, and pro-rated after that for up to 36 months or 6,000 hours.

On June 18, 2020, the Board awarded ITB No. '20/27/B, which provides price agreements for off-road heavy equipment repairs to various vendors, including Wagner Equipment.

On September 1, 2020, the Agency took Unit 1359 out of service when the operations observed the transmission slipping. Wagner Equipment diagnosed the machine and determined the torque converter requires reconditioning. The transmission must be dismantled and removed to reach the torque converter.

Even though the scheduled oil sampling (SOS) results for the unit's transmission showed normal wear, it has 10,332 machine hours. Due to the high machine hours and having to dismantle the transmission to access the torque converter, it is in the Agency's best interest to recondition the transmission and the torque converter to ensure the machine's reliability as a backup unit.

The fire suppression system nozzles on the unit requires minor repairs.

A compactor is the primary piece of equipment used to compact solid waste and is one of the most critical pieces of equipment for the disposal operation. The Agency has three compactors.

ACTION REQUESTED:

The Agency requests the Board approve the procurement for Wagner Equipment to repair Unit 1359 under ITB No. '20/27/B in the amount of $85,767.19.

The Agency also requests approval of a budget increase to 8100851.520400 (Repair & Maintenance of Equipment and Machinery) from 810.100700 (Operating Fund Cash Balance) in the amount of $85,767.19.

Attachments: 1) Budget Adjustment Request (BAR)
2) Wagner Equipment Repair Estimate for Unit 1359
3) Wagner Equipment Pro-Rated Extended Warranty

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ATTACHMENT 1

Budget Adjustment Request (BAR)

Log # {Finance use only}:	
Journal # {Finance use only}:	

City of Santa Fe, New Mexico
BUDGET AMENDMENT RESOLUTION (BAR)

DEPARTMENT / DIVISION NAME	DATE
Santa Fe Solid Waste Management Agency	10/7/2020

ITEM DESCRIPTION	ORG	OBJECT	PROJECT	INCREASE	DECREASE
EXPENDITURES				{enter as positive #}	{enter as negative #}
Repair & Maint Equipment and Machinery	8100851	520400		85,767	
REVENUES				{enter as negative #}	{enter as positive #}
				$ 85,767	$ -

JUSTIFICATION: *(use additional page if needed)*
--Attach supporting documentation/memo

Repair Unit 1359 Caterpillar 836K compactor by Wagner ITB No. '20/27/B

To repair transmission and torque converter.

Cash is available in operating fund 810

{Complete section below if BAR results in a net change to ANY Fund}	
Fund(s) Affected	Fund Balance Increase/(Decrease)
810	(85,767)
TOTAL:	(85,767)

Erica J Martinez 10/7/2020
Prepared By {print name} Date

Division Director Signature {optional} Date

Department Director Signature Date

{Use this form for Finance Committee/ City Council agenda items ONLY}

CITY COUNCIL APPROVAL

City Council Approval Date

Agenda Item #:

Budget Officer Date

Finance Director {≤ $5,000} Date

City Manager {≤ $60,000} Date

ATTACHMENT 2

Wagner Caterpillar Repair Estimate for Unit 1359

Repair Estimate - Special Instructions, Taxes

Date:	Sep/15/2020 8:26:54 AM	**Make:**	AA
Customer Number:	77956	**Model:**	836K
Customer Name:	SANTA FE SOLID WASTE MGT CST	**Serial Number:**	0TWZ00516
Customer Contact:	RICKY TAPIA	**Customer Equipment No:**	1359
Customer Contact Phone:	5052318764	**Last Known SMU:**	10,332
Wagner Contact:	HEATHER PRICE	**Work Order Number:**	AK39714
Wagner Contact Phone:	1 505 343 2788	**Purchase Order Number**	

Comments: GOOD MORNING RICKY, HERE IS THE ESTIMATE FOR THE TRANSMISSION AND TORQUE CONVERTER FOR THE 836K. UPON YOU APPROVAL PLEASE SIGN, DATE, PROVIDE A PO# AND EMAIL BACK. THANK YOU FOR THE OPPORTUNITY TO EARN YOUR BUSINESS!

Segment No	Qty	Description	*	Part $	Labor $	Misc $	Total $
AA	1	TRAVEL TO/FROM WORK AREA MACHINE IS LOCATED: SANTA FE SOLID WASTE MANAGEMENT, 149 WILDLIFE WAY SANTA FE, NM 87506 134 M ROUNDTRIP	*	0.00	0.00	0.00	0.0(
CC	1	INTERVIEW CUSTOMER ABOUT MACHINE ** TIME IS CALCULATED AS FOLLOWS: RFB NO.'20-27-B FIELD LABOR $168.00 - NO TRAVEL COSTS SHOP LABOR $135.00		0.00	0.00	0.00	0.0(
01	1	TROUBLESHOOT MACHINE CUSTOMER STATES THAT THE MACHINE IS HAVING AN ISSUE WITH THE TRANSMISSION; WANTS TO CHECK PARAMETERS AND POSSIBLY CALIBRATE.		272.34	4,284.00	0.00	4,556.3
03	1	REMOVE & INSTALL CAB REMOVAL AND INSTALLATION OF THE CAB FOR THE PURPOSE OF REMOVING THE TRANSMISSION AND TORQUE CONVERTER.		700.53	2,352.00	40.00	3,092.5
04	1	REMOVE & INSTALL TRANSMISSION CAT CERT POWERTRAIN RBLD REMOVAL AND INSTALLATION OF THE TRANSMISSION AND TORQUE CONVERTER FOR THE PURPOSE OF RECONDITIONING		1,942.57	8,400.00	100.00	10,442.5
05	1	R/I REPLACE WITH REMAN TC/TRANS OIL COOLER CAT CERT POWERTRAIN RBLD REMOVAL, REPLACEMENT, AND INSTALLATION OF THE TORQUE CONVERTER/TRANSMISSION OIL COOLER.		3,219.51	1,176.00	150.00	4,545.5
06	1	RECONDITION DRIVE TRAIN OIL LINES CAT CERT POWERTRAIN RBLD REMOVAL, REPLACEMENT, AND INSTALLATION OF DRIVE TRAIN OIL LINES.		3,833.47	3,360.00	180.00	7,373.4
10	1	RECONDITION TRANSMISSION CAT CERT POWERTRAIN RBLD RECONDITIONING OF THE TRANSMISSION TO CATERPILLAR SPECIFICATIONS.		14,462.56	8,565.20	680.00	23,707.7

Repair Estimate - Special Instructions, Taxes

Segment No	Qty	Description	*	Part $	Labor $	Misc $	Total $
11	1	ADD PARTS TRANSMISSION AVERAGE ADD PART COSTS, ACTUAL COST TO BE DETERMINED AFTER THE COMPONENT DISASSEMBLED, CLEANED, AND INSPECTED.		15,000.00	0.00	0.00	15,000.0(
14	1	RECONDITION TORQUE CONVERTER CAT CERT POWERTRAIN RBLD RECONDITIONING OF THE TORQUE CONVERTER TO CATERPILLAR SPECIFICATIONS.		4,857.95	3,041.10	230.00	8,129.0(
15	1	ADD PARTS TORQUE CONVERTER AVERAGE ADD PART COSTS, ACTUAL COST TO BE DETERMINED AFTER THE COMPONENT DISASSEMBLED, CLEANED, AND INSPECTED.		4,000.00	0.00	0.00	4,000.0(
17	1	REPAIR FIRE SUPPRESSION SYSTEM THIS IS AN ESTIMATE TO REMOVE AND INSTALL NOZZLES FOR THE FIRE SUPPRESSION. ADDITIONAL REPAIRS TO THE SYSTEM WILL REQUIRE A VENDOR.		0.00	1,344.00	0.00	1,344.0(
18	1	COMMISSION MACHINE TESTING AND VERIFYING MACHINE OPERATION AFTER THE COMPONENTS ARE INSTALLED.		0.00	840.00	0.00	840.0(
Grand Total				**48,288.93**	**33,362.30**	**1,380.00**	**83,031.2**
Tax							**2,735.9**
Total with Tax							**85,767.1**

Estimate Approval

Name _____ Title _____ Date _____

This is a preliminary estimate based on information available at time of estimate. A firm quote will be provided after the machine is disassembled and inspected. This estimate is valid for 90 days.

ATTACHMENT 3

Wagner Equipment Pro-Rated Extended Warranty

Pro-Rated Extended Warranty For Reconditioned Or Exchange Major Components

Wagner Equipment Co. warrants reconditioned Major Power Train components (except brakes) to be free from defects in material and workmanship for a period of 36 months or 6000 service meter hours, whichever occurs first, after delivery to the initial user.

The Wagner Equipment Co. prorated extended warranty covers defects in material or workmanship excluding wear from normal use. Warranty repair will be made in Wagner Equipment Co. shops during normal business hours. Only that portion of the charges for parts and labor shown on the chart will be payable by the user. Wagner Equipment Co. may use new or repaired parts to accomplish repair under this warranty.

MAJOR COMPONENT SERVICE WARRANTY FOR:

Basic Engine*, Torque Converter, Transmission, Differentials & Final Drives

MONTHS	HOURS SCHEDULE	
1 - 6	1000	100%
7 - 36	6000	Prorated**

(*) Excludes: Turbo, water pump, starter, alternator, air compressor, hoses and general maintenance items.

(**) Example: Engine failure at 3000 hours or 18 months: Wagner covers 50% of warranty repair charges.

9/04

"WARRANTY SPECIAL PROVISIONS"

1. Warranty starts on date of delivery (exceptions upon approval of Wagner Equipment Co. management).
2. The component must be on the Wagner Equipment Co. SOS Program (samples must be sent to the Wagner Equipment Co. lab at each oil change as recommended by the Caterpillar Lube & Maintenance Manual:
   a) Transmissions and Torque Converters: First oil sample must be taken between 8 to 10 hours of operation.
   b) Engines: First oil sample must be taken at the end of 50 hours of operation.
   c) Differentials and Final Drives: First oil sample must be taken at the end of 50 hours of operation.
3. The service meter must be maintained in good working order.
4. The machine containing the component must be used in Wagner Equipment Co.'s service territory.
5. Wagner Equipment Co. must be notified immediately of any suspected problems.
6. In the event of a warrantable failure, Wagner Equipment Co.'s responsibility is limited to repair of that failure. If the user chooses to rebuild to new condition, Wagner Equipment Co.'s participation will be limited to the prorated cost to repair only the warrantable failure.
7. This warranty does not apply to engines powering "ON-HIGHWAY" trucks or in underground operations.

MEMORANDUM

To: SFSWMA Joint Powers Board
From: Randall Kippenbrock, P.E., Executive Director RLK
Date: October 9, 2020
Subject: Request for Approval to Repair Unit 1369 (Caterpillar 623K Wheel Tractor-Scraper) by Wagner Equipment Company of Albuquerque, NM, under ITB No. '20/27/B in the Amount of $30,767.06

SUMMARY

Unit 1369 (2019 Caterpillar 623K wheel tractor-scraper) requires engine repairs to continue use as a primary unit. On October 8, 2020, Wagner Equipment Company of Albuquerque, NM, provided an estimate of $30,767.06 for parts and labor under ITB No.' 20/27/B. The estimated time to complete the repairs is 2-3 weeks. Upon completion, the original machine warranty will continue to cover the engine until September 2024.

Funding is available via a budget increase to 8100851.520400 (Repair & Maintenance of Equipment and Machinery) from 810.100700 (Operating Fund Cash Balance).

BACKGROUND

On June 18, 2020, the Board awarded ITB No. '20/27/B, which provides price agreements for off-road heavy equipment repairs, to various vendors, including Wagner Equipment.

On November 15, 2018, the Board approved purchasing a Caterpillar 623K wheel tractor-scraper with Trimble GPS / grade control from Wagner Equipment under Sourcewell Contract No. 032515-CAT. The $843,709.26 purchase included a 5-year / 7,500-hour complete machine extended coverage warranty.

On September 24, 2020, the Agency took Unit 1369 out of service. Wagner Equipment conducted a field diagnosis and determined a possible engine failure due to high engine over speed. They transported the engine to their Albuquerque shop for further assessment. On October 7, 2020, Wagner Equipment met with Agency staff to inspect the damaged engine parts.

The cause of the engine failure is unknown at this time. Possible causes are operator error or faulty braking components. The engine must be repaired and reinstalled to test the engine retarder and braking components. If the engine retarder or braking components failed, the manufacturer's warranty will cover the repairs.

Wagner Equipment has records of the unit's equipment repair, service, and warranty history. They provide Original Equipment Manufacturer (OEM) parts and diagnostic / repair services for Caterpillar equipment.

Unit 1369 is the primary scraper for cell excavation. The GPS / grade control system guides operators during excavation. It is also used for hauling dirt for daily and intermediate cover.

ACTION REQUESTED

The Agency requests the Board approve procuring Wagner Equipment to repair Unit 1369 at a cost of $30,767.06 under ITB No. '20/27/B.

The Agency also requests the Board approve a $30,767.06 budget increase to 8100851.520400 (Repair & Maintenance of Equipment and Machinery) from 810.100700 (Operating Fund Cash Balance).

Attachments: 1) Budget Adjustment Request (BAR)
2) Wagner Equipment Repair Estimate for Unit 1369

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ATTACHMENT 1

Budget Adjustment Request (BAR)

Log # {Finance use only}:	
Journal # {Finance use only}:	

City of Santa Fe, New Mexico
BUDGET AMENDMENT RESOLUTION (BAR)

DEPARTMENT / DIVISION NAME	DATE
Santa Fe Solid Waste Management Agency	10/9/2020

ITEM DESCRIPTION	ORG	OBJECT	PROJECT	INCREASE	DECREASE
EXPENDITURES				{enter as positive #}	{enter as negative #}
Repair & Maint Equipment and Machinery	8100851	520400		30,767	
REVENUES				{enter as negative #}	{enter as positive #}
				$ 30,767	$ -

JUSTIFICATION: *(use additional page if needed)*
--Attach supporting documentation/memo

Repair Unit 1369 Caterpillar 623K wheel tractor-scraper by Wagner ITB No. '20/27/B

Cash is available in operating fund 810

{Complete section below if BAR results in a net change to ANY Fund}

Fund(s) Affected	Fund Balance Increase/(Decrease)
810	(30,767)
TOTAL:	(30,767)

Erica J Martinez 10/9/2020
Prepared By {print name} Date

Division Director Signature {optional} Date

Department Director Signature Date

{Use this form for Finance Committee/ City Council agenda items ONLY}

CITY COUNCIL APPROVAL

City Council Approval Date

Agenda Item #:

Budget Officer Date

Finance Director {≤ $5,000} Date

City Manager {≤ $60,000} Date

ATTACHMENT 2

Wagner Caterpillar Repair Estimate for Unit 1369

Repair Estimate - Special Instructions, Taxes

Date:	Oct/8/2020 4:03:15 PM	**Make:**	AA
Customer Number:	77956	**Model:**	623K
Customer Name:	SANTA FE SOLID WASTE MGT CST	**Serial Number:**	0WTB00349
Customer Contact:	RICKY TAPIA	**Customer Equipment No:**	
Customer Contact Phone:	5052318764	**Last Known SMU:**	904
Wagner Contact:	HEATHER PRICE	**Work Order Number:**	AK39952
Wagner Contact Phone:	1 505 343 2788	**Purchase Order Number**	

Comments:

Segment No	Qty	Description	*	Part $	Labor $	Misc $	Total $
AA	1	TRAVEL TO/FROM WORK AREA MACHINE IS LOCATED: SANTA FE SOLID WASTE MANAGEMENT, 149 WILDLIFE WAY SANTA FE, NM 87506 134 M ROUNDTRIP		0.00	0.00	0.00	0.00
CC	1	INTERVIEW CUSTOMER ABOUT MACHINE ** TIME IS CALCULATED AS FOLLOWS: RFB NO.'20-27-B FIELD LABOR $168.00 - NO TRAVEL COSTS SHOP LABOR $135.00		0.00	0.00	0.00	0.00
01	1	TROUBLESHOOT MACHINE CUSTOMER STATES THAT THE MACHINE HAS DIED AND WON'T START.		0.00	1,280.00	0.00	1,280.00
02	1	REMOVE & INSTALL ENGINE		2,421.65	5,919.90	140.00	8,481.55
03	1	REPAIR ENGINE REPAIR ENGINE		10,373.46	7,425.00	500.00	18,298.46
04	1	DYNAMOMETER TEST ENGINE DYNO TEST ENGINE AFTER REPAIR		0.00	1,620.00	0.00	1,620.00
Grand Total				**12,795.11**	**16,244.90**	**640.00**	**29,680.01**
Tax							**1,087.05**
Total with Tax							**30,767.06**

Estimate Approval

Name _____ Title _____ Date _____

This is a preliminary estimate based on information available at time of estimate. A firm quote will be provided after the machine is disassembled and inspected. This estimate is valid for 90 days.

MEMORANDUM

To: SFSWMA Joint Powers Board
From: Randall Kippenbrock, P.E., Executive Director RLK
Date: October 11, 2020
Subject: Request for Approval of Amendment No. 2 to the Price Agreements for Motor Oils, Lubricants, Antifreeze, and Related Products (RFB No. '19/03/B)

SUMMARY

The Agency is requesting the Board approve Amendment No. 2 (Amendment) to the Price Agreements (Agreements) with the following vendors:

- Brewer Oil Company
- Senergy Petroleum (formerly Honstein Oil & Distributing)
- Stewart and Stevenson Power Products
- Wagner Equipment Company

Per the Amendment, Brewer Oil, Stewart and Stevenson, and Synergy Petroleum have agreed to extend the terms of their Agreements at the same price and conditions.

Per the Amendment, Wagner Equipment has agreed to extend the term of their Agreement under the same conditions. The Amendment includes Wagner's updated pricing for Caterpillar fluids and related products.

The Amendment extends the term of the Agreements for a third year through October 4, 2021. Per Article 8, the Agreements can be renewed annually not to exceed four years, upon Board approval.

The Amendment also provides for continued delivery of motor oils, lubricants, antifreeze, and related products for the Agency's fleet of heavy equipment, over-the-road trucks and vehicles at the Caja del Rio Landfill and Buckman Road Recycling and Transfer Station (BuRRT).

Request for Bid No. '19/03/B (RFB) does not commit the Agency to a definite quantity of the products. Instead, the RFB allows the Agency to procure fluids and related products as needed.

Funding is available from:

- 8100851.520400 (Repair and Maintenance, Machine and Equipment – Landfill)
- 8100852.520400 (Repair and Maintenance, Machine and Equipment – BuRRT)

BACKGROUND

On July 13, 2018, the Agency issued RFB No. '19/03/B to secure pricing with multiple vendors for lubricants and related products.

On August 16, 2018, the Board awarded the RFB, via Price Agreements, to the following:

Brewer Oil Company
Conservancy Oil
Honstein Oil
Lonestar Truck Group
Safety Kleen Systems
SC Fuels
Stewart and Stevenson
Summit Truck
Wagner Equipment Company

On October 17, 2019, the Board approved Amendment No. 1 to the Agreements with the following vendors:

Brewer Oil Company
Conservancy Oil
Honstein Oil
Stewart and Stevenson
Wagner Equipment Company

On April 15, 2020, Honstein Oil and Distributing merged with Senergy Petroleum.

ACTION REQUESTED

The Agency requests the Board approve Amendment No. 2 to the Price Agreements for motor oils, lubricants, antifreeze, and related products with multiple vendors.

Attachments:

1) Brewer Oil Company
   a. Amendment No. 2 – Price Agreement
   b. Amendment No. 1 - Price Agreement
   c. Price Agreement (RFB No. '19/03/B)

2) Senergy Petroleum (Formerly Honstein Oil & Distributing)
   a. Amendment No. 2 – Price Agreement
   b. Amendment No. 1 – Price Agreement
   c. Price Agreement (RFB No. '19/03/B)

3) Stewart and Stevenson Power Products
   a. Amendment No. 2 – Price Agreement
   b. Amendment No. 1 – Price Agreement
   c. Price Agreement (RFB No. '19/03/B)

4) Wagner Equipment Company
   a. Amendment No. 2 – Price Agreement
   b. Amendment No. 1 – Price Agreement
   c. Price Agreement (RFB No. '19/03/B)

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ATTACHMENT 1

Brewer Oil Company

Amendment No. 2 - Price Agreement

SANTA FE SOLID WASTE MANAGEMENT AGENCY
AMENDMENT No. 2
PRICE AGREEMENT
WITH
BREWER OIL CO.
(Motor Oils, Lubricants, Antifreeze and Related Products – 2018)

This AMENDMENT No. 2 (the "Amendment") to the PRICE AGREEMENT ("Agreement") dated October 4, 2018 (the "Agreement"), is made and entered into between the Santa Fe Solid Waste Management Agency ("the Agency") and Brewer Oil Co. ("Contractor"). The Amendment shall be effective as of the date this Amendment is executed by the Agency.

RECITALS

Under the terms of the Agreement, Contractor has agreed to provide an indefinite quantity of motor oils, lubricants, antifreeze and related products on an as-needed basis as described in RFB No. '19/03/B, and all terms, specifications and conditions, contained therein.

Pursuant to Article 24, Amendment of the Agreement, and for good and valuable consideration, the receipt and sufficiency of which are acknowledged by the parties, the Agency and Contractor agree as follows:

1. **TERM AND EFFECTIVE DATE**

Article 8, Term and Effective Date of the Agreement is amended to extend the term of the Agreement, so that Article 8 reads in its entirety as follows:

A. This Agreement shall be effective when signed by the Agency and terminate on October 4, 2021, unless it is terminated sooner pursuant to Article 7 or Article 10 of this Agreement.

B. Pursuant to the limitations on multi-term contracts for services codified in NMSA 1978 § 13-1-150, this Agreement may not exceed four years, including all extensions and renewals.

Subject to that limitation, the Agreement can be renewed annually, if agreed upon by the Agency and Contractor.

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 Santa Fe Solid Waste Management Agency Price Agreement as of the dates set forth below.

SANTA FE SOLID WASTE MANAGEMENT AGENCY:

_____ _____
Anna Hansen Date:
Chairperson, Joint Powers Board

ATTEST:

_____
Geraldine Salazar
Santa Fe County Clerk

CONTRACTOR:

_____ _____
Terry D. Calhoun Date:
Sales Manager
Brewer Oil Co.

APPROVED AS TO FORM:

_____ _____
Nancy Long Date:
Agency Attorney

Amendment No. 1 - Price Agreement

ITEM # 19-0895

SANTA FE SOLID WASTE MANAGEMENT AGENCY
AMENDMENT No. 1
PRICE AGREEMENT
WITH
BREWER OIL CO.
(Motor Oils, Lubricants, Antifreeze and Related Products – 2018)

This AMENDMENT No. 1 (the "Amendment") to the PRICE AGREEMENT ("Agreement") dated October 4, 2019 (the "Agreement"), is made and entered into between the Santa Fe Solid Waste Management Agency ("the Agency") and Brewer Oil Co. ("Contractor"). The Amendment shall be effective as of the date this Amendment is executed by the Agency.

RECITALS

Under the terms of the Agreement, Contractor has agreed to provide an indefinite quantity of motor oils, lubricants, antifreeze and related products on an as-needed basis as described in RFB No. '19/03/B, and all terms, specifications and conditions, contained therein.

Pursuant to Article 24, Amendment of the Agreement, and for good and valuable consideration, the receipt and sufficiency of which are acknowledged by the parties, the Agency and Contractor agree as follows:

1. **TERM AND EFFECTIVE DATE**

Article 8, Term and Effective Date of the Agreement is amended to extend the term of the Agreement, so that Article 8 reads in its entirety as follows:

A. This Agreement shall be effective when signed by the Agency and terminate on October 4, 2020, unless it is terminated sooner pursuant to Article 7 or Article 10 of this Agreement.

B. Pursuant to the limitations on multi-term contracts for services codified in NMSA 1978 § 13-1-150, this Agreement may not exceed four years, including all extensions and

renewals. Subject to that limitation, the Agreement can be renewed annually, if agreed upon by the Agency and Contractor.

2. **ITEMS / SERVICES TO BE PROVIDED**

Article 4, Items/Services To Be Provided of the Agreement is amended to reflect an increase by the product manufacturer/supplier of such product(s) listed in Section 5 of Exhibit A of this Agreement so that Section 5 of Exhibit A of Article 4 is deleted entirely and replaced with the following:

5. CONTRACTOR'S UNIT PRICING

Antifreeze	Unit	Unit Price	Specific Grade/Brand Offered
DELO® ELC Antifreeze/Coolant (50/50)	per gallon (55-gallon drum)	$6.8125/gallon $374.69/drum	Zerex ELC 50/50 #2XEDRU2
	per gallon (Bulk – 275 gal)	$6.125/gallon	Zerex ELC 50/50 Bulk #2XEDRU0
DELO® XLC Antifreeze/Coolant (50/50)	per gallon (55-gallon drum)	$6.9375/gallon $381.563/drum	Zerex Nitrite Free 50/50 #846438
	per gallon (bulk – 275 gal)	~~$7.31/gallon~~ $6.25/gal	Zerex Nitrite Free 50/50 #846258

Industrial Oils	Unit	Unit Price	Specific Grade/Brand Offered
Chevron Hydraulic Oil AW (ISO 46)	per gallon (55-gallon drum)	$4.88/gallon $268.40/drum	Purus AW46 PHD 17169
RANDO HDZ (ISO 46)	per gallon (55-gallon drum)	$6.10/gallon $335/drum	Purus AW46 MV PIN 17180
	per gallon (bulk – 275 gal)	$7.05/gallon $1,937.50/drum	Purus AW46 MV PIN 571780
Cetus® HiPerSyn® Oil (ISO 32)	per gallon (5-gallon pail)	N/A	
Cetus® HiPerSyn® Oil (ISO 46)	per gallon (5-gallon pail)	N/A	
Cetus® HiPerSyn® Oil (ISO 68)	per gallon (5-gallon pail)	N/A	
Cetus® HiPerSyn® Oil (ISO 100)	per gallon (5-gallon pail)	N/A	

Industrial Oils	Unit	Unit Price	Specific Grade/Brand Offered
Cetus® HiPerSyn® Oil (ISO 150)	per gallon (5-gallon pail)	N/A	
Cetus® HiPerSyn® Oil (ISO 220)	per gallon (5-gallon pail)	N/A	
Cetus® HiPerSyn® Oil (ISO 320)	per gallon (5-gallon pail)	N/A	
Cetus® HiPerSyn® Oil (ISO 460)	per gallon (5-gallon pail)	N/A	

Automatic Transmission Fluid	Unit	Unit Price	Specific Grade/Brand Offered
Chevron ATF + 4	per quart (case)	$3.042/quart $18.25/case	Service Pro Global FS ATF #SPL 00385
Chevron ATF MD-3	per quart (case)	$2.03/quart $24.36/case	Service Pro ATF MP #SPL 00221
	per gallon (5-gallon pail)	$8.42/gallon $42.07/pail	Service Pro ATF MP #SPL 26693
	per gallon (55-gallon drum)	$6.37/gallon $350/drum	Service Pro ATF MP #SPL 26693
Chevron Synthetic ATF MV Dexron VI	per quart (case)	$3.042/quart $18.25/case	Service Pro Global FS MV #SPL 00385
Chevron 1000 THF	per gallon (5-gallon pail)	$6.44/gallon $32.20/pail	Purus Universal Tractor #PDH 27171
DELO® Syn ATF HD	per quart (case)	N/A	N/A
	per gallon (55-gallon drum)	$25.21/gallon $1,386.66/drum	Purus Full Synthetic ATF #PDH 17226
TranSynd (Allison Transmission)	per gallon (case)	N/A	N/A
	per gallon (5-gallon pail)	$21.30/gallon $106.50/pail	Purus HD FS ATF #PHD 27226
	per gallon (55-gallon drum)	$21.45/gallon $1,179.69/drum	Purus HD FS ATF #PHD 17226
	per gallon (bulk – 275 gal)	$20.63/gallon $5671.88/tote	Purus HD FS ATF #PHD 57226

Motor Oils	Unit	Unit Price	Specific Grade/Brand Offered
DELO® 400 XLE SAE 10w30 (Synblend)	per gallon (case)	$10.54/gallon $31.62/case	Purus SynBlend 10/30 #PHD 00393
DELO® 400 SDE SAE 15w40	per gallon (55-gallon drum)	$7.07/gallon $388.85/drum	Purus SynBlend 15/40 #PHD 17164
	per gallon (bulk – 275 gal)	$6.38/gallon	Purus SynBlend 15/40 #PHD 17164
Chevron DELO 400 LE 15w40	per gallon (55-gallon drum)	N/A	This product has been replaced with CK4 SDE
	per gallon (bulk – 275 gal)	N/A	This product has been replaced with CK4 SDE
Chevron Havoline Synthetic (0w20)	per quart (case)	$3.45/quart $20.55	Service Pro FS 0/20 #SPL 00314
Chevron Havoline Synthetic (5w20)	per quart (case)	2.71 ~~$2.83/~~quart	Service Pro FS 5/20 #SPL 00249
Chevron Havoline Synthetic (5w30)	per quart (case)	3.04 ~~$3.19/~~quart	Service Pro FS 5/30 Dexos #SPL 00713
Chevron Havoline Synthetic (10w30)	per quart (case)	2.68 ~~$2.83/~~quart	Service Pro FS 10/30 #SPL 00312
Chevron Havoline Synthetic (5w40)	per quart (case)	4.27 ~~$4.47/~~quart	Service Pro FS 5/40 #SPL 00226
Mobil Synthetic (80w90)	per gallon (55-gallon drum)	~~$14.92/~~gal 14.39	Purus FS 75/90 (Non Eaton) #PHD 1716

Gear/Drive Oils	Unit	Unit Price	Specific Grade/Brand Offered
DELO® Gear EP-5 (SAE 80w-90)	per quart (case)	N/A	N/A
	per gallon (55-gallon drum)	$8.67/gallon $476.88/drum	Purus 80/90 HD Gear #PHD 17173
DELO® Gear EP-5 (SAE 85w-140)	per quart (case)	N/A	N/A
	per gallon (5-gallon pail)	$9.07/gallon $45.31/pail	Purus 85/140 HD Gear #PHD 27174
Chevron DELO Gear Oil (SAE 80w90)	per quart (case)	N/A	N/A
	per gallon (55-gallon drum)	$8.67/gallon $476.88/drum	Purus 80/90 HD #PHD 17173
DELO® TorqForce® (SAE 10w)	per gallon (55-gallon drum)	$7.34/gallon $403.75/drum	Purus T0-4 10w Drive Train #PIN 17175
	per gallon (bulk – 275 gal)	~~$7.33/gallon~~ 7.19 ~~$1,950/bulk~~	Purus T0-4 10w Drive Train #PIN 57175
DELO® TorqForce® (SAE 30w)	per gallon (55-gallon drum)	$6.78/gallon $372.50/drum	Purus T0-4 30w Drive Train #PIN 17176
	per gallon (bulk – 275 gal)	$7.56/gallon $2,078.13/bulk	Purus T0-4 30w Drive Train #PIN 57176

Grease	Unit	Unit Price	Specific Grade/Brand Offered
DELO® Grease EP (#2)	per ounce (14 oz tube - case)	$1.18/oz ~~$2.07/ounce~~ 2.52/14oz	Service Pro EP 2 #SPL 00261
	per pound (quarter drum)	~~$2.09/pound~~ 2.12/lb	Service Pro EP 2 #SPL 37054

Miscellaneous Fluids	Unit	Unit Price	Specific Grade/Brand Offered
Starting Fluid – 50% Ether	per can (case)	$1.68/can $20.10/case	Service Pro Starting Fluid #SP5301
Power Steering Fluid	per ounce (12 oz. Bottle - Case)	$1.40/ounce $16.80/case	Service Pro Power Steering #SP2263
	per quart (case)	$3.18 /quart $38.10/case	Service Pro Power Steering #SP2287
	per gallon (Case)	N/A	N/A
Diesel Exhaust Fluid (DEF)	per gallon (2.5 – gallon container)	$2.875/gallon $7.19/container	Purus DEF #VB2003
	per gallon (bulk)	$1.19/gallon	Purus DEF #VBDEF
DOT 3 Brake Fluid	per quart (case)	$3.59/quart $43.05/case	Service Pro Syn DOT 3 #SP6032
	per gallon (case)	$13.65/gallon $54.60/case	Service Pro DOT 3 #SP6001
Non-Chlorinated Brake Parts Cleaner	Per can (case)	$2.00/can $24.00/case	Service Pro BPC #SP4520
Howe's Diesel Conditioner and Anti-Gel	per quart (case)	$6.34/quart $76.08/case	Power Service DSL Fuel + Cetane #1025-12

1.

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.

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IN WITNESS WHEREOF, the parties have executed this AMENDMENT No. 1 to the Santa Fe Solid Waste Management Agency Price Agreement as of the dates set forth below.

SANTA FE SOLID WASTE MANAGEMENT AGENCY:

Renee Villarreal
Chairperson, Joint Powers Board

10/17/19
Date:

ATTEST:

CITY OF SANTA FE ORGANIZED SEAL 1847 NEW MEXICO

Yolanda Y. Vigil
Santa Fe City Clerk

CONTRACTOR:

Terry D. Calhoun
Sales Manager
Brewer Oil Co.

11-4-19
Date:

APPROVED AS TO FORM:

Nancy Long
Agency Attorney

10-17-19
Date:

Price Agreement (RFB No. '19/03/B)

SANTA FE SOLID WASTE MANAGEMENT AGENCY
PRICE AGREEMENT WITH
BREWER OIL CO.
(Motor Oils, Lubricants, Antifreeze and Related Products – 2018)

This PRICE AGREEMENT ("Agreement") is made and entered into by and between the Santa Fe Solid Waste Management Agency ("the Agency") and Brewer Oil Co. ("Contractor") for an indefinite quantity of motor oils, lubricants, antifreeze and related products as described in RFB No. '19/03/B and below. The Price Agreement shall be effective as of the date this Agreement is executed by the Agency.

1. SCOPE OF AGREEMENT

The items to be provided under this Agreement are set forth in RFB No. '19/03/B and all terms, specifications and conditions, contained therein and Contractor's response for cost of items and services submitted thereto, all of which is incorporated into this Agreement and attached hereto as Exhibit A.

2. STANDARDS OF PERFORMANCE; LICENSES

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

B. Contractor agrees to obtain and maintain throughout the term of this Agreement all applicable professional and business licenses required by law for itself and its employees, agents, representatives and subcontractors.

3. DEFINITIONS

A. "Agency" means the Santa Fe Solid Waste Management Agency.

B. "Agency Facility" means the Caja del Rio Landfill at 149 Wildlife Way, Santa Fe, New Mexico 87506.

C. "Items" means tangible goods or tangible items of personal property required for

Agency operations. All items are to be new and of most current production, unless otherwise specified.

D. "Price" means the discounted price or costs for product(s) paid by the Agency as described in Exhibit A.

E. "Price Agreement" means this indefinite quantity Price Agreement which requires Contractor to provide product(s) to the Agency.

F. "Purchase Order" means a fully executed purchase document issued by the City of Santa Fe Purchasing Department on behalf of the Agency that specifies the items and services to be provided by Contractor.

G. "Services" mean services to be performed by personnel that do not need extensive education or specialty training or licensing. Services excludes professional services that are typically performed by a person holding a license, such as engineering architecture or legal services.

H. "Tangible Goods" are products that can be touched. This includes software licenses and intellectual property.

4. ITEMS / SERVICES TO BE PROVIDED

A. Price of Items and Services. Section 5 of Exhibit A of this Agreement contains the prices for Contractor's items (i.e., tangible goods) and services. Exhibit A also indicates any specifications required for the items and services, if any, that are subject of this Agreement.

B. Purchase Orders. The Agency may issue Purchase Orders for the purchase of the items listed in Exhibit A. Any service ordered by the Agency must be a service described in Exhibit A. All Purchase Orders for items and services issued hereunder must reference the Purchase Order number and Price Agreement number RFB '19/03/B.

C. Quantities. It is understood that this is an indefinite quantity Price Agreement and the Agency may purchase any quantity of the item(s) or services listed in Exhibit A on an as-needed basis. The Agency makes no guarantee or warranty, implied, or otherwise, that any order for any definite quantity of items or services will be issued under this Agreement. Contractor shall be required to accept the Purchase Order(s) and furnish the items or services.

D. Specifications. The Services furnished under this Agreement shall meet or exceed the specifications provided in RFB No. '19/03/B, including any addenda. Purchase Orders issued pursuant to this Agreement must show the applicable Agreement items or services.

E. Delivery and Billing Instructions

1) Contractor shall deliver the items and services in accordance with the Agency's instructions. Each delivery shall be accompanied by a packing slip which itemizes materials and quantities delivered, packaging, Purchase Order number, Price Agreement number and Agency facility.

2) Delivery shall be made within three (3) business day of order placement. Contractor shall notify the Agency immediately if delivery is expected to exceed this time frame or if the compete order cannot be fulfilled.

3) Whenever the Agency does not accept any deliverable and returns it to Contractor, all related documentation furnished by Contractor shall also be returned.

4) Prices listed in Exhibit A shall be the fixed prices for the items and rates for the services, respectively.

5) Prices listed in Exhibit A for the items and services shall remain in effect for the term of this Agreement.

5. COMMERCIAL WARRANTY

Contractor agrees that the items or services furnished under this Agreement shall be covered by the most favorable commercial warranties Contractor gives for such to any customers for such items or services. The rights and remedies provided herein shall extend to the Agency and are in addition to and do not limit any rights afforded by the Agency by any other Article of this Agreement. Contractor agrees not to disclaim warranties of fitness for a particular purpose of merchantability.

6. PAYMENTS

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

1) Inspection. Final inspection and acceptance of all items and services ordered shall be made at the Agency facility. Items rejected at the Agency facility for non-conformance with specifications shall be removed, at Contractor's risk and expense, promptly after notice of rejection.

2) Acceptance. In accordance with NMSA 1978, Section 13-1-158, the Agency shall determine if the items meet specifications, and may accept the items if the items meet specifications. No payment shall be made for any items until the items have been accepted in writing by the Agency. Unless otherwise agreed upon between the Agency and Contractor, within thirty (30) days from the receipt of items, the Agency shall issue a written certification of complete or partial acceptance or rejection of the items. The time period shall begin at the time of receipt of the final shipment when there are multiple shipments per Purchase Order. Unless the Agency gives notice of rejection within the specified time period, the items will be deemed to have been accepted.

3) Issuance of Purchase Orders. Only written, signed and properly executed Purchase Orders are valid under this Agreement.

4) Invoices. Contractor may submit invoices for payment no more frequently than monthly. Contractor's invoice shall contain the following information: Purchase Order number, Price Agreement number, description of supplies or services, quantities, unit prices, extended totals, delivery tickets, and applicable taxes and fees. Separate invoices shall be rendered for each and every complete shipment. Invoices must be submitted to the Agency and not the City of Santa Fe Purchasing Division.

5) Payment of Invoices. Upon written certification from the Agency that the items and services have been received and accepted, the Agency shall pay to Contractor in full payment for services rendered, including applicable taxes and fees.

6) Taxes and Fees. Applicable taxes and fees shall be included on each invoice and shown as a separate item to be paid. Contractor shall be responsible for payment of taxes and fees owed to by the State of New Mexico and federal government on the sums payable under this Agreement.

7. APPROPRIATIONS

The terms of this Agreement are contingent upon sufficient appropriations to and authorization from the Joint Powers Board for the Agency for the performance of this Agreement. If sufficient appropriations are not made or authorization provided, this Agreement shall terminate upon written notice from the Agency to Contractor. The Agency shall be responsible for charges incurred up to the date of notification under this Section per Section 10 of this Agreement. The Agency's decision as to whether sufficient appropriations are available shall be accepted by Contractor and shall be final.

8. TERM AND EFFECTIVE DATE

A. This Agreement shall be effective when signed by the Agency and terminate on October 05, 2019, unless it is terminated sooner pursuant to Article 7 or Article 10 of this Agreement.

B. Pursuant to the limitations on multi-term contracts for services codified in NMSA 1978 § 13-1-150, this Agreement may not exceed four years, including all extensions and renewals. Subject to that limitation, the Agreement can be renewed annually, if agreed upon by the Agency and Contractor.

9. CANCELLATION

A. The Agency reserves the right to cancel without cost to the Agency all or any part of any order placed under this Agreement if the Agency determines in its sole discretion that the services or deliverables fail to meet the requirements of this Agreement.

B. The failure of Contractor to perform its obligations under this Agreement shall constitute a default of this Agreement and/or the Purchase Order.

C. Contractor may be excused from performance if Contractor's failure to perform the Purchase Order arises out of causes beyond the control and without the fault or negligence of Contractor, unless the Agency shall determine that the item, to be furnished by a sub-contractor, is obtainable from other sources in sufficient time to permit Contractor to meet the required delivery schedule.

D. Such causes of excuse include, but are not limited to, acts of God or the public enemy, acts of the federal, state or local government, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather and defaults of sub-contractors due to any of the above.

E. In the event that the Agency cancels all, or any part, of any Purchase Order because Contractor failed to meet material provisions of the Purchase Order, Contractor shall be liable for any excess costs incurred by the Agency that is associated with such default.

10. TERMINATION

A. Consistent with applicable New Mexico laws, this Agreement may be terminated by the Agency, without penalty, at any time prior to the expiration date of this Agreement. The Agency will provide ten (10) days prior written notice to Contractor of the date of termination. Notice of Termination of this Agreement shall not affect any outstanding Purchase Order(s) issued under this Agreement prior to the effective date of termination for convenience by the Agency.

B. The Agency further reserves the right to cancel all or any part of this Agreement without cost to the Agency if Contractor fails to meet the provisions of this Agreement and to hold Contractor liable for any excess costs associated with Contractor's default. The rights and remedies of the Agency are not limited to those provided for in this Article and are in addition to any other rights provided for by law.

11. STATUS OF CONTRACTOR; RESPONSIBILITY FOR PAYMENT OF EMPLOYEES AND SUBCONTRACTORS

A. Contractor, its agents, and its employees are independent contractors performing product delivery services for the Agency and are not employees of the Agency.

B. Contractor, its agents, and its employees shall not accrue leave, retirement, insurance, bonding, or any other benefits afforded to employees of the Agency and shall not be permitted to use Agency vehicles in the performance of this Agreement.

C. Contractor shall be solely responsible for payment of wages, salaries, and benefits to any and all employees or subcontractors Contractor retains to perform any of its obligations

pursuant to this Agreement.

12. CONFIDENTIALITY

Any confidential information provided to or developed by Contractor in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by Contractor without the Agency's prior written approval.

13. CONFLICT OF INTEREST

A. Contractor warrants that it presently has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with its performance of its obligations pursuant to this Agreement. Contractor further agrees that it shall not employ or contract with anyone in the performance of this Agreement that has any such conflict of interest.

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

14. APPROVAL OF CONTRACTOR'S REPRESENTATIVES

The Agency reserves the right to require a change in Contractor representatives if the assigned representatives are not, in the sole discretion of the Agency, serving the needs of the Agency adequately.

15. ASSIGNMENT; SUBCONTRACTING

Contractor shall not assign or transfer any rights, privileges, obligations or other interests under this Agreement, including any claims for money due, without the Agency's prior written consent, which shall not be unreasonably withheld. Contractor shall not subcontract any portion of the services to be performed under this Agreement without the Agency's prior written approval.

16. NON-COLLUSION

In signing this Agreement, Contractor certifies it has not, either directly or indirectly, entered

into action in restraint of free competitive bidding in connection with its offer and this Agreement.

17. **RELEASE**

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

18. **INSURANCE** – All coverage limitations are listed on the attached Certificate of Liability Insurance 10.17.19 T.C

A. 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 of $1,000,000 for each occurrence and $2,000,000 in general aggregate coverage for bodily injury and property damage liability, in a form and with an insurance company acceptable to the Agency. The Agency shall be named as an additional insured under the insurance policy, and the policy shall provide that the Agency will be notified no less than thirty (30) days before the policy is cancelled for any reason. Contractor has furnished the Agency with a copy of a Certificate of Insurance or other evidence of Contractor's compliance with the provisions of this section as a condition of entering into this Agreement.

B. Contractor shall carry and maintain Workers' Compensation insurance in accordance with New Mexico law to provide coverage for Contractor's employees throughout the term of this Agreement. Contractor shall provide the Agency with evidence demonstrating that appropriate Workers' Compensation insurance has been obtained.

C. Contractor shall carry and maintain sufficient automobile liability insurance throughout the term of this Agreement to cover no less than $1,000,000 combined single limit

for each accident.

D. Contractor shall carry and maintain throughout the term of this Agreement auto pollution liability in the amount of $5,000,000 per occurrence. The required limits may be provided by a combination of auto pollution liability insurance and commercial umbrella liability insurance.

E. Contractor shall also carry and maintain throughout the term of this Agreement erroneous delivery liability insurance in the amount of $1,000,000 per occurrence. The required limits may be provided by a combination of erroneous delivery liability insurance and commercial umbrella liability insurance.

19. INDEMNIFICATION

Contractor shall indemnify, hold harmless and defend the Agency from all losses, damages, claims or judgments, including payment of all attorneys' fees and costs on account of any suit, judgment, execution, claim, action, or demand whatsoever to the extent arising from the negligent acts, errors, or omissions, or willful and reckless disregard of obligations under this Agreement, in the performance of any services covered by this Agreement, whether occurring on Agency managed or owned property or otherwise, by Contractor or its employees, agents, representatives, or subcontractors, excepting only such liability that arises out of the Agency's negligence.

20. NEW MEXICO TORT CLAIMS ACT

Any liability incurred by the Agency in connection with this Agreement is subject to the immunities and limitations set forth in the New Mexico Tort Claims Act, NMSA 1978 §§ 41-4-1 to 41-4-27. The Agency and its employees do not waive sovereign immunity, any available defense, or any limitation of liability recognized by law. No provision in this Agreement modifies or waives any provision of the New Mexico Tort Claims Act.

21. THIRD PARTY BENEFICIARIES

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

22. RECORDS AND AUDIT

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 Agency, City of Santa Fe Finance Department, and the State Auditor. The Agency shall have the right to audit the billing both before and after payment. Payment under this Agreement shall not foreclose the right of the Agency to recover excessive or illegal payments.

23. APPLICABLE LAW: CHOICE OF LAW: VENUE

Contractor shall abide by all applicable federal and state laws and regulations, and all ordinances, rules and regulations of the Agency. In any action, suit, or legal dispute arising from this Agreement, 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, Santa Fe County.

24. AMENDMENT

This Agreement may only be amended by mutual agreement of the Agency and Contractor upon written notice by either party to the other. Any such amendment shall be in writing and signed

by the parties hereto. Unless otherwise agreed to by the parties, an amendment shall not affect any outstanding Purchase Order(s) issued, by the Agency, prior to the effective date of the amendment.

25. **INTEGRATION**

This Agreement expresses the entire agreement and understanding between the parties with respect to Contractor's items and services attached hereto as Exhibit A. No prior agreement or understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

26. **NON-DISCRIMINATION**

During the term of this Agreement, Contractor shall not discriminate against any employee or applicant for an employment position to be used in the performance of the services Contractor undertakes pursuant to this Agreement 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.

27. **SEVERABILITY**

If one or more of the provisions of this Agreement or any application thereof is found to be invalid, illegal, or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions of the Agreement and any other application thereof shall not in any way be affected or impaired.

28. **NOTICES**

A. Any notices required to be given under this Agreement shall be in writing and served to the parties at the following addresses:

AGENCY: Randall Kippenbrock, P.E. Executive Director
Santa Fe Solid Waste Management Agency
149 Wildlife Way
Santa Fe, NM 87506
Fax: (505) 424-1839
Email: rkippenbrock@sfswma.org

CONTRACTOR: Terry D. Calhoun
Sales Manager
Brewer Oil Co.
2701 Candelaria NE
Albuquerque, NM 87107
Fax: (505) 884-1987
Email: tcalhoun@brewereoil.com

B. Any such notice sent by registered or certified mail, return receipt, shall be deemed to have been duly given and received seventy-two (72) hours after the same is so addressed and mailed with postage prepaid. Notice sent by recognized overnight delivery service shall be effective only upon actual receipt thereof at the office of the addressee set forth above, and any such notice delivered at a time outside of normal business hours shall be deemed effective at the opening of business on the next business day. Notice sent by facsimile or email shall be effective only upon actual receipt of the original unless written confirmation is sent by the recipient of the facsimile stating that the notice has been received, in which case the notice shall be deemed effective as of the date specified in the confirmation. Any party may change its address for purposes of this Article by giving notice to the other party as herein provided. Delivery of any copies as provided herein shall not constitute delivery of notice hereunder.

29. **COMPLIANCE WITH LAWS AND REGULATIONS; PROHIBITION OF BRIBES, GRATUITIES, AND KICKBACKS**

Contractor shall comply with all applicable federal, state, and local laws and regulations throughout the term of this Agreement. Contractor expressly acknowledges that the New Mexico Procurement Code, NMSA 1978, Sections 13-1-28 through 13-1-199, imposes civil and criminal

penalties for its violation, and New Mexico criminal statutes impose penalties for bribes, gratuities, and kickbacks.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date set forth below.

SANTA FE SOLID WASTE MANAGEMENT AGENCY:

Anna Hamilton
Chairperson, Joint Powers Board

10/4/18
Date:

ATTEST:

Geraldine Salazar
Santa Fe County Clerk

CONTRACTOR:

Terry D. Calhoun
Sales Manager
Brewer Oil Co.

10-15-18
Date:

APPROVED AS TO FORM:

Nancy R. Long
Agency Attorney

10-4-18
Date:

EXHIBIT A

ITEMS / SERVICES TO BE PROVIDED

RFB No. '19/03/B

1. GENERAL CONDITIONS

A. This Agreement is established for the purchase and delivery of motor oils, lubricants, antifreeze and related products for the Agency hereinafter referred to as products. The Agency operates a variety of vehicles, heavy and industrial equipment in support of its operations which require manufacturer approved products. The products listed in Section 5 of Exhibit A of this Agreement are specific to the fleet the Agency currently maintains. However, the Agency may require additional products in the future. Thus, the list of products may be revised through an amendment to this Agreement.

B. All products offered under this Agreement shall be approved for year-round use under all load conditions common to normal fleet operations. All products shall be guaranteed against any adverse effect on the original factory engine warranty when used as prescribed by the original engine manufacturer.

C. All deliveries shall be at the Agency Facility.

D. All delivery vehicles shall be compliant with Federal, State and Local laws and regulations.

E. All drums delivered shall be in satisfactory condition with minimal dents and be rust free. Unsatisfactory drums shall be rejected upon delivery with replacement required within 24 hours at no charge to the Agency.

F. Contractor shall be responsible, at no cost to the Agency, for the clean-up and remediation of any contamination or spillage resulting from delivery, transfer or unloading at Agency owned facilities.

G. Contractor shall provide manufacturers' Safety Data Sheets (SDS) for all covered products delivered to the Agency at the time of delivery.

2. SAMPLES AND TESTING

A. Product(s) provided under this Agreement shall be free from contamination.

B. Random sample tests for all products may be performed at time of delivery to ensure the product meets specifications. Testing costs will be paid by the Agency unless the sample is not in compliance, in which case the cost will be borne by Contractor.

C. If the Agency determines that the product does not comply with specifications herein, Contractor will be notified via e-mail, phone, or facsimile. Contractor shall have forty-eight (48) hours from the time of notification to rectify the problem to the satisfaction of the Agency and/or remove the product, if circumstances dictate.

D. Testing shall be ordered by the Agency using a qualified laboratory if Agency vehicles and/or pieces of heavy equipment require repairs as a result of using product(s) provided under this Agreement that do not meet the manufacturer's specifications. If the malfunction is proved to be the result of the product supplied, Contractor shall be responsible for all repairs necessary to return the vehicle(s) and/or pieces of heavy equipment to good operating condition.

3. ORDERS AND DELIVERY

A. When delivering in bulk, product quantity shall be measured by the gross gallon.

B. An authorized Agency representative must be on site at the time of any delivery. It is mandatory that Contractor secures both a printed name and signature of the Agency representative receiving the delivery.

C. Delivery shall be made within three (3) business days of order placement, excluding weekends (Saturdays and Sundays) and any state/federal holidays observed by the Agency. Deliveries shall be during normal operating hours for the Agency, unless different parameters are mutually agreed upon, in writing, between Contractor and Agency's representatives. Contractor shall be required to pick up any number of empty drums upon delivery of orders. Contractor shall notify the Agency immediately if delivery is expected to exceed this time frame or if the compete order cannot be fulfilled.

D. Each delivery shall be accompanied by a packing slip which itemizes products and quantities delivered, packaging, contract number, purchase order number and delivery location.

E. Notwithstanding the existence of this Agreement, the Agency reserves the right to order any product(s) required for emergency purpose from any Contractor who can deliver such product(s) to meet the requirements of the Agency, without waiving or voiding any of the terms of this Agreement.

F. All prices shall be F.O.B. destination to the delivery location designated by the Agency. Contractor shall retain title and control of all goods until they are delivered and the contract coverage has been completed. All risk of transportation and all related charges shall be the responsibility of Contractor.

G. Contractor shall be responsible for all spillage which may occur during transit and unloading operations. Contractor shall immediately report spillage to the Agency, the appropriate fire department, and any agency with regulatory authority over hazardous materials spills. Contractor shall contain and remediate the spillage according to US EPA and State of New Mexico regulations and guidelines. Contractor shall be

responsible for containment and cleanup costs of not only the immediate area but also all affected areas such as, but not limited to, surface, subsurface and water.

H. Contractor shall also be responsible for all cleanup required to all Agency's property, storage facilities, and equipment as a result of noncompliance with specifications. Furthermore, Contractor shall be fully responsible for any and all costs and damages incurred by the Agency for any equipment sustaining damage, which is attributed to a contaminated product(s), which Contractor has delivered.

4. BILLING LOCATION AND CONTACT

A. Contractor shall request the proper billing address upon the receipt of an order to ensure prompt and efficient payment from the Agency. Incorrect billings may cause delays in payment.

B. The billing address is as follows:

Santa Fe Solid Waste Management Agency
Attn: Account Coordinator
149 Wildlife Way
Santa Fe, NM 87506
Telephone: (505) 424-1850 x 140
Fax: (505) 424-1839
Email: asalazar@sfswma.org

5. CONTRACTOR'S UNIT PRICING

Antifreeze	Unit	Unit Price	Specific Grade/Brand Offered
DELO® ELC Antifreeze/Coolant (50/50)	per gallon (55-gallon drum)	$7.00/gallon	Purus ELC 50/50 NOAT
	per gallon (Bulk – 275 gal)	$7.00/gallon	Purus ELC 50/50 NOAT
DELO® XLC Antifreeze/Coolant (50/50)	per gallon (55-gallon drum)	$7.31/gallon	Purus Nitrite Free 50/50
	per gallon (bulk – 275 gal)	$7.31/gallon	Purus Nitrite Free 50/50

Industrial Oils	Unit	Unit Price	Specific Grade/Brand Offered
Chevron Hydraulic Oil AW (ISO 46)	per gallon (55-gallon drum)	$5.60/gallon	Purus AW46
RANDO HDZ (ISO 46)	per gallon (55-gallon drum)	$6.05/gallon	Purus AW46 MV (application depending)
	per gallon (bulk – 275 gal)	$5.90/gallon	Purus AW46 MV
Cetus® HiPerSyn® Oil (ISO 32)	per gallon (5-gallon pail)	$27.48/gallon	Chev Cetus® HiPerSyn® 220
Cetus® HiPerSyn® Oil (ISO 46)	per gallon (5-gallon pail)	$27.48/gallon	Chev Cetus® HiPerSyn® 220
Cetus® HiPerSyn® Oil (ISO 68)	per gallon (5-gallon pail)	$27.48/gallon	Chev Cetus® HiPerSyn® 220
Cetus® HiPerSyn® Oil (ISO 100)	per gallon (5-gallon pail)	$27.48/gallon	Chev Cetus® HiPerSyn® 220
Cetus® HiPerSyn® Oil (ISO 150)	per gallon (5-gallon pail)	$27.48/gallon	Chev Cetus® HiPerSyn® 220
Cetus® HiPerSyn® Oil (ISO 220)	per gallon (5-gallon pail)	$27.48/gallon	Chev Cetus® HiPerSyn® 220
Cetus® HiPerSyn® Oil (ISO 320)	per gallon (5-gallon pail)	$27.48/gallon	Chev Cetus® HiPerSyn® 220
Cetus® HiPerSyn® Oil (ISO 460)	per gallon (5-gallon pail)	$27.48/gallon	Chev Cetus® HiPerSyn® 220

Automatic Transmission Fluid	Unit	Unit Price	Specific Grade/Brand Offered
Chevron ATF + 4	per quart (case)	$2.99/quart	Service Pro Global FS ATF
Chevron ATF MD-3	per quart (case)	$2.02/quart	Service Pro ATF MP
	per gallon (5-gallon pail)	$8.42/gallon	Service Pro ATF MP
	per gallon (55-gallon drum)	$6.32/gallon	Service Pro ATF MP
Chevron Synthetic ATF MV Dexron VI	per quart (case)	$2.99/quart	Service Pro Global FS MV
Chevron 1000 THF	per gallon (5-gallon pail)	$6.83/gallon	Purus Universal THF
DELO® Syn ATF HD	per quart (case)	N/A	N/A
	per gallon (55-gallon drum)	$22.92/gallon	Purus Full Synthetic ATF
TranSynd (Allison Transmission)	per gallon (case)	N/A	N/A
	per gallon (5-gallon pail)	$22.92/gallon	Purus Full Synthetic ATF
	per gallon (55-gallon drum)	$22.92/gallon	Purus Full Synthetic ATF
	per gallon (bulk – 275 gal)	$22.92/gallon	Purus Full Synthetic ATF

Motor Oils	Unit	Unit Price	Specific Grade/Brand Offered
DELO® 400 XLE SAE 10w30 (Synblend)	per gallon (case)	$10.60/gallon	Purus SynBlend 10/30
DELO® 400 SDE SAE 15w40	per gallon (55-gallon drum)	$7.53/gallon	Purus SynBlend 15/40
	per gallon (bulk – 275 gal)	$6.69/gallon	Purus SynBlend 15/40
Chevron DELO 400 LE 15w40	per gallon (55-gallon drum)	N/A	This product has been replaced with CK4 SDE
	per gallon (bulk – 275 gal)	N/A	This product has been replaced with CK4 SDE
Chevron Havoline Synthetic (0w20)	per quart (case)	$3.46/quart	Service Pro Full Syn 0/20 6F5
Chevron Havoline Synthetic (5w20)	per quart (case)	$2.83/quart	Service Pro Full Syn 5/20
Chevron Havoline Synthetic (5w30)	per quart (case)	$3.19/quart	Service Pro Full Synthetic
Chevron Havoline Synthetic (10w30)	per quart (case)	$2.83/quart	Service Pro Full Synthetic
Chevron Havoline Synthetic (5w40)	per quart (case)	$4.47/quart	Service Pro Full Synthetic
Mobil Synthetic (80w90)	per gallon (55-gallon drum)	$14.92/gal	Purus FS 75/90

Gear/Drive Oils	Unit	Unit Price	Specific Grade/Brand Offered
DELO® Gear EP-5 (SAE 80w-90)	per quart (case)	N/A	N/A
	per gallon (55-gallon drum)	$8.69/gallon	Purus 80/90 HD Gear
DELO® Gear EP-5 (SAE 85w-140)	per quart (case)	N/A	N/A
	per gallon (5-gallon pail)	$19.09/gal	Purus 85/140 HD Gear
Chevron DELO Gear Oil (SAE 80w90)	per quart (case)	N/A	N/A
	per gallon (55-gallon drum)	$8.69/gallon	Purus 80/90 HD
DELO® TorqForce® (SAE 10w)	per gallon (55-gallon drum)	$7.33/gallon	Purus T0-4 10w Drive Train
	per gallon (bulk – 275 gal)	$7.33/gallon	Purus T0-4 10w Drive Train
DELO® TorqForce® (SAE 30w)	per gallon (55-gallon drum)	$8.48/gallon	Purus T0-4 30w Drive Train
	per gallon (bulk – 275 gal)	$8.48/gallon	Purus T0-4 30w Drive Train

Grease	Unit	Unit Price	Specific Grade/Brand Offered
DELO® Grease EP (#2)	per ounce (14 oz tube - case)	$2.07/ounce	Service Pro EP 2
	per pound (quarter drum)	$2.09/pound	Service Pro EP 2

Miscellaneous Fluids	Unit	Unit Price	Specific Grade/Brand Offered
Starting Fluid – 50% Ether	per can (case)	$1.72/can	Pyroil Starting Fluid
Power Steering Fluid	per ounce (12 oz. Bottle - Case)	$1.33/ounce	Pyroil Power Steering
	per quart (case)	$2.68/quart	Pyroil Power Steering
	per gallon (Case)	N/A	N/A
Diesel Exhaust Fluid (DEF)	per gallon (2.5 – gallon container)	$2.93/gallon	Victory Blue/Purus DEF
	per gallon (bulk)	$1.35/gallon	Victory Blue DEF
DOT 3 Brake Fluid	per quart (case)	$4.10/quart	Pyroil DOT 3
	per gallon (case)	$15.91/gallon	Pyroil DOT 3
Non-Chlorinated Brake Parts Cleaner	Per can (case)	$1.77/can	Service Pro BPC
Howe's Diesel Conditioner and Anti-Gel	per quart (case)	$6.00/quart	Power Service Fuel Supplement Plus Cetane Boost (winter)

ATTACHMENT 2

Senergy Petroleum

Amendment No. 2 - Price Agreement

SANTA FE SOLID WASTE MANAGEMENT AGENCY
AMENDMENT No. 2
PRICE AGREEMENT
WITH
SENERGY PETROLUEM, LLC
(Motor Oils, Lubricants, Antifreeze and Related Products – 2018)

This AMENDMENT No. 2 (the "Amendment") to the PRICE AGREEMENT ("Agreement") dated October 4, 2018 (the "Agreement"), is made and entered into between the Santa Fe Solid Waste Management Agency ("the Agency") and Senergy Petroleum, LLC ("Contractor"). The Amendment shall be effective as of the date this Amendment is executed by the Agency.

RECITALS

A. On October 4, 2018, the Agency entered into a Price Agreement with Honstein Oil and Distributing, LLC to provide an indefinite quantity of motor oils, lubricants, antifreeze and related products on an as-needed basis as described in RFB No. '19/03/B.

B. Effective April 15, 2020, Honstein Oil and Distributing merged with Senergy Petroleum, LLC.

C. Pricing for motor oils, lubricants, antifreeze and related products under Section 5 of Exhibit A of the Agreement remains intact and in effect.

D. Pursuant to Article 24, Amendment of the Agreement, and for good and valuable consideration, the receipt and sufficiency of which are acknowledged by the parties, the Agency and Contractor agree as follows:

1. **TERM AND EFFECTIVE DATE**

Article 8, Term and Effective Date of the Agreement is amended to extend the term of the Agreement, so that Article 8 reads in its entirety as follows:

A. This Agreement shall be effective when signed by the Agency and terminate on October 4, 2021, unless it is terminated sooner pursuant to Article 7 or Article 10 of this Agreement.

B. Pursuant to the limitations on multi-term contracts for services codified in NMSA 1978 § 13-1-150, this Agreement may not exceed four years, including all extensions and renewals. Subject to that limitation, the Agreement can be renewed annually, if agreed upon by the Agency and Contractor.

2. NOTICES

Article 28, Notices of the Agreement is amended to change the notice information for the Contractor, so that Article 28 reads in its entirety as follows:

A. Any notices required to be given under this Agreement shall be in writing and served to the parties at the following addresses:

AGENCY:
Mr. Randall Kippenbrock, P.E.
Executive Director
Santa Fe Solid Waste Management Agency
149 Wildlife Way
Santa Fe, NM 87506
Fax: (505) 424-1839
Email: rkippenbrock@sfswma.org

CONTRACTOR:
Mr. Rob Burns
Vice President of Sales
Senergy Petroleum, LLC
11 Paseo Real
Santa Fe, NM 87507
Fax: (505) 471-0103
Rob.burns@gosenergy.com

B. Any such notice sent by registered or certified mail, return receipt, shall be deemed to have been duly given and received seventy-two (72) hours after the same is so addressed and mailed with postage prepaid. Notice sent by recognized overnight delivery service shall be effective only

upon actual receipt thereof at the office of the addressee set forth above, and any such notice delivered at a time outside of normal business hours shall be deemed effective at the opening of business on the next business day. Notice sent by facsimile or email shall be effective only upon actual receipt of the original unless written confirmation is sent by the recipient of the facsimile stating that the notice has been received, in which case the notice shall be deemed effective as of the date specified in the confirmation. Any party may change its address for purposes of this paragraph by giving notice to the other party as herein provided. Delivery of any copies as provided herein shall not constitute delivery of notice hereunder.

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.

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IN WITNESS WHEREOF, the parties have executed this AMENDMENT No. 2 to the Santa Fe Solid Waste Management Agency Price Agreement as of the dates set forth below.

SANTA FE SOLID WASTE MANAGEMENT AGENCY:

_____ _____

Anna Hansen
Chairperson, Joint Powers Board

Date:

ATTEST:

_____

Geraldine Salazar
Santa Fe County Clerk

CONTRACTOR:

_____ _____

Rob Burns
Vice President of Sales
Senergy Petroleum. LLC

Date:

APPROVED AS TO FORM:

_____ _____

Nancy Long
Agency Attorney

Date:

Amendment No. 1 - Price Agreement

ITEM # 19-0878

SANTA FE SOLID WASTE MANAGEMENT AGENCY
AMENDMENT No. 1
PRICE AGREEMENT
WITH
HONSTEIN OIL AND DISTRIBUTING, LLC
(Motor Oils, Lubricants, Antifreeze and Related Products – 2018)

This AMENDMENT No. 1 (the "Amendment") to the PRICE AGREEMENT ("Agreement") dated October 4, 2019 (the "Agreement"), is made and entered into between the Santa Fe Solid Waste Management Agency ("the Agency") and Honstein Oil and Distributing, LLC ("Contractor"). The Amendment shall be effective as of the date this Amendment is executed by the Agency.

RECITALS

Under the terms of the Agreement, Contractor has agreed to provide an indefinite quantity of motor oils, lubricants, antifreeze and related products on an as-needed basis as described in RFB No. '19/03/B, and all terms, specifications and conditions, contained therein.

Pursuant to Article 24, Amendment of the Agreement, and for good and valuable consideration, the receipt and sufficiency of which are acknowledged by the parties, the Agency and Contractor agree as follows:

1. **TERM AND EFFECTIVE DATE**

Article 8, Term and Effective Date of the Agreement is amended to extend the term of the Agreement, so that Article 8 reads in its entirety as follows:

A. This Agreement shall be effective when signed by the Agency and terminate on October 4, 2020, unless it is terminated sooner pursuant to Article 7 or Article 10 of this Agreement.

B. Pursuant to the limitations on multi-term contracts for services codified in NMSA 1978 § 13-1-150, this Agreement may not exceed four years, including all extensions and

renewals. Subject to that limitation, the Agreement can be renewed annually, if agreed upon by the Agency and Contractor.

2. **ITEMS / SERVICES TO BE PROVIDED**

Article 4, Items/Services To Be Provided of the Agreement is amended to reflect an increase by the product manufacturer/supplier of such product(s) listed in Section 5 of Exhibit A of this Agreement so that Section 5 of Exhibit A of Article 4 is deleted entirely and replaced with the following:

5. CONTRACTOR'S UNIT PRICING

Antifreeze	Unit	Unit Price	Specific Grade/Brand Offered
DELO® ELC Antifreeze/Coolant (50/50)	per gallon (55-gallon drum)	$6.95/gallon $382.25/drum	Chevron DELO (50/50) ELC 227811D
	per gallon (Bulk – 275 gal)	$6.40/gallon $1,760.00/275-gal tote	Chevron DELO (50/50) ELC 227811B
DELO® XLC Antifreeze/Coolant (50/50)	per gallon (55-gallon drum)	$7.75/gallon $426.25/drum	Chevron DELO (50/50) XLC 227077D
	per gallon (bulk – 275 gal)	$7.75/gallon Drum to bulk	Chevron DELO (50/50) XLC 227077D

Industrial Oils	Unit	Unit Price	Specific Grade/Brand Offered
Chevron Hydraulic Oil AW (ISO 46)	per gallon (55-gallon drum)	$5.80/gallon $319.00/drum	Chevron AW46 255674D
RANDO HDZ (ISO 46)	per gallon (55-gallon drum)	$10.29/gallon $565.95/drum	Chevron Rando HDZ 46 273261D
	per gallon (bulk – 275 gal)	$10.29/gallon Drum to bulk	Chevron Rando HDZ 46 273261D
Cetus® HiPerSyn® Oil (ISO 32)	per gallon (5-gallon pail)	$32.10/gallon $160.50/pail	Cetus® HiPerSyn® 32 259136P
Cetus® HiPerSyn® Oil (ISO 46)	per gallon (5-gallon pail)	$32.10/gallon $160.50/pail	Cetus® HiPerSyn® 46 259137P
Cetus® HiPerSyn® Oil (ISO 68)	per gallon (5-gallon pail)	$32.10/gallon $160.50/pail	Cetus® HiPerSyn® 68 259138P

Industrial Oils	Unit	Unit Price	Specific Grade/Brand Offered
Cetus® HiPerSyn® Oil (ISO 100)	per gallon (5-gallon pail)	$32.10/gallon $160.50/pail	Cetus® HiPerSyn® 100 259139P
Cetus® HiPerSyn® Oil (ISO 150)	per gallon (5-gallon pail)	$32.10/gallon $160.50/pail	Cetus® HiPerSyn® 150 259140P
Cetus® HiPerSyn® Oil (ISO 220)	per gallon (5-gallon pail)	$32.10/gallon $160.50/pail	Cetus® HiPerSyn® 220 259141P
Cetus® HiPerSyn® Oil (ISO 320)	per gallon (5-gallon pail)	$32.10/gallon $160.50/pail	Cetus® HiPerSyn® 320 259142P
Cetus® HiPerSyn® Oil (ISO 460)	per gallon (5-gallon pail)	$32.10/gallon $160.50/pail	Cetus® HiPerSyn® 460 259143P

Automatic Transmission Fluid	Unit	Unit Price	Specific Grade/Brand Offered
Chevron ATF + 4	per quart (case)	$5.47/quart $65.64/case	Chevron Havoline ATF+4 222270Q
Chevron ATF MD-3	per quart (case)	$2.58/quart $30.96/case	Chevron Havoline MD-3 221854Q
	per gallon (5-gallon pail)	$8.80/gallon $44.00/pail	Chevron Havoline MD-3 221854Q
	per gallon (55-gallon drum)	$7.95/gallon $437.25/drum	Chevron Havoline MD-3 221854Q
Chevron Synthetic ATF MV Dexron VI	per quart (case)	$5.76/quart $69.12/case	Chevron Havoline Full Syn MV VI 226536Q
Chevron 1000 THF	per gallon (5-gallon pail)	$9.40/gallon $47.00/pail	Chevron THF 1000 (OEM approved) 226606P
DELO® Syn ATF HD	per quart (case)	N/A	N/A
	per gallon (55-gallon drum)	$28.80/gallon $1,584.00/drum	Delco Syn ATF HD 223040D
TranSynd (Allison Transmission)	per gallon (case)	N/A	N/A
	per gallon (5-gallon pail)	$39.20/gallon $196.00/pail	Allison TranSynd (OEM approved)
	per gallon (55-gallon drum)	$34.55/gallon $1,900.00/drum	Allison TranSynd (OEM approved)
	per gallon (bulk – 275 gal)	$34.55/gallon Drum to bulk	Allison TranSynd (OEM approved)

Motor Oils	Unit	Unit Price	Specific Grade/Brand Offered
DELO® 400 XLE SAE 10w30 (Synblend)	per gallon (case)	$12.80/gallon $38.40 – 3/1 case	DELO 400 XLE Syn Blend 10/30 CK4 (OEM approved) 257000G
DELO® 400 SDE SAE 15w40	per gallon (55-gallon drum)	$10.85/gallon $596.75/drum	DELO 400 SDE CK4 (OEM approved) 222290D
	per gallon (bulk – 275 gal)	$10.10/gallon	DELO 400 SDE CK4 (OEM approved) 222290B
Chevron Havoline Synthetic (0w20)	per quart (case)	$3.75/quart $22.53 – 6/1 case	Chevron Havoline ProDs Syn 0/20 223506Q
Chevron Havoline Synthetic (5w20)	per quart (case)	$4.01/quart $24.06 – 6/1 case	Chevron Havoline ProDs Syn 5/20 223727Q
Chevron Havoline Synthetic (5w30)	per quart (case)	$3.87/quart $23.22 – 6/1 case	Chevron Havoline ProDs Syn 5/30 223507Q
Chevron Havoline Synthetic (10w30)	per quart (case)	$5.58/quart $33.43 – 6/1 case	Chevron Havoline ProDs Syn 10/30 223505Q
Chevron Havoline Synthetic (5w40)	per quart (case)	$4.99/quart $29.94 – 6/1 case	Chevron Havoline ProDs Syn Euro 5/40 223504Q
Mobil Synthetic (80w90)	per gallon (55-gallon drum)	N/A	N/A

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.

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IN WITNESS WHEREOF, the parties have executed this AMENDMENT No. 1 to the Santa Fe Solid Waste Management Agency Price Agreement as of the dates set forth below.

SANTA FE SOLID WASTE MANAGEMENT AGENCY:

Renee Villarreal
Chairperson, Joint Powers Board

10/17/19
Date:

ATTEST:

Yolanda Y. Vigil
Santa Fe City Clerk

CONTRACTOR:

Rob Burns
Vice President of Sales
Honstein Oil and Distributing, LLC

10/17/19
Date:

APPROVED AS TO FORM:

Nancy Long
Agency Attorney

10-17-19
Date:

Price Agreement (RFB No. '19/03/B)

SANTA FE SOLID WASTE MANAGEMENT AGENCY
PRICE AGREEMENT WITH
HONSTEIN OIL AND DISTRIBUTING, LLC
(Motor Oils, Lubricants, Antifreeze and Related Products – 2018)

This PRICE AGREEMENT ("Agreement") is made and entered into by and between the Santa Fe Solid Waste Management Agency ("the Agency") and Honstein Oil and Distributing, LLC ("Contractor") for an indefinite quantity of motor oils, lubricants, antifreeze and related products as described in RFB No. '19/03/B and below. The Price Agreement shall be effective as of the date this Agreement is executed by the Agency.

1. SCOPE OF AGREEMENT

The items to be provided under this Agreement are set forth in RFB No. '19/03/B and all terms, specifications and conditions, contained therein and Contractor's response for cost of items and services submitted thereto, all of which is incorporated into this Agreement and attached hereto as Exhibit A.

2. STANDARDS OF PERFORMANCE; LICENSES

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

B. Contractor agrees to obtain and maintain throughout the term of this Agreement all applicable professional and business licenses required by law for itself and its employees, agents, representatives and subcontractors.

3. DEFINITIONS

A. "Agency" means the Santa Fe Solid Waste Management Agency.

C. "Agency Facility" means the Caja del Rio Landfill at 149 Wildlife Way, Santa Fe, New Mexico 87506.

D. "Items" means tangible goods or tangible items of personal property required for

Agency operations. All items are to be new and of most current production, unless otherwise specified.

E. "Price" means the discounted price or costs for product(s) paid by the Agency as described in Exhibit A.

F. "Price Agreement" means this indefinite quantity Price Agreement which requires Contractor to provide product(s) to the Agency.

G. "Purchase Order" means a fully executed purchase document issued by the City of Santa Fe Purchasing Department on behalf of the Agency that specifies the items and services to be provided by Contractor.

H. "Services" mean services to be performed by personnel that do not need extensive education or specialty training or licensing. Services excludes professional services that are typically performed by a person holding a license, such as engineering architecture or legal services.

I. "Tangible Goods" are products that can be touched. This includes software licenses and intellectual property.

4. ITEMS / SERVICES TO BE PROVIDED

A. Price of Items and Services. Section 5 of Exhibit A of this Agreement contains the prices for Contractor's items (i.e., tangible goods) and services. Exhibit A also indicates any specifications required for the items and services, if any, that are subject of this Agreement.

J. Purchase Orders. The Agency may issue Purchase Orders for the purchase of the items listed in Exhibit A. Any service ordered by the Agency must be a service described in Exhibit A. All Purchase Orders for items and services issued hereunder must reference the Purchase Order number and Price Agreement number RFB '19/03/B.

K. Quantities. It is understood that this is an indefinite quantity Price Agreement and the Agency may purchase any quantity of the item(s) or services listed in Exhibit A on an as-needed basis. The Agency makes no guarantee or warranty, implied, or otherwise, that any order for any definite quantity of items or services will be issued under this Agreement. Contractor shall be required to accept the Purchase Order(s) and furnish the items or services.

L. Specifications. The Services furnished under this Agreement shall meet or exceed the specifications provided in RFB No. '19/03/B, including any addenda. Purchase Orders issued pursuant to this Agreement must show the applicable Agreement items or services.

M. Delivery and Billing Instructions

1) Contractor shall deliver the items and services in accordance with the Agency's instructions. Each delivery shall be accompanied by a packing slip which itemizes materials and quantities delivered, packaging, Purchase Order number, Price Agreement number and Agency facility.

2) Delivery shall be made within three (3) business day of order placement. Contractor shall notify the Agency immediately if delivery is expected to exceed this time frame or if the compete order cannot be fulfilled.

3) Whenever the Agency does not accept any deliverable and returns it to Contractor, all related documentation furnished by Contractor shall also be returned.

4) Prices listed in Exhibit A shall be the fixed prices for the items and rates for the services, respectively.

5) Prices listed in Exhibit A for the items and services shall remain in effect for the term of this Agreement.

5. COMMERCIAL WARRANTY

Contractor agrees that the items or services furnished under this Agreement shall be covered by the most favorable commercial warranties Contractor gives for such to any customers for such items or services. The rights and remedies provided herein shall extend to the Agency and are in addition to and do not limit any rights afforded by the Agency by any other Article of this Agreement. Contractor agrees not to disclaim warranties of fitness for a particular purpose of merchantability.

6. PAYMENTS

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

1) Inspection. Final inspection and acceptance of all items and services ordered shall be made at the Agency facility. Items rejected at the Agency facility for non-conformance with specifications shall be removed, at Contractor's risk and expense, promptly after notice of rejection.

2) Acceptance. In accordance with NMSA 1978, Section 13-1-158, the Agency shall determine if the items meet specifications, and may accept the items if the items meet specifications. No payment shall be made for any items until the items have been accepted in writing by the Agency. Unless otherwise agreed upon between the Agency and Contractor, within thirty (30) days from the receipt of items, the Agency shall issue a written certification of complete or partial acceptance or rejection of the items. The time period shall begin at the time of receipt of the final shipment when there are multiple shipments per Purchase Order. Unless the Agency gives notice of rejection within the specified time period, the items will be deemed to have been accepted.

3) Issuance of Purchase Orders. Only written, signed and properly executed Purchase Orders are valid under this Agreement.

4) Invoices. Contractor may submit invoices for payment no more frequently than monthly. Contractor's invoice shall contain the following information: Purchase Order number, Price Agreement number, description of supplies or services, quantities, unit prices, extended totals, delivery tickets, and applicable taxes and fees. Separate invoices shall be rendered for each and every complete shipment. Invoices must be submitted to the Agency and not the City of Santa Fe Purchasing Division.

5) Payment of Invoices. Upon written certification from the Agency that the items and services have been received and accepted, the Agency shall pay to Contractor in full payment for services rendered, including applicable taxes and fees.

6) Taxes and Fees. Applicable taxes and fees shall be included on each invoice and shown as a separate item to be paid. Contractor shall be responsible for payment of taxes and fees owed to by the State of New Mexico and federal government on the sums payable under this Agreement.

7. APPROPRIATIONS

The terms of this Agreement are contingent upon sufficient appropriations to and authorization from the Joint Powers Board for the Agency for the performance of this Agreement. If sufficient appropriations are not made or authorization provided, this Agreement shall terminate upon written notice from the Agency to Contractor. The Agency shall be responsible for charges incurred up to the date of notification under this Section per Section 10 of this Agreement. The Agency's decision as to whether sufficient appropriations are available shall be accepted by Contractor and shall be final.

8. TERM AND EFFECTIVE DATE

A. This Agreement shall be effective when signed by the Agency and terminate on September 28, 2019, unless it is terminated sooner pursuant to Article 7 or Article 10 of this Agreement.

B. Pursuant to the limitations on multi-term contracts for services codified in NMSA 1978 § 13-1-150, this Agreement may not exceed four years, including all extensions and renewals. Subject to that limitation, the Agreement can be renewed annually, if agreed upon by the Agency and Contractor.

9. CANCELLATION

A. The Agency reserves the right to cancel without cost to the Agency all or any part of any order placed under this Agreement if the Agency determines in its sole discretion that the services or deliverables fail to meet the requirements of this Agreement.

B. The failure of Contractor to perform its obligations under this Agreement shall constitute a default of this Agreement and/or the Purchase Order.

C. Contractor may be excused from performance if Contractor's failure to perform the Purchase Order arises out of causes beyond the control and without the fault or negligence of Contractor, unless the Agency shall determine that the item, to be furnished by a sub-contractor, is obtainable from other sources in sufficient time to permit Contractor to meet the required delivery schedule.

D. Such causes of excuse include, but are not limited to, acts of God or the public enemy, acts of the federal, state or local government, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather and defaults of sub-contractors due to any of the above.

E. In the event that the Agency cancels all, or any part, of any Purchase Order because Contractor failed to meet material provisions of the Purchase Order, Contractor shall be liable for any excess costs incurred by the Agency that is associated with such default.

10. TERMINATION

A. Consistent with applicable New Mexico laws, this Agreement may be terminated by the Agency, without penalty, at any time prior to the expiration date of this Agreement. The Agency will provide ten (10) days prior written notice to Contractor of the date of termination. Notice of Termination of this Agreement shall not affect any outstanding Purchase Order(s) issued under this Agreement prior to the effective date of termination for convenience by the Agency.

B. The Agency further reserves the right to cancel all or any part of this Agreement without cost to the Agency if Contractor fails to meet the provisions of this Agreement and to hold Contractor liable for any excess costs associated with Contractor's default. The rights and remedies of the Agency are not limited to those provided for in this Article and are in addition to any other rights provided for by law.

11. STATUS OF CONTRACTOR; RESPONSIBILITY FOR PAYMENT OF EMPLOYEES AND SUBCONTRACTORS

A. Contractor, its agents, and its employees are independent contractors performing product delivery services for the Agency and are not employees of the Agency.

B. Contractor, its agents, and its employees shall not accrue leave, retirement, insurance, bonding, or any other benefits afforded to employees of the Agency and shall not be permitted to use Agency vehicles in the performance of this Agreement.

C. Contractor shall be solely responsible for payment of wages, salaries, and benefits to any and all employees or subcontractors Contractor retains to perform any of its obligations

pursuant to this Agreement.

12. CONFIDENTIALITY

Any confidential information provided to or developed by Contractor in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by Contractor without the Agency's prior written approval.

13. CONFLICT OF INTEREST

A. Contractor warrants that it presently has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with its performance of its obligations pursuant to this Agreement. Contractor further agrees that it shall not employ or contract with anyone in the performance of this Agreement that has any such conflict of interest.

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

14. APPROVAL OF CONTRACTOR'S REPRESENTATIVES

The Agency reserves the right to require a change in Contractor representatives if the assigned representatives are not, in the sole discretion of the Agency, serving the needs of the Agency adequately.

15. ASSIGNMENT; SUBCONTRACTING

Contractor shall not assign or transfer any rights, privileges, obligations or other interests under this Agreement, including any claims for money due, without the Agency's prior written consent, which shall not be unreasonably withheld. Contractor shall not subcontract any portion of the services to be performed under this Agreement without the Agency's prior written approval.

16. NON-COLLUSION

In signing this Agreement, Contractor certifies it has not, either directly or indirectly, entered

into action in restraint of free competitive bidding in connection with its offer and this Agreement.

17. RELEASE

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

18. INSURANCE

A. 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 of $1,000,000 for each occurrence and $2,000,000 in general aggregate coverage for bodily injury and property damage liability, in a form and with an insurance company acceptable to the Agency. The Agency shall be named as an additional insured under the insurance policy, and the policy shall provide that the Agency will be notified no less than thirty (30) days before the policy is cancelled for any reason. Contractor has furnished the Agency with a copy of a Certificate of Insurance or other evidence of Contractor's compliance with the provisions of this section as a condition of entering into this Agreement.

B. Contractor shall carry and maintain Workers' Compensation insurance in accordance with New Mexico law to provide coverage for Contractor's employees throughout the term of this Agreement. Contractor shall provide the Agency with evidence demonstrating that appropriate Workers' Compensation insurance has been obtained.

C. Contractor shall carry and maintain sufficient automobile liability insurance throughout the term of this Agreement to cover no less than $1,000,000 combined single limit

for each accident.

D. Contractor shall carry and maintain throughout the term of this Agreement auto pollution liability in the amount of $5,000,000 per occurrence. The required limits may be provided by a combination of auto pollution liability insurance and commercial umbrella liability insurance.

E. Contractor shall also carry and maintain throughout the term of this Agreement erroneous delivery liability insurance in the amount of $1,000,000 per occurrence. The required limits may be provided by a combination of erroneous delivery liability insurance and commercial umbrella liability insurance.

19. INDEMNIFICATION

Contractor shall indemnify, hold harmless and defend the Agency from all losses, damages, claims or judgments, including payment of all attorneys' fees and costs on account of any suit, judgment, execution, claim, action, or demand whatsoever to the extent arising from the negligent acts, errors, or omissions, or willful and reckless disregard of obligations under this Agreement, in the performance of any services covered by this Agreement, whether occurring on Agency managed or owned property or otherwise, by Contractor or its employees, agents, representatives, or subcontractors, excepting only such liability that arises out of the Agency's negligence.

20. NEW MEXICO TORT CLAIMS ACT

Any liability incurred by the Agency in connection with this Agreement is subject to the immunities and limitations set forth in the New Mexico Tort Claims Act, NMSA 1978 §§ 41-4-1 to 41-4-27. The Agency and its employees do not waive sovereign immunity, any available defense, or any limitation of liability recognized by law. No provision in this Agreement modifies or waives any provision of the New Mexico Tort Claims Act.

21. THIRD PARTY BENEFICIARIES

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

22. RECORDS AND AUDIT

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 Agency, City of Santa Fe Finance Department, and the State Auditor. The Agency shall have the right to audit the billing both before and after payment. Payment under this Agreement shall not foreclose the right of the Agency to recover excessive or illegal payments.

23. APPLICABLE LAW; CHOICE OF LAW; VENUE

Contractor shall abide by all applicable federal and state laws and regulations, and all ordinances, rules and regulations of the Agency. In any action, suit, or legal dispute arising from this Agreement, 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, Santa Fe County.

24. AMENDMENT

This Agreement may only be amended by mutual agreement of the Agency and Contractor

upon written notice by either party to the other. Any such amendment shall be in writing and signed by the parties hereto. Unless otherwise agreed to by the parties, an amendment shall not affect any outstanding Purchase Order(s) issued, by the Agency, prior to the effective date of the amendment.

25. INTEGRATION

This Agreement expresses the entire agreement and understanding between the parties with respect to Contractor's items and services attached hereto as Exhibit A. No prior agreement or understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

26. NON-DISCRIMINATION

During the term of this Agreement, Contractor shall not discriminate against any employee or applicant for an employment position to be used in the performance of the services Contractor undertakes pursuant to this Agreement 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.

27. SEVERABILITY

If one or more of the provisions of this Agreement or any application thereof is found to be invalid, illegal, or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions of the Agreement and any other application thereof shall not in any way be affected or impaired.

28. NOTICES

A. Any notices required to be given under this Agreement shall be in writing and served to the parties at thefollowing addresses:

AGENCY:

Randall Kippenbrock, P.E. Executive Director
Santa Fe Solid Waste Management Agency
149 Wildlife Way
Santa Fe, NM 87506
Fax: (505) 424-1839
Email: rkippenbrock@sfswma.org

CONTRACTOR:

Rob Burns
Vice President of Sales
Honstein Oil and Distributing, LLC
11 Paseo Real
Santa Fe, NM 87507
Fax: (505) 471-0103
Email: rob@honsteinoil.com

B. Any such notice sent by registered or certified mail, return receipt, shall be deemed to have been duly given and received seventy-two (72) hours after the same is so addressed and mailed with postage prepaid. Notice sent by recognized overnight delivery service shall be effective only upon actual receipt thereof at the office of the addressee set forth above, and any such notice delivered at a time outside of normal business hours shall be deemed effective at the opening of business on the next business day. Notice sent by facsimile or email shall be effective only upon actual receipt of the original unless written confirmation is sent by the recipient of the facsimile stating that the notice has been received, in which case the notice shall be deemed effective as of the date specified in the confirmation. Any party may change its address for purposes of this Article by giving notice to the other party as herein provided. Delivery of any copies as provided herein shall not constitute delivery of notice hereunder.

29. COMPLIANCE WITH LAWS AND REGULATIONS; PROHIBITION OF BRIBES, GRATUITIES, AND KICKBACKS

Contractor shall comply with all applicable federal, state, and local laws and regulations throughout the term of this Agreement. Contractor expressly acknowledges that the New Mexico

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

IN WITNESS WHEREOF, the parties have executed this Agreement on the date set forth below.

SANTA FE SOLID WASTE MANAGEMENT AGENCY:

Anna Hamilton
Chairperson, Joint Powers Board

10/1/18
Date:

COUNTY CLERK SANTA FE COUNTY NEW MEXICO GERALDINE SALAZAR

ATTEST:

Geraldine Salazar
Santa Fe County Clerk

CONTRACTOR:

Rob Burns
Vice President of Sales
Honstein Oil and Distributing, LLC

10/5/18
Date:

APPROVED AS TO FORM:

Nancy R. Long
Agency Attorney

9-28-18
Date:

EXHIBIT A

ITEMS / SERVICES TO BE PROVIDED

RFB No. '19/03/B

1. GENERAL CONDITIONS

A. This Agreement is established for the purchase and delivery of motor oils, lubricants, antifreeze and related products for the Agency hereinafter referred to as products. The Agency operates a variety of vehicles, heavy and industrial equipment in support of its operations which require manufacturer approved products. The products listed in Section 5 of Exhibit A of this Agreement are specific to the fleet the Agency currently maintains. However, the Agency may require additional products in the future. Thus, the list of products may be revised through an amendment to this Agreement.

B. All products offered under this Agreement shall be approved for year-round use under all load conditions common to normal fleet operations. All products shall be guaranteed against any adverse effect on the original factory engine warranty when used as prescribed by the original engine manufacturer.

C. All deliveries shall be at the Agency Facility.

D. All delivery vehicles shall be compliant with Federal, State and Local laws and regulations.

E. All drums delivered shall be in satisfactory condition with minimal dents and be rust free. Unsatisfactory drums shall be rejected upon delivery with replacement required within 24 hours at no charge to the Agency.

F. Contractor shall be responsible, at no cost to the Agency, for the clean-up and remediation of any contamination or spillage resulting from delivery, transfer or unloading at Agency owned facilities.

G. Contractor shall provide manufacturers' Safety Data Sheets (SDS) for all covered products delivered to the Agency at the time of delivery.

2. SAMPLES AND TESTING

A. Product(s) provided under this Agreement shall be free from contamination.

B. Random sample tests for all products may be performed at time of delivery to ensure the product meets specifications. Testing costs will be paid by the Agency unless the sample is not in compliance, in which case the cost will be borne by Contractor.

C. If the Agency determines that the product does not comply with specifications herein, Contractor will be notified via e-mail, phone, or facsimile. Contractor shall have forty-eight (48) hours from the time of notification to rectify the problem to the satisfaction of the Agency and/or remove the product, if circumstances dictate.

D. Testing shall be ordered by the Agency using a qualified laboratory if Agency vehicles and/or pieces of heavy equipment require repairs as a result of using product(s) provided under this Agreement that do not meet the manufacturer's specifications. If the malfunction is proved to be the result of the product supplied, Contractor shall be responsible for all repairs necessary to return the vehicle(s) and/or pieces of heavy equipment to good operating condition.

3. ORDERS AND DELIVERY

A. When delivering in bulk, product quantity shall be measured by the gross gallon.

B. An authorized Agency representative must be on site at the time of any delivery. It is mandatory that Contractor secures both a printed name and signature of the Agency representative receiving the delivery.

C. Delivery shall be made within three (3) business days of order placement, excluding weekends (Saturdays and Sundays) and any state/federal holidays observed by the Agency. Deliveries shall be during normal operating hours for the Agency, unless different parameters are mutually agreed upon, in writing, between Contractor and Agency's representatives. Contractor shall be required to pick up any number of empty drums upon delivery of orders. Contractor shall notify the Agency immediately if delivery is expected to exceed this time frame or if the compete order cannot be fulfilled.

D. Each delivery shall be accompanied by a packing slip which itemizes products and quantities delivered, packaging, contract number, purchase order number and delivery location.

E. Notwithstanding the existence of this Agreement, the Agency reserves the right to order any product(s) required for emergency purpose from any Contractor who can deliver such product(s) to meet the requirements of the Agency, without waiving or voiding any of the terms of this Agreement.

F. All prices shall be F.O.B. destination to the delivery location designated by the Agency. Contractor shall retain title and control of all goods until they are delivered and the contract coverage has been completed. All risk of transportation and all related charges shall be the responsibility of Contractor.

G. Contractor shall be responsible for all spillage which may occur during transit and unloading operations. Contractor shall immediately report spillage to the Agency, the appropriate fire department, and any agency with regulatory authority over hazardous materials spills. Contractor shall contain and remediate the spillage according to US EPA and State of New Mexico regulations and guidelines. Contractor shall be

responsible for containment and cleanup costs of not only the immediate area but also all affected areas such as, but not limited to, surface, subsurface and water.

H. Contractor shall also be responsible for all cleanup required to all Agency's property, storage facilities, and equipment as a result of noncompliance with specifications. Furthermore, Contractor shall be fully responsible for any and all costs and damages incurred by the Agency for any equipment sustaining damage, which is attributed to a contaminated product(s), which Contractor has delivered.

4. BILLING LOCATION AND CONTACT

A. Contractor shall request the proper billing address upon the receipt of an order to ensure prompt and efficient payment from the Agency. Incorrect billings may cause delays in payment.

B. The billing address is as follows:

Santa Fe Solid Waste Management Agency
Attn: Account Coordinator
149 Wildlife Way
Santa Fe, NM 87506
Telephone: (505) 424-1850 x 140
Fax: (505) 424-1839
Email: asalazar@sfswma.org

5. CONTRACTOR'S UNIT PRICING

Antifreeze	Unit	Unit Price	Specific Grade/Brand Offered
DELO® ELC Antifreeze/Coolant (50/50)	per gallon (55-gallon drum)	$6.95/gallon $382.25/drum	Chevron DELO (50/50) ELC 227811D
	per gallon (Bulk – 275 gal)	$6.40/gallon $1,760.00/275-gal tote	Chevron DELO (50/50) ELC 227811B
DELO® XLC Antifreeze/Coolant (50/50)	per gallon (55-gallon drum)	$7.75/gallon $426.25/drum	Chevron DELO (50/50) XLC 227077D
	per gallon (bulk – 275 gal)	$7.75/gallon Drum to bulk	Chevron DELO (50/50) XLC 227077D

Industrial Oils	Unit	Unit Price	Specific Grade/Brand Offered
Chevron Hydraulic Oil AW (ISO 46)	per gallon (55-gallon drum)	$5.20/gallon $286.00/drum	Chevron AW46 255674D
RANDO HDZ (ISO 46)	per gallon (55-gallon drum)	$9.69/gallon $532.95/drum	Chevron Rando HDZ 46 273261D
	per gallon (bulk – 275 gal)	$9.69/gallon Drum to bulk	Chevron Rando HDZ 46 273261D
Cetus® HiPerSyn® Oil (ISO 32)	per gallon (5-gallon pail)	$31.06/gallon	Cetus® HiPerSyn® 32 259136P
Cetus® HiPerSyn® Oil (ISO 46)	per gallon (5-gallon pail)	$30.38/gallon	Cetus® HiPerSyn® 46 259137P
Cetus® HiPerSyn® Oil (ISO 68)	per gallon (5-gallon pail)	$31.47/gallon	Cetus® HiPerSyn® 68 259138P
Cetus® HiPerSyn® Oil (ISO 100)	per gallon (5-gallon pail)	$30.38/gallon	Cetus® HiPerSyn® 100 259139P
Cetus® HiPerSyn® Oil (ISO 150)	per gallon (5-gallon pail)	$31.54/gallon	Cetus® HiPerSyn® 150 259140P
Cetus® HiPerSyn® Oil (ISO 220)	per gallon (5-gallon pail)	$32.51/gallon	Cetus® HiPerSyn® 220 259141P
Cetus® HiPerSyn® Oil (ISO 320)	per gallon (5-gallon pail)	$31.54/gallon	Cetus® HiPerSyn® 320 259142P
Cetus® HiPerSyn® Oil (ISO 460)	per gallon (5-gallon pail)	$311.82/gallon	Cetus® HiPerSyn® 460 259143P

Automatic Transmission Fluid	Unit	Unit Price	Specific Grade/Brand Offered
Chevron ATF + 4	per quart (case)	$5.32/quart $63.84/case	Chevron Havoline ATF+4 222270Q
Chevron ATF MD-3	per quart (case)	$2.43/quart $29.16/case	Chevron Havoline MD-3 221854Q
	per gallon (5-gallon pail)	$8.20/gallon $41.00/pail	Chevron Havoline MD-3 221854Q
	per gallon (55-gallon drum)	$7.35/gallon $404.25/drum	Chevron Havoline MD-3 221854Q
Chevron Synthetic ATF MV Dexron VI	per quart (case)	$5.16/quart $61.92/case	Chevron Havoline Full Syn MV VI 226536Q
Chevron 1000 THF	per gallon (5-gallon pail)	$8.80/gallon $44.00/pail	Chevron THF 1000 (OEM approved) 226606P
DELO® Syn ATF HD	per quart (case)	N/A	N/A
	per gallon (55-gallon drum)	$28.20/gallon $1,551.00/drum	Delco Syn ATF HD 223040D
TranSynd (Allison Transmission)	per gallon (case)	N/A	N/A
	per gallon (5-gallon pail)	$39.20/gallon $196.00/pail	Allison TranSynd (OEM approved)
	per gallon (55-gallon drum)	$34.55/gallon $1,900.00/drum	Allison TranSynd (OEM approved)
	per gallon (bulk – 275 gal)	$34.55/gallon Drum to bulk	Allison TranSynd (OEM approved)

Motor Oils	Unit	Unit Price	Specific Grade/Brand Offered
DELO® 400 XLE SAE 10w30 (Synblend)	per gallon (case)	$12.20/gallon $36.60 – 3/1 case	DELO 400 XLE Syn Blend 10/30 CK4 (OEM approved) 257000G
DELO® 400 SDE SAE 15w40	per gallon (55-gallon drum)	$10.25/gallon $563.75/drum	DELO 400 SDE CK4 (OEM approved) 222290D
	per gallon (bulk – 275 gal)	$9.50/gallon	DELO 400 SDE CK4 (OEM approved) 222290B
Chevron DELO 400 LE 15w40	per gallon (55-gallon drum)	$9.80/gallon $539.00/drum	DELO 400 LE 15/40 CJ4 Note: Product will sunset in 2019 and move to SDE 15/40 or Ursa 15/40
	per gallon (bulk – 275 gal)	$9.05/gallon	DELO 400 LE 15/40 CJ4 Note: Product will sunset in 2019 and move to SDE 15/40 or Ursa 15/40
Chevron Havoline Synthetic (0w20)	per quart (case)	$3.75/quart $22.53 – 6/1 case	Chevron Havoline ProDs Syn 0/20 223506Q
Chevron Havoline Synthetic (5w20)	per quart (case)	$4.01/quart $24.06 – 6/1 case	Chevron Havoline ProDs Syn 5/20 223727Q
Chevron Havoline Synthetic (5w30)	per quart (case)	$3.87/quart $23.22 – 6/1 case	Chevron Havoline ProDs Syn 5/30 223507Q
Chevron Havoline Synthetic (10w30)	per quart (case)	$5.58/quart $33.43 – 6/1 case	Chevron Havoline ProDs Syn 10/30 223505Q
Chevron Havoline Synthetic (5w40)	per quart (case)	$4.99/quart $29.94 – 6/1 case	Chevron Havoline ProDs Syn Euro 5/40 223504Q
Mobil Synthetic (80w90)	per gallon (55-gallon drum)	N/A	N/A

Gear/Drive Oils	Unit	Unit Price	Specific Grade/Brand Offered
DELO® Gear EP-5 (SAE 80w-90)	per quart (case)	N/A	N/A
	per gallon (55-gallon drum)	$15.27/gallon $839.85/drum	Chevron DELO Gear EP5 80/90 223022D
DELO® Gear EP-5 (SAE 85w-140)	per quart (case)	N/A	N/A
	per gallon (5-gallon pail)	$16.33/pail $81.65/pail	Chevron DELO Gear EP5 85/140 223021P
Chevron DELO Gear Oil (SAE 80w90)	per quart (case)	N/A	N/A
	per gallon (55-gallon drum)	$19.56/gallon $1,075.80/drum	Chevron DELO GL ESI 80-90 224503D
DELO® TorqForce® (SAE 10w)	per gallon (55-gallon drum)	$13.96/gallon $767.80/drum	Chevron DELO TorqForce 10 293105D
	per gallon (bulk – 275 gal)	$10.52/gallon	Chevron DELO TorqForce 10 293105D
DELO® TorqForce® (SAE 30w)	per gallon (55-gallon drum)	$13.62/gallon $749.10/drum	Chevron DELO TorqForce 30 293106D
	per gallon (bulk – 275 gal)	$10.66/gallon	Chevron DELO TorqForce 30 293106B

Grease	Unit	Unit Price	Specific Grade/Brand Offered
DELO® Grease EP (#2)	per ounce (14 oz tube - case)	$0.20/ounce $28.00/10 tube case	Chevron DELO Grease EP #2 235208T
	per pound (quarter drum)	$2.95/pound $354.00/qtr drum	Chevron DELO Grease EP #2 235208QD

Miscellaneous Fluids	Unit	Unit Price	Specific Grade/Brand Offered
Starting Fluid – 50% Ether	per can (case)	$1.59/can $19.08/(12/1 case)	6752C Johnsons Starting Fluid
Power Steering Fluid	per ounce (12 oz. Bottle - Case)	$0.87/ounce $12.53-12/1 case	2812C Johnsons Power Steering Fluid
	per quart (case)	N/A	N/A
	per gallon (Case)	N/A	N/A
Diesel Exhaust Fluid (DEF)	per gallon (2.5 – gallon container)	$3.04/gallon $7.60/2.5 gallon	748042 – Air One DEF 2.5 gallon Jugs
	per gallon (bulk)	$1.47/gallon	74804B – Air One DEF Bulk
DOT 3 Brake Fluid	per quart (case)	$1.24/quart $14.88-12/1case	2212C – Johnsons DOT 3 Brake Fluid
	per gallon (case)	$11.71/gallon $46.85-4/1 case	2234C – Johnsons DOT 3 Brake Fluid
Non-Chlorinated Brake Parts Cleaner	Per can (case)	$1.84/can $22.03-12/1 case	2413C – Johnsons Non-Chlorinated Brake Clean
Howe's Diesel Conditioner and Anti-Gel	per quart (case)	$5.96/quart $71.55-21/1 case	103062C Howes Diesel Treat and Anti-Gel

ATTACHMENT 3

Stewart and Stevenson Power Products

Amendment No. 2 - Price Agreement

SANTA FE SOLID WASTE MANAGEMENT AGENCY
AMENDMENT No. 2
PRICE AGREEMENT
WITH
STEWART AND STEVENSON POWER PRODUCTS
(Motor Oils, Lubricants, Antifreeze and Related Products – 2018)

This AMENDMENT No. 2 (the "Amendment") to the PRICE AGREEMENT ("Agreement") dated October 4, 2018 (the "Agreement"), is made and entered into between the Santa Fe Solid Waste Management Agency ("the Agency") and Stewart and Stevenson Power Products ("Contractor"). The Amendment shall be effective as of the date this Amendment is executed by the Agency.

RECITALS

Under the terms of the Agreement, Contractor has agreed to provide an indefinite quantity of motor oils, lubricants, antifreeze and related products on an as-needed basis as described in RFB No. '19/03/B, and all terms, specifications and conditions, contained therein.

Pursuant to Article 24, Amendment of the Agreement, and for good and valuable consideration, the receipt and sufficiency of which are acknowledged by the parties, the Agency and Contractor agree as follows:

1. **TERM AND EFFECTIVE DATE**

Article 8, Term and Effective Date of the Agreement is amended to extend the term of the Agreement, so that Article 8 reads in its entirety as follows:

A. This Agreement shall be effective when signed by the Agency and terminate on October 4, 2021, unless it is terminated sooner pursuant to Article 7 or Article 10 of this Agreement.

B. Pursuant to the limitations on multi-term contracts for services codified in NMSA 1978 § 13-1-150, this Agreement may not exceed four years, including all extensions and renewals.

Subject to that limitation, the Agreement can be renewed annually, if agreed upon by the Agency and Contractor.

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 Santa Fe Solid Waste Management Agency Price Agreement as of the dates set forth below.

SANTA FE SOLID WASTE MANAGEMENT AGENCY:

_____ _____

Anna Hansen Date:
Chairperson, Joint Powers Board

ATTEST:

_____

Geraldine Salazar
Santa Fe County Clerk

CONTRACTOR:

_____ _____

Jeff Newmann Date:
General Manager
Stewart and Stevenson Power Products

APPROVED AS TO FORM:

_____ _____

Nancy Long Date:
Agency Attorney

Amendment No. 1 - Price Agreement

ITEM # 19-0850

SANTA FE SOLID WASTE MANAGEMENT AGENCY
AMENDMENT No. 1
PRICE AGREEMENT
WITH
STEWART AND STEVENSON POWER PRODUCTS
(Motor Oils, Lubricants, Antifreeze and Related Products – 2018)

This AMENDMENT No. 1 (the "Amendment") to the PRICE AGREEMENT ("Agreement") dated October 4, 2019 (the "Agreement"), is made and entered into between the Santa Fe Solid Waste Management Agency ("the Agency") and Stewart and Stevenson Power Products ("Contractor"). The Amendment shall be effective as of the date this Amendment is executed by the Agency.

RECITALS

Under the terms of the Agreement, Contractor has agreed to provide an indefinite quantity of motor oils, lubricants, antifreeze and related products on an as-needed basis as described in RFB No. '19/03/B, and all terms, specifications and conditions, contained therein.

Pursuant to Article 24, Amendment of the Agreement, and for good and valuable consideration, the receipt and sufficiency of which are acknowledged by the parties, the Agency and Contractor agree as follows:

1. **TERM AND EFFECTIVE DATE**

Article 8, Term and Effective Date of the Agreement is amended to extend the term of the Agreement, so that Article 8 reads in its entirety as follows:

A. This Agreement shall be effective when signed by the Agency and terminate on October 4, 2020, unless it is terminated sooner pursuant to Article 7 or Article 10 of this Agreement.

B. Pursuant to the limitations on multi-term contracts for services codified in NMSA 1978 § 13-1-150, this Agreement may not exceed four years, including all extensions and

renewals. Subject to that limitation, the Agreement can be renewed annually, if agreed upon by the Agency and Contractor.

2. **ITEMS / SERVICES TO BE PROVIDED**

Article 4, Items/Services To Be Provided of the Agreement is amended to reflect an increase by the product manufacturer/supplier of such product(s) listed in Section 5 of Exhibit A of this Agreement so that Section 5 of Exhibit A of Article 4 is deleted entirely and replaced with the following:

5. CONTRACTOR'S UNIT PRICING

Antifreeze	Unit	Unit Price	Specific Grade/Brand Offered
DELO® ELC Antifreeze/Coolant (50/50)	per gallon (55-gallon drum)	N/A	N/A
	per gallon (Bulk – 275 gal)	N/A	N/A
DELO® XLC Antifreeze/Coolant (50/50)	per gallon (55-gallon drum)	N/A	N/A
	per gallon (bulk – 275 gal)	N/A	N/A

Industrial Oils	Unit	Unit Price	Specific Grade/Brand Offered
Chevron Hydraulic Oil AW (ISO 46)	per gallon (55-gallon drum)	N/A	N/A
RANDO HDZ (ISO 46)	per gallon (55-gallon drum)	N/A	N/A
	per gallon (bulk – 275 gal)	N/A	N/A
Cetus® HiPerSyn® Oil (ISO 32)	per gallon (5-gallon pail)	N/A	N/A
Cetus® HiPerSyn® Oil (ISO 46)	per gallon (5-gallon pail)	N/A	N/A
Cetus® HiPerSyn® Oil (ISO 68)	per gallon (5-gallon pail)	N/A	N/A
Cetus® HiPerSyn® Oil (ISO 100)	per gallon (5-gallon pail)	N/A	N/A

Industrial Oils	Unit	Unit Price	Specific Grade/Brand Offered
Cetus® HiPerSyn® Oil (ISO 150)	per gallon (5-gallon pail)	N/A	N/A
Cetus® HiPerSyn® Oil (ISO 220)	per gallon (5-gallon pail)	N/A	N/A
Cetus® HiPerSyn® Oil (ISO 320)	per gallon (5-gallon pail)	N/A	N/A
Cetus® HiPerSyn® Oil (ISO 460)	per gallon (5-gallon pail)	N/A	N/A

Automatic Transmission Fluid	Unit	Unit Price	Specific Grade/Brand Offered
Chevron ATF + 4	per quart (case)	N/A	N/A
Chevron ATF MD-3	per quart (case)	N/A	N/A
	per gallon (5-gallon pail)	N/A	N/A
	per gallon (55-gallon drum)	N/A	N/A
Chevron Synthetic ATF MV Dexron VI	per quart (case)	N/A	N/A
Chevron 1000 THF	per gallon (5-gallon pail)	N/A	N/A
DELO® Syn ATF HD	per quart (case)	N/A	N/A
	per gallon (55-gallon drum)	N/A	N/A
TranSynd (Allison Transmission)	per gallon (case)	10% below list price	N/A
	per gallon (5-gallon pail)	10% below list price	N/A
	per gallon (55-gallon drum)	10% below list price	N/A
	per gallon (bulk – 275 gal)	10% below list price	N/A

Motor Oils	Unit	Unit Price	Specific Grade/Brand Offered
DELO® 400 XLE SAE 10w30 (Synblend)	per gallon (case)	N/A	N/A
DELO® 400 SDE SAE 15w40	per gallon (55-gallon drum)	N/A	N/A
	per gallon (bulk – 275 gal)	N/A	N/A
Chevron DELO 400 LE 15w40	per gallon (55-gallon drum)	N/A	N/A
	per gallon (bulk – 275 gal)	N/A	N/A
Chevron Havoline Synthetic (0w20)	per quart (case)	N/A	N/A
Chevron Havoline Synthetic (5w20)	per quart (case)	N/A	N/A
Chevron Havoline Synthetic (5w30)	per quart (case)	N/A	N/A
Chevron Havoline Synthetic (10w30)	per quart (case)	N/A	N/A
Chevron Havoline Synthetic (5w40)	per quart (case)	N/A	N/A
Mobil Synthetic (80w90)	per gallon (55-gallon drum)	N/A	N/A

Gear/Drive Oils	Unit	Unit Price	Specific Grade/Brand Offered
DELO® Gear EP-5 (SAE 80w-90)	per quart (case)	N/A	N/A
	per gallon (55-gallon drum)	N/A	N/A
DELO® Gear EP-5 (SAE 85w-140)	per quart (case)	N/A	N/A
	per gallon (5-gallon pail)	N/A	N/A
Chevron DELO Gear Oil (SAE 80w90)	per quart (case)	N/A	N/A
	per gallon (55-gallon drum)	N/A	N/A
DELO® TorqForce® (SAE 10w)	per gallon (55-gallon drum)	N/A	N/A
	per gallon (bulk – 275 gal)	N/A	N/A
DELO® TorqForce® (SAE 30w)	per gallon (55-gallon drum)	N/A	N/A
	per gallon (bulk – 275 gal)	N/A	N/A

Grease	Unit	Unit Price	Specific Grade/Brand Offered
DELO® Grease EP (#2)	per ounce (14 oz tube - case)	N/A	N/A
	per pound (quarter drum)	N/A	N/A

Miscellaneous Fluids	Unit	Unit Price	Specific Grade/Brand Offered
Starting Fluid – 50% Ether	per can (case)	N/A	N/A
Power Steering Fluid	per ounce (12 oz. Bottle - Case)	N/A	N/A
	per quart (case)	N/A	N/A
	per gallon (Case)	N/A	N/A
Diesel Exhaust Fluid (DEF)	per gallon (2.5 – gallon container)	10% below list price	N/A
	per gallon (bulk)	N/A	N/A
DOT 3 Brake Fluid	per quart (case)	N/A	N/A
	per gallon (case)	N/A	N/A
Non-Chlorinated Brake Parts Cleaner	Per can (case)	N/A	N/A
Howe's Diesel Conditioner and Anti-Gel	per quart (case)	N/A	N/A

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.

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IN WITNESS WHEREOF, the parties have executed this AMENDMENT No. 1 to the Santa Fe Solid Waste Management Agency Price Agreement as of the dates set forth below.

SANTA FE SOLID WASTE MANAGEMENT AGENCY:

Renee Villarreal
Chairperson, Joint Powers Board

10/17/19
Date:

ATTEST:

Yolanda Y. Vigil
Santa Fe City Clerk

CONTRACTOR:

Jeff Newmann
General Manager
Stewart and Stevenson Power Products

10/29/19
Date:

APPROVED AS TO FORM:

Nancy Long
Agency Attorney

10-17-19
Date:

Price Agreement (RFB No. '19/03/B)

SANTA FE SOLID WASTE MANAGEMENT AGENCY
PRICE AGREEMENT WITH
STEWART AND STEVENSON POWER PRODUCTS
(Motor Oils, Lubricants, Antifreeze and Related Products – 2018)

This PRICE AGREEMENT ("Agreement") is made and entered into by and between the Santa Fe Solid Waste Management Agency ("the Agency") and Stewart and Stevenson Power Products ("Contractor") for an indefinite quantity of motor oils, lubricants, antifreeze and related products as described in RFB No. '19/03/B and below. The Price Agreement shall be effective as of the date this Agreement is executed by the Agency.

1. **SCOPE OF AGREEMENT**

The items to be provided under this Agreement are set forth in RFB No. '19/03/B and all terms, specifications and conditions, contained therein and Contractor's response for cost of items and services submitted thereto, all of which is incorporated into this Agreement and attached hereto as Exhibit A.

2. **STANDARDS OF PERFORMANCE; LICENSES**

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

B. Contractor agrees to obtain and maintain throughout the term of this Agreement all applicable professional and business licenses required by law for itself and its employees, agents, representatives and subcontractors.

3. **DEFINITIONS**

A. "Agency" means the Santa Fe Solid Waste Management Agency.

B. "Agency Facility" means the Caja del Rio Landfill at 149 Wildlife Way, Santa Fe, New Mexico 87506.

C. "Items" means tangible goods or tangible items of personal property required for

Agency operations. All items are to be new and of most current production, unless otherwise specified.

D. "Price" means the discounted price or costs for product(s) paid by the Agency as described in Exhibit A.

E. "Price Agreement" means this indefinite quantity Price Agreement which requires Contractor to provide product(s) to the Agency.

F. "Purchase Order" means a fully executed purchase document issued by the City of Santa Fe Purchasing Department on behalf of the Agency that specifies the items and services to be provided by Contractor.

G. "Services" mean services to be performed by personnel that do not need extensive education or specialty training or licensing. Services excludes professional services that are typically performed by a person holding a license, such as engineering architecture or legal services.

H. "Tangible Goods" are products that can be touched. This includes software licenses and intellectual property.

4. ITEMS / SERVICES TO BE PROVIDED

A. Price of Items and Services. Section 5 of Exhibit A of this Agreement contains the prices for Contractor's items (i.e., tangible goods) and services. Exhibit A also indicates any specifications required for the items and services, if any, that are subject of this Agreement.

B. Purchase Orders. The Agency may issue Purchase Orders for the purchase of the items listed in Exhibit A. Any service ordered by the Agency must be a service described in Exhibit A. All Purchase Orders for items and services issued hereunder must reference the Purchase Order number and Price Agreement number RFB '19/03/B.

C. Quantities. It is understood that this is an indefinite quantity Price Agreement and the Agency may purchase any quantity of the item(s) or services listed in Exhibit A on an as-needed basis. The Agency makes no guarantee or warranty, implied, or otherwise, that any order for any definite quantity of items or services will be issued under this Agreement. Contractor shall be required to accept the Purchase Order(s) and furnish the items or services.

D. Specifications. The Services furnished under this Agreement shall meet or exceed the specifications provided in RFB No. '19/03/B, including any addenda. Purchase Orders issued pursuant to this Agreement must show the applicable Agreement items or services.

E. Delivery and Billing Instructions

1) Contractor shall deliver the items and services in accordance with the Agency's instructions. Each delivery shall be accompanied by a packing slip which itemizes materials and quantities delivered, packaging, Purchase Order number, Price Agreement number and Agency facility.

2) Delivery shall be made within three (3) business day of order placement. Contractor shall notify the Agency immediately if delivery is expected to exceed this time frame or if the compete order cannot be fulfilled.

3) Whenever the Agency does not accept any deliverable and returns it to Contractor, all related documentation furnished by Contractor shall also be returned.

4) Prices listed in Exhibit A shall be the fixed prices for the items and rates for the services, respectively.

5) Prices listed in Exhibit A for the items and services shall remain in effect for the term of this Agreement.

5. COMMERCIAL WARRANTY

Contractor agrees that the items or services furnished under this Agreement shall be covered by the most favorable commercial warranties Contractor gives for such to any customers for such items or services. The rights and remedies provided herein shall extend to the Agency and are in addition to and do not limit any rights afforded by the Agency by any other Article of this Agreement. Contractor agrees not to disclaim warranties of fitness for a particular purpose of merchantability.

6. PAYMENTS

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

1) Inspection. Final inspection and acceptance of all items and services ordered shall be made at the Agency facility. Items rejected at the Agency facility for non-conformance with specifications shall be removed, at Contractor's risk and expense, promptly after notice of rejection.

2) Acceptance. In accordance with NMSA 1978, Section 13-1-158, the Agency shall determine if the items meet specifications, and may accept the items if the items meet specifications. No payment shall be made for any items until the items have been accepted in writing by the Agency. Unless otherwise agreed upon between the Agency and Contractor, within thirty (30) days from the receipt of items, the Agency shall issue a written certification of complete or partial acceptance or rejection of the items. The time period shall begin at the time of receipt of the final shipment when there are multiple shipments per Purchase Order. Unless the Agency gives notice of rejection within the specified time period, the items will be deemed to have been accepted.

3) Issuance of Purchase Orders. Only written, signed and properly executed Purchase Orders are valid under this Agreement.

4) Invoices. Contractor may submit invoices for payment no more frequently than monthly. Contractor's invoice shall contain the following information: Purchase Order number, Price Agreement number, description of supplies or services, quantities, unit prices, extended totals, delivery tickets, and applicable taxes and fees. Separate invoices shall be rendered for each and every complete shipment. Invoices must be submitted to the Agency and not the City of Santa Fe Purchasing Division.

5) Payment of Invoices. Upon written certification from the Agency that the items and services have been received and accepted, the Agency shall pay to Contractor in full payment for services rendered, including applicable taxes and fees.

6) Taxes and Fees. Applicable taxes and fees shall be included on each invoice and shown as a separate item to be paid. Contractor shall be responsible for payment of taxes and fees owed to by the State of New Mexico and federal government on the sums payable under this Agreement.

7. APPROPRIATIONS

The terms of this Agreement are contingent upon sufficient appropriations to and authorization from the Joint Powers Board for the Agency for the performance of this Agreement. If sufficient appropriations are not made or authorization provided, this Agreement shall terminate upon written notice from the Agency to Contractor. The Agency shall be responsible for charges incurred up to the date of notification under this Section per Section 10 of this Agreement. The Agency's decision as to whether sufficient appropriations are available shall be accepted by Contractor and shall be final.

8. TERM AND EFFECTIVE DATE

A. This Agreement shall be effective when signed by the Agency and terminate on October 05, 2019, unless it is terminated sooner pursuant to Article 7 or Article 10 of this Agreement.

B. Pursuant to the limitations on multi-term contracts for services codified in NMSA 1978 § 13-1-150, this Agreement may not exceed four years, including all extensions and renewals. Subject to that limitation, the Agreement can be renewed annually, if agreed upon by the Agency and Contractor.

9. CANCELLATION

A. The Agency reserves the right to cancel without cost to the Agency all or any part of any order placed under this Agreement if the Agency determines in its sole discretion that the services or deliverables fail to meet the requirements of this Agreement.

B. The failure of Contractor to perform its obligations under this Agreement shall constitute a default of this Agreement and/or the Purchase Order.

C. Contractor may be excused from performance if Contractor's failure to perform the Purchase Order arises out of causes beyond the control and without the fault or negligence of Contractor, unless the Agency shall determine that the item, to be furnished by a sub-contractor, is obtainable from other sources in sufficient time to permit Contractor to meet the required delivery schedule.

D. Such causes of excuse include, but are not limited to, acts of God or the public enemy, acts of the federal, state or local government, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather and defaults of sub-contractors due to any of the above.

E. In the event that the Agency cancels all, or any part, of any Purchase Order because Contractor failed to meet material provisions of the Purchase Order, Contractor shall be liable for any excess costs incurred by the Agency that is associated with such default.

10. TERMINATION

A. Consistent with applicable New Mexico laws, this Agreement may be terminated by the Agency, without penalty, at any time prior to the expiration date of this Agreement. The Agency will provide ten (10) days prior written notice to Contractor of the date of termination. Notice of Termination of this Agreement shall not affect any outstanding Purchase Order(s) issued under this Agreement prior to the effective date of termination for convenience by the Agency.

B. The Agency further reserves the right to cancel all or any part of this Agreement without cost to the Agency if Contractor fails to meet the provisions of this Agreement and to hold Contractor liable for any excess costs associated with Contractor's default. The rights and remedies of the Agency are not limited to those provided for in this Article and are in addition to any other rights provided for by law.

11. STATUS OF CONTRACTOR; RESPONSIBILITY FOR PAYMENT OF EMPLOYEES AND SUBCONTRACTORS

A. Contractor, its agents, and its employees are independent contractors performing product delivery services for the Agency and are not employees of the Agency.

B. Contractor, its agents, and its employees shall not accrue leave, retirement, insurance, bonding, or any other benefits afforded to employees of the Agency and shall not be permitted to use Agency vehicles in the performance of this Agreement.

C. Contractor shall be solely responsible for payment of wages, salaries, and benefits to any and all employees or subcontractors Contractor retains to perform any of its obligations

pursuant to this Agreement.

12. CONFIDENTIALITY

Any confidential information provided to or developed by Contractor in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by Contractor without the Agency's prior written approval.

13. CONFLICT OF INTEREST

A. Contractor warrants that it presently has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with its performance of its obligations pursuant to this Agreement. Contractor further agrees that it shall not employ or contract with anyone in the performance of this Agreement that has any such conflict of interest.

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

14. APPROVAL OF CONTRACTOR'S REPRESENTATIVES

The Agency reserves the right to require a change in Contractor representatives if the assigned representatives are not, in the sole discretion of the Agency, serving the needs of the Agency adequately.

15. ASSIGNMENT; SUBCONTRACTING

Contractor shall not assign or transfer any rights, privileges, obligations or other interests under this Agreement, including any claims for money due, without the Agency's prior written consent, which shall not be unreasonably withheld. Contractor shall not subcontract any portion of the services to be performed under this Agreement without the Agency's prior written approval.

16. NON-COLLUSION

In signing this Agreement, Contractor certifies it has not, either directly or indirectly, entered

into action in restraint of free competitive bidding in connection with its offer and this Agreement.

17. **RELEASE**

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

18. **INSURANCE**

A. 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 of $1,000,000 for each occurrence and $2,000,000 in general aggregate coverage for bodily injury and property damage liability, in a form and with an insurance company acceptable to the Agency. The Agency shall be named as an additional insured under the insurance policy, and the policy shall provide that the Agency will be notified no less than thirty (30) days before the policy is cancelled for any reason. Contractor has furnished the Agency with a copy of a Certificate of Insurance or other evidence of Contractor's compliance with the provisions of this section as a condition of entering into this Agreement.

B. Contractor shall carry and maintain Workers' Compensation insurance in accordance with New Mexico law to provide coverage for Contractor's employees throughout the term of this Agreement. Contractor shall provide the Agency with evidence demonstrating that appropriate Workers' Compensation insurance has been obtained.

C. Contractor shall carry and maintain sufficient automobile liability insurance throughout the term of this Agreement to cover no less than $1,000,000 combined single limit

for each accident.

D. Contractor shall carry and maintain throughout the term of this Agreement auto pollution liability in the amount of $5,000,000 per occurrence. The required limits may be provided by a combination of auto pollution liability insurance and commercial umbrella liability insurance.

E. Contractor shall also carry and maintain throughout the term of this Agreement erroneous delivery liability insurance in the amount of $1,000,000 per occurrence. The required limits may be provided by a combination of erroneous delivery liability insurance and commercial umbrella liability insurance.

19. INDEMNIFICATION

Contractor shall indemnify, hold harmless and defend the Agency from all losses, damages, claims or judgments, including payment of all attorneys' fees and costs on account of any suit, judgment, execution, claim, action, or demand whatsoever to the extent arising from the negligent acts, errors, or omissions, or willful and reckless disregard of obligations under this Agreement, in the performance of any services covered by this Agreement, whether occurring on Agency managed or owned property or otherwise, by Contractor or its employees, agents, representatives, or subcontractors, excepting only such liability that arises out of the Agency's negligence.

20. NEW MEXICO TORT CLAIMS ACT

Any liability incurred by the Agency in connection with this Agreement is subject to the immunities and limitations set forth in the New Mexico Tort Claims Act, NMSA 1978 §§ 41-4-1 to 41-4-27. The Agency and its employees do not waive sovereign immunity, any available defense, or any limitation of liability recognized by law. No provision in this Agreement modifies or waives any provision of the New Mexico Tort Claims Act.

21. **THIRD PARTY BENEFICIARIES**

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

22. **RECORDS AND AUDIT**

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 Agency, City of Santa Fe Finance Department, and the State Auditor. The Agency shall have the right to audit the billing both before and after payment. Payment under this Agreement shall not foreclose the right of the Agency to recover excessive or illegal payments.

23. **APPLICABLE LAW; CHOICE OF LAW; VENUE**

Contractor shall abide by all applicable federal and state laws and regulations, and all ordinances, rules and regulations of the Agency. In any action, suit, or legal dispute arising from this Agreement, 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, Santa Fe County.

24. **AMENDMENT**

This Agreement may only be amended by mutual agreement of the Agency and Contractor upon written notice by either party to the other. Any such amendment shall be in writing and signed

by the parties hereto. Unless otherwise agreed to by the parties, an amendment shall not affect any outstanding Purchase Order(s) issued, by the Agency, prior to the effective date of the amendment.

25. **INTEGRATION**

This Agreement expresses the entire agreement and understanding between the parties with respect to Contractor's items and services attached hereto as Exhibit A. No prior agreement or understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

26. **NON-DISCRIMINATION**

During the term of this Agreement, Contractor shall not discriminate against any employee or applicant for an employment position to be used in the performance of the services Contractor undertakes pursuant to this Agreement 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.

27. **SEVERABILITY**

If one or more of the provisions of this Agreement or any application thereof is found to be invalid, illegal, or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions of the Agreement and any other application thereof shall not in any way be affected or impaired.

28. **NOTICES**

A. Any notices required to be given under this Agreement shall be in writing and served to the parties at the following addresses:

AGENCY:

Randall Kippenbrock, P.E. Executive Director
Santa Fe Solid Waste Management Agency
149 Wildlife Way
Santa Fe, NM 87506
Fax: (505) 424-1839
Email: rkippenbrock@sfswma.org

CONTRACTOR:

Jeff Newmann
General Manager
Stewart and Stevenson Power Products
6565 Honover Rd NW
Albuquerque, NM 87121
Fax: (505) 831-7536
Email: J.Newmann@ssss.com

B. Any such notice sent by registered or certified mail, return receipt, shall be deemed to have been duly given and received seventy-two (72) hours after the same is so addressed and mailed with postage prepaid. Notice sent by recognized overnight delivery service shall be effective only upon actual receipt thereof at the office of the addressee set forth above, and any such notice delivered at a time outside of normal business hours shall be deemed effective at the opening of business on the next business day. Notice sent by facsimile or email shall be effective only upon actual receipt of the original unless written confirmation is sent by the recipient of the facsimile stating that the notice has been received, in which case the notice shall be deemed effective as of the date specified in the confirmation. Any party may change its address for purposes of this Article by giving notice to the other party as herein provided. Delivery of any copies as provided herein shall not constitute delivery of notice hereunder.

29. COMPLIANCE WITH LAWS AND REGULATIONS; PROHIBITION OF BRIBES, GRATUITIES, AND KICKBACKS

Contractor shall comply with all applicable federal, state, and local laws and regulations throughout the term of this Agreement. Contractor expressly acknowledges that the New Mexico Procurement Code, NMSA 1978, Sections 13-1-28 through 13-1-199, imposes civil and criminal

penalties for its violation, and New Mexico criminal statutes impose penalties for bribes, gratuities, and kickbacks.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date set forth below.

SANTA FE SOLID WASTE MANAGEMENT AGENCY:

Anna Hamilton
Chairperson, Joint Powers Board

10/4/18
Date:

ATTEST:

Geraldine Salazar
Santa Fe County Clerk

CONTRACTOR:

Jeff Newmann
General Manager
Stewart and Stevenson Power Products

10/8/18
Date:

APPROVED AS TO FORM:

Nancy R. Long
Agency Attorney

10-4-18
Date:

EXHIBIT A

ITEMS / SERVICES TO BE PROVIDED

RFB No. '19/03/B

1. GENERAL CONDITIONS

A. This Agreement is established for the purchase and delivery of motor oils, lubricants, antifreeze and related products for the Agency hereinafter referred to as products. The Agency operates a variety of vehicles, heavy and industrial equipment in support of its operations which require manufacturer approved products. The products listed in Section 5 of Exhibit A of this Agreement are specific to the fleet the Agency currently maintains. However, the Agency may require additional products in the future. Thus, the list of products may be revised through an amendment to this Agreement.

B. All products offered under this Agreement shall be approved for year-round use under all load conditions common to normal fleet operations. All products shall be guaranteed against any adverse effect on the original factory engine warranty when used as prescribed by the original engine manufacturer.

C. All deliveries shall be at the Agency Facility.

D. All delivery vehicles shall be compliant with Federal, State and Local laws and regulations.

E. All drums delivered shall be in satisfactory condition with minimal dents and be rust free. Unsatisfactory drums shall be rejected upon delivery with replacement required within 24 hours at no charge to the Agency.

F. Contractor shall be responsible, at no cost to the Agency, for the clean-up and remediation of any contamination or spillage resulting from delivery, transfer or unloading at Agency owned facilities.

G. Contractor shall provide manufacturers' Safety Data Sheets (SDS) for all covered products delivered to the Agency at the time of delivery.

2. SAMPLES AND TESTING

A. Product(s) provided under this Agreement shall be free from contamination.

B. Random sample tests for all products may be performed at time of delivery to ensure the product meets specifications. Testing costs will be paid by the Agency unless the sample is not in compliance, in which case the cost will be borne by Contractor.

C. If the Agency determines that the product does not comply with specifications herein, Contractor will be notified via e-mail, phone, or facsimile. Contractor shall have forty-eight (48) hours from the time of notification to rectify the problem to the satisfaction of the Agency and/or remove the product, if circumstances dictate.

D. Testing shall be ordered by the Agency using a qualified laboratory if Agency vehicles and/or pieces of heavy equipment require repairs as a result of using product(s) provided under this Agreement that do not meet the manufacturer's specifications. If the malfunction is proved to be the result of the product supplied, Contractor shall be responsible for all repairs necessary to return the vehicle(s) and/or pieces of heavy equipment to good operating condition.

3. ORDERS AND DELIVERY

A. When delivering in bulk, product quantity shall be measured by the gross gallon.

B. An authorized Agency representative must be on site at the time of any delivery. It is mandatory that Contractor secures both a printed name and signature of the Agency representative receiving the delivery.

C. Delivery shall be made within three (3) business days of order placement, excluding weekends (Saturdays and Sundays) and any state/federal holidays observed by the Agency. Deliveries shall be during normal operating hours for the Agency, unless different parameters are mutually agreed upon, in writing, between Contractor and Agency's representatives. Contractor shall be required to pick up any number of empty drums upon delivery of orders. Contractor shall notify the Agency immediately if delivery is expected to exceed this time frame or if the compete order cannot be fulfilled.

D. Each delivery shall be accompanied by a packing slip which itemizes products and quantities delivered, packaging, contract number, purchase order number and delivery location.

E. Notwithstanding the existence of this Agreement, the Agency reserves the right to order any product(s) required for emergency purpose from any Contractor who can deliver such product(s) to meet the requirements of the Agency, without waiving or voiding any of the terms of this Agreement.

F. All prices shall be F.O.B. destination to the delivery location designated by the Agency. Contractor shall retain title and control of all goods until they are delivered and the contract coverage has been completed. All risk of transportation and all related charges shall be the responsibility of Contractor.

G. Contractor shall be responsible for all spillage which may occur during transit and unloading operations. Contractor shall immediately report spillage to the Agency, the appropriate fire department, and any agency with regulatory authority over hazardous materials spills. Contractor shall contain and remediate the spillage according to US EPA and State of New Mexico regulations and guidelines. Contractor shall be

responsible for containment and cleanup costs of not only the immediate area but also all affected areas such as, but not limited to, surface, subsurface and water.

H. Contractor shall also be responsible for all cleanup required to all Agency's property, storage facilities, and equipment as a result of noncompliance with specifications. Furthermore, Contractor shall be fully responsible for any and all costs and damages incurred by the Agency for any equipment sustaining damage, which is attributed to a contaminated product(s), which Contractor has delivered.

4. BILLING LOCATION AND CONTACT

A. Contractor shall request the proper billing address upon the receipt of an order to ensure prompt and efficient payment from the Agency. Incorrect billings may cause delays in payment.

B. The billing address is as follows:

Santa Fe Solid Waste Management Agency
Attn: Account Coordinator
149 Wildlife Way
Santa Fe, NM 87506
Telephone: (505) 424-1850 x 140
Fax: (505) 424-1839
Email: asalazar@sfswma.org

5. CONTRACTOR'S UNIT PRICING

Antifreeze	Unit	Unit Price	Specific Grade/Brand Offered
DELO® ELC Antifreeze/Coolant (50/50)	per gallon (55-gallon drum)	N/A	N/A
	per gallon (Bulk – 275 gal)	N/A	N/A
DELO® XLC Antifreeze/Coolant (50/50)	per gallon (55-gallon drum)	N/A	N/A
	per gallon (bulk – 275 gal)	N/A	N/A

Industrial Oils	Unit	Unit Price	Specific Grade/Brand Offered
Chevron Hydraulic Oil AW (ISO 46)	per gallon (55-gallon drum)	N/A	N/A
RANDO HDZ (ISO 46)	per gallon (55-gallon drum)	N/A	N/A
	per gallon (bulk – 275 gal)	N/A	N/A
Cetus® HiPerSyn® Oil (ISO 32)	per gallon (5-gallon pail)	N/A	N/A
Cetus® HiPerSyn® Oil (ISO 46)	per gallon (5-gallon pail)	N/A	N/A
Cetus® HiPerSyn® Oil (ISO 68)	per gallon (5-gallon pail)	N/A	N/A
Cetus® HiPerSyn® Oil (ISO 100)	per gallon (5-gallon pail)	N/A	N/A
Cetus® HiPerSyn® Oil (ISO 150)	per gallon (5-gallon pail)	N/A	N/A
Cetus® HiPerSyn® Oil (ISO 220)	per gallon (5-gallon pail)	N/A	N/A
Cetus® HiPerSyn® Oil (ISO 320)	per gallon (5-gallon pail)	N/A	N/A
Cetus® HiPerSyn® Oil (ISO 460)	per gallon (5-gallon pail)	N/A	N/A

Automatic Transmission Fluid	Unit	Unit Price	Specific Grade/Brand Offered
Chevron ATF + 4	per quart (case)	N/A	N/A
Chevron ATF MD-3	per quart (case)	N/A	N/A
	per gallon (5-gallon pail)	N/A	N/A
	per gallon (55-gallon drum)	N/A	N/A
Chevron Synthetic ATF MV Dexron VI	per quart (case)	N/A	N/A
Chevron 1000 THF	per gallon (5-gallon pail)	N/A	N/A
DELO® Syn ATF HD	per quart (case)	N/A	N/A
	per gallon (55-gallon drum)	N/A	N/A
TranSynd (Allison Transmission)	per gallon (case)	10% below list	N/A
	per gallon (5-gallon pail)	10% below list	N/A
	per gallon (55-gallon drum)	10% below list	N/A
	per gallon (bulk – 275 gal)	10% below list	N/A

Motor Oils	Unit	Unit Price	Specific Grade/Brand Offered
DELO® 400 XLE SAE 10w30 (Synblend)	per gallon (case)	N/A	N/A
DELO® 400 SDE SAE 15w40	per gallon (55-gallon drum)	N/A	N/A
	per gallon (bulk – 275 gal)	N/A	N/A
Chevron DELO 400 LE 15w40	per gallon (55-gallon drum)	N/A	N/A
	per gallon (bulk – 275 gal)	N/A	N/A
Chevron Havoline Synthetic (0w20)	per quart (case)	N/A	N/A
Chevron Havoline Synthetic (5w20)	per quart (case)	N/A	N/A
Chevron Havoline Synthetic (5w30)	per quart (case)	N/A	N/A
Chevron Havoline Synthetic (10w30)	per quart (case)	N/A	N/A
Chevron Havoline Synthetic (5w40)	per quart (case)	N/A	N/A
Mobil Synthetic (80w90)	per gallon (55-gallon drum)	N/A	N/A

Gear/Drive Oils	Unit	Unit Price	Specific Grade/Brand Offered
DELO® Gear EP-5 (SAE 80w-90)	per quart (case)	N/A	N/A
	per gallon (55-gallon drum)	N/A	N/A
DELO® Gear EP-5 (SAE 85w-140)	per quart (case)	N/A	N/A
	per gallon (5-gallon pail)	N/A	N/A
Chevron DELO Gear Oil (SAE 80w90)	per quart (case)	N/A	N/A
	per gallon (55-gallon drum)	N/A	N/A
DELO® TorqForce® (SAE 10w)	per gallon (55-gallon drum)	N/A	N/A
	per gallon (bulk – 275 gal)	N/A	N/A
DELO® TorqForce® (SAE 30w)	per gallon (55-gallon drum)	N/A	N/A
	per gallon (bulk – 275 gal)	N/A	N/A

Grease	Unit	Unit Price	Specific Grade/Brand Offered
DELO® Grease EP (#2)	per ounce (14 oz tube - case)	N/A	N/A
	per pound (quarter drum)	N/A	N/A

Miscellaneous Fluids	Unit	Unit Price	Specific Grade/Brand Offered
Starting Fluid – 50% Ether	per can (case)	N/A	N/A
Power Steering Fluid	per ounce (12 oz. Bottle - Case)	N/A	N/A
	per quart (case)	N/A	N/A
	per gallon (Case)	N/A	N/A
Diesel Exhaust Fluid (DEF)	per gallon (2.5 – gallon container)	10% below cost	N/A
	per gallon (bulk)	N/A	N/A
DOT 3 Brake Fluid	per quart (case)	N/A	N/A
	per gallon (case)	N/A	N/A
Non-Chlorinated Brake Parts Cleaner	Per can (case)	N/A	N/A
Howe's Diesel Conditioner and Anti-Gel	per quart (case)	N/A	N/A

Amendment No. 2 - Price Agreement

ATTACHMENT 4

Wagner Equipment Company

SANTA FE SOLID WASTE MANAGEMENT AGENCY
AMENDMENT No. 2
PRICE AGREEMENT
WITH
WAGNER EQUIPMENT COMPANY
(Motor Oils, Lubricants, Antifreeze and Related Products – 2018)

This AMENDMENT No. 2 (the "Amendment") to the PRICE AGREEMENT ("Agreement") dated October 4, 2018 (the "Agreement"), is made and entered into between the Santa Fe Solid Waste Management Agency ("the Agency") and Wagner Equipment Company ("Contractor"). The Amendment shall be effective as of the date this Amendment is executed by the Agency.

RECITALS

Under the terms of the Agreement, Contractor has agreed to provide an indefinite quantity of motor oils, lubricants, antifreeze and related products on an as-needed basis as described in RFB No. '19/03/B, and all terms, specifications and conditions, contained therein.

Pursuant to Article 24, Amendment of the Agreement, and for good and valuable consideration, the receipt and sufficiency of which are acknowledged by the parties, the Agency and Contractor agree as follows:

1. **TERM AND EFFECTIVE DATE**

Article 8, Term and Effective Date of the Agreement is amended to extend the term of the Agreement, so that Article 8 reads in its entirety as follows:

A. This Agreement shall be effective when signed by the Agency and terminate on October 4, 2021, unless it is terminated sooner pursuant to Article 7 or Article 10 of this Agreement.

B. Pursuant to the limitations on multi-term contracts for services codified in NMSA 1978 § 13-1-150, this Agreement may not exceed four years, including all extensions and renewals.

Subject to that limitation, the Agreement can be renewed annually, if agreed upon by the Agency and Contractor.

2. ITEMS / SERVICES TO BE PROVIDED

Article 4, Items/Services To Be Provided of the Agreement is amended to reflect an increase by the product manufacturer/supplier of such product(s) listed in Section 5 of Exhibit A of this Agreement so that Section 5 of Exhibit A of Article 4 is deleted entirely and replaced with the following:

5. CONTRACTOR'S UNIT PRICING

Antifreeze	Unit	Unit Price	Specific Grade/Brand Offered
DELO® ELC Antifreeze/Coolant (50/50)	per gallon (55-gallon drum)	$740.74	CAT ELC 238-8650
	per gallon (Bulk – 275 gal)	N/A	N/A
DELO® XLC Antifreeze/Coolant (50/50)	per gallon (55-gallon drum)	N/A	N/A
	per gallon (bulk – 275 gal)	N/A	N/A

Industrial Oils	Unit	Unit Price	Specific Grade/Brand Offered
Chevron Hydraulic Oil AW (ISO 46)	per gallon (55-gallon drum)	N/A	N/A
RANDO HDZ (ISO 46)	per gallon (55-gallon drum)	N/A	N/A
	per gallon (bulk – 275 gal)	N/A	N/A
Cetus® HiPerSyn® Oil (ISO 32)	per gallon (5-gallon pail)	N/A	N/A
Cetus® HiPerSyn® Oil (ISO 46)	per gallon (5-gallon pail)	N/A	N/A
Cetus® HiPerSyn® Oil (ISO 68)	per gallon (5-gallon pail)	N/A	N/A
Cetus® HiPerSyn® Oil (ISO 100)	per gallon (5-gallon pail)	N/A	N/A

Industrial Oils	Unit	Unit Price	Specific Grade/Brand Offered
Cetus® HiPerSyn® Oil (ISO 150)	per gallon (5-gallon pail)	N/A	N/A
Cetus® HiPerSyn® Oil (ISO 220)	per gallon (5-gallon pail)	N/A	N/A
Cetus® HiPerSyn® Oil (ISO 320)	per gallon (5-gallon pail)	N/A	N/A
Cetus® HiPerSyn® Oil (ISO 460)	per gallon (5-gallon pail)	N/A	N/A

Automatic Transmission Fluid	Unit	Unit Price	Specific Grade/Brand Offered
Chevron ATF + 4	per quart (case)	N/A	N/A
Chevron ATF MD-3	per quart (case)	N/A	N/A
	per gallon (5-gallon pail)	N/A	N/A
	per gallon (55-gallon drum)	N/A	N/A
Chevron Synthetic ATF MV Dexron VI	per quart (case)	N/A	N/A
Chevron 1000 THF	per gallon (5-gallon pail)	N/A	N/A
DELO® Syn ATF HD	per quart (case)	N/A	N/A
	per gallon (55-gallon drum)	N/A	N/A
TranSynd (Allison Transmission)	per gallon (case)	N/A	N/A
	per gallon (5-gallon pail)	N/A	N/A
	per gallon (55-gallon drum)	N/A	N/A
	per gallon (bulk – 275 gal)	N/A	N/A

Motor Oils	Unit	Unit Price	Specific Grade/Brand Offered
DELO® 400 XLE SAE 10w30 (Synblend)	per gallon (case)	N/A	N/A
DELO® 400 SDE SAE 15w40	per gallon (55-gallon drum)	$958.29	CAT DEO 3E9712
	per gallon (bulk – 275 gal)	N/A	N/A
Chevron DELO 400 LE 15w40	per gallon (55-gallon drum)	N/A	N/A
	per gallon (bulk – 275 gal)	N/A	N/A
Chevron Havoline Synthetic (0w20)	per quart (case)	N/A	N/A
Chevron Havoline Synthetic (5w20)	per quart (case)	N/A	N/A
Chevron Havoline Synthetic (5w30)	per quart (case)	N/A	N/A
Chevron Havoline Synthetic (10w30)	per quart (case)	N/A	N/A
Chevron Havoline Synthetic (5w40)	per quart (case)	N/A	N/A
Mobil Synthetic (80w90)	per gallon (55-gallon drum)	N/A	N/A

Gear/Drive Oils	Unit	Unit Price	Specific Grade/Brand Offered
DELO® Gear EP-5 (SAE 80w-90)	per quart (case)	N/A	N/A
	per gallon (55-gallon drum)	$1,080.86	CAT-GO 8T-9584
DELO® Gear EP-5 (SAE 85w-140)	per quart (case)	N/A	N/A
	per gallon (5-gallon pail)	N/A	N/A
Chevron DELO Gear Oil (SAE 80w90)	per quart (case)	N/A	N/A
	per gallon (55-gallon drum)	N/A	N/A
DELO® TorqForce® (SAE 10w)	per gallon (55-gallon drum)	$1,044.98	CAT-TDTO 8-T9569
	per gallon (bulk – 275 gal)	N/A	N/A
DELO® TorqForce® (SAE 30w)	per gallon (55-gallon drum)	N/A	N/A
	per gallon (bulk – 275 gal)	N/A	N/A

Grease	Unit	Unit Price	Specific Grade/Brand Offered
DELO® Grease EP (#2)	per ounce (14 oz tube - case)	N/A	N/A
	per pound (quarter drum)	N/A	N/A

Miscellaneous Fluids	Unit	Unit Price	Specific Grade/Brand Offered
Starting Fluid – 50% Ether	per can (case)	N/A	N/A
Power Steering Fluid	per ounce (12 oz. Bottle - Case)	N/A	N/A
	per quart (case)	N/A	N/A
	per gallon (case)	N/A	N/A
Diesel Exhaust Fluid (DEF)	per 2.5-gallon (container)	$18.23	CAT DEF 350-8733
	per gallon (bulk)	N/A	N/A
DOT 3 Brake Fluid	per quart (case)	N/A	N/A
	per gallon (case)	N/A	N/A
Non-Chlorinated Brake Parts Cleaner	Per can (case)	N/A	N/A
Howe's Diesel Conditioner and Anti-Gel	per quart (case)	N/A	N/A

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.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the parties have executed this AMENDMENT No. 2 to the Santa Fe Solid Waste Management Agency Price Agreement as of the dates set forth below.

SANTA FE SOLID WASTE MANAGEMENT AGENCY:

_____ _____

Anna Hansen Date:
Chairperson, Joint Powers Board

ATTEST:

_____

Geraldine Salazar
Santa Fe County Clerk

CONTRACTOR:

_____ _____

Michael Fields Date:
Product Support Representative
Wagner Equipment Company

APPROVED AS TO FORM:

_____ _____

Nancy Long Date:
Agency Attorney

Amendment No. 1 - Price Agreement

ITEM # 19-0851

SANTA FE SOLID WASTE MANAGEMENT AGENCY
AMENDMENT No. 1
PRICE AGREEMENT
WITH
WAGNER EQUIPMENT COMPANY
(Motor Oils, Lubricants, Antifreeze and Related Products – 2018)

This AMENDMENT No. 1 (the "Amendment") to the PRICE AGREEMENT ("Agreement") dated October 4, 2019 (the "Agreement"), is made and entered into between the Santa Fe Solid Waste Management Agency ("the Agency") and Wagner Equipment Company ("Contractor"). The Amendment shall be effective as of the date this Amendment is executed by the Agency.

RECITALS

Under the terms of the Agreement, Contractor has agreed to provide an indefinite quantity of motor oils, lubricants, antifreeze and related products on an as-needed basis as described in RFB No. '19/03/B, and all terms, specifications and conditions, contained therein.

Pursuant to Article 24, Amendment of the Agreement, and for good and valuable consideration, the receipt and sufficiency of which are acknowledged by the parties, the Agency and Contractor agree as follows:

1. **TERM AND EFFECTIVE DATE**

Article 8, Term and Effective Date of the Agreement is amended to extend the term of the Agreement, so that Article 8 reads in its entirety as follows:

A. This Agreement shall be effective when signed by the Agency and terminate on October 4, 2020, unless it is terminated sooner pursuant to Article 7 or Article 10 of this Agreement.

B. Pursuant to the limitations on multi-term contracts for services codified in NMSA 1978 § 13-1-150, this Agreement may not exceed four years, including all extensions and

renewals. Subject to that limitation, the Agreement can be renewed annually, if agreed upon by the Agency and Contractor.

2. **ITEMS / SERVICES TO BE PROVIDED**

Article 4, Items/Services To Be Provided of the Agreement is amended to reflect an increase by the product manufacturer/supplier of such product(s) listed in Section 5 of Exhibit A of this Agreement so that Section 5 of Exhibit A of Article 4 is deleted entirely and replaced with the following:

5. CONTRACTOR'S UNIT PRICING

Antifreeze	Unit	Unit Price	Specific Grade/Brand Offered
DELO® ELC Antifreeze/Coolant (50/50)	per gallon (55-gallon drum)	$733.41	CAT ELC 238-8650
	per gallon (Bulk – 275 gal)	N/A	N/A
DELO® XLC Antifreeze/Coolant (50/50)	per gallon (55-gallon drum)	N/A	N/A
	per gallon (bulk – 275 gal)	N/A	N/A

Industrial Oils	Unit	Unit Price	Specific Grade/Brand Offered
Chevron Hydraulic Oil AW (ISO 46)	per gallon (55-gallon drum)	N/A	N/A
RANDO HDZ (ISO 46)	per gallon (55-gallon drum)	N/A	N/A
	per gallon (bulk – 275 gal)	N/A	N/A
Cetus® HiPerSyn® Oil (ISO 32)	per gallon (5-gallon pail)	N/A	N/A
Cetus® HiPerSyn® Oil (ISO 46)	per gallon (5-gallon pail)	N/A	N/A
Cetus® HiPerSyn® Oil (ISO 68)	per gallon (5-gallon pail)	N/A	N/A
Cetus® HiPerSyn® Oil (ISO 100)	per gallon (5-gallon pail)	N/A	N/A

Industrial Oils	Unit	Unit Price	Specific Grade/Brand Offered
Cetus® HiPerSyn® Oil (ISO 150)	per gallon (5-gallon pail)	N/A	N/A
Cetus® HiPerSyn® Oil (ISO 220)	per gallon (5-gallon pail)	N/A	N/A
Cetus® HiPerSyn® Oil (ISO 320)	per gallon (5-gallon pail)	N/A	N/A
Cetus® HiPerSyn® Oil (ISO 460)	per gallon (5-gallon pail)	N/A	N/A

Automatic Transmission Fluid	Unit	Unit Price	Specific Grade/Brand Offered
Chevron ATF + 4	per quart (case)	N/A	N/A
Chevron ATF MD-3	per quart (case)	N/A	N/A
	per gallon (5-gallon pail)	N/A	N/A
	per gallon (55-gallon drum)	N/A	N/A
Chevron Synthetic ATF MV Dexron VI	per quart (case)	N/A	N/A
Chevron 1000 THF	per gallon (5-gallon pail)	N/A	N/A
DELO® Syn ATF HD	per quart (case)	N/A	N/A
	per gallon (55-gallon drum)	N/A	N/A
TranSynd (Allison Transmission)	per gallon (case)	N/A	N/A
	per gallon (5-gallon pail)	N/A	N/A
	per gallon (55-gallon drum)	N/A	N/A
	per gallon (bulk – 275 gal)	N/A	N/A

Motor Oils	Unit	Unit Price	Specific Grade/Brand Offered
DELO® 400 XLE SAE 10w30 (Synblend)	per gallon (case)	N/A	N/A
DELO® 400 SDE SAE 15w40	per gallon (55-gallon drum)	$958.29	CAT DEO 3E9712
	per gallon (bulk – 275 gal)	N/A	N/A
Chevron DELO 400 LE 15w40	per gallon (55-gallon drum)	N/A	N/A
	per gallon (bulk – 275 gal)	N/A	N/A
Chevron Havoline Synthetic (0w20)	per quart (case)	N/A	N/A
Chevron Havoline Synthetic (5w20)	per quart (case)	N/A	N/A
Chevron Havoline Synthetic (5w30)	per quart (case)	N/A	N/A
Chevron Havoline Synthetic (10w30)	per quart (case)	N/A	N/A
Chevron Havoline Synthetic (5w40)	per quart (case)	N/A	N/A
Mobil Synthetic (80w90)	per gallon (55-gallon drum)	N/A	N/A

Gear/Drive Oils	Unit	Unit Price	Specific Grade/Brand Offered
DELO® Gear EP-5 (SAE 80w-90)	per quart (case)	N/A	N/A
	per gallon (55-gallon drum)	$1,080.86	CAT-GO 8T-9584
DELO® Gear EP-5 (SAE 85w-140)	per quart (case)	N/A	N/A
	per gallon (5-gallon pail)	N/A	N/A
Chevron DELO Gear Oil (SAE 80w90)	per quart (case)	N/A	N/A
	per gallon (55-gallon drum)	N/A	N/A
DELO® TorqForce® (SAE 10w)	per gallon (55-gallon drum)	$1,044.98	CAT-TDTO 8-T9569
	per gallon (bulk – 275 gal)	N/A	N/A
DELO® TorqForce® (SAE 30w)	per gallon (55-gallon drum)	N/A	N/A
	per gallon (bulk – 275 gal)	N/A	N/A

Grease	Unit	Unit Price	Specific Grade/Brand Offered
DELO® Grease EP (#2)	per ounce (14 oz tube - case)	N/A	N/A
	per pound (quarter drum)	N/A	N/A

Miscellaneous Fluids	Unit	Unit Price	Specific Grade/Brand Offered
Starting Fluid – 50% Ether	per can (case)	N/A	N/A
Power Steering Fluid	per ounce (12 oz. Bottle - Case)	N/A	N/A
	per quart (case)	N/A	N/A
	per gallon (Case)	N/A	N/A
Diesel Exhaust Fluid (DEF)	per gallon (2.5 – gallon container)	$19.59	CAT DEF 350-8733
	per gallon (bulk)	N/A	N/A
DOT 3 Brake Fluid	per quart (case)	N/A	N/A
	per gallon (case)	N/A	N/A
Non-Chlorinated Brake Parts Cleaner	Per can (case)	N/A	N/A
Howe's Diesel Conditioner and Anti-Gel	per quart (case)	N/A	N/A

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.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the parties have executed this AMENDMENT No. 1 to the Santa Fe Solid Waste Management Agency Price Agreement as of the dates set forth below.

SANTA FE SOLID WASTE MANAGEMENT AGENCY:

Renee Villarreal
Chairperson, Joint Powers Board

10/17/19
Date:

ATTEST:

Yolanda Y. Vigil
Santa Fe City Clerk

CONTRACTOR:

Michael Fields
Product Support Representative
Wagner Equipment Company

10/31/19
Date:

APPROVED AS TO FORM:

Nancy Long
Agency Attorney

10-17-19
Date:

Price Agreement (RFB No. '19/03/B)

SANTA FE SOLID WASTE MANAGEMENT AGENCY
PRICE AGREEMENT WITH
WAGNER EQUIPMENT COMPANY
(Motor Oils, Lubricants, Antifreeze and Related Products – 2018)

This PRICE AGREEMENT ("Agreement") is made and entered into by and between the Santa Fe Solid Waste Management Agency ("the Agency") and Wagner Equipment Company ("Contractor") for an indefinite quantity of motor oils, lubricants, antifreeze and related products as described in RFB No. '19/03/B and below. The Price Agreement shall be effective as of the date this Agreement is executed by the Agency.

1. SCOPE OF AGREEMENT

The items to be provided under this Agreement are set forth in RFB No. '19/03/B and all terms, specifications and conditions, contained therein and Contractor's response for cost of items and services submitted thereto, all of which is incorporated into this Agreement and attached hereto as Exhibit A.

2. STANDARDS OF PERFORMANCE: LICENSES

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

B. Contractor agrees to obtain and maintain throughout the term of this Agreement all applicable professional and business licenses required by law for itself and its employees, agents, representatives and subcontractors.

3. DEFINITIONS

A. "Agency" means the Santa Fe Solid Waste Management Agency.

B. "Agency Facility" means the Caja del Rio Landfill at 149 Wildlife Way, Santa Fe, New Mexico 87506.

C. "Items" means tangible goods or tangible items of personal property required for

Agency operations. All items are to be new and of most current production, unless otherwise specified.

D. "Price" means the discounted price or costs for product(s) paid by the Agency as described in Exhibit A.

E. "Price Agreement" means this indefinite quantity Price Agreement which requires Contractor to provide product(s) to the Agency.

F. "Purchase Order" means a fully executed purchase document issued by the City of Santa Fe Purchasing Department on behalf of the Agency that specifies the items and services to be provided by Contractor.

G. "Services" mean services to be performed by personnel that do not need extensive education or specialty training or licensing. Services excludes professional services that are typically performed by a person holding a license, such as engineering architecture or legal services.

H. "Tangible Goods" are products that can be touched. This includes software licenses and intellectual property.

4. ITEMS / SERVICES TO BE PROVIDED

A. Price of Items and Services. Section 5 of Exhibit A of this Agreement contains the prices for Contractor's items (i.e., tangible goods) and services. Exhibit A also indicates any specifications required for the items and services, if any, that are subject of this Agreement.

B. Purchase Orders. The Agency may issue Purchase Orders for the purchase of the items listed in Exhibit A. Any service ordered by the Agency must be a service described in Exhibit A. All Purchase Orders for items and services issued hereunder must reference the Purchase Order number and Price Agreement number RFB '19/03/B.

C. Quantities. It is understood that this is an indefinite quantity Price Agreement and the Agency may purchase any quantity of the item(s) or services listed in Exhibit A on an as-needed basis. The Agency makes no guarantee or warranty, implied, or otherwise, that any order for any definite quantity of items or services will be issued under this Agreement. Contractor shall be required to accept the Purchase Order(s) and furnish the items or services.

D. Specifications. The Services furnished under this Agreement shall meet or exceed the specifications provided in RFB No. '19/03/B, including any addenda. Purchase Orders issued pursuant to this Agreement must show the applicable Agreement items or services.

E. Delivery and Billing Instructions

1) Contractor shall deliver the items and services in accordance with the Agency's instructions. Each delivery shall be accompanied by a packing slip which itemizes materials and quantities delivered, packaging, Purchase Order number, Price Agreement number and Agency facility.

2) Delivery shall be made within three (3) business day of order placement. Contractor shall notify the Agency immediately if delivery is expected to exceed this time frame or if the compete order cannot be fulfilled.

3) Whenever the Agency does not accept any deliverable and returns it to Contractor, all related documentation furnished by Contractor shall also be returned.

4) Prices listed in Exhibit A shall be the fixed prices for the items and rates for the services, respectively.

5) Prices listed in Exhibit A for the items and services shall remain in effect for the term of this Agreement.

5. COMMERCIAL WARRANTY

Contractor agrees that the items or services furnished under this Agreement shall be covered by the most favorable commercial warranties Contractor gives for such to any customers for such items or services. The rights and remedies provided herein shall extend to the Agency and are in addition to and do not limit any rights afforded by the Agency by any other Article of this Agreement. Contractor agrees not to disclaim warranties of fitness for a particular purpose of merchantability.

6. PAYMENTS

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

1) Inspection. Final inspection and acceptance of all items and services ordered shall be made at the Agency facility. Items rejected at the Agency facility for non-conformance with specifications shall be removed, at Contractor's risk and expense, promptly after notice of rejection.

2) Acceptance. In accordance with NMSA 1978, Section 13-1-158, the Agency shall determine if the items meet specifications, and may accept the items if the items meet specifications. No payment shall be made for any items until the items have been accepted in writing by the Agency. Unless otherwise agreed upon between the Agency and Contractor, within thirty (30) days from the receipt of items, the Agency shall issue a written certification of complete or partial acceptance or rejection of the items. The time period shall begin at the time of receipt of the final shipment when there are multiple shipments per Purchase Order. Unless the Agency gives notice of rejection within the specified time period, the items will be deemed to have been accepted.

3) Issuance of Purchase Orders. Only written, signed and properly executed Purchase Orders are valid under this Agreement.

4) Invoices. Contractor may submit invoices for payment no more frequently than monthly. Contractor's invoice shall contain the following information: Purchase Order number, Price Agreement number, description of supplies or services, quantities, unit prices, extended totals, delivery tickets, and applicable taxes and fees. Separate invoices shall be rendered for each and every complete shipment. Invoices must be submitted to the Agency and not the City of Santa Fe Purchasing Division.

5) Payment of Invoices. Upon written certification from the Agency that the items and services have been received and accepted, the Agency shall pay to Contractor in full payment for services rendered, including applicable taxes and fees.

6) Taxes and Fees. Applicable taxes and fees shall be included on each invoice and shown as a separate item to be paid. Contractor shall be responsible for payment of taxes and fees owed to by the State of New Mexico and federal government on the sums payable under this Agreement.

7. APPROPRIATIONS

The terms of this Agreement are contingent upon sufficient appropriations to and authorization from the Joint Powers Board for the Agency for the performance of this Agreement. If sufficient appropriations are not made or authorization provided, this Agreement shall terminate upon written notice from the Agency to Contractor. The Agency shall be responsible for charges incurred up to the date of notification under this Section per Section 10 of this Agreement. The Agency's decision as to whether sufficient appropriations are available shall be accepted by Contractor and shall be final.

8. TERM AND EFFECTIVE DATE

A. This Agreement shall be effective when signed by the Agency and terminate on October 05, 2019, unless it is terminated sooner pursuant to Article 7 or Article 10 of this Agreement.

B. Pursuant to the limitations on multi-term contracts for services codified in NMSA 1978 § 13-1-150, this Agreement may not exceed four years, including all extensions and renewals. Subject to that limitation, the Agreement can be renewed annually, if agreed upon by the Agency and Contractor.

9. CANCELLATION

A. The Agency reserves the right to cancel without cost to the Agency all or any part of any order placed under this Agreement if the Agency determines in its sole discretion that the services or deliverables fail to meet the requirements of this Agreement.

B. The failure of Contractor to perform its obligations under this Agreement shall constitute a default of this Agreement and/or the Purchase Order.

C. Contractor may be excused from performance if Contractor's failure to perform the Purchase Order arises out of causes beyond the control and without the fault or negligence of Contractor, unless the Agency shall determine that the item, to be furnished by a sub-contractor, is obtainable from other sources in sufficient time to permit Contractor to meet the required delivery schedule.

D. Such causes of excuse include, but are not limited to, acts of God or the public enemy, acts of the federal, state or local government, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather and defaults of sub-contractors due to any of the above.

E. In the event that the Agency cancels all, or any part, of any Purchase Order because Contractor failed to meet material provisions of the Purchase Order, Contractor shall be liable for any excess costs incurred by the Agency that is associated with such default.

10. TERMINATION

A. Consistent with applicable New Mexico laws, this Agreement may be terminated by the Agency, without penalty, at any time prior to the expiration date of this Agreement. The Agency will provide ten (10) days prior written notice to Contractor of the date of termination. Notice of Termination of this Agreement shall not affect any outstanding Purchase Order(s) issued under this Agreement prior to the effective date of termination for convenience by the Agency.

B. The Agency further reserves the right to cancel all or any part of this Agreement without cost to the Agency if Contractor fails to meet the provisions of this Agreement and to hold Contractor liable for any excess costs associated with Contractor's default. The rights and remedies of the Agency are not limited to those provided for in this Article and are in addition to any other rights provided for by law.

11. STATUS OF CONTRACTOR; RESPONSIBILITY FOR PAYMENT OF EMPLOYEES AND SUBCONTRACTORS

A. Contractor, its agents, and its employees are independent contractors performing product delivery services for the Agency and are not employees of the Agency.

B. Contractor, its agents, and its employees shall not accrue leave, retirement, insurance, bonding, or any other benefits afforded to employees of the Agency and shall not be permitted to use Agency vehicles in the performance of this Agreement.

C. Contractor shall be solely responsible for payment of wages, salaries, and benefits to any and all employees or subcontractors Contractor retains to perform any of its obligations

pursuant to this Agreement.

12. CONFIDENTIALITY

Any confidential information provided to or developed by Contractor in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by Contractor without the Agency's prior written approval.

13. CONFLICT OF INTEREST

A. Contractor warrants that it presently has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with its performance of its obligations pursuant to this Agreement. Contractor further agrees that it shall not employ or contract with anyone in the performance of this Agreement that has any such conflict of interest.

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

14. APPROVAL OF CONTRACTOR'S REPRESENTATIVES

The Agency reserves the right to require a change in Contractor representatives if the assigned representatives are not, in the sole discretion of the Agency, serving the needs of the Agency adequately.

15. ASSIGNMENT; SUBCONTRACTING

Contractor shall not assign or transfer any rights, privileges, obligations or other interests under this Agreement, including any claims for money due, without the Agency's prior written consent, which shall not be unreasonably withheld. Contractor shall not subcontract any portion of the services to be performed under this Agreement without the Agency's prior written approval.

16. NON-COLLUSION

In signing this Agreement, Contractor certifies it has not, either directly or indirectly, entered

into action in restraint of free competitive bidding in connection with its offer and this Agreement.

17. RELEASE

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

18. INSURANCE

A. 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 of $1,000,000 for each occurrence and $2,000,000 in general aggregate coverage for bodily injury and property damage liability, in a form and with an insurance company acceptable to the Agency. The Agency shall be named as an additional insured under the insurance policy, and the policy shall provide that the Agency will be notified no less than thirty (30) days before the policy is cancelled for any reason. Contractor has furnished the Agency with a copy of a Certificate of Insurance or other evidence of Contractor's compliance with the provisions of this section as a condition of entering into this Agreement.

B. Contractor shall carry and maintain Workers' Compensation insurance in accordance with New Mexico law to provide coverage for Contractor's employees throughout the term of this Agreement. Contractor shall provide the Agency with evidence demonstrating that appropriate Workers' Compensation insurance has been obtained.

C. Contractor shall carry and maintain sufficient automobile liability insurance throughout the term of this Agreement to cover no less than $1,000,000 combined single limit

for each accident.

D. Contractor shall carry and maintain throughout the term of this Agreement auto pollution liability in the amount of $5,000,000 per occurrence. The required limits may be provided by a combination of auto pollution liability insurance and commercial umbrella liability insurance.

E. Contractor shall also carry and maintain throughout the term of this Agreement erroneous delivery liability insurance in the amount of $1,000,000 per occurrence. The required limits may be provided by a combination of erroneous delivery liability insurance and commercial umbrella liability insurance.

19. INDEMNIFICATION

Contractor shall indemnify, hold harmless and defend the Agency from all losses, damages, claims or judgments, including payment of all attorneys' fees and costs on account of any suit, judgment, execution, claim, action, or demand whatsoever to the extent arising from the negligent acts, errors, or omissions, or willful and reckless disregard of obligations under this Agreement, in the performance of any services covered by this Agreement, whether occurring on Agency managed or owned property or otherwise, by Contractor or its employees, agents, representatives, or subcontractors, excepting only such liability that arises out of the Agency's negligence.

20. NEW MEXICO TORT CLAIMS ACT

Any liability incurred by the Agency in connection with this Agreement is subject to the immunities and limitations set forth in the New Mexico Tort Claims Act, NMSA 1978 §§ 41-4-1 to 41-4-27. The Agency and its employees do not waive sovereign immunity, any available defense, or any limitation of liability recognized by law. No provision in this Agreement modifies or waives any provision of the New Mexico Tort Claims Act.

21. THIRD PARTY BENEFICIARIES

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

22. RECORDS AND AUDIT

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 Agency, City of Santa Fe Finance Department, and the State Auditor. The Agency shall have the right to audit the billing both before and after payment. Payment under this Agreement shall not foreclose the right of the Agency to recover excessive or illegal payments.

23. APPLICABLE LAW; CHOICE OF LAW; VENUE

Contractor shall abide by all applicable federal and state laws and regulations, and all ordinances, rules and regulations of the Agency. In any action, suit, or legal dispute arising from this Agreement, 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, Santa Fe County.

24. AMENDMENT

This Agreement may only be amended by mutual agreement of the Agency and Contractor upon written notice by either party to the other. Any such amendment shall be in writing and signed

by the parties hereto. Unless otherwise agreed to by the parties, an amendment shall not affect any outstanding Purchase Order(s) issued, by the Agency, prior to the effective date of the amendment.

25. INTEGRATION

This Agreement expresses the entire agreement and understanding between the parties with respect to Contractor's items and services attached hereto as Exhibit A. No prior agreement or understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

26. NON-DISCRIMINATION

During the term of this Agreement, Contractor shall not discriminate against any employee or applicant for an employment position to be used in the performance of the services Contractor undertakes pursuant to this Agreement 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.

27. SEVERABILITY

If one or more of the provisions of this Agreement or any application thereof is found to be invalid, illegal, or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions of the Agreement and any other application thereof shall not in any way be affected or impaired.

28. NOTICES

A. Any notices required to be given under this Agreement shall be in writing and served to the parties at the following addresses:

AGENCY:

Randall Kippenbrock, P.E. Executive Director
Santa Fe Solid Waste Management Agency
149 Wildlife Way
Santa Fe, NM 87506
Fax: (505) 424-1839
Email: rkippenbrock@sfswma.org

CONTRACTOR:

Michael Fields
Product Support Representative
Wagner Equipment Company
4000 Osuna Rd. NE
Albuquerque, NM 87109
Fax: (505) 324-6393
Email: mfields@wagnerequipment.com

B. Any such notice sent by registered or certified mail, return receipt, shall be deemed to have been duly given and received seventy-two (72) hours after the same is so addressed and mailed with postage prepaid. Notice sent by recognized overnight delivery service shall be effective only upon actual receipt thereof at the office of the addressee set forth above, and any such notice delivered at a time outside of normal business hours shall be deemed effective at the opening of business on the next business day. Notice sent by facsimile or email shall be effective only upon actual receipt of the original unless written confirmation is sent by the recipient of the facsimile stating that the notice has been received, in which case the notice shall be deemed effective as of the date specified in the confirmation. Any party may change its address for purposes of this Article by giving notice to the other party as herein provided. Delivery of any copies as provided herein shall not constitute delivery of notice hereunder.

29. COMPLIANCE WITH LAWS AND REGULATIONS; PROHIBITION OF BRIBES, GRATUITIES, AND KICKBACKS

Contractor shall comply with all applicable federal, state, and local laws and regulations throughout the term of this Agreement. Contractor expressly acknowledges that the New Mexico Procurement Code, NMSA 1978, Sections 13-1-28 through 13-1-199, imposes civil and criminal

penalties for its violation, and New Mexico criminal statutes impose penalties for bribes, gratuities, and kickbacks.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date set forth below.

SANTA FE SOLID WASTE MANAGEMENT AGENCY:

Anna Hamilton
Chairperson, Joint Powers Board

10/4/18
Date:

ATTEST:

Geraldine Salazar
Santa Fe County Clerk

COUNTY CLERK SANTA FE COUNTY NEW MEXICO GERALDINE SALAZAR

CONTRACTOR:

Michael Fields
Product Support Representative
Wagner Equipment Company

10/10/18
Date:

APPROVED AS TO FORM:

Nancy R. Long
Agency Attorney

10-4-18
Date:

EXHIBIT A

ITEMS / SERVICES TO BE PROVIDED

RFB No. '19/03/B

1. GENERAL CONDITIONS

A. This Agreement is established for the purchase and delivery of motor oils, lubricants, antifreeze and related products for the Agency hereinafter referred to as products. The Agency operates a variety of vehicles, heavy and industrial equipment in support of its operations which require manufacturer approved products. The products listed in Section 5 of Exhibit A of this Agreement are specific to the fleet the Agency currently maintains. However, the Agency may require additional products in the future. Thus, the list of products may be revised through an amendment to this Agreement.

B. All products offered under this Agreement shall be approved for year-round use under all load conditions common to normal fleet operations. All products shall be guaranteed against any adverse effect on the original factory engine warranty when used as prescribed by the original engine manufacturer.

C. All deliveries shall be at the Agency Facility.

D. All delivery vehicles shall be compliant with Federal, State and Local laws and regulations.

E. All drums delivered shall be in satisfactory condition with minimal dents and be rust free. Unsatisfactory drums shall be rejected upon delivery with replacement required within 24 hours at no charge to the Agency.

F. Contractor shall be responsible, at no cost to the Agency, for the clean-up and remediation of any contamination or spillage resulting from delivery, transfer or unloading at Agency owned facilities.

G. Contractor shall provide manufacturers' Safety Data Sheets (SDS) for all covered products delivered to the Agency at the time of delivery.

2. SAMPLES AND TESTING

A. Product(s) provided under this Agreement shall be free from contamination.

B. Random sample tests for all products may be performed at time of delivery to ensure the product meets specifications. Testing costs will be paid by the Agency unless the sample is not in compliance, in which case the cost will be borne by Contractor.

C. If the Agency determines that the product does not comply with specifications herein, Contractor will be notified via e-mail, phone, or facsimile. Contractor shall have forty-eight (48) hours from the time of notification to rectify the problem to the satisfaction of the Agency and/or remove the product, if circumstances dictate.

D. Testing shall be ordered by the Agency using a qualified laboratory if Agency vehicles and/or pieces of heavy equipment require repairs as a result of using product(s) provided under this Agreement that do not meet the manufacturer's specifications. If the malfunction is proved to be the result of the product supplied, Contractor shall be responsible for all repairs necessary to return the vehicle(s) and/or pieces of heavy equipment to good operating condition.

3. ORDERS AND DELIVERY

A. When delivering in bulk, product quantity shall be measured by the gross gallon.

B. An authorized Agency representative must be on site at the time of any delivery. It is mandatory that Contractor secures both a printed name and signature of the Agency representative receiving the delivery.

C. Delivery shall be made within three (3) business days of order placement, excluding weekends (Saturdays and Sundays) and any state/federal holidays observed by the Agency. Deliveries shall be during normal operating hours for the Agency, unless different parameters are mutually agreed upon, in writing, between Contractor and Agency's representatives. Contractor shall be required to pick up any number of empty drums upon delivery of orders. Contractor shall notify the Agency immediately if delivery is expected to exceed this time frame or if the compete order cannot be fulfilled.

D. Each delivery shall be accompanied by a packing slip which itemizes products and quantities delivered, packaging, contract number, purchase order number and delivery location.

E. Notwithstanding the existence of this Agreement, the Agency reserves the right to order any product(s) required for emergency purpose from any Contractor who can deliver such product(s) to meet the requirements of the Agency, without waiving or voiding any of the terms of this Agreement.

F. All prices shall be F.O.B. destination to the delivery location designated by the Agency. Contractor shall retain title and control of all goods until they are delivered and the contract coverage has been completed. All risk of transportation and all related charges shall be the responsibility of Contractor.

G. Contractor shall be responsible for all spillage which may occur during transit and unloading operations. Contractor shall immediately report spillage to the Agency, the appropriate fire department, and any agency with regulatory authority over hazardous materials spills. Contractor shall contain and remediate the spillage according to US EPA and State of New Mexico regulations and guidelines. Contractor shall be

responsible for containment and cleanup costs of not only the immediate area but also all affected areas such as, but not limited to, surface, subsurface and water.

H. Contractor shall also be responsible for all cleanup required to all Agency's property, storage facilities, and equipment as a result of noncompliance with specifications. Furthermore, Contractor shall be fully responsible for any and all costs and damages incurred by the Agency for any equipment sustaining damage, which is attributed to a contaminated product(s), which Contractor has delivered.

4. BILLING LOCATION AND CONTACT

A. Contractor shall request the proper billing address upon the receipt of an order to ensure prompt and efficient payment from the Agency. Incorrect billings may cause delays in payment.

B. The billing address is as follows:

Santa Fe Solid Waste Management Agency
Attn: Account Coordinator
149 Wildlife Way
Santa Fe, NM 87506
Telephone: (505) 424-1850 x 140
Fax: (505) 424-1839
Email: asalazar@sfswma.org

5. CONTRACTOR'S UNIT PRICING

Antifreeze	Unit	Unit Price	Specific Grade/Brand Offered
DELO® ELC Antifreeze/Coolant (50/50)	per gallon (55-gallon drum)	$715.53	CAT ELC 238-8650
	per gallon (Bulk – 275 gal)	N/A	N/A
DELO® XLC Antifreeze/Coolant (50/50)	per gallon (55-gallon drum)	N/A	N/A
	per gallon (bulk – 275 gal)	N/A	N/A

Industrial Oils	Unit	Unit Price	Specific Grade/Brand Offered
Chevron Hydraulic Oil AW (ISO 46)	per gallon (55-gallon drum)	N/A	N/A
RANDO HDZ (ISO 46)	per gallon (55-gallon drum)	N/A	N/A
	per gallon (bulk – 275 gal)	N/A	N/A
Cetus® HiPerSyn® Oil (ISO 32)	per gallon (5-gallon pail)	N/A	N/A
Cetus® HiPerSyn® Oil (ISO 46)	per gallon (5-gallon pail)	N/A	N/A
Cetus® HiPerSyn® Oil (ISO 68)	per gallon (5-gallon pail)	N/A	N/A
Cetus® HiPerSyn® Oil (ISO 100)	per gallon (5-gallon pail)	N/A	N/A
Cetus® HiPerSyn® Oil (ISO 150)	per gallon (5-gallon pail)	N/A	N/A
Cetus® HiPerSyn® Oil (ISO 220)	per gallon (5-gallon pail)	N/A	N/A
Cetus® HiPerSyn® Oil (ISO 320)	per gallon (5-gallon pail)	N/A	N/A
Cetus® HiPerSyn® Oil (ISO 460)	per gallon (5-gallon pail)	N/A	N/A

Automatic Transmission Fluid	Unit	Unit Price	Specific Grade/Brand Offered
Chevron ATF + 4	per quart (case)	N/A	N/A
Chevron ATF MD-3	per quart (case)	N/A	N/A
	per gallon (5-gallon pail)	N/A	N/A
	per gallon (55-gallon drum)	N/A	N/A
Chevron Synthetic ATF MV Dexron VI	per quart (case)	N/A	N/A
Chevron 1000 THF	per gallon (5-gallon pail)	N/A	N/A
DELO® Syn ATF HD	per quart (case)	N/A	N/A
	per gallon (55-gallon drum)	N/A	N/A
TranSynd (Allison Transmission)	per gallon (case)	N/A	N/A
	per gallon (5-gallon pail)	N/A	N/A
	per gallon (55-gallon drum)	N/A	N/A
	per gallon (bulk – 275 gal)	N/A	N/A

Motor Oils	Unit	Unit Price	Specific Grade/Brand Offered
DELO® 400 XLE SAE 10w30 (Synblend)	per gallon (case)	N/A	N/A
DELO® 400 SDE SAE 15w40	per gallon (55-gallon drum)	$812.76	CAT DEO 3E9712
	per gallon (bulk – 275 gal)	N/A	N/A
Chevron DELO 400 LE 15w40	per gallon (55-gallon drum)	N/A	N/A
	per gallon (bulk – 275 gal)	N/A	N/A
Chevron Havoline Synthetic (0w20)	per quart (case)	N/A	N/A
Chevron Havoline Synthetic (5w20)	per quart (case)	N/A	N/A
Chevron Havoline Synthetic (5w30)	per quart (case)	N/A	N/A
Chevron Havoline Synthetic (10w30)	per quart (case)	N/A	N/A
Chevron Havoline Synthetic (5w40)	per quart (case)	N/A	N/A
Mobil Synthetic (80w90)	per gallon (55-gallon drum)	N/A	N/A

Gear/Drive Oils	Unit	Unit Price	Specific Grade/Brand Offered
DELO® Gear EP-5 (SAE 80w-90)	per quart (case)	N/A	N/A
	per gallon (55-gallon drum)	$962.64	CAT-GO 8T-9584
DELO® Gear EP-5 (SAE 85w-140)	per quart (case)	N/A	N/A
	per gallon (5-gallon pail)	N/A	N/A
Chevron DELO Gear Oil (SAE 80w90)	per quart (case)	N/A	N/A
	per gallon (55-gallon drum)	N/A	N/A
DELO® TorqForce® (SAE 10w)	per gallon (55-gallon drum)	$924.23	CAT-TDTO 8-T9569
	per gallon (bulk – 275 gal)	N/A	N/A
DELO® TorqForce® (SAE 30w)	per gallon (55-gallon drum)	N/A	N/A
	per gallon (bulk – 275 gal)	N/A	N/A

Grease	Unit	Unit Price	Specific Grade/Brand Offered
DELO® Grease EP (#2)	per ounce (14 oz tube - case)	N/A	N/A
	per pound (quarter drum)	N/A	N/A

Miscellaneous Fluids	Unit	Unit Price	Specific Grade/Brand Offered
Starting Fluid – 50% Ether	per can (case)	N/A	N/A
Power Steering Fluid	per ounce (12 oz. Bottle - Case)	N/A	N/A
	per quart (case)	N/A	N/A
	per gallon (Case)	N/A	N/A
Diesel Exhaust Fluid (DEF)	per gallon (2.5 – gallon container)	$19.11	CAT DEF 350-8733
	per gallon (bulk)	N/A	N/A
DOT 3 Brake Fluid	per quart (case)	N/A	N/A
	per gallon (case)	N/A	N/A
Non-Chlorinated Brake Parts Cleaner	Per can (case)	N/A	N/A
Howe's Diesel Conditioner and Anti-Gel	per quart (case)	N/A	N/A

MEMORANDUM

To: SFSWMA Joint Powers Board Members
From: Randall Kippenbrock, P.E., Executive Director RLK
Date: October 11, 2020
Subject: Request for Approval of Amendment No. 1 to the Services Agreement with Familia Rios, LLC, d/b/a Nelly's Cleaning Service of Santa Fe, NM, for Cleaning Services for the Santa Fe Solid Waste Management Agency (RFB No. '20/01/B)

SUMMARY

The Agency is requesting the Board approve Amendment No. 1 to the Services Agreement (Agreement) with Nelly's Cleaning Service of Santa Fe, NM, for continued cleaning of Agency buildings.

The Amendment will extend the term through October 17, 2021 (Year 2 of the Agreement). Per Article 5, the Agreement can be renewed annually, upon Board approval, not to exceed four years.

The Amendment also increases the compensation by $69,400 for a total amount not to exceed $138,800.

Funding is available in 8100851.510310 and 8100852.510310 (Service Contracts).

BACKGROUND

The Agency maintains a clean workplace, including the buildings, for its employees and customers. The Agency performs a variety of operations at each facility where staff, customers, and contractors encounter dirt and potentially hazardous or infectious materials that can be left behind in the buildings.

On August 27, 2019, the Agency issued Request for Bid No. '20/01/B for cleaning services of five buildings located at Caja del Rio Landfill (Landfill) and Buckman Road Recycling and Transfer Station (BuRRT).

On October 17, 2019, the Board approved a Services Agreement with Nelly's Cleaning Service to provide cleaning services in the amount of $69,000.

Per the Agreement, Nelly's Cleaning Service cleans three buildings five days a week and two buildings once a week as follows:

Landfill Administrative Building

Conference Room	Two Bathrooms
General Office Area	Two Offices

Landfill Maintenance Shop Building

Equipment Supervisor's Office	Break Room
Two Bathrooms	Parts Room

Main Shop Floor Walkway Area (Sweeping Only)

BuRRT Admin Building

Conference Room	Three Offices
Two Bathrooms	Kitchen/Break Room

Entire Building with Tiles Including Reception Area and Hallways

BuRRT HHW Building (Once/week)

Office	Bathroom

BuRRT Scale House (Once/week)

Office	Bathroom

ACTION REQUESTED

The Agency requests the Board approve Amendment No. 1 to the Services Agreement with Nelly's Cleaning Service for continued cleaning services.

The Agency requests approval to extend the term of the Agreement through October 17, 2021.

The Agency also requests approval to increase the total compensation amount of the Agreement by $69,400 for a total amount not to exceed $138,800.

Attachments: 1) Services Agreement – Amendment No. 1
2) Services Agreement with Nelly's Cleaning Service

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ATTACHMENT 1

Services Agreement – Amendment No. 1

SANTA FE SOLID WASTE MANAGEMENT AGENCY
AMENDMENT No. 1
SERVICES AGREEMENT WITH
NELLY'S CLEANING SERVICES
(Cleaning Services - 2019)

This AMENDMENT No. 1 ("Amendment") to the SERVICES AGREEMENT, dated October 17, 2020 ("Agreement"), is made and entered into between the Santa Fe Solid Waste Management Agency ("Agency") and Familia Rios, LLC d/b/a Nelly's Cleaning Service ("Contractor"). The date of this Amendment shall be the date this Amendment is executed by the Agency.

RECITALS

Under the terms of the Agreement, Contractor has agreed to provide cleaning services for the Agency (RFB '20/01/B).

Pursuant to Article 18, Amendment of the Agreement, and for good and valuable consideration, the receipt and sufficiency of which are acknowledged by the parties, the Agency and Contractor agree as follows:

1. **COMPENSATION**

Article 3, Compensation of the Agreement is hereby amended to increase the amount of compensation by a total of Sixty-Nine Thousand Four Hundred Dollars and No Cents ($69,400.00) so that Article 3 reads in its entirety as follows:

A. The Agency shall pay to Contractor in full payment for services rendered, a sum not to exceed One Hundred Thirty-Eight Thousand Eight Hundred Dollars and No Cents ($138,800.00), including applicable gross receipts taxes.

DESCRIPTION	AMOUNT
ORIGINAL CONTRACT	$69,400.00
AMENDMENT NO. 1	$69,400.00
CONTRACT TO DATE	$138,800.00

B. Contractor shall be responsible for payment of gross receipts taxes levied by the State of New Mexico on the sums payable under this Agreement.

C. Payment shall be made upon receipt and approval by the Agency of detailed statements containing a report of services completed. Compensation shall be paid only for services actually performed in accordance with the fee schedule set forth in the Scope of Services attached hereto in Exhibit A.

D. Detailed statements containing reimbursement expenses, if any, shall be itemized.

2. TERM AND EFFECTIVE DATE

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

A. This Agreement shall be effective when signed by the Agency and terminate on October 17, 2021, unless it is terminated sooner pursuant to Article 6 of this Agreement.

B. Pursuant to the limitations on multi-term contracts for services codified in NMSA 1978 § 13-1-150, this Agreement may not exceed four years, including all extensions and renewals. Subject to that limitation, this Agreement can be renewed annually, if agreed upon by the Agency and Contractor.

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 Services Agreement as of the dates set forth below.

SANTA FE SOLID WASTE MANAGEMENT AGENCY:

_____ _____

Anna Hansen
Chairperson

Date:

ATTEST:

_____

Geraldine Salazar
Santa Fe County Clerk

CONTRACTOR:

_____ _____

Jesus Rios
Manager
Familia Rios, LLC
d/b/a Nelly's Cleaning Service

Date:

APPROVED AS TO FORM:

_____ _____

Nancy R. Long
Agency Attorney

Date:

ATTACHMENT 2

Services Agreement with Nelly's Cleaning Service

ITEM # 19-0835
3201358

SANTA FE SOLID WASTE MANAGEMENT AGENCY
SERVICES AGREEMENT WITH
NELLY'S CLEANING SERVICE
(Cleaning Services - 2019)

This SERVICES AGREEMENT ("Agreement") is made and entered into by and between the Santa Fe Solid Waste Management Agency ("Agency") and Familia Rios, LLC d/b/a Nelly's Cleaning Service ("Contractor") for cleaning services as described in RFB No. '20/01/B and below. The Agreement shall be effective as of the date this Agreement is executed by the Agency.

1. **SCOPE OF SERVICES**

The services subject to this Agreement are set forth in the Scope of Services attached hereto in Exhibit A, and all related Contract Documents, including Contractor's Bid for RFB No. '20/01/B.

2. **STANDARDS OF PERFORMANCE; LICENSES**

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

B. Contractor agrees to obtain and maintain throughout the term of this Agreement all applicable professional and business licenses required by law for itself and its employees, agents, representatives and subcontractors.

3. **COMPENSATION**

A. The Agency shall pay to Contractor in full payment for services rendered, including applicable gross receipts taxes, a sum not to exceed Sixty-Nine Thousand Four Hundred Dollars and No Cents ($69,400.00).

B. Contractor shall be responsible for payment of gross receipts taxes levied by the State of New Mexico on the sums payable under this Agreement.

C. Payment shall be made upon receipt and approval by the Agency of detailed

statements containing a report of services completed. Compensation shall be paid only for services actually performed in accordance with the fee schedule set forth in the Scope of Services attached hereto in Exhibit A.

D. Detailed statements containing reimbursement expenses, if any, shall be itemized.

4. APPROPRIATIONS

The terms of this Agreement are contingent upon sufficient appropriations to and authorization from the Joint Powers Board for the Agency for the performance of this Agreement. If sufficient appropriations are not made or authorization provided, this Agreement shall terminate upon written notice from the Agency to Contractor. The Agency shall be responsible for charges incurred up to the date of notification under this Section per Section 6 of this Agreement. The Agency's decision as to whether sufficient appropriations are available shall be accepted by Contractor and shall be final.

5. TERM AND EFFECTIVE DATE

A. This Agreement shall be effective when signed by the Agency and terminate on October 17, 2020, unless it is terminated sooner pursuant to Article 6 below.

B. Pursuant to the limitations on multi-term contracts for services codified in NMSA 1978 § 13-1-150, this Agreement may not exceed four years, including all extensions and renewals. Subject to that limitation, the Agreement can be renewed annually, if agreed upon by the Agency and Contractor.

6. TERMINATION

A. The Agency may terminate this Agreement at any time and for any reason by giving ten (10) days written notice to Contractor. If the Agency terminates the Agreement:

1) Contractor shall render a final report of the services performed up to the

date of termination and shall turn over to the Agency original copies of all work product, research, or papers prepared for the services covered by this Agreement. The Agency shall pay Contractor for services rendered and expenses incurred under this Section, including for preparation of the final report.

2) If compensation is not based upon hourly rates for services rendered, the Agency shall pay Contractor for the reasonable value of services satisfactorily performed through the date Contractor receives notice of such termination for which compensation has not already been paid.

3) If compensation is based upon hourly rates and expenses, Contractor shall be paid for services rendered and expenses incurred through the date Contractor receives notice of such termination.

B. The Agency further reserves the right to cancel all or any part of this Agreement without cost to the Agency if the Contractor fails to meet the provisions for this Agreement, and except as otherwise provided herein, to hold the Contractor liable for any excess costs associated with the Contractor's default. The Contractor shall not be liable for any excess costs if failure to perform is due to causes beyond the control and shall not be the fault of negligence of the Contractor and these causes have been made known to the Agency in written form within five working days of the Contractor becoming aware of a cause which may create any delay. Such causes include, but are not limited to, acts of God or the public enemy, acts of the State or of the 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 Agency shall determine that the suppliers or services to be furnished by the sub-contractor are obtainable from other sources in sufficient time to permit the Contractor to meet the required delivery

schedule. The rights and remedies of the Agency are not limited to those provided for in this paragraph and are in addition to any other rights provided for by law.

7. STATUS OF CONTRACTOR; RESPONSIBILITY FOR PAYMENT OF EMPLOYEES AND SUBCONTRACTORS

A. Contractor, its agents, and its employees are independent contractors performing services for the Agency and are not employees of the Agency.

B. Contractor, its agents, and its employees shall not accrue leave, retirement, insurance, bonding, or any other benefits afforded to employees of the Agency, and shall not be permitted to use Agency vehicles in the performance of this Agreement.

C. Contractor shall be solely responsible for payment of wages, salaries, and benefits to any and all employees or subcontractors. Contractor retains to perform any of its obligations pursuant to this Agreement.

8. CONFIDENTIALITY

Any confidential information provided to or developed by Contractor in the performance of this Agreement shall be kept confidential, and shall not be made available to any individual or organization by Contractor without the Agency's prior written approval.

9. CONFLICT OF INTEREST

Contractor warrants that it presently has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with its performance of its obligations pursuant to this Agreement. Contractor further agrees that it shall not employ or contract with anyone in the performance of this Agreement that has any such conflict of interest.

10. ASSIGNMENT; SUBCONTRACTING

Contractor shall not assign or transfer any rights, privileges, obligations or other interests under this Agreement, including any claims for money due, without the Agency's prior written

consent. Contractor shall not subcontract any portion of the services to be performed under this Agreement without the Agency's prior written approval.

11. RELEASE

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

12. INSURANCE

A. Contractor, at its own cost and expense, shall carry and maintain in full force and effect during the term of this Agreement commercial general liability insurance of $1,000,000 for each occurrence and $2,000,000 in general aggregate coverage for bodily injury and property damage liability, in a form and with an insurance company acceptable to the Agency. The Agency shall be named as an additional insured under the insurance policy, and the policy shall provide that the Agency will be notified no less than 30 days before the policy is cancelled for any reason. Contractor has furnished the Agency with a copy of a Certificate of Insurance or other evidence of Contractor's compliance with the provisions of this section as a condition of entering into this Agreement.

B. Contractor shall carry and maintain Workers' Compensation insurance in accordance with New Mexico law to provide coverage for Contractor's employees throughout the term of this Agreement. Contractor shall provide the Agency with evidence demonstrating that appropriate Workers' Compensation insurance has been obtained.

C. Contractor shall also carry and maintain sufficient automobile liability insurance

throughout the term of this Agreement to cover no less than $1,000,000 combined single limit for each accident.

13. INDEMNIFICATION

Contractor shall indemnify, hold harmless and defend the Agency from all losses, damages, claims or judgments, including payment of all attorneys' fees and costs on account of any suit, judgment, execution, claim, action, or demand whatsoever to the extent arising from the negligent acts, errors, or omissions, or willful and reckless disregard of obligations under this Agreement, in the performance of any services covered by this Agreement, whether occurring on Agency managed or owned property or otherwise, by Contractor or its employees, agents, representatives, or subcontractors, excepting only such liability that arises out of the Agency's negligence.

14. NEW MEXICO TORT CLAIMS ACT

Any liability incurred by the Agency in connection with this Agreement is subject to the immunities and limitations set forth in the New Mexico Tort Claims Act, NMSA 1978 §§ 41-4-1 to 41-4-27. The Agency and its employees do not waive sovereign immunity, any available defense, or any limitation of liability recognized by law. No provision in this Agreement modifies or waives any provision of the New Mexico Tort Claims Act.

15. THIRD PARTY BENEFICIARIES

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

16. RECORDS AND AUDIT

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 Agency, the City of Santa Fe Finance Department, and the State Auditor. The Agency shall have the right to audit the billing both before and after payment. Payment under this Agreement shall not foreclose the right of the Agency to recover excessive or illegal payments.

17. **APPLICABLE LAW; CHOICE OF LAW; VENUE**

Contractor shall abide by all applicable federal and state laws and regulations, and all ordinances, rules and regulations of the Agency. In any action, suit, or legal dispute arising from this Agreement, Contractor agrees that the laws of the State of New Mexico shall govern. The parties agree that any action or suit arising from this Agreement shall be commenced in a federal or state court of competent jurisdiction in New Mexico. Any action or suit commenced in the courts of the State of New Mexico shall be brought in the First Judicial District Court.

18. **AMENDMENT**

This Agreement shall not be altered, changed, or modified except by an amendment in writing executed by the parties.

19. **SCOPE OF AGREEMENT**

This Agreement expresses the entire agreement and understanding between the parties with respect to the services set forth in the Scope of Services attached hereto as Exhibit A. No prior agreement or understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

20. **NON-DISCRIMINATION**

During the term of this Agreement, Contractor shall not discriminate against any employee or applicant for an employment position to be used in the performance of the services Contractor

undertakes pursuant to this Agreement on the basis of ethnicity, race, age, religion, creed, color, national origin, ancestry, sex, gender, sexual orientation, physical or mental disability, medical condition, or citizenship status.

21. SEVERABILITY

If one or more of the provisions of this Agreement or any application thereof is found to be invalid, illegal, or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions of the Agreement and any other application thereof shall not in any way be affected or impaired.

22. NOTICES

A. Any notices required to be given under this Agreement shall be in writing and served to the parties at the following addresses:

AGENCY:
Randall Kippenbrock, P.E.
Executive Director
Santa Fe Solid Waste Management Agency
149 Wildlife Way
Santa Fe, NM 87506
Fax: (505) 424-1839
Email: rkippenbrock@sfswma.org

CONTRACTOR:
Jesus Rios
General Manager
Nelly's Cleaning Service
65 Paseo C de Baca
Santa Fe, NM 87507
Fax: N/A
Email: nellyscleaningservice@hotmail.com

B. Any such notice sent by registered or certified mail, return receipt, shall be deemed to have been duly given and received seventy-two (72) hours after the same is so addressed and mailed with postage prepaid. Notice sent by recognized overnight delivery service shall be effective only upon actual receipt thereof at the office of the addressee set forth above, and any such notice delivered

at a time outside of normal business hours shall be deemed effective at the opening of business on the next business day. Notice sent by facsimile or email shall be effective only upon actual receipt of the original unless written confirmation is sent by the recipient of the facsimile stating that the notice has been received, in which case the notice shall be deemed effective as of the date specified in the confirmation. Any party may change its address for purposes of this paragraph by giving notice to the other party as herein provided. Delivery of any copies as provided herein shall not constitute delivery of notice hereunder.

23. COMPLIANCE WITH LAWS AND REGULATIONS; PROHIBITION OF BRIBES, GRATUITIES, AND KICKBACKS

Contractor shall comply with all applicable federal, state, and local laws and regulations throughout the term of this Agreement. Contractor expressly acknowledges that the New Mexico Procurement Code, NMSA 1978, §13-1-28 through §13-1-199, imposes civil and criminal penalties for its violation, and New Mexico criminal statutes impose penalties for bribes, gratuities, and kick-backs.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the parties have executed this Agreement on the date set forth below.

SANTA FE SOLID WASTE MANAGEMENT AGENCY:

ReneeVillarreal
Chairperson

10/17/19
Date:

ATTEST:

Yolanda Y. Vigil
Santa Fe City Clerk

10-22-19
Date:

CONTRACTOR:

Jesus Rios
Manager
Familia Rios, LLC
d/b/a Nelly's Cleaning Service

10.21.19
Date:

APPROVED AS TO FORM:

Nancy R. Long
Agency Attorney

10-17-19
Date:

EXHIBIT A

Scope of Services
for
Nelly's Cleaning Service

SCOPE OF SERVICES

CLEANING SERVICES
FOR THE
SANTA FE SOLID WASTE MANAGEMENT AGENCY

The Santa Fe Solid Waste Management Agency (Agency) aims to obtain the following goals for this Services Agreement:

The Agency has five buildings requiring cleaning services that are located at the Caja del Rio Landfill (Landfill) and Buckman Road Recycling and Transfer Station (BuRRT). Due to the nature of the operations performed at both the Landfill and BuRRT facility, staff, customers and vendors are exposed to fine dust, excessive dirt and mud as well as other materials that may have an impact on their health.

Contractor affirms that they have the expertise and the appropriate resources to perform the required cleaning services.

Contractor shall furnish all labor, materials, services, tools, and equipment necessary to perform the required cleaning services. Contractor shall have control over, and be solely responsible for, all means and methods needed to perform the cleaning services.

Contractor shall clean the following five buildings five days each week with noted exceptions:

- Caja del Rio Administration Building
  - Conference room
  - Two bathrooms
  - General office area
  - Two offices
- Caja del Rio Maintenance Shop Building
  - Supervisor's office
  - Break room
  - Two bathrooms
  - Parts room
  - Main equipment repair room floor, from the wall to the first bay (sweeping only).
- BuRRT Administration Building
  - Entire building with tiles including reception and hallways
  - Three offices
  - Two bathrooms
  - Kitchen
  - Conference room
- BuRRT HHW Collection Center Building (Once a week)
  - Office
  - Bathroom
- BuRRT Scale House (Once a week)
  - Office area

- Two bathrooms

The hours of operations at the Landfill are from 7:00 a.m. to 5:30 p.m., Monday through Saturday. The hours of operations at the BuRRT facility are from 7:00 a.m. to 5:30 p.m., Sunday through Saturday. For safety and security purposes, the cleaning services for Monday through Thursday must start at 5:30 p.m. The cleaning services for Sunday may start as early as 8:00 a.m. but no later than 5:30 p.m.

Contractor shall have reliable transportation to and from each facility.

The Agency shall provide all cleaning supplies to the Contractor. In order not to hinder cleaning services, Contractor shall make requests in advance for more cleaning supplies before running out of current supplies.

The Agency shall provide Contractor with keys to the locks for each facility's gates and office doors. Contractor shall ensure that all gates and doors are locked during and after each cleaning.

In the event of an emergency the Agency employs a security guard company on site that is available to Contractor. In addition to the security company, security cameras are installed throughout the facilities for everyone's safety.

The five-day cleaning schedule shall be Sunday through Thursday of each week. An alternate schedule will be considered when there is an observed holiday, other closure or a need by the Contractor for that work week.

Other than the Hazardous Household Waste (HHW) Collection Center and Scale House at the BuRRT facility, the Contractor shall perform the cleaning services outlined by the Agency every day. Contractor shall complete a Daily Cleaning Checklist attesting to the cleaning services performed. Contractor's notes may be added for the project manager's review (Appendix A).

Contractor shall be responsible for submitting monthly billing to the Agency. The Agency shall pay monthly billing within 30 days of receipt. No pre-payments for cleaning services provided are available.

Contractor is responsible for all applicable New Mexico gross receipts taxes associated with this Services Agreement and remitting the taxes to the New Mexico Taxation and Revenue Department.

A request by the Contractor for price adjustment is subject to approval by the Agency. Contractor shall submit to the Agency sufficient justification to support the Contractor's request.

APPENDIX A

Daily Cleaning Checklist

Daily Cleaning Checklist

This checklist must be initialed by the staff cleaning the selected buildings at both Caja del Rio (admin offices and maintenance shop – daily, 5 days per week, Sunday through Thursday) and Buckman Road Recycling and Transfer Station (admin offices – daily, 5 days per week, Sunday through Thursday; and the HHW Collection Center and BuRRT Scale House – once a week).

_____ _____

Cleaner Signature Date

CHECKLIST MUST BE SUBMITTED DAILY FOR EACH FACILITY. COPIES SHOULD BE LEFT IN SPECIFIED OFFICES.

DAILY TASKS

All Buildings/Facilities

- ☐ Empty trash and replace liners. Leave all full bags by front doors.
- ☐ Collect all rubbish, papers, bottles etc. from front entrances and between buildings.
- ☐ High dust for cobwebs.
- ☐ Feather dust all electronics, bookshelves, file cabinets and picture frames.
- ☐ Disinfect/damp wipe all horizontal surfaces.
- ☐ Clean all drinking fountains at a high level of sanitation
- ☐ Wipe clean all open areas on desks moving only light objects and replacing them. Do not move any paper work.
- ☐ Remove fingerprints and marks from around light switches and doorframes.
- ☐ Sanitize all phone handles, doorknobs and light switches.
- ☐ Vacuum all carpets, mats and hard floors.
- ☐ Disinfect and wet-mop (no dust mop) all hard floors.
- ☐ Ensure all areas are cleaned and arranged in a tidy fashion prior to leaving.
- ☐ Spot clean walls, painted surfaces, glass surfaces and blinds, as needed.
- ☐ Sweep sidewalks/entry ways leading to building, weather permitting.

Conference Rooms

- ☐ Disinfect and wipe down table and chairs.
- ☐ Vacuum and wet mop floors.
- ☐ Spot clean windows.

Kitchen Areas/Break Rooms

- ☐ High dust for cobwebs and dust light fixtures.
- ☐ Disinfect and wipe down all horizontal surfaces including tables, chairs and countertops.
- ☐ Tidy up items that are remaining on counters such as sweeteners, condiments, etc.
- ☐ Wipe down outsides of cabinets and clean sinks.
- ☐ Clean inside and outside of coffee pot(s) and microwave(s).
- ☐ Wipe fingerprints from light fixtures and door handles.
- ☐ Vacuum or clean seating areas of debris.
- ☐ Empty trash and replace liners. Leave all full bags by front doors.

Restrooms

- ☐ High dust for cobwebs and dust light fixtures.
- ☐ Empty trash bins, replace liners and wipe.
- ☐ Clean or polish all mirrors, sinks, and basins.
- ☐ Clean and wipe all hand towel, hand dryers and soap dispensers.
- ☐ Wipe the outsides of all cabinets and lockers.
- ☐ Disinfect and clean all urinal and toilets inside and out.
- ☐ Sweep and wet mop all floors with a disinfectant cleaner.
- ☐ Replenish toilet supplies (e.g., hand soap, paper towels, toilet paper) as needed to maintain an adequate supply at all times.

Shop (Caja del Rio)

- ☐ Sweep the first section of the shop floor from door to door.
- ☐ Dust, wet mop and clean the Parts Room.

WEEKLY TASKS

All Buildings/Facilities

- ☐ Clean all interior glass windows.
- ☐ Vacuum all air vents.
- ☐ Empty recycling bins. Leave all full bags by front doors.

HHW Building (BuRRT) – Office and Restroom Only

- ☐ Empty trash and replace liners. Leave full bags by front door.
- ☐ High dust for cobwebs and dust light fixtures.
- ☐ Feather dust all electronics, bookshelves, file cabinets and picture frames.
- ☐ Disinfect/damp wipe all horizontal surfaces.
- ☐ Wipe clean all open areas on desks moving only light objects and replacing them. Do not move any paper work.
- ☐ Remove fingerprints and marks from around light switches and doorframes.
- ☐ Sanitize phone handle, doorknobs and light switches.
- ☐ Disinfect and wet-mop (no dust mop) floors.
- ☐ Spot clean walls, painted surfaces, glass surfaces and blinds, as needed.
- ☐ Sweep sidewalks/entry ways leading to building, weather permitting.
- ☐ Clean all interior glass windows.
- ☐ Vacuum air vents.
- ☐ Clean or polish all mirrors, sinks, and basins.
- ☐ Clean and wipe all hand towel and soap dispensers.
- ☐ Wipe the outsides of all cabinets and lockers.
- ☐ Disinfect and clean toilet inside and out.

BuRRT Scale House – Office and Restrooms Only

- ☐ Empty trash and replace liners. Leave full bags by front door.
- ☐ High dust for cobwebs and dust light fixtures.
- ☐ Feather dust all electronics, bookshelves, file cabinets and picture frames.

- ☐ Disinfect/damp wipe all horizontal surfaces.
- ☐ Wipe clean all open areas on desks moving only light objects and replacing them. Do not move any paper work.
- ☐ Remove fingerprints and marks from around light switches and doorframes.
- ☐ Sanitize phone handle, doorknobs and light switches.
- ☐ Disinfect and wet-mop (no dust mop) floors.
- ☐ Spot clean walls, painted surfaces, glass surfaces and blinds, as needed.
- ☐ Sweep sidewalks/entry ways leading to building, weather permitting.
- ☐ Clean all interior glass windows.
- ☐ Vacuum air vents.
- ☐ Clean or polish all mirrors, sinks, and basins.
- ☐ Clean and wipe all hand towel and soap dispensers.
- ☐ Wipe the outsides of all cabinets and lockers.
- ☐ Disinfect and clean toilets inside and out.

QUARTERLY TASKS

All Buildings/Facilities

- ☐ Clean all exterior glass windows.

APPENDIX B

Fee Schedule

BID FORM

RFB No. '20/01/B

All Offerors MUST use the format provided

The attached bid shall include all activities described in the Scope of Services and Appendix A of this RFB.

Item	Description*
Cleaning Services	Five Days per Week for Three Buildings; One Day per Week for Two Buildings Cleaning Hours: 5:30 p.m. to 7:00 a.m., Sunday through Thursday.

Weekly Cleaning Services: Cost in Figures (Dollars and Cents) - Excluding Applicable Taxes $ 1,230.00

Weekly Cleaning Services: Cost in Words (Dollars and Cents) - Excluding Applicable Taxes

One Thousand Two Hundred Thirty and 00/100 dollars

* In the event of an Agency holiday or other closure, alternate arrangements will be made to maintain the same cleaning services.

The Santa Fe Solid Waste Management Agency reserves the right to alter quantities based on the availability of budget. If this will alter the bid amount, the Bidder must note the percent increase for lesser quantities.

BIDDER'S INFORMATION

Familia Rios, Llc d/b/a: Nelly's Cleaning Service
Bidder-Firm/Company Name

65 Paseo C de Baca, Santa Fe, New Mexico 87507
Address City, State, Zip Code

Authorized Signature

Jesus Rios
Print Name

nellyscleaningservice@gmail.com
E-Mail Address

General Manager
Title

(505)795-6271
Telephone Number

September 24, 2019
Date

(505)982-8045
Fax Number

MEMORANDUM

To: SFSWMA Joint Powers Board Members
From: Randall Kippenbrock, P.E., Executive Director (RLK)
Date: October 11, 2020
Subject: Request for Approval of Amendment No. 1 to the Services Agreement with Rusty's Weigh Scales & Service, Inc. of Albuquerque, NM, for On-Call Truck Scale Calibration, Maintenance and Repair Services for the Santa Fe Solid Waste Management Agency (RFB No. '20/04/B)

SUMMARY

The Agency is requesting the Board approve Amendment No. 1 to the Services Agreement (Agreement) with Rusty's Weigh Scales & Service of Albuquerque, NM, for continued on-call truck scale calibration, maintenance, and repair services.

The Amendment will extend the term through October 17, 2021 (Year 2 of the Agreement). Per Article 5, the Agreement can be renewed annually upon Board approval, not to exceed four years.

BACKGROUND

The Agency operates four truck scales at Caja del Rio Landfill and Buckman Road Recycling and Transfer Station (BuRRT). Each scale is inspected, calibrated, and certified every calendar quarter to ensure compliance with the New Mexico Department of Agriculture requirements.

On September 16, 2019, the Agency issued Request for Bid No. '20/04/B for on-call truck scale calibration, maintenance and repair services. On October 17, 2019, the Board approved a Services Agreement with Rusty's Weigh Scales & Service for $27,000.

Funding remains available in 8100851.520300 and 8100852.520300 (Repair and Maintenance of Furniture/Fixtures/Equipment).

ACTION REQUESTED

The Agency requests the Board approve Amendment No. 1 to the Services Agreement with Rusty's Weigh Scales & Service for continued on-call truck scale calibration, maintenance, and repair services.

The Agency also requests approval to extend the term of the Agreement to October 17, 2021.

Attachments: 1) Services Agreement – Amendment No. 1
2) Services Agreement with Rusty's Weigh Scales & Service

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ATTACHMENT 1

Services Agreement – Amendment No. 1

SANTA FE SOLID WASTE MANAGEMENT AGENCY
AMENDMENT No. 1
SERVICES AGREEMENT WITH
RUSTY'S WEIGH SCALES & SERVICE, INC.
(On-Call Truck Scale Calibration, Maintenance, and Repair - 2019)

This AMENDMENT No. 1 ("Amendment") to the SERVICES AGREEMENT, dated October 17, 2019 ("Agreement"), is made and entered into between the Santa Fe Solid Waste Management Agency ("Agency") and Rusty's Weigh Scales & Service, Inc. ("Contractor"). The date of this Amendment shall be the date this Amendment is executed by the Agency.

RECITALS

Under the terms of the Agreement, Contractor has agreed to provide on-call truck scale calibration, maintenance, and repair services for the Agency (RFB No. '20/04/B).

Pursuant to Article 18, Amendment of the Agreement, and for good and valuable consideration, the receipt and sufficiency of which are acknowledged by the parties, the Agency and Contractor agree as follows:

1. **TERM AND EFFECTIVE DATE**

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

A. This Agreement shall be effective when signed by the Agency and terminate on October 17, 2021, unless it is terminated sooner pursuant to Article 6 of this Agreement.

B. Pursuant to the limitations on multi-term contracts for services codified in NMSA 1978 § 13-1-150, this Agreement may not exceed four years, including all extensions and renewals. Subject to that limitation, this Agreement can be renewed annually, if agreed upon by the Agency and

Contractor.

2. AGREEMENT IN FULL FORCE

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

IN WITNESS WHEREOF, the parties have executed this AMENDMENT No. 1 to the Services Agreement as of the dates set forth below.

SANTA FE SOLID WASTE MANAGEMENT AGENCY:

_____ _____

Anna Hansen Date:
Chairperson

ATTEST:

_____

Geraldine Salazar
Santa Fe County Clerk

CONTRACTOR:

_____ _____

Patty Steinhouse Date:
HR—DOT-Safety Director
Rusty's Weigh Scales & Service, Inc.

APPROVED AS TO FORM:

_____ _____

Nancy R. Long Date:
Agency Attorney

ATTACHMENT 2

Services Agreement with Rusty's Weigh Scales & Service

ITEM # 19-0852

SANTA FE SOLID WASTE MANAGEMENT AGENCY
SERVICES AGREEMENT WITH
RUSTY'S WEIGH SCALES & SERVICE, INC.
(On-Call Truck Scale Calibration, Maintenance, and Repair - 2019)

3201387

This SERVICES AGREEMENT ("Agreement") is made and entered into by and between the Santa Fe Solid Waste Management Agency ("Agency") and Rusty's Weigh Scales & Service, Inc., ("Contractor") for on-call truck scale calibration, maintenance, and repair services as described in RFB No. '20/04/B and below. The Agreement shall be effective as of the date this Agreement is executed by the Agency.

1. SCOPE OF SERVICES

The services subject to this Agreement are set forth in the Scope of Services attached hereto in Exhibit A, and all related Contract Documents, including Contractor's Bid for RFB No. '20/04/B.

2. STANDARDS OF PERFORMANCE; LICENSES

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

B. Contractor agrees to obtain and maintain throughout the term of this Agreement all applicable professional and business licenses required by law for itself and its employees, agents, representatives and subcontractors.

3. COMPENSATION

A. The Agency shall pay to Contractor in full payment for services rendered, including applicable gross receipts taxes, a sum not to exceed Twenty-Seven Thousand Dollars and No Cents ($27,000.00).

B. Contractor shall be responsible for payment of gross receipts taxes levied by the State of New Mexico on the sums payable under this Agreement.

C. Payment shall be made upon receipt and approval by the Agency of detailed statements containing a report of services completed. Compensation shall be paid only for services actually performed in accordance with the fee schedule set forth on the Contractor's bid form in the Scope of Services attached hereto in Exhibit A.

D. Detailed statements containing reimbursement expenses, if any, shall be itemized.

4. APPROPRIATIONS

The terms of this Agreement are contingent upon sufficient appropriations to and authorization from the Joint Powers Board for the Agency for the performance of this Agreement. If sufficient appropriations are not made or authorization provided, this Agreement shall terminate upon written notice from the Agency to Contractor. The Agency shall be responsible for charges incurred up to the date of notification under this Section per Section 6 of this Agreement. The Agency's decision as to whether sufficient appropriations are available shall be accepted by Contractor and shall be final.

5. TERM AND EFFECTIVE DATE

A. This Agreement shall be effective when signed by the Agency and terminate on October 17, 2020, unless it is terminated sooner pursuant to Article 6 below.

B. Pursuant to the limitations on multi-term contracts for services codified in NMSA 1978 § 13-1-150, this Agreement may not exceed four years, including all extensions and renewals. Subject to that limitation, the Agreement can be renewed annually, if agreed upon by the Agency and Contractor.

6. TERMINATION

A. The Agency may terminate this Agreement at any time and for any reason by giving ten (10) days written notice to Contractor. If the Agency terminates the Agreement:

1) Contractor shall render a final report of the services performed up to the date of termination and shall turn over to the Agency original copies of all work product, research, or papers prepared for the services covered by this Agreement. The Agency shall pay Contractor for services rendered and expenses incurred under this Section, including for preparation of the final report.

2) If compensation is not based upon hourly rates for services rendered, the Agency shall pay Contractor for the reasonable value of services satisfactorily performed through the date Contractor receives notice of such termination for which compensation has not already been paid.

3) If compensation is based upon hourly rates and expenses, Contractor shall be paid for services rendered and expenses incurred through the date Contractor receives notice of such termination.

B. The Agency further reserves the right to cancel all or any part of this Agreement without cost to the Agency if the Contractor fails to meet the provisions for this Agreement, and except as otherwise provided herein, to hold the Contractor liable for any excess costs associated with the Contractor's default. The Contractor shall not be liable for any excess costs if failure to perform is due to causes beyond the control and shall not be the fault of negligence of the Contractor and these causes have been made known to the Agency in written form within five working days of the Contractor becoming aware of a cause which may create any delay. Such causes include, but are not limited to, acts of God or the public enemy, acts of the State or of the 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 Agency shall determine that the suppliers or services to be furnished by the sub-contractor are obtainable

from other sources in sufficient time to permit the Contractor to meet the required delivery schedule. The rights and remedies of the Agency are not limited to those provided for in this paragraph and are in addition to any other rights provided for by law.

7. STATUS OF CONTRACTOR; RESPONSIBILITY FOR PAYMENT OF EMPLOYEES AND SUBCONTRACTORS

A. Contractor, its agents, and its employees are independent contractors performing services for the Agency and are not employees of the Agency.

B. Contractor, its agents, and its employees shall not accrue leave, retirement, insurance, bonding, or any other benefits afforded to employees of the Agency, and shall not be permitted to use Agency vehicles in the performance of this Agreement.

C. Contractor shall be solely responsible for payment of wages, salaries, and benefits to any and all employees or subcontractors. Contractor retains to perform any of its obligations pursuant to this Agreement.

8. CONFIDENTIALITY

Any confidential information provided to or developed by Contractor in the performance of this Agreement shall be kept confidential, and shall not be made available to any individual or organization by Contractor without the Agency's prior written approval.

9. CONFLICT OF INTEREST

Contractor warrants that it presently has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with its performance of its obligations pursuant to this Agreement. Contractor further agrees that it shall not employ or contract with anyone in the performance of this Agreement that has any such conflict of interest.

10. ASSIGNMENT; SUBCONTRACTING

Contractor shall not assign or transfer any rights, privileges, obligations or other interests

under this Agreement, including any claims for money due, without the Agency's prior written consent. Contractor shall not subcontract any portion of the services to be performed under this Agreement without the Agency's prior written approval.

11. RELEASE

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

12. INSURANCE

A. Contractor, at its own cost and expense, shall carry and maintain in full force and effect during the term of this Agreement commercial general liability insurance of $1,000,000 for each occurrence and $2,000,000 in general aggregate coverage for bodily injury and property damage liability, in a form and with an insurance company acceptable to the Agency. The Agency shall be named as an additional insured under the insurance policy, and the policy shall provide that the Agency will be notified no less than 30 days before the policy is cancelled for any reason. Contractor has furnished the Agency with a copy of a Certificate of Insurance or other evidence of Contractor's compliance with the provisions of this section as a condition of entering into this Agreement.

B. Contractor shall carry and maintain Workers' Compensation insurance in accordance with New Mexico law to provide coverage for Contractor's employees throughout the term of this Agreement. Contractor shall provide the Agency with evidence demonstrating that appropriate Workers' Compensation insurance has been obtained.

C. Contractor shall also carry and maintain sufficient automobile liability insurance throughout the term of this Agreement to cover no less than $1,000,000 combined single limit for each accident.

13. INDEMNIFICATION

Contractor shall indemnify, hold harmless and defend the Agency from all losses, damages, claims or judgments, including payment of all attorneys' fees and costs on account of any suit, judgment, execution, claim, action, or demand whatsoever to the extent arising from the negligent acts, errors, or omissions, or willful and reckless disregard of obligations under this Agreement, in the performance of any services covered by this Agreement, whether occurring on Agency managed or owned property or otherwise, by Contractor or its employees, agents, representatives, or subcontractors, excepting only such liability that arises out of the Agency's negligence.

14. NEW MEXICO TORT CLAIMS ACT

Any liability incurred by the Agency in connection with this Agreement is subject to the immunities and limitations set forth in the New Mexico Tort Claims Act, NMSA 1978 §§ 41-4-1 to 41-4-27. The Agency and its employees do not waive sovereign immunity, any available defense, or any limitation of liability recognized by law. No provision in this Agreement modifies or waives any provision of the New Mexico Tort Claims Act.

15. THIRD PARTY BENEFICIARIES

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

16. **RECORDS AND AUDIT**

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 Agency, the City of Santa Fe Finance Department, and the State Auditor. The Agency shall have the right to audit the billing both before and after payment. Payment under this Agreement shall not foreclose the right of the Agency to recover excessive or illegal payments.

17. **APPLICABLE LAW; CHOICE OF LAW; VENUE**

Contractor shall abide by all applicable federal and state laws and regulations, and all ordinances, rules and regulations of the Agency. In any action, suit, or legal dispute arising from this Agreement, Contractor agrees that the laws of the State of New Mexico shall govern. The parties agree that any action or suit arising from this Agreement shall be commenced in a federal or state court of competent jurisdiction in New Mexico. Any action or suit commenced in the courts of the State of New Mexico shall be brought in the First Judicial District Court.

18. **AMENDMENT**

This Agreement shall not be altered, changed, or modified except by an amendment in writing executed by the parties.

19. **SCOPE OF AGREEMENT**

This Agreement expresses the entire agreement and understanding between the parties with respect to the services set forth in the Scope of Services attached hereto as Exhibit A. No prior agreement or understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

20. NON-DISCRIMINATION

During the term of this Agreement, Contractor shall not discriminate against any employee or applicant for an employment position to be used in the performance of the services Contractor undertakes pursuant to this Agreement on the basis of ethnicity, race, age, religion, creed, color, national origin, ancestry, sex, gender, sexual orientation, physical or mental disability, medical condition, or citizenship status.

21. SEVERABILITY

If one or more of the provisions of this Agreement or any application thereof is found to be invalid, illegal, or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions of the Agreement and any other application thereof shall not in any way be affected or impaired.

22. NOTICES

A. Any notices required to be given under this Agreement shall be in writing and served to the parties at the following addresses:

AGENCY:
Randall Kippenbrock, P.E.
Executive Director
Santa Fe Solid Waste Management Agency
149 Wildlife Way
Santa Fe, NM 87506
Fax: (505) 424-1839
Email: rkippenbrock@sfswma.org

CONTRACTOR:
Patty Steinhouse
HR-DOT-Safety Director
Rusty's Weigh Scales and Service, Inc.
408 N. Interstate 27
Lubbock, TX 79403
Fax: (806) 741-1445
Email: p.steinhouse@rustysweigh.com

B. Any such notice sent by registered or certified mail, return receipt, shall be deemed to

have been duly given and received seventy-two (72) hours after the same is so addressed and mailed with postage prepaid. Notice sent by recognized overnight delivery service shall be effective only upon actual receipt thereof at the office of the addressee set forth above, and any such notice delivered at a time outside of normal business hours shall be deemed effective at the opening of business on the next business day. Notice sent by facsimile or email shall be effective only upon actual receipt of the original unless written confirmation is sent by the recipient of the facsimile stating that the notice has been received, in which case the notice shall be deemed effective as of the date specified in the confirmation. Any party may change its address for purposes of this paragraph by giving notice to the other party as herein provided. Delivery of any copies as provided herein shall not constitute delivery of notice hereunder.

23. WARRANTY

All services, equipment, materials, parts or supplies provided by Contractor shall be covered by the most favorable commercial warranty, as indicated in the Contract Documents, including the Contractor's bid. The warranty shall begin when the Agency accepts deliverables from the Contractor. The warranty contract shall be solely with the Contractor and the Contractor shall be responsible for ensuring all warranty work is satisfactorily completed on any product under this Agreement. The Contractor shall respond to all requests for warranty repair within three (3) hours of notification by the Agency.

24. COMPLIANCE WITH LAWS AND REGULATIONS; PROHIBITION OF BRIBES, GRATUITIES, AND KICKBACKS

Contractor shall comply with all applicable federal, state, and local laws and regulations throughout the term of this Agreement. Contractor expressly acknowledges that the New Mexico Procurement Code, NMSA 1978, §13-1-28 through §13-1-199, imposes civil and criminal penalties for its violation, and New Mexico criminal statutes impose penalties for bribes, gratuities,

and kick-backs.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date set forth below.

SANTA FE SOLID WASTE MANAGEMENT AGENCY:

Renee Villarreal
Chairperson

10/17/19
Date:

ATTEST:

CITY OF SANTA FE ORGANIZED 1891 NEW MEXICO SEAL

Yolanda Y. Vigil
Santa Fe City Clerk

11-4-19
Date:

CONTRACTOR:

Patty Steinhouse
HR-DOT-Safety Director
Rusty's Weigh Scales & Service, Inc.

10-25-19
Date:

APPROVED AS TO FORM:

Nancy R. Long
Agency Attorney

10-17-19
Date:

EXHIBIT A

Scope of Services
for
Rusty's Weigh Scales & Service, Inc.

FEE SCHEDULE

BID FORM
RFB No. '20/04/B

All Bidders MUST use the format provided. Costs included with this bid will be held for four (4) years. Fuel Surcharges are to be excluded from the bid price.

The attached bid shall include all activities described in the Scope of Services of this RFB.

Item	Description	Unit	Cost ($)
1	Inspection, calibration, and certification at Landfill – 2 scales	per quarter	$700
2	Inspection, calibration, and certification at BuRRT – 2 scales	per quarter	$700
3	Labor for non-emergency/routine work/repair - at location	per hour	1-man $110 2-man $195
4	Travel time for non-emergency/routine work/repair	per hour	1-man $110 2-man $195
5	Mobilization/Travel Mileage - service/calibration truck for non-emergency/routine work/repair	per mile	Pickup $1.55 HDTT $3.75
6	Discount from manufacturer's list price on parts	percent	5%
7	Labor for emergency work/repair – at location	per hour	1-man $110 2-man $195
8	Travel time for emergency work/repair	per hour	1-man $110 2-man $195
9	Mobilization/Travel Mileage - service/calibration truck for emergency work/repair	per mile	Pickup $1.55 HDTT $3.75

MEMORANDUM

To: SFSWMA Joint Powers Board Members
From: Randall Kippenbrock, P.E., Executive Director RLK
Date: October 6, 2020
Subject: Request for Approval of 2021 Meeting Calendar.

Staff is requesting the Board approve the following dates for JPB meetings for the 2021 calendar year. The JPB meetings are the third Thursday of each month. Staff is also requesting the Board to approve that the JPB have a regular meeting time of 5:00 p.m. Meeting place to be determined. If approved by the Board, staff will notify City and County staff to place the dates on their meeting calendars.

Calendar Year 2021
January - No Meeting
February 18
March 18
April 15
May 20
June 17
July 15
August 19
September 16
October 21
November 18
December - No Meeting

MEMORANDUM

To: SFSWMA Joint Powers Board
From: Randall Kippenbrock, P.E., Executive Director RLK
Date: October 11, 2020
Subject: Update on Free Amnesty Days

The Agency will provide the Board with an update on Free Amnesty Days.

The Free Tire Days at BuRRT were held on September 5-6 and October 3-4. Over four days, customers came in 90 vehicles with 577 tires. That equates to about six tires per vehicle and less than five minutes to unload. The next free tire day event is November 7-8.

The Free Trash Day was held at BuRRT and Caja del Rio Landfill on September 19. The event drew 701 residents and received approximately 180 tons of trash. For comparison, the following are reported numbers for recent past events.

Spring 2017	1,410 vehicles	366 tons
Fall 2017	1,066 vehicles	273 tons
Spring 2018	1,587 vehicles	365 tons
Fall 2018	1,191 vehicles	289 tons
Spring 2019	703 vehicles	221 tons
Fall 2019	782 vehicles	228 tons

The Free E-Waste Day was held at BuRRT on October 3. The event drew 290 residents and received approximately 20,000 pounds of e-waste. For comparison, the following are reported numbers for recent past events.

Fall 2017	184 residents	16,460 pounds
Fall 2018	182 residents	18,080 pounds
Fall 2019	328 residents	17,660 pounds

The Free HHW Day at BuRRT is scheduled for Saturday, November 7. The Agency is anticipating 400 residents. For comparison, the following are reported numbers for recent past events.

Fall 2017	278 residents	11,880 pounds
Fall 2018	252 residents	8,040 pounds
Fall 2019	401 residents	9,320 pounds

The Agency will monitor the COVID-19 situation as it gets closer to the Free HHW Day to determine the Agency can hold the event safely.

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