



# AGENDA

REGULAR MEETING OF  
THE FINANCE COMMITTEE  
MAY 17, 2021  
5:00 PM  
ATTEND VIRTUALLY

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## SPECIAL PROCEDURES FOR FINANCE COMMITTEE MEETING

**Attendance:** In response to the State's declaration of a Public Health Emergency, the Mayor's Proclamation of Emergency, and the ban on public gatherings in excess of those permitted in the current Public Health Order, the Finance Committee meeting will be conducted virtually.

**Viewing:** Members of the public may stream the meeting live on the City of Santa Fe's YouTube channel at <https://www.youtube.com/user/cityofsantafe>. The YouTube live stream can be accessed at this address from most smartphones, tablets, or computers.

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

**Attend Virtually:** Join on Zoom: <https://santafenm-gov.zoom.us/j/99697697570?pwd=ZlJtR2Z3UGFEa2tESEJFbENaNnFvUT09>

**Passcode:** 537024

**By Phone:** US: 346 248 7799 or 669 900 6833

**Webinar ID:** 996 9769 7570

**Passcode:** 537024

**Agenda:** The agenda for the meeting will be posted at <https://santafe.primegov.com/public/portal>.

1. **CALL TO ORDER**
2. **ROLL CALL**
3. **APPROVAL OF AGENDA**
4. **APPROVAL OF CONSENT AGENDA**



# AGENDA

REGULAR MEETING OF  
THE FINANCE COMMITTEE  
MAY 17, 2021  
5:00 PM  
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## 5. APPROVAL OF MINUTES

- a. Regular Finance Committee – May 3, 2021

## 6. ACTION ITEMS: CONSENT

- a. CONSIDERATION OF RESOLUTION NO. 2021-\_\_\_. (Councilor Villarreal)  
A Resolution Withdrawing the City of Santa Fe as a Member of the Regional Coalition of LANL Communities (RCLC). (Jennifer Faubion, Council Liaison: [jrfaubion@santafenm.gov](mailto:jrfaubion@santafenm.gov), 955-6033)

**Committee Review:**

Introduced: 3/31/21

Quality of Life Committee: 5/5/21

Finance Committee: 5/17/21

Governing Body: 5/26/21

- b. Request for Approval of contract for the Santa Fe Business Incubator: A renewal contract for Small Business Development Services for the Economic Development Department. (Janice Krish, Economic Development Specialist: [jakrish@santafenm.gov](mailto:jakrish@santafenm.gov), 505-955-6915; Richard Brown, Director, Community & Economic Development: [rdbrown@santafenm.gov](mailto:rdbrown@santafenm.gov), 505-955-6625)

**COMMITTEE REVIEW:**

Public Works/Utilities Committee: 05/11/2021

Finance Committee: 05/17/2021

Governing Body: 05/26/2021

- c. Request for Approval of Amendment No. 1 to Contract # 19-0592 for Interfaith Shelter to Extend the Term for One Year from 6/30/21 to 6/30/22. (Elizabeth Peterson, Children and Youth Program Manager, [empeterson@santafenm.gov](mailto:empeterson@santafenm.gov), 505 470-3186)

**COMMITTEE REVIEW:**

Finance Committee 1: 05/17/2021

Quality of Life Committee 2: 05/19/2021

Governing Body: 05/26/2021



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- d. Request for Approval of Amendment No. 1 to Contract # 20-0565 for the NM Suicide Intervention Project to increase safety net services for virtual suicide prevention services and decrease number of youth served by navigation services. . (Elizabeth Peterson, Children and Youth Program Manager, [empeterson@santafenm.gov](mailto:empeterson@santafenm.gov), 505 470-3186)

**COMMITTEE REVIEW:**

Finance Committee 1: 05/17/2021  
Quality of Life Committee 2: 05/19/2021  
Governing Body: 05/26/2021

- e. Request for Approval of Amendment No. 1 to Contract # 19-0594 for New Mexico Immigrant Law Center to Extend the Term for One Year from 6/30/21 to 6/30/22. (Elizabeth Peterson, Children and Youth Program Manager, [empeterson@santafenm.gov](mailto:empeterson@santafenm.gov), 505 470-3186)

**COMMITTEE REVIEW:**

Finance Committee 1: 05/17/2021  
Quality of Life Committee 2: 05/19/2021  
Governing Body: 05/26/2021

- f. Request for Approval of Amendment No. 1 to Contract # 20-0563 for Gerard's House to add safety net services of grief support groups for youth and decrease number of youth served by navigation services. (Elizabeth Peterson, Children and Youth Program Manager, [empeterson@santafenm.gov](mailto:empeterson@santafenm.gov), 505 470-3186)

**COMMITTEE REVIEW:**

Finance Committee 1: 05/17/2021  
Quality of Life Committee 2: 05/19/2021  
Governing Body: 05/26/2021

- g. Request for Approval of a Change Order # 1 to CIP #967 Aeration Project Bid number 1'20/17/B with RMCI Inc. for an increase of \$294,446.51. (Michael Dozier, Wastewater Management Division Director, [mldozier@santafenm.gov](mailto:mldozier@santafenm.gov), 955-4642)

- 1) Request for Approval of Budget Amendment Resolution

**Committee Review:**

Public Works and Utilities Committee: 05/11/2021



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REGULAR MEETING OF  
THE FINANCE COMMITTEE  
MAY 17, 2021  
5:00 PM  
ATTEND VIRTUALLY

Finance Committee: 05/17/2021  
Governing Body: 05/26/2021

- h. Request for Approval of Amendment # 2 with Carollo Engineers, Inc. Professional Services Agreement 18-1065, to provide additional Construction Administration and Inspection Services to the Paseo Real Wastewater Treatment Plant Aeration System Improvements Project detailed in the attached agreement in the amount of \$126,353.00 exclusive of NMGRT. (Michael Dozier, Wastewater Management Division Director, [mldozier@santafenm.gov](mailto:mldozier@santafenm.gov), 955-4642)

**Committee Review:**

Public Works and Utilities Committee: 05/11/2021  
Finance Committee: 05/17/2021  
Governing Body: 05/26/2021

- i. Request for Approval of Exempt Procurement for contract amendment # 4 with Eric Blinman, Director of the NM Office of Archaeological Studies (OAS) to provide continued service to the Water Division Construction Projects in the amount of \$100,000 exclusive of NMGRT. (Brian Snyder, Water Division Engineering Manager, [bksnyder@santafenm.gov](mailto:bksnyder@santafenm.gov), 955-4277)

**Committee Review:**

Public Works and Utilities Committee: 05/11/2021  
Finance Committee: 05/17/2021  
Governing Body: 05/26/2021

- j. Request for the Approval of Amendment #2 to Service Contract 20-0027 extending the term of the agreement by one year, from June 30, 2021 to June 20, 2022, and increasing compensation in the amount of \$500,000 to a total amount of \$1,250,000 plus NMGRT for HVAC, Mechanical, Plumbing and Electrical Services with B&D Industries, Inc; (Sam Burnett, Public Works Property Maintenance Manager, [jsburnett@santafenm.gov](mailto:jsburnett@santafenm.gov), 505-955-5933)

**Committee Review:**

Public Works and Utilities Committee: 05/11/2021  
Finance Committee: 05/17/2021  
Governing Body: 05/26/2021



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- k. CONSIDERATION OF RESOLUTION NO. 2021-\_\_\_. (Mayor Webber)  
A Resolution Establishing an Operation Plan for Bicentennial Pool for the 2021 Season. (Regina Wheeler, Public Works Department Director: rawheeler@santafenm.gov, 955-6622; Gino Rinaldi, Acting Recreation Division Director: earinaldi@santafenm.gov, 955-4710)

**Committee Review:**

Introduced: 5/12/21

Finance Committee: 5/17/21

Public Works and Utilities Department: 5/24/21

Governing Body: 5/26/21

7. **MATTERS FROM STAFF**
8. **MATTERS FROM THE COMMITTEE**
9. **MATTERS FROM THE CHAIR**
10. **NEXT MEETING: Tuesday, June 1, 2021**
11. **ADJOURN**

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



# MINUTES

REGULAR MEETING OF  
THE FINANCE COMMITTEE  
MAY 03, 2021  
5:00 PM

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## SPECIAL PROCEDURES FOR FINANCE COMMITTEE MEETING

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

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

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Agenda: The agenda for the meeting will be posted at [santafe.primegov.com/portal/search](http://santafe.primegov.com/portal/search).

### 1. CALL TO ORDER

Meeting started 5:02 pm.

### 2. ROLL CALL

#### **Members Present:**

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

#### **Members Excused:**

Councilor Signe Lindell



# MINUTES

REGULAR MEETING OF  
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MAY 03, 2021  
5:00 PM

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## Others Attending:

Bradley Fluetsch, Cash and Investment Manager  
Carolynn Roibal, Administrative Manager  
Alexis Lotero, Attendee

Councilor Lindell excused. All other Finance Committee Councilors present.

### 3. **APPROVAL OF AGENDA**

**MOTION:** Councilor Villarreal moved, seconded by Councilor Cassutt-Sanchez, to approve the agenda as presented.

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

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

**Against:** None

**Abstain:** None

### 4. **APPROVAL OF CONSENT AGENDA**

**MOTION:** Councilor Villarreal moved, seconded by Councilor Cassutt-Sanchez, to approve the agenda as amended. Items a and e pulled for discussion. Item g postponed to correct caption.

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

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

**Against:** None

**Abstain:** None



# MINUTES

## 5. APPROVAL OF MINUTES

### a. Regular Finance Committee Minutes – April 19, 2021

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

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

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

**Against:** None

**Abstain:** None

### b. Special Finance- Budget Hearings – April 13, 2021

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

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

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

**Against:** None

**Abstain:** None

### c. Special Finance- Budget Hearings- April 14, 2021

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



# MINUTES

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

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

**Against:** None

**Abstain:** None

- d. Special Finance Budget Hearings – April 15, 2021

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

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

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

**Against:** None

**Abstain:** None

- e. Special Finance Budget Hearings – April 20, 2021

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

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

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

**Against:** None



# MINUTES

**Abstain:** None

- f. Special Finance Budget Hearings – April 21, 2021

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

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

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

**Against:** None

**Abstain:** None

- g. Special Finance Budget Hearings – April 22, 2021

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

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

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

**Against:** None

**Abstain:** None

## 6. ACTION ITEMS: CONSENT

- a. Request for Approval of Amendment No. 2 to Contract No. 19-0384 with Vladimir Jones (Praco) to increase the compensation for FY21 in the amount of \$175,000. (Randy Randall, TSF Executive Director, rrandall@santafenm.gov, 955-6209)



# MINUTES

**Committee Review:**

Public Works and Utilities Committee: 04/26/2021

Finance Committee: 05/03/2021

Governing Body: 05/12/2021

**MOTION:** Councilor Romero-Wirth moved, seconded by Councilor Cassutt-Sanchez, to approve the contract amendment as presented for discussion.

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

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

**Against:** None

**Abstain:** None

- b. Request for Approval of Amendment No.1 to Contract #20-056 for United Way of Santa Fe County to change their name to Growing Up New Mexico (Elizabeth Peterson, Children and Youth Program Manager, [empeterson@santafenm.gov](mailto:empeterson@santafenm.gov), 505 470-3186)

**Committee Review:**

Finance Committee: 05/03/2021

Quality of Life Committee: 05/05/2021

Governing Body: 05/12/2021

**MOTION:** Councilor Villarreal moved, seconded by Councilor Cassutt-Sanchez, to approve the contract amendment as presented.

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

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

**Against:** None



# MINUTES

**Abstain:** None

- c. Request Approval of Annual Action Plan describing how HUD resources will be used for the upcoming program year (Alexandra Ladd, Director, Office of Affordable Housing, [agladd@santafenm.gov](mailto:agladd@santafenm.gov)).

**Committee Review:**

Public Works and Utilities Committee: 04/26/2021

Finance Committee: 05/03/2021

Quality of Life Committee: 05/05/2021

Governing Body (Public Hearing): 05/12/201

**MOTION:** Councilor Villarreal moved, seconded by Councilor Cassutt-Sanchez, to approve the action plan as presented.

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

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

**Against:** None

**Abstain:** None

- d. Request for Approval of the Airport Coronavirus Response Grant Program (ACRGP) Grant Award No. 3-35-0037-055-2021, and corresponding Budget Amendment Resolution (BAR), in the amount of \$1,570,927. (Mark Baca, Airport Manager: [mdbaca@santafenm.gov](mailto:mdbaca@santafenm.gov), 505-955-2901)

1. Request for Approval of BAR to Budget the Federal Funding of \$1,570,927.

**Committee Review:**

Public Works/Utilities Committee: 04/26/21

Finance Committee: 05/03/21

Governing Body: 05/12/21



# MINUTES

**MOTION:** Councilor Villarreal moved, seconded by Councilor Cassutt-Sanchez, to approve the grants as presented.

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

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

**Against:** None

**Abstain:** None

- e. Request for approval of the Road Transfer Agreement between NMDOT and the City of Santa Fe that transfers road maintenance responsibilities for segments of Cerrillos Road, St. Michaels Drive and Old Pecos Trail to the City of Santa Fe. (Javier Rosado, PW Engineering Division Director, [jhrosado@santafenm.gov](mailto:jhrosado@santafenm.gov), 955-6638).

**MOTION:** Councilor Romero-Wirth moved, seconded by Councilor Cassutt-Sanchez, to approve the contract as presented on discussion.

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

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

**Against:** None

**Abstain:** None

- f. Request for approval of Governmental Project Funding Agreement with New Mexico Office of the State Engineer – Dam Safety Bureau for completion of the Nichols Dam Outlet Conduit Rehabilitation design work as it relates to dam safety in the amount of \$422,167 (Brian Snyder, Public Utilities Engineering Supervisor, [bksnyder@santafenm.gov](mailto:bksnyder@santafenm.gov), 955-4277)

**Committee Review:**



# MINUTES

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Public Works and Utilities Committee: 04/26/2021  
Finance Committee: 05/03/2021  
Governing Body: 05/12/2021

**MOTION:** Councilor Villarreal moved, seconded by Councilor Cassutt-Sanchez, to approve the contract as presented.

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

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

**Against:** None

**Abstain:** None

g. **Request to Publish Notice of Public Hearing on May 12, 2021.**

Consideration of Bill No. 2021-11. An Ordinance Regarding the Independent Salary Commission; Amending Section 6-19.3 SFCC 1987 To Reassign the Authority to Appoint the, Members of the Commission to the Ethics and Campaign Review Board and to Reassign the Authority to Appoint the Commission's Chairperson to the Commission's Members; and Amending Section 6-16.2 SFCC to Add the Duty of Appointing the Independent Salary Commission Members to the Ethics And Campaign Review Board's Powers and Duties. (Councilor Garcia, Councilor Lindell, and Councilor Vigil Coppler) (Jesse Guillen, Legislative Liaison, jbg Guillen@santafenm.gov, 955-6518)

**COMMITTEE REVIEW:**

Governing Body (Introduced): 04/14/21  
Quality of Life Committee: 04/21/21  
Public Works and Utilities Committee: 04/26/21  
Governing Body (Request to Publish): 04/28/21  
Finance Committee: 05/3/21  
Governing Body (Public Hearing): 05/26/21



# MINUTES

**MOTION:** Councilor Villarreal moved, seconded by Councilor Cassutt-Sanchez, to postpone the bill until 5/17 Finance Committee.

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

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

**Against:** None

**Abstain:** None

Councilor Villarreal stated caption incorrect -item postponed.

- h. Request for Approval of ITT Amendment #1 for MS Office 365 Vendor Name Change From Original Contract 18-1309 En Pointe Technologies to Insight Public Sector. Third Year of Three Year Term 11/26/2018 TO 11/26/2021. (Manuel Gonzales, Interim ITT Director, [mmgonzales@santafenm.gov](mailto:mmgonzales@santafenm.gov), 505-231-1749)

## COMMITTEE REVIEW

Finance Committee: 05/03/2021

Public Works Committee: 05/11/2021

Governing Body: 05/12/2021

**MOTION:** Councilor Villarreal moved, seconded by Councilor Cassutt-Sanchez, to approve the contract amendment as presented.

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

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

**Against:** None

**Abstain:** None

- i. Request for Approval of ITT Contract for Motorola Solutions for Emergency Communications Repair in the Amount of \$273,676.60 for The Term Of



# MINUTES

05/12/2021 to 07/31/2021. (Manuel Gonzales, Interim ITT Director, [mmgonzales@santafenm.gov](mailto:mmgonzales@santafenm.gov), 505-231-1749)

## **COMMITTEE REVIEW**

Finance Committee: 05/03/2021

Public Works Committee: 05/11/2021

Governing Body: 05/12/2021

**MOTION:** Councilor Villarreal moved, seconded by Councilor Cassutt-Sanchez, to approve the contract as presented.

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

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

**Against:** None

**Abstain:** None

- j. CONSIDERATION OF RESOLUTION NO. 2021-\_\_\_. (Mayor Webber)  
A Resolution Relating to a Request for Approval of Third Quarter Budget Amendments for Fiscal Year 2020/2021. (Andy Hopkins, Budget Analyst: [ajhopkins@santafenm.gov](mailto:ajhopkins@santafenm.gov), 955-6177)

## **COMMITTEE REVIEW:**

Introduction: 4/28/21

Finance Committee: 5/3/21

Public Works and Utilities Committee: 5/11/21

Governing Body: 5/12/21

**MOTION:** Councilor Villarreal moved, seconded by Councilor Cassutt-Sanchez, to approve the resolution as presented.

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



City of Santa Fe

# MINUTES

REGULAR MEETING OF  
THE FINANCE COMMITTEE  
MAY 03, 2021  
5:00 PM

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

**Against:** None

**Abstain:** None

7. **MATTERS FROM STAFF**
8. **MATTERS FROM THE COMMITTEE**
9. **MATTERS FROM THE CHAIR**
10. **NEXT MEETING: Monday, May 17, 2021**
11. **ADJOURN**

Meeting adjourned 5:34pm.

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Liaison

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Chair



# City of Santa Fe New Mexico

## Memorandum



**Date:** May 14, 2021

**To:** Quality of Life Committee, Finance Committee, and Governing Body

**From:** Brian Williams, Emergency Manager <sup>BW</sup>  
Jennifer Faubion, Council Liaison <sub>JF</sub>

**Via:** Kyra Ochoa, Community Health and Safety Department Director <sup>KO</sup>  
<sub>KO</sub>

**RE:** RCLC Withdrawal

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### EXECUTIVE SUMMARY:

The proposed Resolution withdraws the City of Santa Fe as a member of the Regional Coalition of LANL Communities (“RCLC”) pursuant to subsection 10(C) of the Joint Powers Agreement.

### BACKGROUND:

Founded in 2011, the RCLC is an organization comprised of elected and tribal officials representing their local communities. The stated purpose of the organization is to advocate for local needs and interests as they relate to LANL. RCLC members include: City of Española, Los Alamos County, Ohkay Owingeh, Pueblo of Jemez, Rio Arriba County, Santa Fe County, City of Santa Fe, Taos County, Town of Taos. Members pay dues each year based on the percentage of lab workers that live in the members’ jurisdictions, as determined in 2011, to help fund the activities and management of the organization. The City of Santa Fe has paid \$10,000 each year since 2011.

The RCLC came under scrutiny when the organization lost approximately half of its total funding when the Department of Energy withdrew a large grant and a state audit in August 2018 identified 18 negative findings including potential non-compliance with the grant, specifically regarding prohibited lobbying and unauthorized spending while on trips to Washington DC. In the months and years following, the RCLC faced significant leadership problems, being without an executive director or a fiscal agent for over 6 months in 2020-2021. Additionally, the Santa Fe Governing Body voted not to approve the updated Joint Powers Agreement in March 2021.

There have been questions and concerns from constituents, elected officials, and other community leaders over RCLC’s transparency, use of funds, impact, and added value to the member communities that comprise the group.

### ATTACHMENTS:

Resolution  
Fiscal Impact Report

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**CITY OF SANTA FE, NEW MEXICO**

**RESOLUTION NO. 2021-\_\_**

**INTRODUCED BY:**

Councilor Renee Villarreal

**A RESOLUTION**

**WITHDRAWING THE CITY OF SANTA FE AS A MEMBER OF THE REGIONAL COALITION OF LANL COMMUNITIES (RCLC).**

**WHEREAS**, the City of Santa Fe (“City”) has spent \$100,000 in membership dues and invested hundreds of City Councilors’ hours in the Regional Coalition of LANL Communities (“RCLC”) since the RCLC’s inception in 2011; and

**WHEREAS**, the Governing Body has not been given regular updates on the work, focus, and impact of the RCLC, despite Councilors’ requests for updates, presentations, and/or reports; and

**WHEREAS**, while the RCLC promotes itself as an effective advocate for “mission diversification and accelerated cleanup at the Los Alamos National Laboratory”, according to Los Alamos National Laboratory’s (“LANL”) congressional budget requests, LANL’s nuclear weapons budget has increased from 61% of the total budget in 2011 to 78% in 2021, and the budget-share of environmental management dropped from 11% to 1% over the same period; and

**WHEREAS**, the RCLC supported a 2016 Consent Order that governs waste cleanup,

1 replacing a 2005 Consent Order, that allows the Department of Energy (“DOE”) to direct which  
2 sites need cleanup, the standards for the cleanup campaigns, and the campaigns’ completion  
3 schedules based on their funding allocations from Congress, and to extend cleanup deadlines based  
4 on the cost or complexity of the project, removing the enforcement authority of the New Mexico  
5 Environment Department to identify needed cleanup projects and set and monitor the schedule for  
6 completion; and

7         **WHEREAS**, the New Mexico Environment Department filed a civil lawsuit in February  
8 2021 against the DOE for non-compliance of the 2005 and 2016 Consent Orders citing a  
9 “continuing pattern of delay and noncompliance” in its failure to meet agreed-upon milestones of  
10 legacy waste cleanup and is demanding the 2016 Consent Order be terminated and replaced with a  
11 new Order through a court-supervised process; and

12         **WHEREAS**, despite documented non-compliance and delay of cleanup orders outlined in  
13 the 2005 and 2016 Consent Orders, the DOE proposed to cut the LANL cleanup budget by 46% in  
14 FY 2021 (\$220M to \$120M), as shown in its official Congressional Budget Request; and

15         **WHEREAS**, according to a 2016 analysis completed by watchdog group Nuclear Watch  
16 New Mexico using publicly available LANL documents and data, the DOE plans to leave  
17 approximately 690,251 cubic meters of waste permanently buried in unlined pits and trenches that,  
18 without comprehensive cleanup, has the potential to threaten a regional sole-source aquifer that  
19 provides drinking water for San Ildefonso Pueblo, Española, Los Alamos, and Santa Fe, among  
20 other communities; and

21         **WHEREAS**, according to a 2018 DOE Office of Environmental Management document,  
22 DOE claims that cleanup at LANL is more than 50% complete, omitting from its calculations all  
23 of the radioactive waste that it plans to leave buried, a fact which the RCLC has not challenged;  
24 and

25         **WHEREAS**, while the RCLC’s language in the proposed restated Joint Powers Agreement

1 (“JPA”) calls for “promotion of new missions for LANL that the citizens of the Coalition’s  
2 members support,” there is no evidence that the RCLC has had success in the past in directing  
3 LANL away from its primary mission of expanded production of plutonium pit bomb cores that  
4 will dominate its future as a growing nuclear weapons production site and create more radioactive  
5 waste and contamination; and

6 **WHEREAS**, while the RCLC’s language in the proposed restated JPA says that “the  
7 Parties share a common interest in assuring that LANL’s missions remain sustainable and  
8 diversified”, there is no evidence that the RCLC has had success in shaping LANL’s priorities and  
9 missions which are, as evidenced by LANL’s funding requests, contradictory to recent policy  
10 statements and various City resolutions unanimously passed by the Governing Body calling for  
11 comprehensive cleanup, no expansion of pit production until chronic nuclear safety problems are  
12 resolved, and a new site-wide environmental impact statement that, among other things, would  
13 address wildfire protection; and

14 **WHEREAS**, the following resolutions establish the City’s past and current position  
15 regarding LANL:

16 1. Resolution No. 2010-91 calling for “a new complete EIS” to “reassure the citizens  
17 of Santa Fe that the safety and environmental issues entailed in this growing project are being  
18 planned for in a careful and comprehensive way”;

19 2. Resolutions Nos. 2003-64, 2006-104, 2008-17, and 2017-76 opposing expansion  
20 of plutonium pit production at LANL until all safety issues are resolved and calling for  
21 comprehensive cleanup of legacy wastes;

22 3. Resolution No. 2017-76 that specifically documented eight nuclear safety  
23 incidences at LANL, including a 2017 National Nuclear Safety Administration (“NNSA”) report  
24 to the independent Defense Nuclear Facilities Safety Board (“DNFSB”) that found that LANL was  
25 the only nuclear weapons production suite that did not meet expectations in the functional area of

1 criticality safety expectations; and

2 4. Resolution No. 2021-10 requesting that “the National Nuclear Security  
3 Administration prepare and complete a new site-wide environmental impact statement for Los  
4 Alamos National Laboratory before expanding plutonium pit production at the facility”; and

5 **WHEREAS**, the RCLC has struggled with inconsistent leadership, financial  
6 mismanagement, and transparency, as indicated by:

7 1. the lack of a consistent Executive Director for over a year;

8 2. the findings of the New Mexico State Auditor, in a 2018 special audit, that the  
9 RCLC improperly spent \$51,519.45 in expenditures paid by the RCLC to governing board  
10 members, former Executive Directors, and third parties from July 1, 2014 through June 30, 2018;  
11 and

12 3. the lack of a designated fiscal agent to guarantee the proper use of taxpayers’  
13 dollars; and

14 **WHEREAS**, the Governing Body did not approve the proposed, amended, and restated  
15 JPA on March 31, 2021; and

16 **WHEREAS**, according to its official website hosted by the U.S. Office of Environmental  
17 Management, the Northern New Mexico Citizens' Advisory Board (“NNMCAB”) “is a community  
18 advisory group that was chartered in 1997 [by the DOE] to provide citizen input to the U.S.  
19 Department of Energy on issues of environmental monitoring, remediation, waste management,  
20 and long-term environmental stewardship at LANL” whose mission “is to provide meaningful  
21 opportunities for collaborative dialogue among the diverse multicultural communities of Northern  
22 New Mexico, the DOE, LANL, and state and federal regulatory agencies”; and

23 **WHEREAS**, according to its official website hosted by the U.S. Office of Environmental  
24 Management, NNMCAB's responsibilities include “providing advice and recommendations on  
25 DOE Environmental Management programs regarding clean-up standards and environmental

1 restoration, waste management and disposition, monitoring and surveillance, outreach, future land  
2 use and long-term environmental stewardship, and associated environmental issues.”

3 **NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE**  
4 **CITY OF SANTA FE** that, pursuant to Section 10(C) of the Joint Powers Agreement, the City  
5 withdraws as a member of the Regional Coalition of LANL Communities.

6 **BE IT FURTHER RESOLVED** that the City Manager work with the County of Santa Fe  
7 to begin exploring ways to accelerate LANL’s cleanup through the powers of the Buckman Direct  
8 Diversion Project Board.

9 **BE IT FURTHER RESOLVED** that the City Manager reach out to the County of Santa  
10 Fe, other current RCLC members, and the NNM CAB, to begin exploring ways to create a new  
11 regional coalition that considers more holistic and balanced ways that LANL can be a regional and  
12 economic partner, while supporting independent, sustainable, and clean industries such as green  
13 energy and legacy nuclear waste cleanup, that do not rely upon expanded nuclear weapons  
14 production and take into serious consideration the health and well-being of the community and the  
15 environment.

16 **BE IT FURTHER RESOLVED** that the City seek reimbursement of the 2021 annual  
17 membership dues already paid to the RCLC.

18 **BE IT FURTHER RESOLVED** that the City Clerk send a copy of this Resolution to all  
19 members of the RCLC, the Board Chair of RCLC, the Department of Finance and Administration,  
20 and the New Mexico Congressional delegation.

21 PASSED, APPROVED, and ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2021.

22  
23  
24 \_\_\_\_\_  
25 ALAN WEBBER, MAYOR

1 ATTEST:

2

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\_\_\_\_\_

4 KRISTINE MIHELICIC, CITY CLERK

5 APPROVED AS TO FORM:

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\_\_\_\_\_

8 ERIN K. McSHERRY, CITY ATTORNEY

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25 *Legislation/2021/Resolutions/RCLC Withdrawal*

## FISCAL IMPACT REPORT

**General Information:**

(Check) Bill: \_\_\_\_\_ Resolution:   X  

Short Title(s): RCLC Withdrawal

Sponsor(s): Councilor Villarreal

Reviewing Department(s): Community Health and Safety Department

Staff Completing FIR: Jennifer Faubion and Brian Williams Date: 4/23/21 Phone: 505-955-6033

Reviewed by City Attorney:  Date: May 16, 2021

Reviewed by Finance Director:  Date: May 17, 2021  
Alexis Lotero (May 17, 2021 08:51 MDT)

**Summary:**

The proposed Resolution withdraws the City of Santa Fe (“City”) as a member of the Regional Coalition of LANL Communities (“RCLC”), of which the City has been a member since the RCLC’s founding in 2011.

**Departments Affected:**

Community Health and Safety Department – Office of Emergency Management.

**Consequences of Not Enacting Legislation:**

The City would remain as a member of the RCLC and will continue to pay membership dues.

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

Although not legislation, the Governing Body recently rejected changes to the RCLC Joint Powers Agreement (“JPA”).

**Performance and Administrative Implications:**

City employees do not work directly with the RCLC. If this Resolution is adopted, the City Council member appointed to sit on the RCLC will no longer represent the City as a member. Additionally, the Resolution charges the City to “reach out to the County of Santa Fe and other current RCLC partners to begin exploring ways to create a new regional coalition.” This will require significant staff time and effort, but the exact staff hours are undetermined at this time.

**Fiscal Implications:**

The City would not pay the \$10,000 in annual dues to the RCLC. The dues the City pays are based on the percentage of LANL employees that live within the city of Santa Fe, though the calculation has not changed since the RCLC was first established in 2011.

**Fiscal Impact**

\_\_\_\_\_ Check here if no fiscal impact

**Expenditures**

<b>Expenditure Type</b>	<b>FYE 21</b>	<b>FYE 22</b>	<b>FYE 23</b>	<b>Require BAR (Y/N)</b>	<b>Recurring (R) or Non-recurring (NR)</b>	<b>Fund</b>	<b>3-Year Total Cost</b>
Personnel and	\$ _____	\$ _____	\$ _____	_____	_____	_____	
Benefits*							
Dues	\$ <10,000>	\$ <10,000>	\$ <10,000>	_____	R	_____	
Contractual/	\$ _____	\$ _____	\$ _____		_____	_____	
Professional Services							
Operating	\$ _____	\$ _____	\$ _____		_____	_____	\$ _____
Total:	\$ <10,000>	\$ <10,000>	\$ <10,000>				\$ <30,000>

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

**Expenditure Narrative:**

**The City will not spend the \$10,000 in annual dues it currently pays to the RCLC. This resolution will require a currently undetermined amount of staff hours required to explore a new coalition.**

**Revenue**

<b>Revenue Type</b>	<b>FYE __</b>	<b>FYE __</b>	<b>FYE __</b>	<b>Recurring (R) or Non-recurring (NR)</b>	<b>Fund</b>
General Fund	\$ _____	\$ _____	\$ _____	_____	_____
Special Revenue	\$ _____	\$ _____	\$ _____	_____	_____
CIP	\$ _____	\$ _____	\$ _____	_____	_____
Enterprise	\$ _____	\$ _____	\$ _____	_____	_____
Internal Service	\$ _____	\$ _____	\$ _____	_____	_____
Trust and Agency	\$ _____	\$ _____	\$ _____	_____	_____
Federal	\$ _____	\$ _____	\$ _____	_____	_____
Other	\$ _____	\$ _____	\$ _____	_____	_____
Total	\$ _____	\$ _____	\$ _____		

**Revenue Narrative:**

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**Signature:** *Brian Williams*  
Brian Williams (May 14, 2021 10:01 MDT)

**Email:** bgwilliams@santafenm.gov

**Signature:** *Jennifer Faubion*  
Jennifer Faubion (May 14, 2021 10:22 MDT)

**Email:** jrfaubion@santafenm.gov

**Signature:** *Kyra Choia*  
Kyra Choia (May 15, 2021 18:30 MDT)

**Email:** krochoa@santafenm.gov

**ACTION SHEET**  
**ITEM FROM QUALITY OF LIFE COMMITTEE MEETING OF 05/05/2021**  
**FOR CITY COUNCIL MEETING OF 05/26/2021**

**ISSUE:**

CONSIDERATION OF RESOLUTION NO. 2021- \_\_. (Councilor Villarreal) A Resolution Withdrawing the City of Santa Fe as a Member of the Regional Coalition of LANL Communities (RCLC). (Jennifer Faubion, Council Liaison: jrfaubion@santafenm.gov, 955-6033)

**COMMITTEE REVIEW:**

Introduced: 3/31/21

Quality of Life Committee: 5/5/21

Finance Committee: 5/17/21

Governing Body: 5/26/21

**QUALITY OF LIFE COMMITTEE ACTION:** Approved on discussion. Councilor Garcia moved this item from the consent agenda to the discussion agenda. Councilor Garcia abstained from voting as he is the Santa Fe representative on the RCLC.

**SPECIAL CONDITIONS OR AMENDMENTS:**

**SEND TO:**

Finance Committee; Governing Body

<b>VOTE</b>	<b>FOR</b>	<b>AGAINST</b>	<b>ABSTAIN</b>
CHAIRPERSON ROMERO-WIRTH	X		
COUNCILOR VILLARREAL	X		
COUNCILOR RIVERA	X		
COUNCILOR GARCIA			X
COUNCILOR CASSUTT-SANCHEZ	X		



# City of Santa Fe New Mexico

## Memorandum



**Date:** March 24, 2021

**To:** Public Works/Utilities Committee: March 29, 2021  
Finance Committee: April 5, 2021  
Governing Body Meeting: April 14, 2021

**From:** Janice Krish, Economic Development Specialist *JK*

**CC:** Rich Brown, Director - Community and Economic Development Department *RB*

**RE:** Santa Fe Business Incubator Renewal Agreement

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### ITEM AND ISSUE:

The Santa Fe Business Incubator (SFBI) uses best practices in incubation to develop primarily high-wage, high-growth businesses that attract capital, revenue and broaden the local tax base. SFBI is located in the south side of Santa Fe at the corner of Airport Road and Paseo del Sol; SFBI provides incubation services to a variety of industry sector startups, which also includes a bioscience lab, entrepreneurship HUB and a community co-working space. This is a three-year and two month contract renewal and brings a total investment in local entrepreneurship growth to \$700,000.

### BACKGROUND AND SUMMARY:

The City of Santa Fe's Economic Development Plan (the Angelou Plan), adopted in 2004, set a key goal of diversifying Santa Fe's economy. In 2012, a strategic update was completed through the City Business and Quality of Life Committee. The update focuses on entrepreneurship and business retention and expansion as a means of strengthening local business and the local economy. In December 2020 a 'Small Business Services' Invitation to Bid (ITB 21/21/B) was issued to achieve the goals of the economic development plan and implementation strategy that focused on business development/entrepreneurship. The SFBI was the sole bidder and has been a past key partner in the City's small business development. The proposal was selected based on their potential to continue to diversify Santa Fe's economy.

This program will assist early stage businesses to launch, grow and prosper in Santa Fe. The SFBI provides business training, mentoring, coaching and workshops and connects client companies to sources of capital.

### ACTION REQUESTED:

The Economic Development Department recommends moving forward with the Santa Fe Incubator contract, since it will help fulfill the City's economic development mission to increase economic diversification and launch new businesses as we recover from the pandemic. The funding source for this contract is 2122800.510340. Munis Contract# 3202604.

**ATTACHMENTS:**

Small Business Development Services City Contract procurement packet



# City of Santa Fe

## Real Estate Summary of Contracts, Agreements, Amendments & Leases

### Section to be completed by department

1. Munis Contract # 3202604

Contractor: Santa Fe Business Incubator

Description: **SFBI provides incubation services to a variety of industry sector startups, which also includes a bioscience lab, entrepreneurship HUB and a community co-working space**

Contract  Agreement  Lease / Rent  Amendment

Term Start Date: When signed Term End Date: 6/30/2025

Approved by Council Date: \_\_\_\_\_

### Contract / Lease:

Amendment # \_\_\_\_\_ to the Original Contract / Lease # \_\_\_\_\_

Increase/(Decrease) Amount \$ \_\_\_\_\_

Extend Termination Date to: \_\_\_\_\_

Approved by Council Date: \_\_\_\_\_

### Amendment is for:

2. **HISTORY of Contract, Amendments & Lease / Rent - Please Elaborate** (option: attach spreadsheet if multiple amendments)

**Total compensation shall not exceed \$700,000. Contractor shall be paid \$175,000 per year.**

3. Procurement History: ITB/21/21/B

*Iron Duro*  
Fran Duro (Apr 28, 2021 17:12 MDT)

Purchasing Officer Review: \_\_\_\_\_ Date: Apr 28, 2021

Comment & Exceptions: amendment to ITB #21/21/B

4. Funding Source: Economic Development Fund Org / Object: 2122800.510340

*Alexis Lotero*  
Alexis Lotero (Apr 22, 2021 14:51 MDT)

Budget Officer Approval: \_\_\_\_\_ Date: Apr 22, 2021

Comment & Exceptions: \_\_\_\_\_

Staff Contact who completed this form: Jessica Sandoval Phone # 505-955-6334

Email: jmsandoval@santafenm.gov

### To be recorded by City Clerk:

Clerk # \_\_\_\_\_

Date of Execution: \_\_\_\_\_



# CITY OF SANTA FE PROCUREMENT CHECKLIST

Contractor Name: Santa Fe Business Incubator

Procurement Title: Incubation Services - Workforce Development

Procurement Method: State Price Agreement  Cooperative  Sole Source  Other

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

Department Requesting Community & Econ Dvlpt Staff Name Janice Krish

### Procurement Requirements:

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

### REQUIRED DOCUMENTS FOR APPROVAL BY PURCHASING\*

YES N/A

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

Jessica Sandoval Admn Mangager 03/23/2021

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

  
Fran Duway (Apr 28, 2021 7:12 MDT)

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

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

Item# \_\_\_\_\_  
Munis Contract# \_\_\_\_\_

City of Santa Fe Contract  
Small Business Development Services

THIS AGREEMENT is made and entered into by and between the City of Santa Fe, herein after referred to as the "City", and Santa Fe Business Incubator herein after referred to as the "Contractor."

**IT IS MUTUALLY AGREED BETWEEN THE PARTIES:**

1. **Definitions**

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

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

C. "You" and "your" refers to Santa Fe Business Incubator. "We," "us" or "our" refers to the City and whose accounts are created under this Agreement.

2. **Scope of Work**

The Contractor shall provide services to support and cultivate business creation and growth which leads to job creation and the diversification and strengthening of the Santa Fe economy.

The Contractor shall provide business incubation services for the City, including the following:

A. A program to assist early stage businesses to launch, grow and prosper in Santa Fe and regularly measure and track program effectiveness.

1) Business training, mentoring, coaching and workshops directly and/or in collaboration with other business development service providers.

2) Connect client companies to sources of capital, such as loan programs, Angel funding, venture capital, research grants, individual investors and other programs and resources.

B. A program to assist and encourage individuals interested in starting a business by providing: general assistance as appropriate, connections to other entrepreneurs, collateral materials and referrals to business resources.

- C. Professional facility and shared infrastructure for early stage businesses, including office and light production spaces, meetings rooms, common areas, shared equipment, telecommunications and high-speed internet service and/or access.
- D. Operation of the shared bioscience laboratory.
- E. Promote and market SFBI and its available services and the activities of client companies through a SFBI website, social media, traditional media, outreach and presentations, and other activities and communications highlighting news and activities and SFBI and client companies.
- F. Work collaboratively with other key community economic development entities to provide additional assistance and resources for clients, and refer clients to other appropriate resources and programs in the community as needed.
- G. In order to help further a city wide effort to understand the local entrepreneurial and workforce community, programs and constituent needs, when possible SFBI agrees to align their non-confidential data collection with the city's program.
- H. Provide metrics and reports in accordance with the scope of work and continue to coordinate with the City Office of Economic Development to provide such data and reports.
- I. Provide quarterly reports which include economic impact information and the following:
  - (1) The number of client companies/entrepreneurs assisted including SFBI client-tenants, affiliate client-members, and other program participants. Include the number of new clients/members and graduates.
  - (2) Number of new jobs added by clients/members. These shall be measured according to full-time annual equivalency.
  - (3) Sales and revenue, and the amount of investment attached and loans received as reported by SFBI clients/members.
  - (4) Note observations in business assistance requests and referrals, including common types of technical assistance needed (ie: concept development; financing; workforce; marketing; etc.).
  - (5) Develop and distribute surveys and feedback mechanisms for program participants to obtain input on program topics and client needs.
  - (6) Identify general industry sectors of clients/members and affiliates.

- (7) Notable changes or additions to facility or infrastructure including rental spaces, shared equipment, or other. Any notable information about demand for infrastructure services provided or needed.
- (8) SFBI shall provide information on any notable changes to the program.
- (9) Any other notable highlights, relevant trends, client service outcomes and developments regarding client companies and SFBI.

J. Provide an annual report (inclusive of the 4<sup>th</sup> quarter report). In addition to the quarterly report metrics, key metrics shall be gathered on an annual basis and aggregated in the 4<sup>th</sup> quarter report. Provide an annual impact presentation that will be submitted to the Economic Development Advisory Council (EDAC).

3. **Compensation**

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

Deliverable item:	U/I (unit of issue)	Price
01	Annual Report	\$175,000

The total compensation under this Agreement shall not exceed [\$700,000] including New Mexico gross receipts tax. The Contractor will bill annually for first fiscal year FY21 for a total amount of up to \$175,000 and in periods FY22 to FY24 on a quarterly basis, for a total annual amount of \$175,000 per fiscal year.

4. **Payment Provisions**

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

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

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

5. **Term**

THIS AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED IN WRITING BY THE CITY. This Agreement shall begin on date approved by the City, and end on June 30, 2025. The City reserves the right to renew the contract on an annual basis by mutual Agreement not exceed a total of four years in accordance with NMSA 1978, §§ 13-1-150 through 152.

6. **Default and Force Majeure**

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

7. **Termination**

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

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

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

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

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

C. Liability. Except as otherwise expressly allowed or provided under this Agreement, the City's sole liability upon termination shall be to pay for acceptable work performed prior to the Contractor's receipt or issuance of a notice of termination; provided, however, that a notice of termination shall not nullify or otherwise affect either party's liability for pre-termination defaults under or breaches of this Agreement. The Contractor shall submit an invoice for such work within thirty (30) days of receiving or sending the notice of termination. *THIS PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE THE CITY'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THIS AGREEMENT.*

## 8. Amendment

A. This Agreement shall not be altered, changed or amended except by instrument in writing executed by the parties hereto and all other required signatories.

B. If the City proposes an amendment to the Agreement to unilaterally reduce funding due to budget or other considerations, the Contractor shall, within thirty (30) days of receipt of the proposed Amendment, have the option to terminate the Agreement, pursuant to the termination provisions as set forth in Paragraph 7 herein, or to agree to the reduced funding.

## 9. Status of Contractor

The Contractor, and Contractor's agents and employees, are independent Contractors for the City and are not employees of the City. The Contractor, and Contractor's agents and employees, shall not accrue leave, retirement, insurance, bonding, use of City vehicles, or any other benefits afforded to employees of the City as a result of this Agreement. The Contractor acknowledges that all sums received hereunder are personally reportable by the Contractor for income tax purposes, including without limitation, self-employment tax and business income tax. The Contractor agrees not to purport to bind the City unless the Contractor has written authority to do so, and then only within the strict limits of that authority.

10. **Assignment**

The Contractor shall not assign or transfer any interest in this Agreement or assign any claims for money due or to become due under this Agreement without the prior written approval of the City.

11. **Subcontracting**

The Contractor shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of the City. No such subcontract shall relieve the primary Contractor from its obligations and liabilities under this Agreement, nor shall any subcontract obligate direct payment from the City.

12. **Non-Collusion**

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

13. **Inspection of Plant**

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

14. **Commercial Warranty**

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

15. **Condition of Proposed Items**

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

16. **Records and Audit**

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

payment. Payment under this Agreement shall not foreclose the right of the City to recover excessive or illegal payments.

17. **Appropriations**

The terms of this Agreement, and any orders placed under it, are contingent upon sufficient appropriations and authorization being made by the City Council for the performance of this Agreement. If sufficient appropriations and authorization are not made by the legislature, this Agreement, and any orders placed under it, shall terminate upon written notice being given by the City to the Contractor. The City's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. If the City proposes an amendment to the Agreement to unilaterally reduce funding, the Contractor shall have the option to terminate the Agreement or to agree to the reduced funding, within thirty (30) days of receipt of the proposed amendment.

18. **Release**

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

19. **Confidentiality**

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

20. **Conflict of Interest**

A. The Contractor represents and warrants that it presently has no interest and, during the term of this Agreement, shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under the Agreement. The Contractor shall comply with any applicable provisions of the New Mexico Governmental Conduct Act and the New Mexico Financial Disclosures Act.

B. The Contractor further represents and warrants that it has complied with, and, during the term of this Agreement, will continue to comply with, and that this Agreement complies with all applicable provisions of the Governmental Conduct Act, Chapter 10, Article 16 NMSA 1978.

C. Contractor's representations and warranties in Paragraphs A and B of this Paragraph are material representations of fact upon which the City relied when this Agreement was entered into by the parties. Contractor shall provide immediate written notice to the City if, at any time during the term of this Agreement, Contractor learns that Contractor's

representations and warranties in Paragraphs A and B of this Paragraph 20 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances. If it is later determined that Contractor's representations and warranties in Paragraphs A and B of this Paragraph 20 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances, in addition to other remedies available to the City and notwithstanding anything in the Agreement to the contrary, the City may immediately terminate the Agreement.

D. All terms defined in the Governmental Conduct Act have the same meaning in this section.

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

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

22. **Scope of Agreement; Merger**

This Agreement incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements and understandings have been merged into this written Agreement. No prior agreements or understandings, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

23. **Notice**

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

24. **Equal Opportunity Compliance**

The Contractor agrees to abide by all federal and state laws, and local Ordinances, pertaining to equal employment opportunity. In accordance with all such laws, rules, and regulations, the Contractor agrees to assure that no person in the United States shall on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, or serious medical condition, spousal affiliation, sexual orientation or gender identity, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed under this Agreement. If Contractor is found not to be in compliance with these requirements during the life of this Agreement, Contractor agrees to take appropriate steps to correct these deficiencies.

25. **Indemnification**

The Contractor shall hold the City and its employees harmless and shall indemnify the

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

26. **New Mexico Tort Claims Act**

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

27. **Applicable Law**

The laws of the State of New Mexico shall govern this Agreement, without giving effect to its choice of law provisions. Venue shall be proper only in a New Mexico court of competent jurisdiction in accordance with NMSA 1978, § 38-3-1 (G). By execution of this Agreement, Contractor acknowledges and agrees to the jurisdiction of the courts of the State of New Mexico over any and all lawsuits arising under or out of any term of this Agreement.

28. **Limitation of Liability**

The Contractor's liability to the City, for any cause whatsoever shall be limited to the purchase price paid to the Contractor for the products and services that are the subject of the City's, claim. The foregoing limitation does not apply to paragraph 25 of this Agreement or to damages resulting from personal injury caused by the Contractor's negligence.

29. **Incorporation by Reference and Precedence**

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

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

30. **Workers' Compensation**

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

31. **Inspection**

If this contract is for the purchase of tangible personal property (goods), final inspection and acceptance shall be made at Destination. Tangible personal property rejected at Destination for non-conformance to specifications shall be removed at Contractor's risk and expense promptly after notice of rejection and shall not be allowable as billable items for payment.

32. **Inspection of Services**

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

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

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

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

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

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

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

E. If the Contractor fails to promptly re-perform the services or to take the necessary action(s) to ensure future performance in conformity with the requirements of this Agreement, the City may:

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

(2) terminate the contract for default.

33. **Insurance**

If the services contemplated under this Agreement will be performed on or in City facilities or property, Contractor shall maintain in force during the entire term of this Agreement, the following insurance coverage(s), naming the City as additional insured.

**A. Commercial General Liability** insurance shall be written on an occurrence basis and be as broad as ISO Form CG 00 01 with limits not less than \$2,000,000 per occurrence and \$2,000,000 in the aggregate for claims against bodily injury, personal and advertising injury, and property damage. Said policy shall include broad form Contractual Liability coverage and be endorsed to name the City of Santa Fe their officials, officers, employees, and agents as additional insureds.

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

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

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

34. **Impracticality of Performance**

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

35. **Invalid Term or Condition**

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

36. **Enforcement of Agreement**

A party's failure to require strict performance of any provision of this Agreement shall not

waive or diminish that party's right thereafter to demand strict compliance with that or any other provision. No waiver by a party of any of its rights under this Agreement shall be effective unless express and in writing, and no effective waiver by a party of any of its rights shall be effective to waive any other rights.

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

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

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

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

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

38. **Survival**

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

39. **Disclosure Regarding Responsibility**

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

body.

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

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

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

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

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

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

The City may, without cause, order the Contractor, in writing, to suspend, delay or interrupt the work in whole or in part for such period of time as the City may determine. The contract sum and contract time shall be adjusted for increases in cost and/or time associated with Contractor's compliance therewith. Upon receipt of such notice, Contractor shall leave the jobsite and any equipment in a safe condition prior to departing. Contractor must assert rights to additional compensation within thirty (30) days after suspension of work is lifted and return to work is authorized. Any compensation requested for which entitlement is granted and the contract sum adjusted, shall have profit included (for work completed) and for cost only (not profit) for Contractor costs incurred directly tied to the suspension itself and not otherwise

covered by Contract remedy. Any change in Total Compensation must be reflected in an Amendment executed pursuant to Section 8 of this Agreement.

41. **Notification**

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

To the City:

City of Santa Fe  
Janice Krish, Economic Development  
500 Market Street  
Santa Fe, NM 87501

To the Contractor:

Santa Fe Business Incubator  
Marie Longserre, President & CEO  
3900 Paseo del Sol  
Santa Fe, NM 87507

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

42. **Succession**

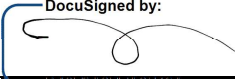
This Agreement shall extend to and be binding upon the successors and assigns of the parties.

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

CITY OF SANTA FE:

CONTRACTOR:  
Santa Fe Business Incubator

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

DocuSigned by:  
  
\_\_\_\_\_  
D1DF9A37EA3642A...  
Marie Longserre  
President & CEO

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

DATE: 3/31/2021  
CRS# 02-283987-00-9  
Registration # 222403

ATTEST:

\_\_\_\_\_  
KRISTINE BUSTOS MIHELICIC, CITY CLERK

CITY ATTORNEY'S OFFICE:

Marcos Martinez  
\_\_\_\_\_  
Marcos Martinez (Mar 29, 2021 14:00 MDT)  
SENIOR ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

\_\_\_\_\_  
MARY MCCOY, FINANCE DIRECTOR

2122800.510340 AL  
Org.Name/Org.# AL



SANTFEB-06

AQUEZADA

# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

3/22/2021

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

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

<b>PRODUCER</b> License # 0757776 <b>HUB International Insurance Services (SOW)</b> 2905 Rodeo Park Drive East Building 6, Suite 100 Santa Fe, NM 87505	<b>CONTACT NAME:</b> Adrian Quezada <b>PHONE (A/C, No, Ext):</b> _____ <b>FAX (A/C, No):</b> _____ <b>E-MAIL ADDRESS:</b> adrian.quezada@hubinternational.com  <table style="width: 100%;"> <tr> <td style="text-align: center;"><b>INSURER(S) AFFORDING COVERAGE</b></td> <td style="text-align: center;"><b>NAIC #</b></td> </tr> <tr> <td><b>INSURER A : Selective Insurance Company of America</b></td> <td><b>12572</b></td> </tr> <tr> <td><b>INSURER B :</b></td> <td></td> </tr> <tr> <td><b>INSURER C :</b></td> <td></td> </tr> <tr> <td><b>INSURER D :</b></td> <td></td> </tr> <tr> <td><b>INSURER E :</b></td> <td></td> </tr> <tr> <td><b>INSURER F :</b></td> <td></td> </tr> </table>	<b>INSURER(S) AFFORDING COVERAGE</b>	<b>NAIC #</b>	<b>INSURER A : Selective Insurance Company of America</b>	<b>12572</b>	<b>INSURER B :</b>		<b>INSURER C :</b>		<b>INSURER D :</b>		<b>INSURER E :</b>		<b>INSURER F :</b>	
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<b>INSURED</b>  <b>Santa Fe Business Incubator Inc</b> 3900 Paseo Del Sol Santa Fe, NM 87507															

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

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS																					
<b>A</b>	<input checked="" type="checkbox"/> <b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER: _____	<b>X</b>		<b>S 2304127</b>	<b>11/18/2020</b>	<b>11/18/2021</b>	<table style="width: 100%;"> <tr><td>EACH OCCURRENCE</td><td style="text-align: right;">\$</td><td style="text-align: right;"><b>1,000,000</b></td></tr> <tr><td>DAMAGE TO RENTED PREMISES (Ea occurrence)</td><td style="text-align: right;">\$</td><td style="text-align: right;"><b>500,000</b></td></tr> <tr><td>MED EXP (Any one person)</td><td style="text-align: right;">\$</td><td style="text-align: right;"><b>15,000</b></td></tr> <tr><td>PERSONAL &amp; ADV INJURY</td><td style="text-align: right;">\$</td><td style="text-align: right;"><b>1,000,000</b></td></tr> <tr><td>GENERAL AGGREGATE</td><td style="text-align: right;">\$</td><td style="text-align: right;"><b>2,000,000</b></td></tr> <tr><td>PRODUCTS - COMP/OP AGG</td><td style="text-align: right;">\$</td><td style="text-align: right;"><b>2,000,000</b></td></tr> <tr><td></td><td style="text-align: right;">\$</td><td></td></tr> </table>	EACH OCCURRENCE	\$	<b>1,000,000</b>	DAMAGE TO RENTED PREMISES (Ea occurrence)	\$	<b>500,000</b>	MED EXP (Any one person)	\$	<b>15,000</b>	PERSONAL & ADV INJURY	\$	<b>1,000,000</b>	GENERAL AGGREGATE	\$	<b>2,000,000</b>	PRODUCTS - COMP/OP AGG	\$	<b>2,000,000</b>		\$	
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<b>A</b>	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y / N If yes, describe under DESCRIPTION OF OPERATIONS below		<b>N / A</b>	<b>WC9075420</b>	<b>10/26/2020</b>	<b>10/26/2021</b>	<table style="width: 100%;"> <tr> <td style="text-align: center;">PER STATUTE</td> <td style="text-align: center;">OTH-ER</td> <td></td> </tr> <tr><td>E.L. EACH ACCIDENT</td><td style="text-align: right;">\$</td><td style="text-align: right;"><b>500,000</b></td></tr> <tr><td>E.L. DISEASE - EA EMPLOYEE</td><td style="text-align: right;">\$</td><td style="text-align: right;"><b>500,000</b></td></tr> <tr><td>E.L. DISEASE - POLICY LIMIT</td><td style="text-align: right;">\$</td><td style="text-align: right;"><b>500,000</b></td></tr> </table>	PER STATUTE	OTH-ER		E.L. EACH ACCIDENT	\$	<b>500,000</b>	E.L. DISEASE - EA EMPLOYEE	\$	<b>500,000</b>	E.L. DISEASE - POLICY LIMIT	\$	<b>500,000</b>									
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DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

**CERTIFICATE HOLDER****CANCELLATION**

City of Santa Fe 20 Lincoln Avenue Santa Fe, NM 87504-0909	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.  AUTHORIZED REPRESENTATIVE 
--	---

**City of Santa Fe**

**Invitation to Bid**

**Agreement**

**Small Business Development Services**

**ITB # 21/21/B**

**NIGP Commodity Code: 91820**

**Bid Due Date and Time: December 10, 2020 2:00 PM (MDT/MST)**

Bidder MUST complete as applicable and sign the following in order for the Invitation to Bid (Bid) to be valid (type or print clearly):

Company Name: \_\_\_\_\_ Address: \_\_\_\_\_  
dba (if applicable): \_\_\_\_\_  
Co. Email: \_\_\_\_\_  
Co. Phone No.: \_\_\_\_\_  
NM Gross Receipts Tax # (CRS) \_\_\_\_\_ Federal Tax ID # \_\_\_\_\_

Payment terms: \_\_\_\_\_ (e.g., Net 30. Discount will not be considered in computing the low bid, see “Terms and Conditions”)

F.O.B. Point must be Destination, unless otherwise indicated in the Invitation to Bid.

Contractor’s Delivery: \_\_\_\_\_ (May be considered in the award)

Authorized Signature: \_\_\_\_\_ Print or type name: \_\_\_\_\_  
Signatory Email: \_\_\_\_\_ Phone No: \_\_\_\_\_

\* It is your responsibility as a bidder to ensure your bid is correct and accurate.

No amendment will be issued later than three (3) days prior to the date for receipt of bids, except an amendment withdrawing the bids or one which includes postponement of the date for receipt of bids.

If applicable, Bidder acknowledges receipt of the following amendment(s):  
Amendment No. \_\_\_\_ Dated: \_\_\_\_\_ Amendment No. \_\_\_\_ Dated: \_\_\_\_\_

Bids are subject to the “Terms and Conditions” shown on the attached pages of this document, and any additional bidding instructions or requirements. NOTE: if you decide not to bid, do not return this document.

## **Terms and Conditions** (Unless otherwise specified)

1. **General:** When the City of Santa Fe's Chief Procurement Officer (CPO) or his/her designee approves a purchase document in response to the bid, a binding contract is created.
2. **Variation in Quantity:** No variation in the quantity of any item called for by this order will be accepted unless such variation has been caused by conditions of loading, shipping, packing or allowances in manufacturing process and then only to the extent, if any, specified in this order.
3. **City Furnished Property:** City furnished property shall be returned to the City upon request in the same condition as received except for ordinary wear, tear and modifications ordered hereunder.
4. **Discounts:** Prompt payment discounts will not be considered in computing the low bid.
5. **Inspection:** Final inspection and acceptance will be made at the destination. Tangible Personal Property (goods) rejected at the destination for nonconformance with specifications shall be removed at the Contractor's risk and expense, promptly after notice of rejection.
6. **Commercial Warranty:** The Contractor agrees that the supplies or services furnished under this order shall be covered by the most favorable commercial warranties the Contractor gives for such to any customer for such supplies or services. The rights and remedies provided herein shall extend to the City and are in addition to and do not limit any rights afforded to the City by any other clause of this order. **Contractor agrees not to disclaim warranties of fitness for a particular purpose of merchantability.**
7. **Taxes:** Price shall not include State gross receipts tax or local option tax. Such tax or taxes shall be added at time of invoicing at current rate and shown as a separate item to be paid by the Requesting Department.
8. **Packing, Shipping, and Invoicing:**
  - a. The City's purchasing document number and the Contractor's name, Requesting Department's name and location shall be shown on each packing and delivery ticket, package, bill of lading and other correspondence in connection with the shipments. The Requesting Departments' count will be accepted by the Contractor as final and conclusive on all shipments not accompanied by a packing ticket.
  - b. The Contractor's invoice shall be submitted duly certified and shall contain the following information: order number, description of supplies or services, quantities, unit price and extended totals. Separate invoices shall be rendered for each and every complete shipment.
  - c. Invoices must be submitted to the Requesting Department and NOT to the City Chief Procurement Officer.
9. **Non-Collusion:** In signing this bid the Contractor certifies he/she has not, either directly or indirectly, entered into action in restraint of free competitive bidding in connection with this offer submitted to the CPO or his/her designee.
10. **Nondiscrimination:** Contractor doing business with the City must be in compliance with the Federal Civil Rights Act of 1964 and Title VII of the Act (Rev. 1979) and the Americans with Disabilities Act of 1990 (Public Law 101-336).
11. **Items:** All bid items are to be NEW and of most current production, unless otherwise specified.
12. **Contractor Personnel:** Personnel proposed in the Contractor's written bid to the Requesting Department are considered material to any work performed under this Agreement. Once a Purchase Order or contract has been executed, no changes of personnel will be made by the Contractor without prior written consent of the Requesting Department. Replacement of any Contractor personnel, if approved, shall be with personnel of equal ability, experience, and qualifications. The Contractor will be responsible for any expenses incurred in familiarizing the replacement personnel to insure their being productive to the project immediately upon receiving assignments. Approval of replacement personnel shall not be unreasonably withheld. The Requesting Department shall retain the right to request the removal of any of the Contractor's personnel at any time.
13. **Records and Audit:** The Contractor shall maintain detailed time and expenditure records that indicate the date, time, nature, and cost of services rendered during this Agreement's term and effect, and retain them for a period of three (3) years from the date of final payment under this Agreement. The records shall be subject to inspection by the Requesting Department and the City. The Requesting Department shall have the right to audit billings, both before and after payment.

Payment for services under this Agreement shall not foreclose the right of the Requesting Department to recover excessive or illegal payments.

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

### Important Bidding Information

**Submission of Bid:** Due Date – December 10, 2020 at 2:00 P.M. (MST/MDT) at which time the sealed Bids will be recorded as received and opened.

The Bid is to be delivered to:

**Submissions of all Invitation to Bids must be accomplished via email to: [purchasing@santafenm.gov](mailto:purchasing@santafenm.gov).**

All Bids received after the due date and time will be rejected and returned unopened.

**Chief Procurement Officer (CPO):** If you are an individual with a disability and you require accommodations such as a hearing interpreter to attend our bid openings, please contact the CPO or his/her designee at least five (5) working days prior to the scheduled bid opening.

Any inquiries or requests regarding clarification of this solicitation shall be submitted to the CPO or his/her designee in writing.

CPO Designee contact information is:

Jessica Chavez

Telephone: 505-629-8351

Email: [jjchavez@santafenm.gov](mailto:jjchavez@santafenm.gov)

Bidders may contact ONLY the CPO or his/her designee regarding the terminology stated in the solicitation. Other City employees do not have the authority to respond on behalf of the City.

Bidders shall promptly notify the CPO or his/her designee of any ambiguity, inconsistency, or error which they may discover upon examination of the bid. Any response made by the City will be provided in writing to all contractors by addendum, no verbal responses shall be authoritative.

All Bidders must notify the CPO or his/her designee if any employee(s) of the requesting Department or the office of CPO have a financial interest in the Bidder:

**No financial interest**       **Yes financial interest**

If yes specify by name: \_\_\_\_\_

**Rejection of Bids:** The CPO or his/her designee shall have the right to reject any or all bids, and in particular to reject a bid not accompanied by the data required by this bidding document, or a bid which is in any way incomplete or irregular.

**Brand Name or Equal:** Where a brand name or equal is indicated, it is for the purpose of describing the standard of quality, performance, and characteristics desired and is not intended to restrict competition. "No substitute" specifications may be authorized ONLY if required to match existing equipment.

If bidding "equivalent" bidders must be prepared to furnish "complete data" upon request, preferably with bid, to avoid delay in award.

**Prohibit Bidding:** If any Bidder is of the opinion that the specifications as written preclude him from submitting a bid on this ITB, it is requested that his opinion be made known to the CPO or his/her designee, in writing, at least seven (7) days prior to the bid opening date.

**Responsible Bidder:** Bidders must, upon request of the CPO or his/her designee, provide information and data to prove that the financial resources, production of service facilities, service reputation and experience are adequate to make satisfactory delivery of the materials and/or services. the CPO or his/her designee reserves the right to require a Bidder to furnish a Performance Bond prior to award, where the Bidder is unable to furnish the required information or data, or for other reasons which would insure proper performance by the Bidder.

**Samples:** Unless otherwise indicated in the bid specifications, samples of the items, when required, shall be free of

expense to the City. Samples not destroyed or mutilated in testing will be returned upon request, at Bidders expense. Each sample must be labeled to clearly show the bid number and item number that it pertains to. Unsolicited bid samples or descriptive literature, which is submitted at the Bidder's risk, will not be returned.

## **Awards**

**Determination of Lowest Bidder** – Following determination of product acceptability, if any is required, bids will be evaluated to determine which Bidder offers the lowest cost to the City in accordance with the specifications and terms & conditions set forth in the Bid. The City reserves the right to award this Bid in total; by groups of items; on the basis of individual items; any combination of these which could result in a multiple award; or as otherwise specified in bid specifications; whichever, in his/her judgment, best serves the interest of the City.

The CPO or his/her designee reserves the right to accept and/or reject any and all bids, to waive technical irregularities, and to award to the Bidder whose bid is deemed to be in the best interest of the City.

**Special Notice** – To preclude any possible errors and/or misinterpretations, bid prices must be affixed legibly in ink or typewritten. Corrections or changes must be signed or initialed by Bidder prior to the scheduled bid opening; failure to do so will be just cause for rejection of bid.

Bids may be withdrawn upon receipt of written request, prior to scheduled bid opening for the purpose of making any corrections and/or changes; such corrections must be properly identified and signed or initialed by Bidder. Resubmittal must be prior to scheduled bid opening for consideration.

After bid opening, no modifications on bid prices or other provisions of bid shall be permitted. A low Bidder alleging a material mistake of fact after bids have been opened may be permitted to withdraw the bid upon written request prior to award at the discretion of the CPO or his/her designee.

**F.O.B. Destination** – Means goods are to be delivered to the destination designated by the Requesting Department which is the point at which the Requesting Department accepts ownership or title of the goods. Laws of New Mexico specifically prohibit acceptance of ownership of goods in transit. Any exception to F.O.B. Destination may cause bid to be declared nonresponsive.

## **Statement of Work**

### **Orders:**

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

The items and/or services to be ordered shall be as listed in the Price Schedule. All orders issued hereunder will bear both an order number and this Agreement number.

Only written signed orders are valid under this Agreement.

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

The prices quoted herein represent the total compensation to be paid by the City for the goods and/or services provided including any and all labor, equipment, tools, materials, taxes, permits, licenses, or other costs necessary to complete the services or goods provided.

### **Shipping and Billing Instructions:**

Contractor shall ship in accordance with the following instructions: Shipment shall be made only against specific orders which the Requesting Department may place with the Contractor during the term; The Contractor shall enclose a packing list with each shipment listing the order number, Agreement number and the commercial parts number (if any) for each item; delivery shall be made as indicated by the Requesting Department. If contractor is unable to meet stated delivery the CPO or his/her designee must be notified.

**Amendment:**

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

**Beneficiary:**

It is specifically agreed between the parties executing this Agreement that it is not intended by any of the provisions of any part of the Agreement to create the public or any member hereof a third party beneficiary or to authorize anyone not a party to the Agreement to maintain a suit for wrongful death, bodily and/or personal injury to persons, damage to properties and/or other claims whatsoever pursuant to the provisions of this Agreement.

**Specifications:**

Establish an Agreement for the City of Santa Fe (City) for Small Business Development Services.

**Method of Award:**

This Agreement is established as a source and convenience of the City. A single award will be made in the best interest of the City. It is the responsibility of the Requesting Department to utilize this Agreement to the best interest of the City.

**Term:**

THIS AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED IN WRITING BY THE CITY. This Agreement shall begin on date approved by the City, and end in 1 year with the option to extend. This agreement shall not exceed four years.

**Scope of Work:**

The Contractor shall provide services to support and cultivate business creation and growth which leads to job creation and the diversification and strengthening of the Santa Fe economy.

- Provide business training, mentoring, coaching and workshops directly or in collaboration with other business development service providers.
- Host workshops on a quarterly basis
- Connect client companies to sources of capital, such as loan programs, Angel funding, venture capital, research grants, individual investors and other programs and resources.
- Provide quarterly metrics and annual reports on performance measures.
- Provide general assistance to individuals interested in starting a business by providing, connections to other entrepreneurs, collateral material and referrals to business resources.
- Provide professional facility and shared infrastructure for early stage businesses, including: office and light production spaces, conference and meeting rooms, lunch rooms, shared equipment, telecommunications, laboratories and high speed internet access.

- Promote and market services through website, social media, traditional media, in-person outreach and presentations.
- Provide referrals to other economic development entities to provide additional assistance and resources for clients.
- Provide certified business incubator documentation.
- Provide an annual performance report

**Contractors Note:**

The conditions and specifications set out in the Bid are inseparable and indivisible. Any contractor, by submitting a Bid, agrees to be bound by all such conditions or specifications. All conditions and specifications in the Bid and all other documents required to be submitted, shall be returned by the contractor in his/her Bid package. Failure to do so or any attempt to vary or change the conditions or specifications of the Bid shall, at the discretion of the City, constitute grounds for rejection of the entire Bid. The City will not accept any added stipulation by the vendor.

The contractor(s) shall be considered an independent contractor and not an employee of the City. However, directions as to time and place of performance and compliance with the rules and regulations may be required by the Requesting Department.

**Price Schedule:**

Item	Approx. QTY	Unit	Article and Description	Unit Price
1.		Quarterly	Small business development services as per the specifications	\$

Item# \_\_\_\_\_  
Munis Contract# \_\_\_\_\_

City of Santa Fe Contract  
Specify, Goods, Services, or Software

THIS AGREEMENT is made and entered into by and between the City of Santa Fe, herein after referred to as the "City", and <Enter Contractor Name>herein after referred to as the "Contractor."

**IT IS MUTUALLY AGREED BETWEEN THE PARTIES:**

1. **Definitions**

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

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

C. "You" and "your" refers to **(Contract Name)**. "We," "us" or "our" refers to the City and whose accounts are created under this Agreement.

2. **Scope of Work**

A. The Contractor shall perform the following work:

The Contractor shall provide services to support and cultivate business creation and growth which leads to job creation and the diversification and strengthening of the Santa Fe economy.

- Provide business training, mentoring, coaching and workshops directly or in collaboration with other business development service providers.
- Host workshops on a quarterly basis
- Connect client companies to sources of capital, such as loan programs, Angel funding, venture capital, research grants, individual investors and other programs and resources.
- Provide quarterly metrics and annual reports on performance measures.
- Provide general assistance to individuals interested in starting a business by providing, connections to other entrepreneurs, collateral material and referrals to business resources.

- Provide professional facility and shared infrastructure for early stage businesses, including: office and light production spaces, conference and meeting rooms, lunch rooms, shared equipment, telecommunications, laboratories and high speed internet access.
- Promote and market services through website, social media, traditional media, in-person outreach and presentations.
- Provide referrals to other economic development entities to provide additional assistance and resources for clients.
- Provide certified business incubator documentation.
- Provide an annual performance report

3. **Compensation**

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

Deliverable item:	U/I (unit of issue)	Price
01 Small business development services	Quarterly	\$

The total compensation under this Agreement shall not exceed [Insert Dollar Amount] [CHOICE #1- excluding New Mexico gross receipts tax. CHOICE #2 - including New Mexico gross receipts tax.]

4. **Payment Provisions**

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

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

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

5. **Term**

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

6. **Default and Force Majeure**

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

7. **Termination**

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

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

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

2) Contractor shall give City written notice of termination at least thirty (30) days prior to the intended date of termination, which notice shall (i) identify all the City's

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

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

C. Liability. Except as otherwise expressly allowed or provided under this Agreement, the City's sole liability upon termination shall be to pay for acceptable work performed prior to the Contractor's receipt or issuance of a notice of termination; provided, however, that a notice of termination shall not nullify or otherwise affect either party's liability for pre-termination defaults under or breaches of this Agreement. The Contractor shall submit an invoice for such work within thirty (30) days of receiving or sending the notice of termination. *THIS PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE THE CITY'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THIS AGREEMENT.*

## 8. Amendment

A. This Agreement shall not be altered, changed or amended except by instrument in writing executed by the parties hereto and all other required signatories.

B. If the City proposes an amendment to the Agreement to unilaterally reduce funding due to budget or other considerations, the Contractor shall, within thirty (30) days of receipt of the proposed Amendment, have the option to terminate the Agreement, pursuant to the termination provisions as set forth in Paragraph 7 herein, or to agree to the reduced funding.

## 9. Status of Contractor

The Contractor, and Contractor's agents and employees, are independent Contractors for the City and are not employees of the City. The Contractor, and Contractor's agents and employees, shall not accrue leave, retirement, insurance, bonding, use of City vehicles, or any other benefits afforded to employees of the City as a result of this Agreement. The Contractor acknowledges that all sums received hereunder are personally reportable by the Contractor for income tax purposes, including without limitation, self-employment tax and business income tax. The Contractor agrees not to purport to bind the City unless the Contractor has written authority to do so, and then only within the strict limits of that authority.

## 10. Assignment

The Contractor shall not assign or transfer any interest in this Agreement or assign any claims for money due or to become due under this Agreement without the prior written approval of the City.

11. **Subcontracting**

The Contractor shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of the City. No such subcontract shall relieve the primary Contractor from its obligations and liabilities under this Agreement, nor shall any subcontract obligate direct payment from the City.

12. **Non-Collusion**

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

13. **Inspection of Plant**

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

14. **Commercial Warranty**

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

15. **Condition of Proposed Items**

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

16. **Records and Audit**

During the term of this Agreement and for three years thereafter, the Contractor shall maintain detailed records pertaining to the services rendered and products delivered. These records shall be subject to inspection by the City, the State Auditor and other appropriate state and federal authorities. The City shall have the right to audit billings both before and after payment. Payment under this Agreement shall not foreclose the right of the City to recover excessive or illegal payments.

17. **Appropriations**

The terms of this Agreement, and any orders placed under it, are contingent upon sufficient appropriations and authorization being made by the City Council for the performance of this Agreement. If sufficient appropriations and authorization are not made by the legislature, this Agreement, and any orders placed under it, shall terminate upon written notice being given by the City to the Contractor. The City's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. If the City proposes an amendment to the Agreement to unilaterally reduce funding, the Contractor shall have the option to terminate the Agreement or to agree to the reduced funding, within thirty (30) days of receipt of the proposed amendment.

18. **Release**

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

19. **Confidentiality**

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

20. **Conflict of Interest**

A. The Contractor represents and warrants that it presently has no interest and, during the term of this Agreement, shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under the Agreement. The Contractor shall comply with any applicable provisions of the New Mexico Governmental Conduct Act and the New Mexico Financial Disclosures Act.

B. The Contractor further represents and warrants that it has complied with, and, during the term of this Agreement, will continue to comply with, and that this Agreement complies with all applicable provisions of the Governmental Conduct Act, Chapter 10, Article 16 NMSA 1978.

C. Contractor's representations and warranties in Paragraphs A and B of this Paragraph are material representations of fact upon which the City relied when this Agreement was entered into by the parties. Contractor shall provide immediate written notice to the City if, at any time during the term of this Agreement, Contractor learns that Contractor's representations and warranties in Paragraphs A and B of this Paragraph 20 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances. If it is later determined that Contractor's representations and warranties in Paragraphs A and B of this Paragraph 20 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances, in addition to other

remedies available to the City and notwithstanding anything in the Agreement to the contrary, the City may immediately terminate the Agreement.

D. All terms defined in the Governmental Conduct Act have the same meaning in this section.

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

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

22. **Scope of Agreement; Merger**

This Agreement incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements and understandings have been merged into this written Agreement. No prior agreements or understandings, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

23. **Notice**

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

24. **Equal Opportunity Compliance**

The Contractor agrees to abide by all federal and state laws, and local Ordinances, pertaining to equal employment opportunity. In accordance with all such laws, rules, and regulations, the Contractor agrees to assure that no person in the United States shall on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, or serious medical condition, spousal affiliation, sexual orientation or gender identity, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed under this Agreement. If Contractor is found not to be in compliance with these requirements during the life of this Agreement, Contractor agrees to take appropriate steps to correct these deficiencies.

25. **Indemnification**

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

26. **New Mexico Tort Claims Act**

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

27. **Applicable Law**

The laws of the State of New Mexico shall govern this Agreement, without giving effect to its choice of law provisions. Venue shall be proper only in a New Mexico court of competent jurisdiction in accordance with NMSA 1978, § 38-3-1 (G). By execution of this Agreement, Contractor acknowledges and agrees to the jurisdiction of the courts of the State of New Mexico over any and all lawsuits arising under or out of any term of this Agreement.

28. **Limitation of Liability**

The Contractor's liability to the City, for any cause whatsoever shall be limited to the purchase price paid to the Contractor for the products and services that are the subject of the City's, claim. The foregoing limitation does not apply to paragraph 25 of this Agreement or to damages resulting from personal injury caused by the Contractor's negligence.

29. **Incorporation by Reference and Precedence**

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

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

30. **Workers' Compensation**

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

31. **Inspection**

If this contract is for the purchase of tangible personal property (goods), final inspection and acceptance shall be made at Destination. Tangible personal property rejected at Destination for non-conformance to specifications shall be removed at Contractor's risk and expense promptly after notice of rejection and shall not be allowable as billable items for payment.

32. **Inspection of Services**

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

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

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

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

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

- (1) require the Contractor to take necessary action(s) to ensure that future performance conforms to the requirements of this Agreement; and
- (2) reduce the contract price to reflect the reduced value of the services performed.

E. If the Contractor fails to promptly re-perform the services or to take the necessary action(s) to ensure future performance in conformity with the requirements of this Agreement, the City may:

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

33. **Insurance**

If the services contemplated under this Agreement will be performed on or in City facilities or property, Contractor shall maintain in force during the entire term of this Agreement, the following insurance coverage(s), naming the City as additional insured.

**A. Commercial General Liability** insurance shall be written on an occurrence basis and be as broad as ISO Form CG 00 01 with limits not less than \$2,000,000 per occurrence and \$2,000,000 in the aggregate for claims against bodily injury, personal and advertising injury, and property damage. Said policy shall include broad form Contractual Liability coverage and be endorsed to name the City of Santa Fe their officials, officers, employees, and agents as additional insureds.

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

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

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

34. **Impracticality of Performance**

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

35. **Invalid Term or Condition**

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

36. **Enforcement of Agreement**

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

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

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

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

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

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

38. **Survival**

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

39. **Disclosure Regarding Responsibility**

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

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

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

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

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

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

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

The City may, without cause, order the Contractor, in writing, to suspend, delay or interrupt the work in whole or in part for such period of time as the City may determine. The contract sum and contract time shall be adjusted for increases in cost and/or time associated with Contractor's compliance therewith. Upon receipt of such notice, Contractor shall leave the jobsite and any equipment in a safe condition prior to departing. Contractor must assert rights to additional compensation within thirty (30) days after suspension of work is lifted and return to work is authorized. Any compensation requested for which entitlement is granted and the contract sum adjusted, shall have profit included (for work completed) and for cost only (not profit) for Contractor costs incurred directly tied to the suspension itself and not otherwise covered by Contract remedy. Any change in Total Compensation must be reflected in an Amendment executed pursuant to Section 8 of this Agreement.

41. **Notification**

Either party may give written notice to the other party in accordance with the terms of this Paragraph. Any written notice required or permitted to be given hereunder shall be deemed

to have been given on the date of delivery if delivered by personal service or hand delivery or three (3) business days after being mailed.

To the City:

To the Contractor:

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

To the Contractor:

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

42. **Succession**

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

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

CITY OF SANTA FE:

CONTRACTOR:

\_\_\_\_\_  
CITY MAYOR/MANAGER

\_\_\_\_\_  
NAME

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

\_\_\_\_\_  
TITLE

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

CRS# \_\_\_\_\_

Registration # \_\_\_\_\_

ATTEST:

YOLANDA Y. VIGIL, CITY CLERK

CITY ATTORNEY'S OFFICE:

SENIOR ASSISTANT CITY ATTORNEY

APPROVED:

MARY MCCOY, FINANCE DIRECTOR



Org.Name/Org.#





# City of Santa Fe, New Mexico


## Memorandum



**DATE:** February 15, 2021

**TO:** Alan Webber, Mayor and City Council

**VIA:** Mary McCoy, Finance Department Director  
 Fran Dunaway, Chief Procurement Officer  
 Kyra Ochoa, Community Health and Safety Department Acting Director   
 Julie Sanchez, Youth and Family Services Division Director 

**FROM:** Elizabeth Peterson, Children and Youth Program Manager 

Kyra Ochoa (Mar 17, 2021 09:36 CDT)

**ITEM AND ISSUE:**

Request for HSC Contract Term Extension; all contractors (Elizabeth Peterson, Children and Youth Program Manager, [empeterson@santafenm.gov](mailto:empeterson@santafenm.gov), (505)470-3186)

**No change to contract amounts.**

**BACKGROUND AND SUMMARY:**

The Santa Fe Human Services Committee (HSC) was established by resolution 2012- in 2012 to assess and advocate for human service needs, coordinate resources to maximize cost-effectiveness, evaluate local human services programs and provide technical assistance to programs. The Responsibilities of the Committee include oversight of the Human Services Fund, review of applications for the fund and making recommendations, and ensuring access to services for all residents of Santa Fe.

The Committee in partnership with the County wishes to ensure that essential services, which include primary health care, access to basic materials goods and services like food and shelter, mental health counseling and related crisis services, are available to our residents. Community organizations funded with Human Services funding participate in CONNECT; a network that helps Santa Feans navigate a complex, sometimes challenging system of care. Organizations collect and track data to show the scope of our community need and our collective impact on that need.

This is a request to amend Human Service funded contracts with a contract extension for a term of one (1) year to ensure the continuation of support services to the community in the midst of a pandemic. Organizations have responded to the pandemic and altered and refined operations to serve the community while following public health orders. By extending the contract for a term of one year, organizations who are already burdened with adapting to COVID-19 restrictions can concentrate on delivery of services and resources without the added element of responding to a Referral for Proposal (RFP) process. We propose that a Human Service fund RFP is released in March of 2022.

The Committee works cooperatively with the Community Services Department and Youth and Family Services Division staff throughout the year and advises on how to effectively plan, coordinate or support health and human issues in our community. The Committee has reviewed this request and recommends the Scope of Work and contract extension be approved.

**PROCUREMENT METHOD:**

On March 5, 2019, RFP # 19/31/P was issued through the Purchasing Office. The Human Services Committee reviewed requests, made recommendations to the Governing Body and contracts were executed

July 12, 2019 for a three (3) year term ending June 30, 2021. With a one year term extension, contracts will end June 30<sup>th</sup>, 2022.

**CONTRACT NUMBER:**

Multiple award recommendations were made by the Human Services Committee. **(Please reference Appendix A for the Munis Contract Numbers)**

**FUNDING SOURCE:**

The funding source is:

**Fund Name/Number:** Human Service Fund/ 240

**Munis Org Name/Number:** Human Services/ 2400122

**Munis Object Name/Number:** Grants and Services/510400

**ACTION REQUESTED:**

The Community Health and Safety Department and the Youth and Family Services Division respectfully requests your review and approval.

**Signature:** Elizabeth Peterson  
Elizabeth Peterson (Feb 23, 2021 13:24 MST)  
**Email:** empeterson@santafenm.gov

**Signature:**   
Julie Sanchez (Feb 23, 2021 13:28 MST)  
**Email:** jjsanchez@santafenm.gov









# HSC Term Extension Contract Amendments Memo

Final Audit Report

2021-02-23

Created:	2021-02-23
By:	Michelle Gurule (magurule@ci.santa-fe.nm.us)
Status:	Signed
Transaction ID:	CBJCHBCAABAA_XZqtctFYFM8vLgOllqGDao6rvaJDNXY

## "HSC Term Extension Contract Amendments Memo" History

-  Document created by Michelle Gurule (magurule@ci.santa-fe.nm.us)  
2021-02-23 - 8:22:09 PM GMT- IP address: 63.232.20.2
-  Document emailed to Elizabeth Peterson (empeterson@santafenm.gov) for signature  
2021-02-23 - 8:23:08 PM GMT
-  Email viewed by Elizabeth Peterson (empeterson@santafenm.gov)  
2021-02-23 - 8:23:28 PM GMT- IP address: 104.47.64.254
-  Document e-signed by Elizabeth Peterson (empeterson@santafenm.gov)  
Signature Date: 2021-02-23 - 8:24:11 PM GMT - Time Source: server- IP address: 75.161.230.88
-  Document emailed to Julie Sanchez (jjsanchez@santafenm.gov) for signature  
2021-02-23 - 8:24:13 PM GMT
-  Email viewed by Julie Sanchez (jjsanchez@santafenm.gov)  
2021-02-23 - 8:27:38 PM GMT- IP address: 104.47.65.254
-  Document e-signed by Julie Sanchez (jjsanchez@santafenm.gov)  
Signature Date: 2021-02-23 - 8:28:13 PM GMT - Time Source: server- IP address: 63.232.20.2
-  Agreement completed.  
2021-02-23 - 8:28:13 PM GMT

**CITY OF SANTA FE  
AMENDMENT No. 1 TO  
PROFESSIONAL SERVICES AGREEMENT  
#19-0593**

AMENDMENT No. 1 (the "Amendment") to the CITY OF SANTA FE PROFESSIONAL SERVICES AGREEMENT, dated May 29, 2019 (the "Agreement"), between the City of Santa Fe (the "City") and INTERFAITH SHELTER (the "Contractor"). The date of this Amendment shall be the date when it is executed by the City and the Contractor whichever occurs last.

**RECITALS:**

A. Under the terms of the Agreement, Contractor has agreed to provide the navigation and safety net services to adult's ages 18+.

B. Pursuant to Article 14 of the Agreement, and for good and valuable consideration, the receipt and sufficiency of which are acknowledged by the parties, the City and the Contractor agree as follows:

1. TERM

Article 3, of the Agreement is hereby amended to reflect a change in term so that Article 3 reads in its entirety as follows:

THIS AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED BY THE CITY. This Agreement shall terminate on **June 30<sup>th</sup> 2022** unless terminated pursuant to paragraph 4 (Termination); or paragraph (Appropriations). In accordance with Section 13-1-150 NMSA 1978, no contract term for a professional services contract, including extensions and renewals, shall exceed four years, except as set forth in

Section 13-1-150 NMSA 1978.

2. AGREEMENT IN FULL FORCE.

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


IN WITNESS WHEREOF, the parties have executed this Amendment No. 1 to the City of Santa Fe Professional Services Agreement as of the dates set forth below.

CITY OF SANTA FE:

CONTRACTOR:  
Interfaith Shelter

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

Date: \_\_\_\_\_

  
\_\_\_\_\_  
NAME & TITLE

JOSEPH JORDAN-BERENIS, EXECUTIVE DIRECTOR

Date: 1/12/20

CRS# Exempt

Business Reg.# 222294

ATTEST:

\_\_\_\_\_  
KRISTINE MIHELIC CITY CLERK

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Marcos Martinez (Jan 11, 2021 14:06 MST)

SENIOR ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

\_\_\_\_\_  
MARY T. MCCOY, FINANCE DIRECTOR

2400122.510400   
MUNIS ORG/OBJ <sub>AL</sub>

CITY OF SANTA FE  
PROFESSIONAL SERVICES CONTRACT  
Tier II Navigation Services

THIS AGREEMENT is made and entered into by and between the City of Santa Fe, New Mexico, hereinafter referred to as the "City," and **INTERFAITH COMMUNITY SHELTER GROUP, INC.** hereinafter referred to as the "Contractor," and is effective as of the date set forth below upon which it is executed by the Parties.

IT IS AGREED BETWEEN THE PARTIES:

1. **Definitions.**

- a. **Safety Net Services:** Social welfare services provided by state and local government and non-profit agencies intended to eliminate or reduce potentially dangerous or life-threatening conditions of poverty.
- b. **Navigation:** the function of linking clients with essential health and community services, performed by a navigator who coordinates care and services across siloed mental, behavioral, and physical health care delivery systems, leading to greater holistic and person-centered care. Navigation assists individuals in overcoming barriers to care and increases their engagement and active participation in care.
- c. **Food Insecure:** lacking reliable access to a sufficient quantity of affordable, nutritious food.
- d. **Binge Drinking:** the consumption of an excessive amount of alcohol in a short period of time. <https://www.cdc.gov/alcohol/fact-sheets/binge-drinking.htm>
- e. **Homelessness:** the circumstance of being without a permanent dwelling, such as a house or apartment.
- f. **Unemployment:** the circumstance of being without a paid job while available to work.
- g. **Openness and Acceptance:** a condition where inclusion into a larger social group and access to needed resources are available to all, regardless of ethnicity, sexual orientation, country of origin, age, or gender.
- h. **Warm hand off:** A warm hand off is a referral conducted in person, between two members of a navigation team, in front of the client (and family if present).
- i. **Health Insurance Portability and Accountability Act (HIPAA):** HIPAA (Health Insurance Portability and Accountability Act of 1996) is United States legislation that provides data privacy and security provisions for safeguarding medical information. The HIPAA Privacy Rule applies to organizations that are considered

HIPAA-covered entities, including health plans, healthcare clearinghouses and healthcare providers. In addition, the HIPAA Privacy Rule requires covered entities that work with a HIPAA business associate to produce a contract that imposes specific safeguards on the protected health information (PHI) that the business associate uses or discloses.

- j.* Protected Health Information (PHI): The HIPAA Privacy Rule protects all individually identifiable health information that is held or transmitted by a covered entity or a business associate. This information can be held in any form, including digital, paper or oral. This individually identifiable health information is also known as PHI under the Privacy Rule. PHI includes:
  - i. a patient's name, address, birth date and Social Security number;
  - ii. an individual's physical or mental health condition;
  - iii. any care provided to an individual; or
  - iv. information concerning the payment for the care provided to the individual that identifies the patient, or information for which there is a reasonable basis to believe could be used to identify the patient.
  - v. The HIPAA Privacy Rule does not consider employment records -- including information about education, as well as other records subject to or defined in the Family Educational Rights and Privacy Act -- as PHI. For de-identified data, however, there are no restrictions to its use or disclosure. De-identified data does not identify or provide information that could identify an individual.
  
- k.* HIPAA Business Associate Agreement (BAA): Under HIPAA, a HIPAA business associate agreement (BAA) is a contract between a HIPAA-covered entity and a HIPAA business associate (BA). The contract protects PHI in accordance with HIPAA guidelines.
  
- l.* Memorandum of Understanding (MOU): A non-binding agreement between two or more parties outlining the terms and details of an understanding including each parties' requirements and responsibilities.

**This Space Intentionally Left Blank**

**2. Scope of Work.**

Tier II: Safety Net Services Delivery and Navigation Services (ages 18+)

Funding Category/Goal Area	Indicators
<input type="checkbox"/> Adult Health	<input type="checkbox"/> Chronic disease rates (Heart disease, diabetes, cancer, and obesity) <input type="checkbox"/> Rate of adults consuming 5+ fruits and veggies daily <input type="checkbox"/> Rate of adults meeting recommended physical activity levels (150 minutes of aerobic physical activity per week) <input type="checkbox"/> % Women receiving prenatal care in 1 <sup>st</sup> trimester
<input checked="" type="checkbox"/> Behavioral Health	<input type="checkbox"/> % Current depression (past 2 weeks) <input type="checkbox"/> Suicide death rates <input type="checkbox"/> % Binge drinking (past 30 days) <input type="checkbox"/> Alcohol-related deaths <input type="checkbox"/> Drug-overdose deaths <input checked="" type="checkbox"/> Untreated adults with mental illness
<input checked="" type="checkbox"/> Community Safety	<input type="checkbox"/> Fall-related deaths <input checked="" type="checkbox"/> Homelessness rate <input checked="" type="checkbox"/> Domestic Violence rate
<input checked="" type="checkbox"/> Equitable Society	<input type="checkbox"/> % Unemployment <input checked="" type="checkbox"/> % Food insecure households <input type="checkbox"/> % Adults Age 25+ with Post-Secondary education <input type="checkbox"/> Openness and acceptance of community toward people of diverse backgrounds

A. The Contractor shall perform the following work:

- 1) Navigation and/or safety net services in the above-selected funding category/goal area to impact the selected indicator(s).
  - a. Navigation services to a minimum of 10 unduplicated adult individuals and/or families x \$150.00 per individual adult/family.
  - b. Safety net services to minimum of 900 unduplicated adult individuals and/or families x \$165.00 per individual adult/family.
- 2) 1) Navigation and/or safety net services to City of Santa Fe resident's ages 18+.
- 3) Ensure navigator is experienced and qualified and engages in continued educational opportunities on an annual basis to increase professional qualifications.

- 4) Assess clients' social needs, including safe and secure housing, nutritious food, reliable utilities and transportation, and access to health insurance, employment and education. Collect client demographic data, Emergency Room (ER) and jail use data if relevant, and data on those indicators pertinent for the population served, i.e. chronic disease, suicide, alcohol, drug abuse, and access to healthy food.
- 5) Deliver navigation services tailored to the individual's priorities that are culturally relevant and based on a team approach of service delivery that reflects cross-agency collaboration. This includes:
  - a. Development of a navigation plan with the individual that sets appropriate goals, such as addressing safe and secure housing, food, utilities and transportation, health system enrollment, access and navigation, education and literacy, preventive care and treatment, chronic disease management, and effective social and community referrals.
  - b. Identification of community and social resources tailored to the individual's needs and interaction with a network/team to address priorities of the navigation plan, develop sustainable relationships with community resources, and provide and document a "warm hand-off." Referrals will be considered complete if a sustained relationship has been verified by the individual and service provider and documented by the navigator.
- 6) Use an agreed-upon IT system to be determined by the City of Santa Fe's Community Services Department and the Human Services Committee. This includes participation in data sharing with other community and social organizations on activities related to navigation plans with consent of the clients served and requires MOUs/BAA's with community partners, to be negotiated with the assistance of the City of Santa Fe. Share aggregate and non-medical client data with other City of Santa Fe and Santa Fe County-funded partners.
- 7) Provide Program Manager or other appointed City staff with quarterly data on performance measures, outcomes of navigation, demographics, and number of clients served.
- 8) Survey individuals-served annually to assess their continued engagement with needed resources and satisfaction with service delivery and/or Tier II navigation services.
- 9) Ensure navigators receive training on HIPAA standards and adhere to all

HIPAA policies and requirements.

- 10) Ensure as appropriate that clients served are from underserved communities e.g. American Indian/Alaska Native, Hispanic, and African American/Black with a priority serving low to very low-income households.

**B. Performance Measures:**

Contractor shall substantially perform the following:

- 1) # Clients helped by navigator, # Clients screened using the social needs screening tool; and
- 2) # of bed nights; # of meals; # of showers; and
- 3) # or % of clients served by the Navigator reporting an improvement in circumstances or positive change in social determinants of health.

**C. Deliverables:**

- 1) Annual report and three quarterly reports documenting outcomes of navigation, including a year-end summary of City grant related expenses plus additional material as requested by the Human Service Committee or City of Santa Fe Community Services Department/Youth and Family Services Division.
- 2) The receipt of the deliverables contemplated under this Agreement shall assist the City and Human Services Committee in obtaining its goal(s) as set forth in its Strategic Plan on page(s) 1-4.

**2. Compensation.**

A. The total amount payable to the Contractor under this Agreement, including gross receipts tax and expenses, shall not exceed [\$300,000.00].

1) The City shall pay to the Contractor in full payment for services satisfactorily performed pursuant to the Scope of Work at the rate of one hundred and fifty dollars (\$150.00) per unduplicated person served for Tier II services, and at the rate of one hundred and sixty five dollars (\$165.00) per unduplicated person served for Tier I services in FY20 for up to a total of one hundred and fifty thousand dollars (\$150,000.00), including gross receipts tax.

2) The City shall pay to the Contractor in full payment for services satisfactorily performed pursuant to the Scope of Work at the rate of one hundred and fifty dollars (\$150.00) per unduplicated person served for Tier II services, and at the rate of one hundred and sixty five dollars (\$165.00) per unduplicated person served for Tier I services in FY21 for up to a total of one hundred and fifty thousand dollars (\$150,000.00), including gross

receipts tax.

B. Payment in FY21 is subject to availability of funds pursuant to the Appropriations Paragraph set forth below and to any negotiations between the parties from year to year pursuant to Paragraph 1, Scope of Work, and to approval by the City. All invoices MUST BE received by the City no later than fifteen (15) days after the termination of the Fiscal Year in which the services were delivered. Invoices received after such date WILL NOT BE PAID.)

C. Contractor must submit a detailed statement accounting for all services performed and expenses incurred. If the City finds that the services are not acceptable, within thirty days after the date of receipt of written notice from the Contractor that payment is requested, it shall provide the Contractor a letter of exception explaining the defect or objection to the services, and outlining steps the Contractor may take to provide remedial action. Upon certification by the City that the services have been received and accepted, payment shall be tendered to the Contractor within thirty days after the date of acceptance. If payment is made by mail, the payment shall be deemed tendered on the date it is postmarked. However, the City shall not incur late charges, interest, or penalties for failure to make payment within the time specified herein.

3. **Term.**

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

4. **Termination.**

A. **Termination.** This Agreement may be terminated by either of the parties hereto upon written notice delivered to the other party at least thirty (30) days prior to the intended date of termination. Except as otherwise allowed or provided under this Agreement, the City's sole liability upon such termination shall be to pay for acceptable work performed prior to the Contractor's receipt of the notice of termination, if the City is the terminating party, or the Contractor's sending of the notice of termination, if the Contractor is the terminating party; provided, however, that a notice of termination shall not nullify or otherwise affect either party's liability for pre-termination defaults under or breaches of this Agreement. The Contractor shall submit an invoice for such work within thirty (30) days of receiving or sending the notice of termination. Notwithstanding the foregoing, this Agreement may be terminated immediately upon written notice to the Contractor if the Contractor becomes unable to perform the services contracted for, as determined by the City or if, during the term of this Agreement, the Contractor or any of its officers, employees or agents is indicted for fraud, embezzlement or other crime due to misuse of City funds or due to the Appropriations paragraph herein. **THIS PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE THE City's OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THIS AGREEMENT.**

B. **Termination Management.** Immediately upon receipt by either the City or the Contractor of notice of termination of this Agreement, the Contractor shall: 1) not incur any further obligations for salaries, services or any other expenditure of funds under this Agreement without

written approval of the City; 2) comply with all directives issued by the City in the notice of termination as to the performance of work under this Agreement; and 3) take such action as the City shall direct for the protection, preservation, retention or transfer of all property titled to the City and records generated under this Agreement. Any non-expendable personal property or equipment provided to or purchased by the Contractor with contract funds shall become property of the City upon termination and shall be submitted to the City as soon as practicable.

**5. Appropriations.**

The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the City Council for the performance of this Agreement. If sufficient appropriations and authorization are not made by the City Council, this Agreement shall terminate immediately upon written notice being given by the City to the Contractor. The City's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. If the City proposes an amendment to the Agreement to unilaterally reduce funding, the Contractor shall have the option to terminate the Agreement or to agree to the reduced funding, within thirty (30) days of receipt of the proposed amendment.

**6. Status of Contractor.**

The Contractor and its agents and employees are independent contractors performing professional services for the City and are not employees of the City. The Contractor and its agents and employees shall not accrue leave, retirement, insurance, bonding, use of City vehicles, or any other benefits afforded to employees of the City as a result of this Agreement. The Contractor acknowledges that all sums received hereunder are reportable by the Contractor for tax purposes, including without limitation, self-employment and business income tax. The Contractor agrees not to purport to bind the City unless the Contractor has express written authority to do so, and then only within the strict limits of that authority.

**7. Assignment.**

The Contractor shall not assign or transfer any interest in this Agreement or assign any claims for money due or to become due under this Agreement without the prior written approval of the City.

**8. Subcontracting.**

The Contractor shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of the City. No such subcontract shall relieve the primary Contractor from its obligations and liabilities under this Agreement, nor shall any subcontract obligate direct payment from the City.

**9. Non-Collusion.**

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

**10. Release.**

Final payment of the amounts due under this Agreement shall operate as a release of the City, its officers and employees from all liabilities, claims and obligations whatsoever arising from or under this Agreement.

**11. Confidentiality.**

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

**12. Product of Service -- Copyright.**

All materials developed or acquired by the Contractor under this Agreement shall become the property of the City and shall be delivered to the City no later than the termination date of this Agreement. Nothing developed or produced, in whole or in part, by the Contractor under this Agreement shall be the subject of an application for copyright or other claim of ownership by or on behalf of the Contractor.

**13. Conflict of Interest; Governmental Conduct Act.**

A. The Contractor represents and warrants that it presently has no interest and, during the term of this Agreement, shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under the Agreement.

B. The Contractor further represents and warrants that it has complied with, and, during the term of this Agreement, will continue to comply with, and that this Agreement complies with all applicable provisions of the Governmental Conduct Act, Chapter 10, Article 16 NMSA 1978.

C. Contractor's representations and warranties in Paragraphs A and B of this Article 12 are material representations of fact upon which the City relied when this Agreement was entered into by the parties. Contractor shall provide immediate written notice to the City if, at any time during the term of this Agreement, Contractor learns that Contractor's representations and warranties in Paragraphs A and B of this Article 12 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances. If it is later determined that Contractor's representations and warranties in Paragraphs A and B of this Article 12 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances, in addition to other remedies available to the City and notwithstanding anything in the Agreement to the contrary, the City may immediately terminate the Agreement.

D. All terms defined in the Governmental Conduct Act have the same meaning in this section.

**14. Amendment.**

A. This Agreement shall not be altered, changed or amended except by instrument in writing executed by the parties hereto and all other required signatories.

B. If the City proposes an amendment to the Agreement to unilaterally reduce funding due to budget or other considerations, the Contractor shall, within thirty (30) days of receipt of the proposed Amendment, have the option to terminate the Agreement, pursuant to the termination provisions as set forth in Article 4 herein, or to agree to the reduced funding.

**15. Merger.**

This Agreement incorporates all the Agreements, covenants and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, Agreements and understandings have been merged into this written Agreement. No prior Agreement or understanding, oral or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

**16. Penalties for violation of law.**

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

**17. Equal Opportunity Compliance.**

The Contractor agrees to abide by all federal and state laws and rules and regulations, and Santa Fe City Code, pertaining to equal employment opportunity. In accordance with all such laws of the State of New Mexico, the Contractor assures that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, or serious medical condition, spousal affiliation, sexual orientation or gender identity, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed under this Agreement. If Contractor is found not to be in compliance with these requirements during the life of this Agreement, Contractor agrees to take appropriate steps to correct these deficiencies.

**18. Applicable Law.**

The laws of the State of New Mexico shall govern this Agreement, without giving effect to its choice of law provisions. Venue shall be proper only in a New Mexico court of competent jurisdiction in accordance with Section 38-3-1 (G) NMSA 1978. By execution of this Agreement, Contractor acknowledges and agrees to the jurisdiction of the courts of the State of New Mexico over any and all lawsuits arising under or out of any term of this Agreement.

**19. Workers Compensation.**

The Contractor agrees to comply with state laws and rules applicable to workers compensation benefits for its employees. If the Contractor fails to comply with the Workers Compensation Act and applicable rules when required to do so, this Agreement may be terminated by the City.

**20. Professional Liability Insurance.** Contractor shall maintain professional liability insurance throughout the term of this Agreement providing a minimum coverage in the amount required under the New Mexico Tort Claims Act. The Contractor shall furnish the City with proof of insurance of Contractor's compliance with the provisions of this section as a condition prior to performing services under this Agreement.

**21. Other Insurance**

If the services contemplated under this Agreement will be performed on or in City facilities or property, Contractor shall maintain in force during the entire term of this Agreement, the following insurance coverage(s), naming the City as additional insured.

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

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

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

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

**22. Records and Financial Audit.**

The City or city contractor shall have the right, at reasonable times and at a site designated by the City, to audit financial expenditures of City grant funding, documents, files and records of the Contractor to the extent that the finances, documents, files and records related to costs or accuracy of reimbursement for outcome or deliverable. The Contractor shall give full and free access to all records to the City and/or their authorized representative. The Contractor shall maintain detailed records that indicate the date, nature and cost of services rendered during the Agreement's term and effect and retain them for a period of three (3) years from the date of final payment under this Agreement. If offering Navigation Services, records must indicate that the City is the sole payor per client billed for. The records shall be subject to inspection by the City. The City shall have the right to audit billings both before and after payment. Payment under this Agreement shall not foreclose the right of the City to recover excessive or illegal payments.

**23. Indemnification.**

The Contractor shall defend, indemnify and hold harmless the City from all actions, proceeding, claims, demands, costs, damages, attorneys' fees and all other liabilities and expenses of any kind from any source which may arise out of the performance of this Agreement, caused by the negligent act or failure to act of the Contractor, its officers, employees, servants, subcontractors or agents, or if caused by the actions of any client of the Contractor resulting in injury or damage to persons or property during the time when the Contractor or any officer, agent, employee, servant or subcontractor thereof has or is performing services pursuant to this Agreement. In the event that any action, suit or proceeding related to the services performed by the Contractor or any officer, agent, employee, servant or subcontractor under this Agreement is brought against the Contractor, the Contractor shall, as soon as practicable but no later than two (2) days after it

receives notice thereof, notify the legal counsel of the City.

**24. New Mexico Tort Claims Act**

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

**25. Invalid Term or Condition.**

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

**26. Enforcement of Agreement.**

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

**27. Notices.**

Any notice required to be given to either party by this Agreement shall be in writing and shall be delivered in person, by courier service or by U.S. mail, either first class or certified, return receipt requested, postage prepaid, as follows:

To the City: [Julie Sanchez, Program Manager, 500 Market Station Suite 200,  
[jjssanchez@ci.santa-fe.nm.us](mailto:jjssanchez@ci.santa-fe.nm.us)].

To the Contractor: [Interfaith Community Shelter Group, Inc., PO BOX 22653,  
[joe@interfaithsheltersf.org](mailto:joe@interfaithsheltersf.org)].

**28. Authority.**

If Contractor is other than a natural person, the individual(s) signing this Agreement on behalf of Contractor represents and warrants that he or she has the power and authority to bind Contractor, and that no further action, resolution, or approval from Contractor is necessary to enter into a binding contract.

**29. Site Visits.**

At any time during the contract period the director or designee of the COMMUNITY SERVICES DEPARTMENT may perform a site visit to contracted sites to review programming and meet with participants. Members of the oversight body will be informed and invited to participate, this may include community partners and program co-funders.

30. **Reporting.**

Grantees shall submit Quarterly Reports on the programmatic accomplishments made toward the goals of the grant agreement. Quarterly reports are due to the YOUTH AND FAMILY SERVICES DIVISION or COMMUNITY SERVICES DEPARTMENT Program Manager no later than the 15<sup>th</sup> of the month subsequent to the Quarter end date with the exception of the 4<sup>th</sup> quarter which is due July 5<sup>th</sup>. If the 15<sup>th</sup> falls on a weekend reports will be due the following Monday by close of business. Quarterly Reports shall include the following:

A. Total Amount of funds received, Amount of funds received that were expended for programs; Number of adults served in the current quarter (if not already included in reporting template); reporting template with attachments or reporting as requested by DIVISION, DEPARTMENT or the COMMISSION.

**B. Fiscal Year Quarters:**

Quarter 1: July-September  
Quarter 2: October-December  
Quarter 3: January-March  
Quarter 4: April-June

**Reports Due:**

October 15<sup>th</sup>  
January 15<sup>th</sup>  
April 15<sup>th</sup>  
July 5<sup>th</sup>


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

CITY OF SANTA FE:

CONTRACTOR:

Interfaith Community Shelter Group, Inc.,

  
ALAN M. WEBBER, MAYOR

  
NAME: JOSEPH JORDAN-BERENIS  
TITLE: EXECUTIVE DIRECTOR

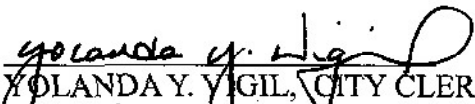
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DATE: 7/1/2019

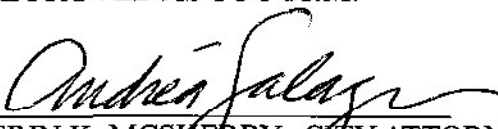
CRS# EXEMPT

REGISTRATION# 19-00045983

ATTEST:

  
YOLANDA Y. VIGIL, CITY CLERK  
cc mtg. 5-29-2019

APPROVED AS TO FORM:

  
for ERIN K. MCSHERRY, CITY ATTORNEY

APPROVED:

  
\_\_\_\_\_  
MARY T. MCCOY, FINANCE DIRECTOR *mt*

22763.510400  
\_\_\_\_\_  
Business Unit Line Item

# HSC Contract Amendment List 19/31/P

## APPENDIX A: FY19-21 HSC Contract Amendments

	Name of Nonprofit Organization	MUNIS Contract #	HSC Contract Amounts	Tier	Funding Category/Goal Area
1	Coming Home Connection	3200428	\$ 75,000.00	II	Community Safety
2	Esperanza Shelter	3200450	\$ 43,000.00	II	Community Safety
3	Feeding Santa Fe	3200472	\$ 30,000.00	I	Equitable Society
4	Food Depot	3200474	\$ 57,000.00	II	Equitable Society
5	Interfaith Community Shelter	3200483	\$ 150,000.00	II	Behavioral Health, Community Safety
6	Kitchen Angels	3200485	\$ 50,000.00	II	Equitable Society
7	La Familia	3200585	\$ 75,000.00	I	Adult Health
8	Life Link	3200493	\$ 70,000.00	II	Behavioral Health, Community Safety
9	Literacy Volunteers	3200712	\$ 60,000.00	I	Equitable Society
10	NM Immigrant Law Center	3200855	\$ 50,000.00	I	Community Safety, Equitable Society
11	Santa Fe Dreamers Project	3200595	\$ 40,000.00	I	Equitable Society
12	St. Elizabeth Shelter	3200597	\$ 100,000.00	II	Community Safety
13	YouthWorks	3200587	\$ 50,000.00	II	Equitable Society
			<b>\$ 850,000.00</b>		

### Definitions:

**Tier I** will focus on safety net services delivery, e.g. # of individuals served with units or items of service delivery such as food, clothes, hours of counseling, etc. and will use Unite Us! to close

**Tier II** will focus on not only on safety net services delivery and closing referral loops but also on screening and navigation services. Tier II respondents will screen for needs and connect individual clients to safety net services and navigate them to other priority community services. A Social Needs Screening Tool will used to determine unmet needs. Navigation will coordinate care and services



# CITY OF SANTA FE PROCUREMENT CHECKLIST

Contractor Name: HSC funded organizations- Appendix A

Procurement Title: RFP#19/31/P

Procurement Method: State Price Agreement  Cooperative  Sole Source  Other

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

Department Requesting: Community Health and Safety Department Staff Name Elizabeth Peterson

### Procurement Requirements:

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

### REQUIRED DOCUMENTS FOR APPROVAL BY PURCHASING\*

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

Elizabeth Peterson Children and Youth Program Manager 2/15/2021

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

Fran Dunaway (Apr 29, 2021 4:58 MDT)

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

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

\*



# City of Santa Fe

## Real Estate Summary of Contracts, Agreements, Amendments & Leases

### Section to be completed by department

#### 1. Munis Contract # Appendix A mult

Contractor: Multiple HSC funded organizations: Appendix A

Description: Human Services Committee funded adult services FY 19-21

Contract  Agreement  Lease / Rent  Amendment

Term Start Date: July 12, 2019 Term End Date: June 30, 2021

Approved by Council Date: 5/29/19

#### **Contract / Lease: HSC funded services for FY 19-21**

Amendment # 1 to the Original Contract / Lease # \_\_\_\_\_

Increase/(Decrease) Amount \$ n/a

Extend Termination Date to: June 30, 2022

Approved by Council Date: \_\_\_\_\_

#### **Amendment is for:**

#### 2. **HISTORY of Contract, Amendments & Lease / Rent - Please Elaborate** (option: attach spreadsheet if multiple amendments)

**Extension of term for one (1) year for multiple organizations.**

#### 3. Procurement History: RFP#19/31/P

*Fran D. Laway*  
Fran D. Laway (Apr 29, 2021 5:58 MDT)

Purchasing Officer Review:  
Comment & Exceptions: Amendment

Apr 29, 2021  
Date:

#### 4. Funding Source: Human Service Fund/ 240

*Alexis Lotero*  
Alexis Lotero (Apr 20, 2021 13:28 MDT)

Budget Officer Approval:  
Comment & Exceptions: \_\_\_\_\_

Org / Object: 2400122/510400  
Apr 20, 2021  
Date:

Staff Contact who completed this form: Elizabeth Peterson Phone # (505) 470-3186

Email: empeterson@santafenm.gov

#### To be recorded by City Clerk:

Clerk # \_\_\_\_\_

Date of Execution: \_\_\_\_\_



## City of Santa Fe

Treasury Department  
200 Lincoln Ave.

Santa Fe, New Mexico 87504-0909  
505-955-6551

## BUSINESS REGISTRATION

**Business Name:** INTERFAITH COMMUNITY SHELTER  
DBA: INTERFAITH COMMUNITY  
SHELTER

**Business Location:** 2801 CERRILLOS RD  
SANTA FE, NM 87501

**Owner:** KENNETH SEMAON

**License Number:** 222294

**Issued Date:** March 11, 2020

**Expiration Date:** March 11, 2021

**CRS Number:** 03113253007

**License Type:** Business License - Renewable

**Classification:** Business Registration - Standard

**Fees Paid:** \$35.00

INTERFAITH COMMUNITY SHELTER  
POO BOX 22653  
SANTA FE, NM 87502

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

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

**TO BE POSTED IN A CONSPICUOUS PLACE**



**ADDITIONAL REMARKS SCHEDULE**

AGENCY <b>HUB International Insurance Services (SOW)</b>		License # 0757776	NAMED INSURED <b>Interfaith Community Shelter Group Inc. PO Box 22653 Santa Fe, NM 87502</b>
POLICY NUMBER <b>SEE PAGE 1</b>			
CARRIER <b>SEE PAGE 1</b>	NAIC CODE <b>SEE P 1</b>	EFFECTIVE DATE: <b>SEE PAGE 1</b>	

**ADDITIONAL REMARKS**

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,  
FORM NUMBER: ACORD 25 FORM TITLE: Certificate of Liability Insurance

**Description of Operations/Locations/Vehicles:**

Where required by written contract of agreement, the City of Santa Fe is included as an additional insured with respects to general liability

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.****GENERAL LIABILITY DELUXE ENDORSEMENT:  
HUMAN SERVICES**

This endorsement modifies insurance provided under the following:

**COMMERCIAL GENERAL LIABILITY COVERAGE**

It is understood and agreed that the following extensions only apply in the event that no other specific coverage for the indicated loss exposure is provided under this policy. If such specific coverage applies, the terms, conditions and limits of that coverage are the sole and exclusive coverage applicable under this policy, unless otherwise noted on this endorsement. The following is a summary of the Limits of Insurance and additional coverages provided by this endorsement. For complete details on specific coverages, consult the policy contract wording.

<b>Coverage Applicable</b>	<b>Limit of Insurance</b>	<b>Page #</b>
Extended Property Damage	Included	2
Limited Rental Lease Agreement Contractual Liability	\$50,000 limit	2
Non-Owned Watercraft	Less than 58 feet	2
Damage to Property You Own, Rent, or Occupy	\$30,000 limit	2
Damage to Premises Rented to You	\$1,000,000	3
HIPAA	Clarification	4
Medical Payments	\$20,000	5
Medical Payments – Extended Reporting Period	3 years	5
Athletic Activities	Amended	5
Supplementary Payments – Bail Bonds	\$5,000	5
Supplementary Payment – Loss of Earnings	\$1,000 per day	5
Employee Indemnification Defense Coverage	\$25,000	5
Key and Lock Replacement – Janitorial Services Client Coverage	\$10,000 limit	6
Additional Insured – Newly Acquired Time Period	Amended	6
Additional Insured – Medical Directors and Administrators	Included	7
Additional Insured – Managers and Supervisors (with Fellow Employee Coverage)	Included	7
Additional Insured – Broadened Named Insured	Included	7
Additional Insured – Funding Source	Included	7
Additional Insured – Home Care Providers	Included	7
Additional Insured – Managers, Landlords, or Lessors of Premises	Included	7
Additional Insured – Lessor of Leased Equipment	Included	7
Additional Insured – Grantor of Permits	Included	8
Additional Insured – Vendor	Included	8
Additional Insured – Franchisor	Included	9
Additional Insured – When Required by Contract	Included	9
Additional Insured – Owners, Lessees, or Contractors	Included	9
Additional Insured – State or Political Subdivisions	Included	10

Duties in the Event of Occurrence, Claim or Suit	Included	10
Unintentional Failure to Disclose Hazards	Included	10
Transfer of Rights of Recovery Against Others To Us	Clarification	10
Liberalization	Included	11
Bodily Injury – includes Mental Anguish	Included	11
Personal and Advertising Injury – includes Abuse of Process, Discrimination	Included	11

**A. Extended Property Damage**

**SECTION I – COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY**, Subsection **2. Exclusions**, Paragraph **a.** is deleted in its entirety and replaced by the following:

**a. Expected or Intended Injury**

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

**B. Limited Rental Lease Agreement Contractual Liability**

**SECTION I – COVERAGES, COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY**, Subsection **2. Exclusions**, Paragraph **b. Contractual Liability** is amended to include the following:

- (3) Based on the named insured’s request at the time of claim, we agree to indemnify the named insured for their liability assumed in a contract or agreement regarding the rental or lease of a premises on behalf of their client, up to \$50,000. This coverage extension only applies to rental lease agreements. This coverage is excess over any renter’s liability insurance of the client.

**C. Non-Owned Watercraft**

**SECTION I – COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY**, Subsection **2. Exclusions**, Paragraph **g. (2)** is deleted in its entirety and replaced by the following:

- (2) A watercraft you do not own that is:
  - (a) Less than 58 feet long; and
  - (b) Not being used to carry persons or property for a charge;

This provision applies to any person, who with your consent, either uses or is responsible for the use of a watercraft. This insurance is excess over any other valid and collectible insurance available to the insured whether primary, excess or contingent.

**D. Damage to Property You Own, Rent or Occupy**

**SECTION I – COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE**

**LIABILITY**, Subsection **2. Exclusions**, Paragraph **j. Damage to Property**, Item **(1)** is deleted in its entirety and replaced with the following:

- (1) Property you own, rent, or occupy, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property, unless the damage to property is caused by your client, up to a \$30,000 limit. A client is defined as a person under your direct care and supervision.

**E. Damage to Premises Rented to You**

1. If damage by fire to premises rented to you is not otherwise excluded from this Coverage Part, the word "fire" is changed to "fire, lightning, explosion, smoke, or leakage from automatic fire protective systems" where it appears in:

- a. The last paragraph of **SECTION I – COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY**, Subsection **2. Exclusions**; is deleted in its entirety and replaced by the following:

Exclusions **c.** through **n.** do not apply to damage by fire, lightning, explosion, smoke, or leakage from automatic fire protective systems to premises while rented to you or temporarily occupied by you with permission of the owner. A separate limit of insurance applies to this coverage as described in **SECTION III – LIMITS OF INSURANCE**.

- b. **SECTION III – LIMITS OF INSURANCE**, Paragraph 6. is deleted in its entirety and replaced by the following:

Subject to Paragraph 5. above, the Damage To Premises Rented To You Limit is the most we will pay under Coverage A for damages because of "property damage" to any one premises, while rented to you, or in the case of damage by fire, lightning, explosion, smoke, or leakage from automatic fire protective systems while rented to you or temporarily occupied by you with permission of the owner.

- c. **SECTION V – DEFINITIONS**, Paragraph 9.a., is deleted in its entirety and replaced by the following:

A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire, lightning, explosion, smoke, or leakage from automatic fire protective systems to premises while rented to you or temporarily occupied by you with permission of the owner is not an "insured contract";

2. **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS**, Subsection **4. Other Insurance**, Paragraph **b. Excess Insurance**, **(1) (a) (ii)** is deleted in its entirety and replaced by the following:

That is insurance for fire, lightning, explosion, smoke, or leakage from automatic fire protective systems for premises rented to you or temporarily occupied by you with permission of the owner;

3. The Damage To Premises Rented To You Limit section of the Declarations is amended to the greater of:

- a. \$1,000,000; or
- b. The amount shown in the Declarations as the Damage to Premises Rented to You Limit.

This is the most we will pay for all damage proximately caused by the same event, whether such damage results from fire, lightning, explosion, smoke, or leaks from automatic fire protective systems or any combination thereof.

**F. HIPAA**

**SECTION I – COVERAGES, COVERAGE B PERSONAL AND ADVERTISING INJURY LIABILITY**, is amended as follows:

- 1. Paragraph **1. Insuring Agreement** is amended to include the following:

We will pay those sums that the insured becomes legally obligated to pay as damages because of a “violation(s)” of the Health Insurance Portability and Accountability Act (HIPAA). We have the right and the duty to defend the insured against any “suit,” “investigation,” or “civil proceeding” seeking these damages. However, we will have no duty to defend the insured against any “suit” seeking damages, “investigation,” or “civil proceeding” to which this insurance does not apply.

- 2. Paragraph **2. Exclusions** is amended to include the following additional exclusions:

This insurance does not apply to:

- a. **Intentional, Willful, or Deliberate Violations**

Any willful, intentional, or deliberate “violation(s)” by any insured.

- b. **Criminal Acts**

Any “violation” which results in any criminal penalties under the HIPAA.

- c. **Other Remedies**

Any remedy other than monetary damages for penalties assessed.

- d. **Compliance Reviews or Audits**

Any compliance reviews by the Department of Health and Human Services.

- 3. **SECTION V – DEFINITIONS** is amended to include the following additional definitions:

- a. “Civil proceeding” means an action by the Department of Health and Human Services (HHS) arising out of “violations.”
- b. “Investigation” means an examination of an actual or alleged “violation(s)” by HHS. However, “investigation” does not include a Compliance Review.
- c. “Violation” means the actual or alleged failure to comply with the regulations included in the HIPAA.

**G. Medical Payments – Limit Increased to \$20,000, Extended Reporting Period**

If **COVERAGE C MEDICAL PAYMENTS** is not otherwise excluded from this Coverage Part:

1. The Medical Expense Limit is changed subject to all of the terms of **SECTION III - LIMITS OF INSURANCE** to the greater of:
  - a. \$20,000; or
  - b. The Medical Expense Limit shown in the Declarations of this Coverage Part.
2. **SECTION I – COVERAGES, COVERAGE C MEDICAL PAYMENTS**, Subsection **1. Insuring Agreement**, a. (3) (b) is deleted in its entirety and replaced by the following:
  - (b) The expenses are incurred and reported to us within three years of the date of the accident.

**H. Athletic Activities**

**SECTION I – COVERAGES, COVERAGE C MEDICAL PAYMENTS**, Subsection **2. Exclusions**, Paragraph **e. Athletic Activities** is deleted in its entirety and replaced with the following:

**e. Athletic Activities**

To a person injured while taking part in athletics.

**I. Supplementary Payments**

**SECTION I – COVERAGES, SUPPLEMENTARY PAYMENTS - COVERAGE A AND B** are amended as follows:

1. **b.** is deleted in its entirety and replaced by the following:
  1. **b.** Up to \$5000 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these.
- 1.**d.** is deleted in its entirety and replaced by the following:
  1. **d.** All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$1,000 a day because of time off from work.

**J. Employee Indemnification Defense Coverage**

**SECTION I – COVERAGES, SUPPLEMENTARY PAYMENTS – COVERAGES A AND B** the following is added:

We will pay, on your behalf, defense costs incurred by an “employee” in a criminal proceeding occurring in the course of employment.

The most we will pay for any “employee” who is alleged to be directly involved in a criminal proceeding is \$25,000 regardless of the numbers of “employees,” claims or “suits” brought or persons or organizations making claims or bringing “suits.”

**K. Key and Lock Replacement – Janitorial Services Client Coverage**

**SECTION I – COVERAGES, SUPPLEMENTARY PAYMENTS – COVERAGES A AND B** is amended to include the following:

We will pay for the cost to replace keys and locks at the "clients" premises due to theft or other loss to keys entrusted to you by your "client," up to a \$10,000 limit per occurrence and \$10,000 policy aggregate.

We will not pay for loss or damage resulting from theft or any other dishonest or criminal act that you or any of your partners, members, officers, "employees", "managers", directors, trustees, authorized representatives or any one to whom you entrust the keys of a "client" for any purpose commit, whether acting alone or in collusion with other persons.

The following, when used on this coverage, are defined as follows:

a. "Client" means an individual, company or organization with whom you have a written contract or work order for your services for a described premises and have billed for your services.

b. "Employee" means:

(1) Any natural person:

(a) While in your service or for 30 days after termination of service;

(b) Who you compensate directly by salary, wages or commissions; and

(c) Who you have the right to direct and control while performing services for you; or

(2) Any natural person who is furnished temporarily to you:

(a) To substitute for a permanent "employee" as defined in Paragraph (1) above, who is on leave; or

(b) To meet seasonal or short-term workload conditions;

while that person is subject to your direction and control and performing services for you.

(3) "Employee" does not mean:

(a) Any agent, broker, person leased to you by a labor leasing firm, factor, commission merchant, consignee, independent contractor or representative of the same general character; or

(b) Any "manager," director or trustee except while performing acts coming within the scope of the usual duties of an "employee."

c. "Manager" means a person serving in a directorial capacity for a limited liability company.

**L. Additional Insureds**

**SECTION II – WHO IS AN INSURED** is amended as follows:

1. If coverage for newly acquired or formed organizations is not otherwise excluded from this

Coverage Part, Paragraph **3.a.** is deleted in its entirety and replaced by the following:

a. Coverage under this provision is afforded until the end of the policy period.

2. Each of the following is also an insured:

a. **Medical Directors and Administrators** – Your medical directors and administrators, but only while acting within the scope of and during the course of their duties as such. Such duties do not include the furnishing or failure to furnish professional services of any physician or psychiatrist in the treatment of a patient.

b. **Managers and Supervisors** – Your managers and supervisors are also insureds, but only with respect to their duties as your managers and supervisors. Managers and supervisors who are your “employees” are also insureds for “bodily injury” to a co-“employee” while in the course of his or her employment by you or performing duties related to the conduct of your business.

This provision does not change Item 2.a.(1)(a) as it applies to managers of a limited liability company.

c. **Broadened Named Insured** – Any organization and subsidiary thereof which you control and actively manage on the effective date of this Coverage Part. However, coverage does not apply to any organization or subsidiary not named in the Declarations as Named Insured, if they are also insured under another similar policy, but for its termination or the exhaustion of its limits of insurance.

d. **Funding Source** – Any person or organization with respect to their liability arising out of:

(1) Their financial control of you; or

(2) Premises they own, maintain or control while you lease or occupy these premises.

This insurance does not apply to structural alterations, new construction and demolition operations performed by or for that person or organization.

e. **Home Care Providers** – At the first Named Insured's option, any person or organization under your direct supervision and control while providing for you private home respite or foster home care for the developmentally disabled.

f. **Managers, Landlords, or Lessors of Premises** – Any person or organization with respect to their liability arising out of the ownership, maintenance or use of that part of the premises leased or rented to you subject to the following additional exclusions:

This insurance does not apply to:

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

(2) Structural alterations, new construction or demolition operations performed by or on behalf of that person or organization.

g. **Lessor of Leased Equipment – Automatic Status When Required in Lease Agreement With You** – Any person or organization from whom you lease equipment when you and such person or organization have agreed in writing in a contract or agreement that such person or organization is to be added as an additional insured on your policy. Such person or

organization is an insured only with respect to liability for "bodily injury," "property damage" or "personal and advertising injury" caused, in whole or in part, by your maintenance, operation or use of equipment leased to you by such person or organization.

A person's or organization's status as an additional insured under this endorsement ends when their contract or agreement with you for such leased equipment ends.

With respect to the insurance afforded to these additional insureds, this insurance does not apply to any "occurrence" which takes place after the equipment lease expires.

- h. Grantors of Permits** – Any state or political subdivision granting you a permit in connection with your premises subject to the following additional provision:
- (1) This insurance applies only with respect to the following hazards for which the state or political subdivision has issued a permit in connection with the premises you own, rent or control and to which this insurance applies:
    - (a) The existence, maintenance, repair, construction, erection, or removal of advertising signs, awnings, canopies, cellar entrances, coal holes, driveways, manholes, marquees, hoist away openings, sidewalk vaults, street banners or decorations and similar exposures;
    - (b) The construction, erection, or removal of elevators; or
    - (c) The ownership, maintenance, or use of any elevators covered by this insurance.
- i. Vendors** – Only with respect to "bodily injury" or "property damage" arising out of "your products" which are distributed or sold in the regular course of the vendor's business, subject to the following additional exclusions:
- (1) The insurance afforded the vendor does not apply to:
    - (a) "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;
    - (b) Any express warranty unauthorized by you;
    - (c) Any physical or chemical change in the product made intentionally by the vendor;
    - (d) Repackaging, except when unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;
    - (e) Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;
    - (f) Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;

- (g) Products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor; or
  - (h) "Bodily injury" or "property damage" arising out of the sole negligence of the vendor for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:
    - (i) The exceptions contained in Sub-paragraphs (d) or (f); or
    - (ii) Such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.
  - (2) This insurance does not apply to any insured person or organization, from whom you have acquired such products, or any ingredient, part or container, entering into, accompanying or containing.
- j. **Franchisor** – Any person or organization with respect to their liability as the grantor of a franchise to you.
- k. **As Required by Contract** – Any person or organization where required by a written contract executed prior to the occurrence of a loss. Such person or organization is an additional insured for "bodily injury," "property damage" or "personal and advertising injury" but only for liability arising out of the negligence of the named insured. The limits of insurance applicable to these additional insureds are the lesser of the policy limits or those limits specified in a contract or agreement. These limits are included within and not in addition to the limits of insurance shown in the Declarations
- l. **Owners, Lessees or Contractors** – Any person or organization, but only with respect to liability for "bodily injury," "property damage" or "personal and advertising injury" caused, in whole or in part, by:
  - (1) Your acts or omissions; or
  - (2) The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured when required by a contract.

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

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

- (a) All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
- (b) That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

**m. State or Political Subdivisions** – Any state or political subdivision as required, subject to the following provisions:

- (1) This insurance applies only with respect to operations performed by you or on your behalf for which the state or political subdivision has issued a permit, and is required by contract.
- (2) This insurance does not apply to:
  - (a) "Bodily injury," "property damage" or "personal and advertising injury" arising out of operations performed for the state or municipality; or
  - (b) "Bodily injury" or "property damage" included within the "products-completed operations hazard."

**M. Duties in the Event of Occurrence, Claim or Suit**

**SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS**, Paragraph 2. is amended as follows:

**a.** is amended to include:

This condition applies only when the "occurrence" or offense is known to:

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

**b.** is amended to include:

This condition will not be considered breached unless the breach occurs after such claim or "suit" is known to:

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

**N. Unintentional Failure To Disclose Hazards**

**SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS**, 6. **Representations** is amended to include the following:

It is agreed that, based on our reliance on your representations as to existing hazards, if you should unintentionally fail to disclose all such hazards prior to the beginning of the policy period of this Coverage Part, we shall not deny coverage under this Coverage Part because of such failure.

**O. Transfer of Rights of Recovery Against Others To Us**

**SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS**, 8. **Transfer of Rights of**

**Recovery Against Others To Us** is deleted in its entirety and replaced by the following:

If the insured has rights to recover all or part of any payment we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them.

Therefore, the insured can waive the insurer's rights of recovery prior to the occurrence of a loss, provided the waiver is made in a written contract.

**P. Liberalization**

**SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS**, is amended to include the following:

If we revise this endorsement to provide more coverage without additional premium charge, we will automatically provide the additional coverage to all endorsement holders as of the day the revision is effective in your state.

**Q. Bodily Injury – Mental Anguish**

**SECTION V – DEFINITIONS**, Paragraph 3. Is deleted in its entirety and replaced by the following:

"Bodily injury" means:

- a. Bodily injury, sickness or disease sustained by a person, and includes mental anguish resulting from any of these; and
- b. Except for mental anguish, includes death resulting from the foregoing (Item a. above) at any time.

**R. Personal and Advertising Injury – Abuse of Process, Discrimination**

If **COVERAGE B PERSONAL AND ADVERTISING INJURY LIABILITY COVERAGE** is not otherwise excluded from this Coverage Part, the definition of "personal and advertising injury" is amended as follows:

1. **SECTION V – DEFINITIONS**, Paragraph 14.b. is deleted in its entirety and replaced by the following:

- b. Malicious prosecution or abuse of process;

2. **SECTION V – DEFINITIONS**, Paragraph 14. is amended by adding the following:

Discrimination based on race, color, religion, sex, age or national origin, except when:

- a. Done intentionally by or at the direction of, or with the knowledge or consent of:
  - (1) Any insured; or
  - (2) Any executive officer, director, stockholder, partner or member of the insured;
- b. Directly or indirectly related to the employment, former or prospective employment, termination of employment, or application for employment of any person or persons by an insured;

- c. Directly or indirectly related to the sale, rental, lease or sublease or prospective sales, rental, lease or sub-lease of any room, dwelling or premises by or at the direction of any insured; or
- d. Insurance for such discrimination is prohibited by or held in violation of law, public policy, legislation, court decision or administrative ruling.

The above does not apply to fines or penalties imposed because of discrimination.






# GB COMMUNITY HEALTH AND SAFETY INTERFAITH SHELTER AMENDMENT

Final Audit Report

2021-03-17

Created:	2021-03-16
By:	Julie Sanchez (jjsanchez@ci.santa-fe.nm.us)
Status:	Signed
Transaction ID:	CBJCHBCAABAAEQPg4UxpjBITZBVIf9RN8PaQGqDOs49i

## "GB COMMUNITY HEALTH AND SAFETY INTERFAITH SHELTER AMENDMENT" History

-  Document created by Julie Sanchez (jjsanchez@ci.santa-fe.nm.us)  
2021-03-16 - 7:39:09 PM GMT- IP address: 73.26.148.94
-  Document emailed to Kyra Ochoa (krochoa@santafenm.gov) for signature  
2021-03-16 - 7:39:40 PM GMT
-  Email viewed by Kyra Ochoa (krochoa@santafenm.gov)  
2021-03-17 - 2:35:24 PM GMT- IP address: 174.219.9.135
-  Document e-signed by Kyra Ochoa (krochoa@santafenm.gov)  
Signature Date: 2021-03-17 - 2:36:12 PM GMT - Time Source: server- IP address: 174.219.9.135
-  Agreement completed.  
2021-03-17 - 2:36:12 PM GMT











# GB COMM HEALTH AND SAFETY INTERFAITH SHELTER AMENDMENT

Final Audit Report

2021-04-29

Created:	2021-03-17
By:	Jimmy Tapia (jptapia@ci.santa-fe.nm.us)
Status:	Signed
Transaction ID:	CBJCHBCAABAAJsUG1r_mp6bV8YiWJd5ywAGfAai2J-7A

## "GB COMM HEALTH AND SAFETY INTERFAITH SHELTER AMENDMENT" History

-  Document created by Jimmy Tapia (jptapia@ci.santa-fe.nm.us)  
2021-03-17 - 10:51:00 PM GMT- IP address: 63.232.20.2
-  Document emailed to Alexis Lotero (aclotero@santafenm.gov) for signature  
2021-03-17 - 10:53:27 PM GMT
-  Document shared with jjsanchez@santafenm.gov  
2021-03-31 - 2:51:47 PM GMT- IP address: 63.232.20.2
-  Document shared with empeterson@santafenm.gov  
2021-03-31 - 3:13:09 PM GMT- IP address: 63.232.20.2
-  Email viewed by Alexis Lotero (aclotero@santafenm.gov)  
2021-04-20 - 7:27:18 PM GMT- IP address: 104.47.65.254
-  Document e-signed by Alexis Lotero (aclotero@santafenm.gov)  
Signature Date: 2021-04-20 - 7:28:19 PM GMT - Time Source: server- IP address: 63.232.20.2
-  Document emailed to Fran Dunaway (fadunaway@santafenm.gov) for signature  
2021-04-20 - 7:28:26 PM GMT
-  Email viewed by Fran Dunaway (fadunaway@santafenm.gov)  
2021-04-29 - 9:55:05 PM GMT- IP address: 174.237.131.151
-  Document e-signed by Fran Dunaway (fadunaway@santafenm.gov)  
Signature Date: 2021-04-29 - 9:58:31 PM GMT - Time Source: server- IP address: 174.237.131.151
-  Agreement completed.  
2021-04-29 - 9:58:31 PM GMT



# City of Santa Fe, New Mexico

## Memorandum



**DATE:** February 25, 2021

**TO:** Alan Webber, Mayor and City Council

**VIA:** Mary McCoy, Finance Department Director  
Fran Dunaway, Chief Procurement Officer  
Kyra Ochoa, Community Health and Safety Department Acting Director  
Julie Sanchez, Youth and Family Services Division Director

  
Kyra Ochoa (Mar 17, 2021 09:35 CDT)

**FROM:** Elizabeth Peterson, Children and Youth Program Manager 

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**ITEM AND ISSUE:** Review and Approve: Contract amendment for NM Suicide Intervention Project for change to the scope of work. (Elizabeth Peterson, Children and Youth Program Manager, [empeterson@santafenm.gov](mailto:empeterson@santafenm.gov), (505)470-3186)

**No change to contract amount.**

### **BACKGROUND AND SUMMARY:**

The Children and Youth Commission is one of the City of Santa Fe's oldest standing committees, which was formed by Resolution and then Ordinance to serve in an advisory capacity to the City Council concerning policy recommendations related to child development and youth issues. The founding Ordinance stipulates that the Committee shall make funding recommendations to the City Council from the Children and Youth Commission Fund to support nonprofit organizations that provide programs and/or services to children and youth throughout the City of Santa Fe.

The Commission in partnership with the County wishes to ensure that essential services, which include primary health care, access to basic material goods and services like food and shelter, mental health counseling and related crisis services, are available to our residents. This year and beyond, we also intend to more directly support the people in agencies who help Santa Feans navigate a complex, sometimes challenging system of care, and to strengthen that system by supporting agencies in tracking and collecting data to show the scope of our community need and our collective impact on that need.

The pandemic has changed how organizations offer services and resources to individuals and families. NM Suicide Intervention Program has altered their service delivery to be virtual and even with virtual services, youth, families, and schools have not been deterred from seeking help. Suicide prevention services have increased while in person navigation to services and resources has decreased. This contract amendment reflects the increased need for virtual suicide prevention services and decreased number of youth served by navigation services.

The Commission works cooperatively with the Community Services Department and Youth and Family Services Division staff throughout the year and advises on how to effectively plan, coordinate or support health and human issues in our community. The Commission has completed the process to review and recommend amending the NM Suicide Intervention Program contract scope of work.

**PROCUREMENT METHOD:**

On March 6, 2020, RFP#20/21/P was issued through the Purchasing Office with an amended receipt date of April 10, 2020.

The Commission reviewed each request individually based on the following variables: complete proposal packet, program summary; data collection; collaboration, fiscal and organizational stability.

The Contract was fully executed November 8, 2020.

**CONTRACT NUMBER:**

The Munis contract number is 20-0565.

**FUNDING SOURCE:**

The funding source is:

**Fund Name/Number:** Children and Youth Fund/Fund 256

**Munis Org Name/Number:** Children and Youth/2560122

**Munis Object Name/Number:** Grants and Services/510400

**ACTION REQUESTED:**

The Community Health and Safety Department and the Youth and Family Services Division respectfully request your review and approval.

**Signature:** Elizabeth Peterson  
Elizabeth Peterson (Feb 26, 2021 09:28 MST)  
**Email:** empeterson@santafenm.gov

**Signature:**   
Julie Sanchez (Mar 1, 2021 08:16 MST)  
**Email:** jjsanchez@santafenm.gov









# NM Suicide Intervention Project Contract Amendment MEMO

Final Audit Report

2021-03-01

Created:	2021-02-26
By:	Victor Vigil (vjvigil@ci.santa-fe.nm.us)
Status:	Signed
Transaction ID:	CBJCHBCAABAADdupKASeg-aR2DXuhfSyfxVPhHRZ22GS

## "NM Suicide Intervention Project Contract Amendment MEMO" History

-  Document created by Victor Vigil (vjvigil@ci.santa-fe.nm.us)  
2021-02-26 - 4:22:02 PM GMT- IP address: 63.232.20.2
-  Document emailed to Elizabeth Peterson (empeterson@santafenm.gov) for signature  
2021-02-26 - 4:24:12 PM GMT
-  Email viewed by Elizabeth Peterson (empeterson@santafenm.gov)  
2021-02-26 - 4:28:31 PM GMT- IP address: 104.47.64.254
-  Document e-signed by Elizabeth Peterson (empeterson@santafenm.gov)  
Signature Date: 2021-02-26 - 4:28:57 PM GMT - Time Source: server- IP address: 75.161.230.88
-  Document emailed to Julie Sanchez (jjsanchez@santafenm.gov) for signature  
2021-02-26 - 4:29:00 PM GMT
-  Email viewed by Julie Sanchez (jjsanchez@santafenm.gov)  
2021-03-01 - 3:15:41 PM GMT- IP address: 104.47.64.254
-  Document e-signed by Julie Sanchez (jjsanchez@santafenm.gov)  
Signature Date: 2021-03-01 - 3:16:12 PM GMT - Time Source: server- IP address: 73.26.148.94
-  Agreement completed.  
2021-03-01 - 3:16:12 PM GMT

**CITY OF SANTA FE  
AMENDMENT No. 1 TO  
PROFESSIONAL SERVICES AGREEMENT  
Tier II Navigation Services  
#20-0565**

AMENDMENT No. 1 (the "Amendment") to the CITY OF SANTA FE PROFESSIONAL SERVICES AGREEMENT, dated November 8, 2020 (the "Agreement"), between the City of Santa Fe (the "City") and **THE NEW MEXICO SUICIDE INTERVENTION PROJECT** (the "Contractor"). The date of this Amendment shall be the date when it is executed by the City and the Contractor whichever occurs last.

**RECITALS:**

A. Under the terms of the Agreement, Contractor has agreed to provide the Safety Net Services Delivery and Navigation Services.

B. Pursuant to Article 14 of the Agreement, and for good and valuable consideration, the receipt and sufficiency of which are acknowledged by the parties, the City and the Contractor agree as follows:

1. SCOPE OF WORK.

Article A, paragraphs 1) and 2) of the Agreement is amended, so that Article A, paragraphs 1) and 2) reads as follows

1) Suicide prevention services to a minimum of 420 youth at a rate of \$150.00 per person.

2) Navigation Services to a minimum of 10 unduplicated youth at a rate of \$1,200.00 per person.

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 Agreement as of the dates set forth below.

CITY OF SANTA FE:

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

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

ATTEST:

\_\_\_\_\_  
KRISTINE BUSTOS MIHELIC, CITY CLERK

CITY ATTORNEY'S OFFICE:

Marcos Martinez  
Marcos Martinez (Feb 25, 2021 08:15 MST)

\_\_\_\_\_  
SENIOR ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

\_\_\_\_\_  
MARY MCCOY, FINANCE DIRECTOR

2560|22.5|0400 AL  
Munis Org. and Obj. Code

CONTRACTOR:

NM Suicide Intervention Project

\_\_\_\_\_  
NAME

Executive Director  
TITLE

DATE: 2-25-21

CRS# 02-294330-00-7

Registration # \_\_\_\_\_



**Board of Directors**

President:

Cameron Miranda

Vice President:

Edward Walpin

Treasurer:

Karen Aubrey

Leah Swanson

Brooke Gilder

Yvette Roybal

Peter Lovato

February 8, 2021

**Ms. Elizabeth Peterson, MPH**  
**Children and Youth Program Manager**  
**City of Santa Fe**  
**P.O. Box 909**  
**Santa Fe, NM 87504**

**Dear Ms. Peterson:**

I am proposing the following amendment to our CYC Contract for 2021-2022:

1) safety net/suicide prevention services to a minimum of 420 youth at \$150.00 per individual and 2) navigation services to a minimum of 10 youth at \$1,200.00 per individual for a total contract of \$75,000.00.

The Sky Center, NMSIP  
PO Box 6004  
Santa Fe, NM 87502

O:505.473.6191

F:505.983.0833

theskycenter@nmsip.org

skycenter.nmsip.org

<b>Original FY 21 Contract</b>	<b>Tier 1, 2</b>	<b><i>\$150 per safety net client x 220</i></b> <b><i>\$1,200 per navigation client x 35</i></b>	<b><i>\$75,000.00</i></b>
<b>NMSIP FY 21 Proposed Contract amendment</b>	<b>Tier 1, 2</b>	<b><i>\$150 per safety net client x 420</i></b> <b><i>\$1,200.00 per navigation client x 10</i></b>	<b><i>\$75,000.00</i></b>
<b>NMSIP FY 21 Proposed Contract amendment excluding \$1,050.00 donation from City of SF</b>	<b>Tier 1, 2</b>	<b><i>\$150 per safety net client x 413</i></b> <b><i>\$1,200.00 per navigation client x 10</i></b>	<b><i>\$73,950.00</i></b>

This amendment allows for maximum contract flexibility, reflecting our youth service needs. Even with virtual services, youth, families, and schools have not been deterred from seeking help. We need every cent of City funding for these individuals. The majority are poor, marginalized, and floundering with the weight of their day-to-day circumstances, coupled with the unrelentless and unending pandemic.

When we applied for funding, the client navigation estimate was a guess, at best, as we tried projecting reasonable numbers for this new service activity. I hope my proposed amendment will be acceptable.

Thank you for your consideration,  
Cynthia

**Cynthia Gonzales**  
**Grants and Contracts Director**  
[nmsuicideintervention@gmail.com](mailto:nmsuicideintervention@gmail.com)



# CITY OF SANTA FE PROCUREMENT CHECKLIST

Contractor Name: NM Suicide Intervention Project

Procurement Title: RFP 20/21/P

Procurement Method: State Price Agreement  Cooperative  Sole Source  Other

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

Department Requesting: Community Health and Safety Department Staff Name Elizabeth Peterson

### Procurement Requirements:

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

### REQUIRED DOCUMENTS FOR APPROVAL BY PURCHASING\*

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

Elizabeth Peterson Children and Youth Program Manager 2/25/2021

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

Fran Duraway (Apr 28, 2021 7:11 MDT)

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

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

\*



# City of Santa Fe

## Real Estate Summary of Contracts, Agreements, Amendments & Leases

### Section to be completed by department

1. Munis Contract # 32002195

Contractor: NM Suicide Intervention Project

Description: Children and Youth Commission funded youth services

Contract  Agreement  Lease / Rent  Amendment

Term Start Date: July 1, 2020 Term End Date: June 30, 2023

Approved by Council Date: 10/28/2020

### Contract / Lease: CYC funded youth services

Amendment # 1 to the Original Contract / Lease # 20-0565

Increase/(Decrease) Amount \$ n/a

Extend Termination Date to: n/a

Approved by Council Date: \_\_\_\_\_

### Amendment is for:

2. **HISTORY of Contract, Amendments & Lease / Rent - Please Elaborate** (option: attach spreadsheet if multiple amendments)

**Revise scope of work**

3. Procurement History: RFP 20/21/P

*Fran Dunaway*  
Fran Dunaway (Apr 28, 2021 7:11 MDT)

Purchasing Officer Review: \_\_\_\_\_ Date: Apr 28, 2021

Comment & Exceptions: amendment to RFP 20/21/P

4. Funding Source: Children and Youth Fund

*Alexis Lotero*  
Alexis Lotero (Apr 22, 2021 14:39 MDT)

Budget Officer Approval: \_\_\_\_\_ Date: \_\_\_\_\_

Comment & Exceptions: \_\_\_\_\_

Org / Object: 2560122.510400

Apr 22, 2021

Staff Contact who completed this form: Elizabeth Peterson Phone # (505) 470-3186

Email: empeterson@santafenm.gov

### To be recorded by City Clerk:

Clerk # \_\_\_\_\_

Date of Execution: \_\_\_\_\_

# BUSINESS REGISTRATION

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



**Business Name:** NM SUICIDE INTERVENTION  
DBA: NM SUICIDE INTERVENTION

**Business Location:** SF COUNTY

**Owner:**

**License Number:** 225993

**Issued Date:** March 05, 2020

**Expiration Date:** December 31, 2020

**License Type:** Business License - Renewable

**Classification:** Out of Jurisdiction Business License

**Fees Paid:** \$10.00

NM SUICIDE INTERVENTION  
PO BOX 6004  
SANTA FE, NM 87505

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

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

**TO BE POSTED IN A CONSPICUOUS PLACE**



## COMMENTS/REMARKS

EMPLOYEE DISHONESTY  
\$100,000 LIMIT \$5,000 DEDUCTIBLE

PROFESSIONAL LIABILITY  
\$1,000,000 EACH PROFESSIONAL OCCURRENCE  
\$2,000,000 GENERAL AGGREGATE








# GB COMMUNITY HEALTH AND SAFETY NM SUICIDE INTERVENTION AMENDMENT

Final Audit Report

2021-03-17

Created:	2021-03-16
By:	Julie Sanchez (jjsanchez@ci.santa-fe.nm.us)
Status:	Signed
Transaction ID:	CBJCHBCAABAA-4OacLCFoYRwWShna_Dgf4r7OBgRgpnL

## "GB COMMUNITY HEALTH AND SAFETY NM SUICIDE INTERVENTION AMENDMENT" History

-  Document created by Julie Sanchez (jjsanchez@ci.santa-fe.nm.us)  
2021-03-16 - 7:40:53 PM GMT- IP address: 73.26.148.94
-  Document emailed to Kyra Ochoa (krochoa@santafenm.gov) for signature  
2021-03-16 - 7:41:24 PM GMT
-  Email viewed by Kyra Ochoa (krochoa@santafenm.gov)  
2021-03-17 - 2:34:30 PM GMT- IP address: 174.219.9.135
-  Document e-signed by Kyra Ochoa (krochoa@santafenm.gov)  
Signature Date: 2021-03-17 - 2:35:16 PM GMT - Time Source: server- IP address: 174.219.9.135
-  Agreement completed.  
2021-03-17 - 2:35:16 PM GMT










# GB COMMUNITY HEALTH AND SAFETY NM SUICIDE INTERVENTION ADMENDMENT

Final Audit Report

2021-04-28

Created:	2021-03-17
By:	Jimmy Tapia (jptapia@ci.santa-fe.nm.us)
Status:	Signed
Transaction ID:	CBJCHBCAABAAAdQAWQiHuI4DKQfE-6E4NemqSfoRTd5-I

## "GB COMMUNITY HEALTH AND SAFETY NM SUICIDE INTERVENTION ADMENDMENT" History

-  Document created by Jimmy Tapia (jptapia@ci.santa-fe.nm.us)  
2021-03-17 - 10:57:09 PM GMT- IP address: 63.232.20.2
-  Document emailed to Alexis Lotero (aclotero@santafenm.gov) for signature  
2021-03-17 - 10:59:01 PM GMT
-  Email viewed by Alexis Lotero (aclotero@santafenm.gov)  
2021-03-23 - 0:59:11 AM GMT- IP address: 104.47.65.254
-  Email viewed by Alexis Lotero (aclotero@santafenm.gov)  
2021-04-22 - 8:16:27 PM GMT- IP address: 104.47.64.254
-  Document e-signed by Alexis Lotero (aclotero@santafenm.gov)  
Signature Date: 2021-04-22 - 8:39:58 PM GMT - Time Source: server- IP address: 63.232.20.2
-  Document emailed to Fran Dunaway (fadunaway@santafenm.gov) for signature  
2021-04-22 - 8:40:00 PM GMT
-  Email viewed by Fran Dunaway (fadunaway@santafenm.gov)  
2021-04-28 - 11:11:18 PM GMT- IP address: 104.47.64.254
-  Document e-signed by Fran Dunaway (fadunaway@santafenm.gov)  
Signature Date: 2021-04-28 - 11:11:50 PM GMT - Time Source: server- IP address: 63.232.20.2
-  Agreement completed.  
2021-04-28 - 11:11:50 PM GMT



# City of Santa Fe, New Mexico

## Memorandum



**DATE:** February 15, 2021

**TO:** Alan Webber, Mayor and City Council

**VIA:** Mary McCoy, Finance Department Director  
 Fran Dunaway, Chief Procurement Officer  
 Kyra Ochoa, Community Health and Safety Department Acting Director  
 Julie Sanchez, Youth and Family Services Division Director

**FROM:** Elizabeth Peterson, Children and Youth Program Manager

  
 Kyra Ochoa (Mar 16, 2021 15:58 CDT)

  
 JJS

  
 EP

**ITEM AND ISSUE:**

Request for HSC Contract Term Extension; all contractors (Elizabeth Peterson, Children and Youth Program Manager, [empeterson@santafenm.gov](mailto:empeterson@santafenm.gov), (505)470-3186)

**No change to contract amounts.**

**BACKGROUND AND SUMMARY:**

The Santa Fe Human Services Committee (HSC) was established by resolution 2012- in 2012 to assess and advocate for human service needs, coordinate resources to maximize cost-effectiveness, evaluate local human services programs and provide technical assistance to programs. The Responsibilities of the Committee include oversight of the Human Services Fund, review of applications for the fund and making recommendations, and ensuring access to services for all residents of Santa Fe.

The Committee in partnership with the County wishes to ensure that essential services, which include primary health care, access to basic materials goods and services like food and shelter, mental health counseling and related crisis services, are available to our residents. Community organizations funded with Human Services funding participate in CONNECT; a network that helps Santa Feans navigate a complex, sometimes challenging system of care. Organizations collect and track data to show the scope of our community need and our collective impact on that need.

This is a request to amend Human Service funded contracts with a contract extension for a term of one (1) year to ensure the continuation of support services to the community in the midst of a pandemic. Organizations have responded to the pandemic and altered and refined operations to serve the community while following public health orders. By extending the contract for a term of one year, organizations who are already burdened with adapting to COVID-19 restrictions can concentrate on delivery of services and resources without the added element of responding to a Referral for Proposal (RFP) process. We propose that a Human Service fund RFP is released in March of 2022.

The Committee works cooperatively with the Community Services Department and Youth and Family Services Division staff throughout the year and advises on how to effectively plan, coordinate or support health and human issues in our community. The Committee has reviewed this request and recommends the Scope of Work and contract extension be approved.

**PROCUREMENT METHOD:**

On March 5, 2019, RFP # 19/31/P was issued through the Purchasing Office. The Human Services Committee reviewed requests, made recommendations to the Governing Body and contracts were executed

July 12, 2019 for a three (3) year term ending June 30, 2021. With a one year term extension, contracts will end June 30<sup>th</sup>, 2022.

**CONTRACT NUMBER:**

Multiple award recommendations were made by the Human Services Committee. **(Please reference Appendix A for the Munis Contract Numbers)**

**FUNDING SOURCE:**

The funding source is:

**Fund Name/Number:** Human Service Fund/ 240

**Munis Org Name/Number:** Human Services/ 2400122

**Munis Object Name/Number:** Grants and Services/510400

**ACTION REQUESTED:**

The Community Health and Safety Department and the Youth and Family Services Division respectfully requests your review and approval.

**Signature:** Elizabeth Peterson  
Elizabeth Peterson (Feb 23, 2021 13:24 MST)  
**Email:** empeterson@santafenm.gov

**Signature:**   
Julie Sanchez (Feb 23, 2021 13:28 MST)  
**Email:** jjsanchez@santafenm.gov

**CITY OF SANTA FE  
AMENDMENT No. 1 TO  
PROFESSIONAL SERVICES AGREEMENT  
#19-0594**

AMENDMENT No. 1 (the "Amendment") to the CITY OF SANTA FE PROFESSIONAL SERVICES AGREEMENT, dated May 29, 2019 (the "Agreement"), between the City of Santa Fe (the "City") and NEW MEXICO IMMIGRANT LAW CENTER (the "Contractor"). The date of this Amendment shall be the date when it is executed by the City and the Contractor whichever occurs last.

**RECITALS:**

A. Under the terms of the Agreement, Contractor has agreed to provide the navigation and safety net services to adult's ages 18+.

B. Pursuant to Article 14 of the Agreement, and for good and valuable consideration, the receipt and sufficiency of which are acknowledged by the parties, the City and the Contractor agree as follows:

1. TERM

Article 3, of the Agreement is hereby amended to reflect a change in term so that Article 3 reads in its entirety as follows:

THIS AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED BY THE CITY. This Agreement shall terminate on **June 30<sup>th</sup> 2022** unless terminated pursuant to paragraph 4 (Termination), or paragraph (Appropriations). In accordance with Section 13-1-150 NMSA 1978, no contract term for a professional services contract, including extensions and renewals, shall exceed four years, except as set forth in

Section 13-1-150 NMSA 1978.

2. AGREEMENT IN FULL FORCE.

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

IN WITNESS WHEREOF, the parties have executed this Amendment No. 1 to the City of Santa Fe Professional Services Agreement as of the dates set forth below.

CITY OF SANTA FE:

CONTRACTOR:  
New Mexico Immigrant Law Center

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

Adriel Orozco, Executive Director  
\_\_\_\_\_  
NAME & TITLE



Date: \_\_\_\_\_

Date: 01/12/2021

CRS# Exempt  
Business Reg# 03-197-869-00-0

ATTEST:

BUSINESS LICENSE#224307

\_\_\_\_\_  
KRISTINE MIHELICIC, CITY CLERK

APPROVED AS TO FORM:

Marcos Martinez  
Marcos Martinez (Jan 12, 2021 08:57 MST)

\_\_\_\_\_  
SENIOR ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

\_\_\_\_\_  
MARY T. MCCOY, FINANCE DIRECTOR

2400122.510400 AL  
MUNIS ORG/OBJ AL

CITY OF SANTA FE  
GOODS AND SERVICES  
Tier I: Safety Net Services

THIS AGREEMENT is made and entered into by and between the City of Santa Fe, herein after referred to as the "City", and **NEW MEXICO IMMIGRANT LAW CENTER** herein after referred to as the "Contractor."

**IT IS MUTUALLY AGREED BETWEEN THE PARTIES:**

**1. Definitions**

- a. "Products and Services schedule" refers to the complete list of products and services offered under this Agreement and the price for each. Product and service descriptions may be amended with the prior approval of the Agreement Administrator. New products and services shall not be added to the Products and Services Schedule.
- b. "You" and "your" refers to **(NEW MEXICO IMMIGRANT LAW CENTER)**. "We," "us" or "our" refers to the City and whose accounts are created under this Agreement.
- c. Safety Net Services: Social welfare services provided by state and local government and non-profit agencies. These services are geared toward eliminating or reducing potentially dangerous or life-threatening conditions of poverty.
- d. Food Insecure: lacking reliable access to a sufficient quantity of affordable, nutritious food.
- e. Binge Drinking: the consumption of an excessive amount of alcohol in a short period of time. <https://www.cdc.gov/alcohol/fact-sheets/binge-drinking.htm>
- f. Homelessness: the circumstance of being without a permanent dwelling, such as a house or apartment.
- g. Unemployment: the circumstance of being without a paid job while available to work.
- h. Openness and Acceptance: a condition where inclusion into a larger social group and access to needed resources are available to all, regardless of ethnicity, sexual orientation, country of origin, age, or gender.
- i. Memorandum of Understanding (MOU): A non-binding agreement between two or more parties outlining the terms and details of an understanding including each parties' requirements and responsibilities.

2. **Scope of Work**

Tier I: Safety Net Services Delivery (ages 18+)

Funding Category/Goal Area	Indicators
<input type="checkbox"/> Adult Health	<input type="checkbox"/> Chronic disease rates (Heart disease, diabetes, cancer, and obesity) <input type="checkbox"/> Rate of adults consuming 5+ fruits and veggies daily <input type="checkbox"/> Rate of adults meeting recommended physical activity levels (150 minutes of aerobic physical activity per week) <input type="checkbox"/> % Women receiving prenatal care in 1 <sup>st</sup> trimester
<input type="checkbox"/> Behavioral Health	<input type="checkbox"/> % Current depression (past 2 weeks) <input type="checkbox"/> Suicide death rates <input type="checkbox"/> % Binge drinking (past 30 days) <input type="checkbox"/> Alcohol-related deaths <input type="checkbox"/> Drug-overdose deaths <input type="checkbox"/> Untreated adults with mental illness
<input checked="" type="checkbox"/> Community Safety	<input type="checkbox"/> Fall-related deaths <input type="checkbox"/> Homelessness rate <input checked="" type="checkbox"/> Domestic Violence rate
<input checked="" type="checkbox"/> Equitable Society	<input checked="" type="checkbox"/> % Unemployment <input type="checkbox"/> % Food insecure households <input type="checkbox"/> % Adults Age 25+ with Post-Secondary education <input type="checkbox"/> Openness and acceptance of community toward people of diverse backgrounds

A. The Contractor shall perform the following work:

- 1) Safety net services in the above-selected funding category/goal area to impact the selected indicator(s).
- 2) Safety net services to City of Santa Fe resident's ages 18+.
- 3) Use an agreed-upon IT system to be determined by the City of Santa Fe's Community Services Department and the Human Services Committee, which will track individual client outcomes and effectiveness of referrals within a network on participating community organizations. This includes participation in data sharing with other organizations on referrals received and processed (with consent of the clients served obtained by referring agency) and requires MOUs with community partners, to be negotiated with the assistance of the City of Santa Fe. Share aggregate and non-medical client data with other City of Santa Fe and Santa Fe County-funded partners.
- 4) Provide Program Manager or other appointed City staff with quarterly data on performance measures, outcomes of referrals and number of clients served.

- 5) Survey individuals-served annually to assess their continued engagement with needed resources and satisfaction with service delivery.
- 6) Ensure as appropriate that clients served are from underserved communities e.g. American Indian/Alaska Native, Hispanic, and African American/Black with a priority serving low to very low-income households.

B. Performance Measures:

Contractor shall substantially perform the following:

- 1) # or % of legal services to crime and abuse victims, # or % of adult participants who qualify for humanitarian-based legal status (U Visa, VAWA, T Visa, etc.), # or % of participants who report an increase in opportunities; # or % of participants surveyed for program satisfaction; and
- 2) # or % of clients referred to New Mexico Immigrant Law Center from outside agencies; and
- 3) # or % of New Mexico Immigrant Law Center participants screened by the social needs screening tool.

C. Deliverables:

- 1) Provide legal immigration services to a minimum of 61 per year unduplicated adult individuals and/or families victims of domestic violence, abuse, exploitation or related sexual assault and human trafficking x \$821.00 per individual adult/family.
- 2) Annual report and three quarterly reports documenting outcomes of referrals, including a year-end summary of City grant related expenses plus additional material as requested by the Human Service Committee or City of Santa Fe Community Services Department/Youth and Family Services Division.
- 3) The receipt of the deliverables contemplated under this Agreement shall assist the City and Human Services Committee in obtaining its goal(s) as set forth in its Strategic Plan on page(s) 1-4.

3. Compensation

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

Deliverable item: \_\_\_\_\_

FY20: Unduplicated People Served 61 x \$821.00 (annual per person rate) = \$50,000.00 (Total Contract Amount)

FY21: Unduplicated People Served  $61 \times \$821.00$  (annual per person rate) = \$50,000.00 (Total Contract Amount)

The total compensation under this Agreement shall not exceed [\$100,000.00] including New Mexico gross receipts tax.

4. **Payment Provisions**

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

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

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

5. **Term**

THIS AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED IN WRITING BY THE CITY. This Agreement shall begin on date approved by the City, and end on **June 30<sup>th</sup> 2021** The City reserves the right to renew the contract on an annual basis by mutual Agreement not exceed a total of four years in accordance with NMSA 1978, §§ 13-1-150 through 152.

6. **Default and Force Majeure**

The City reserves the right to cancel all or any part of any orders placed under this contract without cost to the City, if the Vendor fails to meet the provisions of this contract and, except as otherwise provided herein, to hold the Vendor liable for any excess cost occasioned by the City due to the Vendor's default. The Vendor shall not be liable for any excess costs if failure to perform the order arises out of causes beyond the control and without the fault or negligence of the Vendor; such causes include, but are not restricted to, acts of God or the public enemy, acts

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

7. **Termination**

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

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

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

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

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

C. **Liability.** Except as otherwise expressly allowed or provided under this Agreement, the City's sole liability upon termination shall be to pay for acceptable work performed prior to the Contractor's receipt or issuance of a notice of termination; **provided, however,** that a notice of termination shall not nullify or otherwise affect either party's liability for pre-termination defaults under or breaches of this Agreement. The Contractor shall submit an invoice for such work within thirty (30) days of receiving or sending the notice of termination. **THIS PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE THE CITY'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THIS AGREEMENT.**

8. **Amendment**

A. This Agreement shall not be altered, changed or amended except by instrument in writing executed by the parties hereto and all other required signatories.

B. If the City proposes an amendment to the Agreement to unilaterally reduce funding due to budget or other considerations, the Contractor shall, within thirty (30) days of

receipt of the proposed Amendment, have the option to terminate the Agreement, pursuant to the termination provisions as set forth in Paragraph 7 herein, or to agree to the reduced funding.

9. **Status of Contractor**

The Contractor, and Contractor's agents and employees, are independent Contractors for the City and are not employees of the City. The Contractor, and Contractor's agents and employees, shall not accrue leave, retirement, insurance, bonding, use of City vehicles, or any other benefits afforded to employees of the City as a result of this Agreement. The Contractor acknowledges that all sums received hereunder are personally reportable by the Contractor for income tax purposes, including without limitation, self-employment tax and business income tax. The Contractor agrees not to purport to bind the City unless the Contractor has written authority to do so, and then only within the strict limits of that authority.

10. **Assignment**

The Contractor shall not assign or transfer any interest in this Agreement or assign any claims for money due or to become due under this Agreement without the prior written approval of the City.

11. **Subcontracting**

The Contractor shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of the City. No such subcontract shall relieve the primary Contractor from its obligations and liabilities under this Agreement, nor shall any subcontract obligate direct payment from the City.

12. **Non-Collusion**

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

13. **Inspection of Plant**

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

14. **Site Visits.**

At any time during the contract period the director or designee of the COMMUNITY SERVICES DEPARTMENT may perform a site visit to contracted sites to review programming and meet with participants. Members of the oversight body will be informed and invited to participate, this may include community partners and program co-funders.

15. **Commercial Warranty**

The Vendor agrees that the tangible personal property or services furnished under this Agreement shall be covered by the most favorable commercial warranties the Vendor gives to any customer for such tangible personal property or services, and that the rights and remedies provided herein shall extend to the City and are in addition to and do not limit any rights

afforded to the City by any other clause of this order. Vendor agrees not to disclaim warranties of fitness for a particular purpose or merchantability.

16. **Condition of Proposed Items**

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

17. **Records and Financial Audit**

During the term of this Agreement and for three years thereafter, the Contractor shall maintain detailed records pertaining to the services rendered and products delivered. These records shall be subject to inspection by the City, the State Auditor and other appropriate state and federal authorities. The City shall have the right to audit billings both before and after payment. Payment under this Agreement shall not foreclose the right of the City to recover excessive or illegal payments. The City or city contractor shall have the right, at reasonable times and at a site designated by the City, to audit financial expenditures of City grant funding, documents, files and records of the Contractor to the extent that the finances, documents, files and records related to costs or accuracy of reimbursement for outcome or deliverable. The Contractor shall give full and free access to all records to the City and/or their authorized representative. The Contractor shall maintain detailed records that indicate the date, nature and cost of services rendered during the Agreement's term and effect and retain them for a period of three (3) years from the date of final payment under this Agreement. If offering Navigation Services, records must indicate that the City is the sole payor per client billed for. The records shall be subject to inspection by the City.

18. **Appropriations**

The terms of this Agreement, and any orders placed under it, are contingent upon sufficient appropriations and authorization being made by the City Council for the performance of this Agreement. If sufficient appropriations and authorization are not made by the legislature, this Agreement, and any orders placed under it, shall terminate upon written notice being given by the City to the Contractor. The City's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. If the City proposes an amendment to the Agreement to unilaterally reduce funding, the Contractor shall have the option to terminate the Agreement or to agree to the reduced funding, within thirty (30) days of receipt of the proposed amendment.

19. **Release**

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

20. **Confidentiality**

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

21. **Conflict of Interest**

A. The Contractor represents and warrants that it presently has no interest and, during the term of this Agreement, shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under the Agreement. The Contractor shall comply with any applicable provisions of the New Mexico Governmental Conduct Act and the New Mexico Financial Disclosures Act.

B. The Contractor further represents and warrants that it has complied with, and, during the term of this Agreement, will continue to comply with, and that this Agreement complies with all applicable provisions of the Governmental Conduct Act, Chapter 10, Article 16 NMSA 1978.

C. Contractor's representations and warranties in Paragraphs A and B of this Paragraph are material representations of fact upon which the City relied when this Agreement was entered into by the parties. Contractor shall provide immediate written notice to the City if, at any time during the term of this Agreement, Contractor learns that Contractor's representations and warranties in Paragraphs A and B of this Paragraph 20 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances. If it is later determined that Contractor's representations and warranties in Paragraphs A and B of this Paragraph 20 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances, in addition to other remedies available to the City and notwithstanding anything in the Agreement to the contrary, the City may immediately terminate the Agreement.

D. All terms defined in the Governmental Conduct Act have the same meaning in this section.

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

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

23. **Scope of Agreement; Merger**

This Agreement incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements and understandings have been merged into this written Agreement. No prior agreements or understandings, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

24. **Notice**

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

25. **Equal Opportunity Compliance**

The Contractor agrees to abide by all federal and state laws, and local Ordinances, pertaining to equal employment opportunity. In accordance with all such laws, rules, and regulations, the Contractor agrees to assure that no person in the United States shall on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, or serious medical condition, spousal affiliation, sexual orientation or gender identity, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed under this Agreement. If Contractor is found not to be in compliance with these requirements during the life of this Agreement, Contractor agrees to take appropriate steps to correct these deficiencies.

26. **Indemnification**

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

27. **New Mexico Tort Claims Act**

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

28. **Applicable Law**

The laws of the State of New Mexico shall govern this Agreement, without giving effect to its choice of law provisions. Venue shall be proper only in a New Mexico court of competent jurisdiction in accordance with NMSA 1978, § 38-3-1 (G). By execution of this Agreement, Contractor acknowledges and agrees to the jurisdiction of the courts of the State of New Mexico over any and all lawsuits arising under or out of any term of this Agreement.

29. **Limitation of Liability**

The Contractor's liability to the City, for any cause whatsoever shall be limited to the purchase price paid to the Contractor for the products and services that are the subject of the City's, claim. The foregoing limitation does not apply to paragraph 25 of this Agreement or to damages resulting from personal injury caused by the Contractor's negligence.

30. **Incorporation by Reference and Precedence**

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

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

31. **Workers' Compensation**

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

32. **Inspection**

If this contract is for the purchase of tangible personal property (goods), final inspection and acceptance shall be made at Destination. Tangible personal property rejected at Destination for non-conformance to specifications shall be removed at Contractor's risk and expense promptly after notice of rejection and shall not be allowable as billable items for payment.

33. **Inspection of Services**

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

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

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

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

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

- (1) require the Contractor to take necessary action(s) to ensure that future performance conforms to the requirements of this Agreement; and
- (2) reduce the contract price to reflect the reduced value of the services performed.

E. If the Contractor fails to promptly re-perform the services or to take the necessary action(s) to ensure future performance in conformity with the requirements of this Agreement, the City may:

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

34. **Insurance**

If the services contemplated under this Agreement will be performed on or in City facilities or property, Contractor shall maintain in force during the entire term of this Agreement, the following insurance coverage(s), naming the City as additional insured.

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

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

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

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

35. **Impracticality of Performance**

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

36. **Invalid Term or Condition**

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

37. **Enforcement of Agreement**

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

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

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

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

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

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

39. **Survival**

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

40. **Disclosure Regarding Responsibility**

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

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

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

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

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

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

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

The City may, without cause, order the Contractor, in writing, to suspend, delay or interrupt the work in whole or in part for such period of time as the City may determine. The contract sum and contract time shall be adjusted for increases in cost and/or time associated with Contractor's compliance therewith. Upon receipt of such notice, Contractor shall leave the jobsite and any equipment in a safe condition prior to departing. Contractor must assert rights to additional compensation within thirty (30) days after suspension of work is lifted and return to work is authorized. Any compensation requested for which entitlement is granted and the contract sum adjusted, shall have profit included (for work completed) and for cost only (not profit) for Contractor costs incurred directly tied to the suspension itself and not otherwise covered by Contract remedy. Any change in Total Compensation must be reflected in an Amendment executed pursuant to Section 8 of this Agreement.

42. **Notification**

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

To the City: [Julie Sanchez, Program Manager, 500 Market Station Suite 200,  
[jjsanchez@ci.santa-fe.nm.us](mailto:jjsanchez@ci.santa-fe.nm.us)].

To the Contractor: [New Mexico Immigrant Law Center, 3130 Rufina Street,  
[jlandau@nmilc.org](mailto:jlandau@nmilc.org)].

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

To the Contractor: [New Mexico Immigrant Law Center, 3130 Rufina Street,  
[jlandau@nmilc.org](mailto:jlandau@nmilc.org)].

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

43. **Succession**

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

44. **Reporting.**

Grantees shall submit Quarterly Reports on the programmatic accomplishments made toward the goals of the grant agreement. Quarterly reports are due to the YOUTH AND FAMILY SERVICES DIVISION or COMMUNITY SERVICES DEPARTMENT Program Manager no later than the 15th of the month subsequent to the Quarter end date with the exception of the 4th quarter which is due July 5th. If the 15th falls on a weekend reports will be due the following Monday by close of business. Quarterly Reports shall include the following:

A. Total Amount of funds received, Amount of funds received that were expended for programs; Number of adults served in the current quarter (if not already included in reporting template); reporting template with attachments or reporting as requested by DIVISION, DEPARTMENT or the COMMITTEE.

B. **Fiscal Year Quarters:**

Quarter 1: July-September  
Quarter 2: October-December  
Quarter 3: January-March  
Quarter 4: April-June

**Reports Due:**

October 15<sup>th</sup>  
January 15<sup>th</sup>  
April 15<sup>th</sup>  
July 5<sup>th</sup>

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

CITY OF SANTA FE:

CONTRACTOR:

New Mexico Immigrant Law Center

  
ALAN M. WEBBER, MAYOR

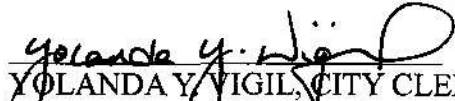
NAME: Jennifer Landau  
TITLE: Executive Director

DATE: 7/12/19

DATE: 7/18/2019

CRS#EXEMPT  
REGISTRATION # 19-00125059

ATTEST:

  
YOLANDA Y. VIGIL, CITY CLERK  
cc mtg. 5.29.2019

APPROVED AS TO FORM:

  
for ERIN K. MCSHERRY, CITY ATTORNEY

APPROVED:

  
MARY T. MCCOY, FINANCE DIRECTOR MM

22763.510400  
Business Unit Line Item

# HSC Contract Amendment List 19/31/P

## APPENDIX A: FY19-21 HSC Contract Amendments

	Name of Nonprofit Organization	MUNIS Contract #	HSC Contract Amounts	Tier	Funding Category/Goal Area
1	Coming Home Connection	3200428	\$ 75,000.00	II	Community Safety
2	Esperanza Shelter	3200450	\$ 43,000.00	II	Community Safety
3	Feeding Santa Fe	3200472	\$ 30,000.00	I	Equitable Society
4	Food Depot	3200474	\$ 57,000.00	II	Equitable Society
5	Interfaith Community Shelter	3200483	\$ 150,000.00	II	Behavioral Health, Community Safety
6	Kitchen Angels	3200485	\$ 50,000.00	II	Equitable Society
7	La Familia	3200585	\$ 75,000.00	I	Adult Health
8	Life Link	3200493	\$ 70,000.00	II	Behavioral Health, Community Safety
9	Literacy Volunteers	3200712	\$ 60,000.00	I	Equitable Society
10	NM Immigrant Law Center	3200855	\$ 50,000.00	I	Community Safety, Equitable Society
11	Santa Fe Dreamers Project	3200595	\$ 40,000.00	I	Equitable Society
12	St. Elizabeth Shelter	3200597	\$ 100,000.00	II	Community Safety
13	YouthWorks	3200587	\$ 50,000.00	II	Equitable Society
			<b>\$ 850,000.00</b>		

### Definitions:

**Tier I** will focus on safety net services delivery, e.g. # of individuals served with units or items of service delivery such as food, clothes, hours of counseling, etc. and will use Unite Us! to close

**Tier II** will focus on not only on safety net services delivery and closing referral loops but also on screening and navigation services. Tier II respondents will screen for needs and connect individual clients to safety net services and navigate them to other priority community services. A Social Needs Screening Tool will used to determine unmet needs. Navigation will coordinate care and services



# CITY OF SANTA FE PROCUREMENT CHECKLIST

Contractor Name: HSC funded organizations- Appendix A

Procurement Title: RFP#19/31/P

Procurement Method: State Price Agreement  Cooperative  Sole Source  Other

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

Department Requesting: Community Health and Safety Department Staff Name Elizabeth Peterson

### Procurement Requirements:

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

### REQUIRED DOCUMENTS FOR APPROVAL BY PURCHASING\*

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

Elizabeth Peterson Children and Youth Program Manager 2/15/2021

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

Fran Dunaway (Apr 28, 2021 7:16 MDT)

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

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

\*



# City of Santa Fe

## Real Estate Summary of Contracts, Agreements, Amendments & Leases

### Section to be completed by department

#### 1. Munis Contract # Appendix A mult

Contractor: Multiple HSC funded organizations: Appendix A

Description: Human Services Committee funded adult services FY 19-21

Contract  Agreement  Lease / Rent  Amendment

Term Start Date: July 12, 2019 Term End Date: June, 30, 2021

Approved by Council Date: 5/29/19

#### **Contract / Lease: HSC funded services for FY 19-21**

Amendment # 1 to the Original Contract / Lease # \_\_\_\_\_

Increase/(Decrease) Amount \$ n/a

Extend Termination Date to: June 30, 2022

Approved by Council Date: \_\_\_\_\_

#### **Amendment is for:**

#### 2. **HISTORY of Contract, Amendments & Lease / Rent - Please Elaborate** (option: attach spreadsheet if multiple amendments)

**Extension of term for one (1) year for multiple organizations.**

#### 3. Procurement History: RFP#19/31/P

*Jim Downey*  
From Downey (Apr 28, 2021 7:16 MDT)

Purchasing Officer Review: \_\_\_\_\_ Date: Apr 28, 2021

Comment & Exceptions: Amendment to RFP 19/31/P- Final year of a 4 year term

#### 4. Funding Source: Human Service Fund/ 240

*Alexis Lotero*  
Alexis Lotero (Apr 22, 2021 14:08 MDT)

Budget Officer Approval: \_\_\_\_\_ Date: \_\_\_\_\_

Comment & Exceptions: \_\_\_\_\_

Org / Object: 2400122/510400

Apr 22, 2021

Staff Contact who completed this form: Elizabeth Peterson Phone # (505) 470-3186

Email: empeterson@santafenm.gov

#### To be recorded by City Clerk:

Clerk # \_\_\_\_\_

Date of Execution: \_\_\_\_\_



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

## BUSINESS REGISTRATION

**Business Name:** NEW MEXICO IMMIGRANT LAW  
CENTER  
DBA: NEW MEXICO IMMIGRANT LAW  
CENTER

**Business Location:** 6601 VALENTINE WAY  
SANTA FE, NM 87507

**Owner:** Jennifer Landau

**License Number:** 224307

**Issued Date:** February 24, 2021

**Expiration Date:** February 24, 2022

**CRS Number:** 03-197869-00-0

**License Type:** Business License - Renewable

**Classification:** Business Registration - Standard

**Fees Paid:** \$35.00

NEW MEXICO IMMIGRANT LAW CENTER  
PO Box 7040  
Albuquerque, NM 87194-7040

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

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

**TO BE POSTED IN A CONSPICUOUS PLACE**



# **BUSINESS LIABILITY COVERAGE FORM**

**QUICK REFERENCE  
BUSINESS LIABILITY COVERAGE FORM  
READ YOUR POLICY CAREFULLY**

<b>BUSINESS LIABILITY COVERAGE FORM</b>	<b>Beginning on Page</b>
<b>A. COVERAGES</b>	<b>1</b>
Business Liability	<b>1</b>
Medical Expenses	<b>2</b>
Coverage Extension - Supplementary Payments	<b>2</b>
<b>B. EXCLUSIONS</b>	<b>3</b>
<b>C. WHO IS AN INSURED</b>	<b>10</b>
<b>D. LIABILITY AND MEDICAL EXPENSES LIMITS OF INSURANCE</b>	<b>14</b>
<b>E. LIABILITY AND MEDICAL EXPENSES GENERAL CONDITIONS</b>	<b>15</b>
1. Bankruptcy	<b>15</b>
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3. Financial Responsibility Laws	<b>16</b>
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# BUSINESS LIABILITY COVERAGE FORM

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations. The words "we", "us" and "our" refer to the stock insurance company member of The Hartford providing this insurance.

The word "insured" means any person or organization qualifying as such under Section **C.** - Who Is An Insured.

Other words and phrases that appear in quotation marks have special meaning. Refer to Section **G.** - Liability And Medical Expenses Definitions.

## A. COVERAGES

### 1. BUSINESS LIABILITY COVERAGE (BODILY INJURY, PROPERTY DAMAGE, PERSONAL AND ADVERTISING INJURY)

#### Insuring Agreement

- a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "bodily injury", "property damage" or "personal and advertising injury" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "bodily injury", "property damage" or "personal and advertising injury" to which this insurance does not apply.

We may, at our discretion, investigate any "occurrence" or offense and settle any claim or "suit" that may result. But:

- (1) The amount we will pay for damages is limited as described in Section **D.** - Liability And Medical Expenses Limits Of Insurance; and
- (2) Our right and duty to defend ends when we have used up the applicable limit of insurance in the payment of judgments, settlements or medical expenses to which this insurance applies.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Coverage Extension - Supplementary Payments.

- b. This insurance applies:

- (1) To "bodily injury" and "property damage" only if:

(a) The "bodily injury" or "property damage" is caused by an "occurrence" that takes place in the "coverage territory";

(b) The "bodily injury" or "property damage" occurs during the policy period; and

(c) Prior to the policy period, no insured listed under Paragraph **1.** of Section **C.** - Who Is An Insured and no "employee" authorized by you to give or receive notice of an "occurrence" or claim, knew that the "bodily injury" or "property damage" had occurred, in whole or in part. If such a listed insured or authorized "employee" knew, prior to the policy period, that the "bodily injury" or "property damage" occurred, then any continuation, change or resumption of such "bodily injury" or "property damage" during or after the policy period will be deemed to have been known prior to the policy period.

(2) To "personal and advertising injury" caused by an offense arising out of your business, but only if the offense was committed in the "coverage territory" during the policy period.

c. "Bodily injury" or "property damage" will be deemed to have been known to have occurred at the earliest time when any insured listed under Paragraph **1.** of Section **C.** - Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim:

(1) Reports all, or any part, of the "bodily injury" or "property damage" to us or any other insurer;

## BUSINESS LIABILITY COVERAGE FORM

- (2) Receives a written or verbal demand or claim for damages because of the "bodily injury" or "property damage"; or
  - (3) Becomes aware by any other means that "bodily injury" or "property damage" has occurred or has begun to occur.
- d. Damages because of "bodily injury" include damages claimed by any person or organization for care, loss of services or death resulting at any time from the "bodily injury".

### e. Incidental Medical Malpractice

- (1) "Bodily injury" arising out of the rendering of or failure to render professional health care services as a physician, dentist, nurse, emergency medical technician or paramedic shall be deemed to be caused by an "occurrence", but only if:
  - (a) The physician, dentist, nurse, emergency medical technician or paramedic is employed by you to provide such services; and
  - (b) You are not engaged in the business or occupation of providing such services.
- (2) For the purpose of determining the limits of insurance for incidental medical malpractice, any act or omission together with all related acts or omissions in the furnishing of these services to any one person will be considered one "occurrence".

## 2. MEDICAL EXPENSES

### Insuring Agreement

- a. We will pay medical expenses as described below for "bodily injury" caused by an accident:
  - (1) On premises you own or rent;
  - (2) On ways next to premises you own or rent; or
  - (3) Because of your operations;provided that:
  - (1) The accident takes place in the "coverage territory" and during the policy period;
  - (2) The expenses are incurred and reported to us within three years of the date of the accident; and
  - (3) The injured person submits to examination, at our expense, by physicians of our choice as often as we reasonably require.

- b. We will make these payments regardless of fault. These payments will not exceed the applicable limit of insurance. We will pay reasonable expenses for:

- (1) First aid administered at the time of an accident;
- (2) Necessary medical, surgical, x-ray and dental services, including prosthetic devices; and
- (3) Necessary ambulance, hospital, professional nursing and funeral services.

## 3. COVERAGE EXTENSION - SUPPLEMENTARY PAYMENTS

- a. We will pay, with respect to any claim or "suit" we investigate or settle, or any "suit" against an insured we defend:
  - (1) All expenses we incur.
  - (2) Up to \$1,000 for the cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which Business Liability Coverage for "bodily injury" applies. We do not have to furnish these bonds.
  - (3) The cost of appeal bonds or bonds to release attachments, but only for bond amounts within the applicable limit of insurance. We do not have to furnish these bonds.
  - (4) All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$500 a day because of time off from work.
  - (5) All costs taxed against the insured in the "suit".
  - (6) Prejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the applicable limit of insurance, we will not pay any prejudgment interest based on that period of time after the offer.
  - (7) All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable limit of insurance.

Any amounts paid under (1) through (7) above will not reduce the limits of insurance.

b. If we defend an insured against a "suit" and an indemnitee of the insured is also named as a party to the "suit", we will defend that indemnitee if all of the following conditions are met:

- (1) The "suit" against the indemnitee seeks damages for which the insured has assumed the liability of the indemnitee in a contract or agreement that is an "insured contract";
- (2) This insurance applies to such liability assumed by the insured;
- (3) The obligation to defend, or the cost of the defense of, that indemnitee, has also been assumed by the insured in the same "insured contract";
- (4) The allegations in the "suit" and the information we know about the "occurrence" are such that no conflict appears to exist between the interests of the insured and the interest of the indemnitee;
- (5) The indemnitee and the insured ask us to conduct and control the defense of that indemnitee against such "suit" and agree that we can assign the same counsel to defend the insured and the indemnitee; and
- (6) The indemnitee:
  - (a) Agrees in writing to:
    - (i) Cooperate with us in the investigation, settlement or defense of the "suit";
    - (ii) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the "suit";
    - (iii) Notify any other insurer whose coverage is available to the indemnitee; and
    - (iv) Cooperate with us with respect to coordinating other applicable insurance available to the indemnitee; and
  - (b) Provides us with written authorization to:
    - (i) Obtain records and other information related to the "suit"; and
    - (ii) Conduct and control the defense of the indemnitee in such "suit".

So long as the above conditions are met, attorneys' fees incurred by us in the defense of that indemnitee, necessary litigation expenses incurred by us and necessary litigation expenses incurred by the indemnitee at our request will be paid as Supplementary Payments.

Notwithstanding the provisions of Paragraph **1.b.(b)** of Section **B.** – Exclusions, such payments will not be deemed to be damages for "bodily injury" and "property damage" and will not reduce the Limits of Insurance.

Our obligation to defend an insured's indemnitee and to pay for attorneys' fees and necessary litigation expenses as Supplementary Payments ends when:

- (1) We have used up the applicable limit of insurance in the payment of judgments or settlements; or
- (2) The conditions set forth above, or the terms of the agreement described in Paragraph (6) above, are no longer met.

## **B. EXCLUSIONS**

### **1. Applicable To Business Liability Coverage**

This insurance does not apply to:

#### **a. Expected Or Intended Injury**

- (1) "Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" or "property damage" resulting from the use of reasonable force to protect persons or property; or
- (2) "Personal and advertising injury" arising out of an offense committed by, at the direction of or with the consent or acquiescence of the insured with the expectation of inflicting "personal and advertising injury".

#### **b. Contractual Liability**

- (1) "Bodily injury" or "property damage"; or
- (2) "Personal and advertising injury"

for which the insured is obligated to pay damages by reason of the assumption of liability in a contract or agreement.

This exclusion does not apply to liability for damages because of:

- (a) "Bodily injury", "property damage" or "personal and advertising injury" that the insured would have in the absence of the contract or agreement; or

## BUSINESS LIABILITY COVERAGE FORM

(b) "Bodily injury" or "property damage" assumed in a contract or agreement that is an "insured contract", provided the "bodily injury" or "property damage" occurs subsequent to the execution of the contract or agreement. Solely for the purpose of liability assumed in an "insured contract", reasonable attorneys' fees and necessary litigation expenses incurred by or for a party other than an insured are deemed to be damages because of "bodily injury" or "property damage" provided:

- (i) Liability to such party for, or for the cost of, that party's defense has also been assumed in the same "insured contract", and
- (ii) Such attorneys' fees and litigation expenses are for defense of that party against a civil or alternative dispute resolution proceeding in which damages to which this insurance applies are alleged.

### c. Liquor Liability

"Bodily injury" or "property damage" for which any insured may be held liable by reason of:

- (1) Causing or contributing to the intoxication of any person;
- (2) The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or
- (3) Any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

This exclusion applies only if you are in the business of manufacturing, distributing, selling, serving or furnishing alcoholic beverages.

### d. Workers' Compensation And Similar Laws

Any obligation of the insured under a workers' compensation, disability benefits or unemployment compensation law or any similar law.

### e. Employer's Liability

"Bodily injury" to:

- (1) An "employee" of the insured arising out of and in the course of:
  - (a) Employment by the insured; or

(b) Performing duties related to the conduct of the insured's business, or

- (2) The spouse, child, parent, brother or sister of that "employee" as a consequence of (1) above.

This exclusion applies:

- (1) Whether the insured may be liable as an employer or in any other capacity; and
- (2) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

This exclusion does not apply to liability assumed by the insured under an "insured contract".

### f. Pollution

- (1) "Bodily injury", "property damage" or "personal and advertising injury" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":

(a) At or from any premises, site or location which is or was at any time owned or occupied by, or rented or loaned to any insured. However, this subparagraph does not apply to:

(i) "Bodily injury" if sustained within a building and caused by smoke, fumes, vapor or soot produced by or originating from equipment that is used to heat, cool or dehumidify the building, or equipment that is used to heat water for personal use, by the building's occupants or their guests;

(ii) "Bodily injury" or "property damage" for which you may be held liable, if you are a contractor and the owner or lessee of such premises, site or location has been added to your policy as an additional insured with respect to your ongoing operations performed for that additional insured at that premises, site or location and such premises, site or location is not and never was owned or occupied by, or rented or loaned to, any insured, other than that additional insured; or

- (iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire";
  - (b) At or from any premises, site or location which is or was at any time used by or for any insured or others for the handling, storage, disposal, processing or treatment of waste;
  - (c) Which are or were at any time transported, handled, stored, treated, disposed of, or processed as waste by or for:
    - (i) Any insured; or
    - (ii) Any person or organization for whom you may be legally responsible;
  - (d) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the "pollutants" are brought on or to the premises, site or location in connection with such operations by such insured, contractor or subcontractor. However, this subparagraph does not apply to:
    - (i) "Bodily injury" or "property damage" arising out of the escape of fuels, lubricants or other operating fluids which are needed to perform the normal electrical, hydraulic or mechanical functions necessary for the operation of "mobile equipment" or its parts, if such fuels, lubricants or other operating fluids escape from a vehicle part designed to hold, store or receive them. This exception does not apply if the "bodily injury" or "property damage" arises out of the intentional discharge, dispersal or release of the fuels, lubricants or other operating fluids, or if such fuels, lubricants or other operating fluids are brought on or to the premises, site or location with the intent that they be discharged, dispersed or released as part of the operations being performed by such insured, contractor or subcontractor;
    - (ii) "Bodily injury" or "property damage" sustained within a building and caused by the release of gases, fumes or vapors from materials brought into that building in connection with operations being performed by you or on your behalf by a contractor or subcontractor; or
    - (iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire"; or
  - (e) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the operations are to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants".
- (2) Any loss, cost or expense arising out of any:
- (a) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or
  - (b) Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".
- However, this paragraph does not apply to liability for damages because of "property damage" that the insured would have in the absence of such request, demand, order or statutory or regulatory requirement, or such claim or "suit" by or on behalf of a governmental authority.

## BUSINESS LIABILITY COVERAGE FORM

### g. Aircraft, Auto Or Watercraft

"Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft owned or operated by or rented or loaned to any insured. Use includes operation and "loading or unloading".

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage" involved the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft that is owned or operated by or rented or loaned to any insured.

This exclusion does not apply to:

- (1) A watercraft while ashore on premises you own or rent;
- (2) A watercraft you do not own that is:
  - (a) Less than 51 feet long; and
  - (b) Not being used to carry persons for a charge;
- (3) Parking an "auto" on, or on the ways next to, premises you own or rent, provided the "auto" is not owned by or rented or loaned to you or the insured;
- (4) Liability assumed under any "insured contract" for the ownership, maintenance or use of aircraft or watercraft;
- (5) "Bodily injury" or "property damage" arising out of the operation of any of the equipment listed in Paragraph **f.(2)** or **f.(3)** of the definition of "mobile equipment"; or
- (6) An aircraft that is not owned by any insured and is hired, chartered or loaned with a paid crew. However, this exception does not apply if the insured has any other insurance for such "bodily injury" or "property damage", whether the other insurance is primary, excess, contingent or on any other basis.

### h. Mobile Equipment

"Bodily injury" or "property damage" arising out of:

- (1) The transportation of "mobile equipment" by an "auto" owned or operated by or rented or loaned to any insured; or

- (2) The use of "mobile equipment" in, or while in practice or preparation for, a prearranged racing, speed or demolition contest or in any stunting activity.

### i. War

"Bodily injury", "property damage" or "personal and advertising injury", however caused, arising, directly or indirectly, out of:

- (1) War, including undeclared or civil war;
- (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- (3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

### j. Professional Services

"Bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of or failure to render any professional service. This includes but is not limited to:

- (1) Legal, accounting or advertising services;
- (2) Preparing, approving, or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or drawings and specifications;
- (3) Supervisory, inspection, architectural or engineering activities;
- (4) Medical, surgical, dental, x-ray or nursing services treatment, advice or instruction;
- (5) Any health or therapeutic service treatment, advice or instruction;
- (6) Any service, treatment, advice or instruction for the purpose of appearance or skin enhancement, hair removal or replacement or personal grooming;
- (7) Optical or hearing aid services including the prescribing, preparation, fitting, demonstration or distribution of ophthalmic lenses and similar products or hearing aid devices;

- (8) Optometry or optometric services including but not limited to examination of the eyes and the prescribing, preparation, fitting, demonstration or distribution of ophthalmic lenses and similar products;
- (9) Any:
  - (a) Body piercing (not including ear piercing);
  - (b) Tattooing, including but not limited to the insertion of pigments into or under the skin; and
  - (c) Similar services;
- (10) Services in the practice of pharmacy; and
- (11) Computer consulting, design or programming services, including web site design.

Paragraphs (4) and (5) of this exclusion do not apply to the Incidental Medical Malpractice coverage afforded under Paragraph 1.e. in Section A. - Coverages.

**k. Damage To Property**

"Property damage" to:

- (1) Property you own, rent or occupy, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;
- (2) Premises you sell, give away or abandon, if the "property damage" arises out of any part of those premises;
- (3) Property loaned to you;
- (4) Personal property in the care, custody or control of the insured;
- (5) That particular part of real property on which you or any contractors or subcontractors working directly or indirectly on your behalf are performing operations, if the "property damage" arises out of those operations; or
- (6) That particular part of any property that must be restored, repaired or replaced because "your work" was incorrectly performed on it.

Paragraphs (1), (3) and (4) of this exclusion do not apply to "property damage" (other than damage by fire) to premises, including the contents of such premises, rented to you for a period of 7 or fewer consecutive days. A separate Limit of Insurance applies to Damage To Premises Rented To You as described in Section D. - Limits Of Insurance.

Paragraph (2) of this exclusion does not apply if the premises are "your work" and were never occupied, rented or held for rental by you.

Paragraphs (3) and (4) of this exclusion do not apply to the use of elevators.

Paragraphs (3), (4), (5) and (6) of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraphs (3) and (4) of this exclusion do not apply to "property damage" to borrowed equipment while not being used to perform operations at a job site.

Paragraph (6) of this exclusion does not apply to "property damage" included in the "products-completed operations hazard".

**l. Damage To Your Product**

"Property damage" to "your product" arising out of it or any part of it.

**m. Damage To Your Work**

"Property damage" to "your work" arising out of it or any part of it and included in the "products-completed operations hazard".

This exclusion does not apply if the damaged work or the work out of which the damage arises was performed on your behalf by a subcontractor.

**n. Damage To Impaired Property Or Property Not Physically Injured**

"Property damage" to "impaired property" or property that has not been physically injured, arising out of:

- (1) A defect, deficiency, inadequacy or dangerous condition in "your product" or "your work"; or
- (2) A delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms.

This exclusion does not apply to the loss of use of other property arising out of sudden and accidental physical injury to "your product" or "your work" after it has been put to its intended use.

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### o. Recall Of Products, Work Or Impaired Property

Damages claimed for any loss, cost or expense incurred by you or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of:

- (1) "Your product";
- (2) "Your work"; or
- (3) "Impaired property";

if such product, work or property is withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy or dangerous condition in it.

### p. Personal And Advertising Injury

"Personal and advertising injury":

- (1) Arising out of oral, written or electronic publication of material, if done by or at the direction of the insured with knowledge of its falsity;
- (2) Arising out of oral, written or electronic publication of material whose first publication took place before the beginning of the policy period;
- (3) Arising out of a criminal act committed by or at the direction of the insured;
- (4) Arising out of any breach of contract, except an implied contract to use another's "advertising idea" in your "advertisement";
- (5) Arising out of the failure of goods, products or services to conform with any statement of quality or performance made in your "advertisement";
- (6) Arising out of the wrong description of the price of goods, products or services;
- (7) Arising out of any violation of any intellectual property rights such as copyright, patent, trademark, trade name, trade secret, service mark or other designation of origin or authenticity.

However, this exclusion does not apply to infringement, in your "advertisement", of

- (a) Copyright;
- (b) Slogan, unless the slogan is also a trademark, trade name, service mark or other designation of origin or authenticity; or

(c) Title of any literary or artistic work;

- (8) Arising out of an offense committed by an insured whose business is:
  - (a) Advertising, broadcasting, publishing or telecasting;
  - (b) Designing or determining content of web sites for others; or
  - (c) An Internet search, access, content or service provider.

However, this exclusion does not apply to Paragraphs a., b. and c. under the definition of "personal and advertising injury" in Section G. – Liability And Medical Expenses Definitions.

For the purposes of this exclusion, placing an "advertisement" for or linking to others on your web site, by itself, is not considered the business of advertising, broadcasting, publishing or telecasting;

- (9) Arising out of an electronic chat room or bulletin board the insured hosts, owns, or over which the insured exercises control;
- (10) Arising out of the unauthorized use of another's name or product in your e-mail address, domain name or metatags, or any other similar tactics to mislead another's potential customers;
- (11) Arising out of the violation of a person's right of privacy created by any state or federal act.

However, this exclusion does not apply to liability for damages that the insured would have in the absence of such state or federal act;

- (12) Arising out of:
  - (a) An "advertisement" for others on your web site;
  - (b) Placing a link to a web site of others on your web site;
  - (c) Content from a web site of others displayed within a frame or border on your web site. Content includes information, code, sounds, text, graphics or images; or
  - (d) Computer code, software or programming used to enable:
    - (i) Your web site; or
    - (ii) The presentation or functionality of an "advertisement" or other content on your web site;

- (13) Arising out of a violation of any anti-trust law;
- (14) Arising out of the fluctuation in price or value of any stocks, bonds or other securities; or
- (15) Arising out of discrimination or humiliation committed by or at the direction of any "executive officer", director, stockholder, partner or member of the insured.

**q. Electronic Data**

Damages arising out of the loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate "electronic data".

**r. Employment-Related Practices**

"Bodily injury" or "personal and advertising injury" to:

- (1) A person arising out of any:
  - (a) Refusal to employ that person;
  - (b) Termination of that person's employment; or
  - (c) Employment-related practices, policies, acts or omissions, such as coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation or discrimination directed at that person; or
- (2) The spouse, child, parent, brother or sister of that person as a consequence of "bodily injury" or "personal and advertising injury" to the person at whom any of the employment-related practices described in Paragraphs (a), (b), or (c) above is directed.

This exclusion applies:

- (1) Whether the insured may be liable as an employer or in any other capacity; and
- (2) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

**s. Asbestos**

- (1) "Bodily injury", "property damage" or "personal and advertising injury" arising out of the "asbestos hazard".
- (2) Any damages, judgments, settlements, loss, costs or expenses that:

- (a) May be awarded or incurred by reason of any claim or suit alleging actual or threatened injury or damage of any nature or kind to persons or property which would not have occurred in whole or in part but for the "asbestos hazard";
- (b) Arise out of any request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, encapsulate, contain, treat, detoxify or neutralize or in any way respond to or assess the effects of an "asbestos hazard"; or
- (c) Arise out of any claim or suit for damages because of testing for, monitoring, cleaning up, removing, encapsulating, containing, treating, detoxifying or neutralizing or in any way responding to or assessing the effects of an "asbestos hazard".

**t. Violation Of Statutes That Govern E-Mails, Fax, Phone Calls Or Other Methods Of Sending Material Or Information**

"Bodily injury", "property damage", or "personal and advertising injury" arising directly or indirectly out of any action or omission that violates or is alleged to violate:

- (1) The Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law;
- (2) The CAN-SPAM Act of 2003, including any amendment of or addition to such law; or
- (3) Any statute, ordinance or regulation, other than the TCPA or CAN-SPAM Act of 2003, that prohibits or limits the sending, transmitting, communicating or distribution of material or information.

**Damage To Premises Rented To You – Exception For Damage By Fire, Lightning or Explosion**

Exclusions c. through h. and k. through o. do not apply to damage by fire, lightning or explosion to premises rented to you or temporarily occupied by you with permission of the owner. A separate Limit of Insurance applies to this coverage as described in Section D. - Liability And Medical Expenses Limits Of Insurance.

## BUSINESS LIABILITY COVERAGE FORM

### 2. Applicable To Medical Expenses Coverage

We will not pay expenses for "bodily injury":

#### a. Any Insured

To any insured, except "volunteer workers".

#### b. Hired Person

To a person hired to do work for or on behalf of any insured or a tenant of any insured.

#### c. Injury On Normally Occupied Premises

To a person injured on that part of premises you own or rent that the person normally occupies.

#### d. Workers' Compensation And Similar Laws

To a person, whether or not an "employee" of any insured, if benefits for the "bodily injury" are payable or must be provided under a workers' compensation or disability benefits law or a similar law.

#### e. Athletics Activities

To a person injured while practicing, instructing or participating in any physical exercises or games, sports or athletic contests.

#### f. Products-Completed Operations Hazard

Included with the "products-completed operations hazard".

#### g. Business Liability Exclusions

Excluded under Business Liability Coverage.

## C. WHO IS AN INSURED

### 1. If you are designated in the Declarations as:

- a. An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.
- b. A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.
- c. A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.
- d. An organization other than a partnership, joint venture or limited liability company, you are an insured. Your "executive officers" and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.

e. A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.

### 2. Each of the following is also an insured:

#### a. Employees And Volunteer Workers

Your "volunteer workers" only while performing duties related to the conduct of your business, or your "employees", other than either your "executive officers" (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business.

However, none of these "employees" or "volunteer workers" are insureds for:

(1) "Bodily injury" or "personal and advertising injury":

- (a) To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), or to a co-"employee" while in the course of his or her employment or performing duties related to the conduct of your business, or to your other "volunteer workers" while performing duties related to the conduct of your business;
- (b) To the spouse, child, parent, brother or sister of that co-"employee" or that "volunteer worker" as a consequence of Paragraph (1)(a) above;
- (c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraphs (1)(a) or (b) above; or
- (d) Arising out of his or her providing or failing to provide professional health care services.

If you are not in the business of providing professional health care services, Paragraph (d) does not apply to any nurse, emergency medical technician or paramedic employed by you to provide such services.

(2) "Property damage" to property:

- (a) Owned, occupied or used by,

(b) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by you, any of your "employees", "volunteer workers", any partner or member (if you are a partnership or joint venture), or any member (if you are a limited liability company).

**b. Real Estate Manager**

Any person (other than your "employee" or "volunteer worker"), or any organization while acting as your real estate manager.

**c. Temporary Custodians Of Your Property**

Any person or organization having proper temporary custody of your property if you die, but only:

- (1) With respect to liability arising out of the maintenance or use of that property; and
- (2) Until your legal representative has been appointed.

**d. Legal Representative If You Die**

Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this insurance.

**e. Unnamed Subsidiary**

Any subsidiary and subsidiary thereof, of yours which is a legally incorporated entity of which you own a financial interest of more than 50% of the voting stock on the effective date of this Coverage Part.

The insurance afforded herein for any subsidiary not shown in the Declarations as a named insured does not apply to injury or damage with respect to which an insured under this insurance is also an insured under another policy or would be an insured under such policy but for its termination or upon the exhaustion of its limits of insurance.

**3. Newly Acquired Or Formed Organization**

Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and over which you maintain financial interest of more than 50% of the voting stock, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:

- a. Coverage under this provision is afforded only until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier; and

b. Coverage under this provision does not apply to:

- (1) "Bodily injury" or "property damage" that occurred; or
- (2) "Personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.

**4. Operator Of Mobile Equipment**

With respect to "mobile equipment" registered in your name under any motor vehicle registration law, any person is an insured while driving such equipment along a public highway with your permission. Any other person or organization responsible for the conduct of such person is also an insured, but only with respect to liability arising out of the operation of the equipment, and only if no other insurance of any kind is available to that person or organization for this liability. However, no person or organization is an insured with respect to:

- a. "Bodily injury" to a co-"employee" of the person driving the equipment; or
- b. "Property damage" to property owned by, rented to, in the charge of or occupied by you or the employer of any person who is an insured under this provision.

**5. Operator of Nonowned Watercraft**

With respect to watercraft you do not own that is less than 51 feet long and is not being used to carry persons for a charge, any person is an insured while operating such watercraft with your permission. Any other person or organization responsible for the conduct of such person is also an insured, but only with respect to liability arising out of the operation of the watercraft, and only if no other insurance of any kind is available to that person or organization for this liability.

However, no person or organization is an insured with respect to:

- a. "Bodily injury" to a co-"employee" of the person operating the watercraft; or
- b. "Property damage" to property owned by, rented to, in the charge of or occupied by you or the employer of any person who is an insured under this provision.

**6. Additional Insureds When Required By Written Contract, Written Agreement Or Permit**

The person(s) or organization(s) identified in Paragraphs a. through f. below are additional insureds when you have agreed, in a written

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contract, written agreement or because of a permit issued by a state or political subdivision, that such person or organization be added as an additional insured on your policy, provided the injury or damage occurs subsequent to the execution of the contract or agreement, or the issuance of the permit.

A person or organization is an additional insured under this provision only for that period of time required by the contract, agreement or permit.

However, no such person or organization is an additional insured under this provision if such person or organization is included as an additional insured by an endorsement issued by us and made a part of this Coverage Part, including all persons or organizations added as additional insureds under the specific additional insured coverage grants in Section F. – Optional Additional Insured Coverages.

### a. Vendors

Any person(s) or organization(s) (referred to below as vendor), but only with respect to "bodily injury" or "property damage" arising out of "your products" which are distributed or sold in the regular course of the vendor's business and only if this Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".

- (1) The insurance afforded to the vendor is subject to the following additional exclusions:

This insurance does not apply to:

- (a) "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;
- (b) Any express warranty unauthorized by you;
- (c) Any physical or chemical change in the product made intentionally by the vendor;
- (d) Repackaging, except when unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;

(e) Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;

(f) Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;

(g) Products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor; or

(h) "Bodily injury" or "property damage" arising out of the sole negligence of the vendor for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:

(i) The exceptions contained in Subparagraphs (d) or (f); or

(ii) Such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.

- (2) This insurance does not apply to any insured person or organization from whom you have acquired such products, or any ingredient, part or container, entering into, accompanying or containing such products.

### b. Lessors Of Equipment

- (1) Any person or organization from whom you lease equipment; but only with respect to their liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your maintenance, operation or use of equipment leased to you by such person or organization.

- (2) With respect to the insurance afforded to these additional insureds, this insurance does not apply to any "occurrence" which takes place after you cease to lease that equipment.

**c. Lessors Of Land Or Premises**

- (1) Any person or organization from whom you lease land or premises, but only with respect to liability arising out of the ownership, maintenance or use of that part of the land or premises leased to you.
- (2) With respect to the insurance afforded to these additional insureds, this insurance does not apply to:
  - (a) Any "occurrence" which takes place after you cease to lease that land or be a tenant in that premises; or
  - (b) Structural alterations, new construction or demolition operations performed by or on behalf of such person or organization.

**d. Architects, Engineers Or Surveyors**

- (1) Any architect, engineer, or surveyor, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:
  - (a) In connection with your premises; or
  - (b) In the performance of your ongoing operations performed by you or on your behalf.
- (2) With respect to the insurance afforded to these additional insureds, the following additional exclusion applies:  
 This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of or the failure to render any professional services by or for you, including:
  - (a) The preparing, approving, or failure to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or drawings and specifications; or
  - (b) Supervisory, inspection, architectural or engineering activities.

**e. Permits Issued By State Or Political Subdivisions**

- (1) Any state or political subdivision, but only with respect to operations performed by you or on your behalf for which the state or political subdivision has issued a permit.
- (2) With respect to the insurance afforded to these additional insureds, this insurance does not apply to:
  - (a) "Bodily injury", "property damage" or "personal and advertising injury" arising out of operations performed for the state or municipality; or
  - (b) "Bodily injury" or "property damage" included within the "products-completed operations hazard".

**f. Any Other Party**

- (1) Any other person or organization who is not an insured under Paragraphs a. through e. above, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:
  - (a) In the performance of your ongoing operations;
  - (b) In connection with your premises owned by or rented to you; or
  - (c) In connection with "your work" and included within the "products-completed operations hazard", but only if
    - (i) The written contract or written agreement requires you to provide such coverage to such additional insured; and
    - (ii) This Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".
- (2) With respect to the insurance afforded to these additional insureds, this insurance does not apply to:  
 "Bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:

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- (a) The preparing, approving, or failure to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or drawings and specifications; or
- (b) Supervisory, inspection, architectural or engineering activities.

The limits of insurance that apply to additional insureds are described in Section **D. – Limits Of Insurance**.

How this insurance applies when other insurance is available to an additional insured is described in the Other Insurance Condition in Section **E. – Liability And Medical Expenses General Conditions**.

No person or organization is an insured with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations.

### **D. LIABILITY AND MEDICAL EXPENSES LIMITS OF INSURANCE**

#### **1. The Most We Will Pay**

The Limits of Insurance shown in the Declarations and the rules below fix the most we will pay regardless of the number of:

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

#### **2. Aggregate Limits**

The most we will pay for:

- a. Damages because of "bodily injury" and "property damage" included in the "products-completed operations hazard" is the Products-Completed Operations Aggregate Limit shown in the Declarations.
- b. Damages because of all other "bodily injury", "property damage" or "personal and advertising injury", including medical expenses, is the General Aggregate Limit shown in the Declarations.

This General Aggregate Limit applies separately to each of your "locations" owned by or rented to you.

"Location" means premises involving the same or connecting lots, or premises whose connection is interrupted only by a street, roadway or right-of-way of a railroad.

This General Aggregate limit does not apply to "property damage" to premises while rented to you or temporarily occupied by you with permission of the owner, arising out of fire, lightning or explosion.

#### **3. Each Occurrence Limit**

Subject to **2.a.** or **2.b.** above, whichever applies, the most we will pay for the sum of all damages because of all "bodily injury", "property damage" and medical expenses arising out of any one "occurrence" is the Liability and Medical Expenses Limit shown in the Declarations.

The most we will pay for all medical expenses because of "bodily injury" sustained by any one person is the Medical Expenses Limit shown in the Declarations.

#### **4. Personal And Advertising Injury Limit**

Subject to **2.b.** above, the most we will pay for the sum of all damages because of all "personal and advertising injury" sustained by any one person or organization is the Personal and Advertising Injury Limit shown in the Declarations.

#### **5. Damage To Premises Rented To You Limit**

The Damage To Premises Rented To You Limit is the most we will pay under Business Liability Coverage for damages because of "property damage" to any one premises, while rented to you, or in the case of damage by fire, lightning or explosion, while rented to you or temporarily occupied by you with permission of the owner.

In the case of damage by fire, lightning or explosion, the Damage to Premises Rented To You Limit applies to all damage proximately caused by the same event, whether such damage results from fire, lightning or explosion or any combination of these.

#### **6. How Limits Apply To Additional Insureds**

The most we will pay on behalf of a person or organization who is an additional insured under this Coverage Part is the lesser of:

- a. The limits of insurance specified in a written contract, written agreement or permit issued by a state or political subdivision; or
- b. The Limits of Insurance shown in the Declarations.

Such amount shall be a part of and not in addition to the Limits of Insurance shown in the Declarations and described in this Section.

If more than one limit of insurance under this policy and any endorsements attached thereto applies to any claim or "suit", the most we will pay under this policy and the endorsements is the single highest limit of liability of all coverages applicable to such claim or "suit". However, this paragraph does not apply to the Medical Expenses limit set forth in Paragraph 3. above.

The Limits of Insurance of this Coverage Part apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

## **E. LIABILITY AND MEDICAL EXPENSES GENERAL CONDITIONS**

### **1. Bankruptcy**

Bankruptcy or insolvency of the insured or of the insured's estate will not relieve us of our obligations under this Coverage Part.

### **2. Duties In The Event Of Occurrence, Offense, Claim Or Suit**

#### **a. Notice Of Occurrence Or Offense**

You or any additional insured must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, notice should include:

- (1) How, when and where the "occurrence" or offense took place;
- (2) The names and addresses of any injured persons and witnesses; and
- (3) The nature and location of any injury or damage arising out of the "occurrence" or offense.

#### **b. Notice Of Claim**

If a claim is made or "suit" is brought against any insured, you or any additional insured must:

- (1) Immediately record the specifics of the claim or "suit" and the date received; and
- (2) Notify us as soon as practicable.

You or any additional insured must see to it that we receive a written notice of the claim or "suit" as soon as practicable.

#### **c. Assistance And Cooperation Of The Insured**

You and any other involved insured must:

- (1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or "suit";
- (2) Authorize us to obtain records and other information;
- (3) Cooperate with us in the investigation, settlement of the claim or defense against the "suit"; and
- (4) Assist us, upon our request, in the enforcement of any right against any person or organization that may be liable to the insured because of injury or damage to which this insurance may also apply.

#### **d. Obligations At The Insured's Own Cost**

No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without our consent.

#### **e. Additional Insured's Other Insurance**

If we cover a claim or "suit" under this Coverage Part that may also be covered by other insurance available to an additional insured, such additional insured must submit such claim or "suit" to the other insurer for defense and indemnity.

However, this provision does not apply to the extent that you have agreed in a written contract, written agreement or permit that this insurance is primary and non-contributory with the additional insured's own insurance.

#### **f. Knowledge Of An Occurrence, Offense, Claim Or Suit**

Paragraphs **a.** and **b.** apply to you or to any additional insured only when such "occurrence", offense, claim or "suit" is known to:

- (1) You or any additional insured that is an individual;
- (2) Any partner, if you or an additional insured is a partnership;
- (3) Any manager, if you or an additional insured is a limited liability company;
- (4) Any "executive officer" or insurance manager, if you or an additional insured is a corporation;
- (5) Any trustee, if you or an additional insured is a trust; or
- (6) Any elected or appointed official, if you or an additional insured is a political subdivision or public entity.

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This Paragraph **f.** applies separately to you and any additional insured.

### 3. Financial Responsibility Laws

- a. When this policy is certified as proof of financial responsibility for the future under the provisions of any motor vehicle financial responsibility law, the insurance provided by the policy for "bodily injury" liability and "property damage" liability will comply with the provisions of the law to the extent of the coverage and limits of insurance required by that law.
- b. With respect to "mobile equipment" to which this insurance applies, we will provide any liability, uninsured motorists, underinsured motorists, no-fault or other coverage required by any motor vehicle law. We will provide the required limits for those coverages.

### 4. Legal Action Against Us

No person or organization has a right under this Coverage Form:

- a. To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or
- b. To sue us on this Coverage Form unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured; but we will not be liable for damages that are not payable under the terms of this insurance or that are in excess of the applicable limit of insurance. An agreed settlement means a settlement and release of liability signed by us, the insured and the claimant or the claimant's legal representative.

### 5. Separation Of Insureds

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this policy to the first Named Insured, this insurance applies:

- a. As if each Named Insured were the only Named Insured; and
- b. Separately to each insured against whom a claim is made or "suit" is brought.

### 6. Representations

#### a. When You Accept This Policy

By accepting this policy, you agree:

- (1) The statements in the Declarations are accurate and complete;
- (2) Those statements are based upon representations you made to us; and

- (3) We have issued this policy in reliance upon your representations.

### b. Unintentional Failure To Disclose Hazards

If unintentionally you should fail to disclose all hazards relating to the conduct of your business at the inception date of this Coverage Part, we shall not deny any coverage under this Coverage Part because of such failure.

### 7. Other Insurance

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

#### a. Primary Insurance

This insurance is primary except when **b.** below applies. If other insurance is also primary, we will share with all that other insurance by the method described in **c.** below.

#### b. Excess Insurance

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

##### (1) Your Work

That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work";

##### (2) Premises Rented To You

That is fire, lightning or explosion insurance for premises rented to you or temporarily occupied by you with permission of the owner;

##### (3) Tenant Liability

That is insurance purchased by you to cover your liability as a tenant for "property damage" to premises rented to you or temporarily occupied by you with permission of the owner;

##### (4) Aircraft, Auto Or Watercraft

If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Exclusion **g.** of Section **A.** – Coverages.

##### (5) Property Damage To Borrowed Equipment Or Use Of Elevators

If the loss arises out of "property damage" to borrowed equipment or the use of elevators to the extent not subject to Exclusion **k.** of Section **A.** – Coverages.

**(6) When You Are Added As An Additional Insured To Other Insurance**

That is other insurance available to you covering liability for damages arising out of the premises or operations, or products and completed operations, for which you have been added as an additional insured by that insurance; or

**(7) When You Add Others As An Additional Insured To This Insurance**

That is other insurance available to an additional insured.

However, the following provisions apply to other insurance available to any person or organization who is an additional insured under this Coverage Part:

**(a) Primary Insurance When Required By Contract**

This insurance is primary if you have agreed in a written contract, written agreement or permit that this insurance be primary. If other insurance is also primary, we will share with all that other insurance by the method described in **c.** below.

**(b) Primary And Non-Contributory To Other Insurance When Required By Contract**

If you have agreed in a written contract, written agreement or permit that this insurance is primary and non-contributory with the additional insured's own insurance, this insurance is primary and we will not seek contribution from that other insurance.

Paragraphs **(a)** and **(b)** do not apply to other insurance to which the additional insured has been added as an additional insured.

When this insurance is excess, we will have no duty under this Coverage Part to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

- (1)** The total amount that all such other insurance would pay for the loss in the absence of this insurance; and
- (2)** The total of all deductible and self-insured amounts under all that other insurance.

We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

**c. Method Of Sharing**

If all the other insurance permits contribution by equal shares, we will follow this method also. Under this approach, each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

**8. Transfer Of Rights Of Recovery Against Others To Us**

**a. Transfer Of Rights Of Recovery**

If the insured has rights to recover all or part of any payment, including Supplementary Payments, we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them. This condition does not apply to Medical Expenses Coverage.

**b. Waiver Of Rights Of Recovery (Waiver Of Subrogation)**

If the insured has waived any rights of recovery against any person or organization for all or part of any payment, including Supplementary Payments, we have made under this Coverage Part, we also waive that right, provided the insured waived their rights of recovery against such person or organization in a contract, agreement or permit that was executed prior to the injury or damage.

**F. OPTIONAL ADDITIONAL INSURED COVERAGES**

If listed or shown as applicable in the Declarations, one or more of the following Optional Additional Insured Coverages also apply. When any of these Optional Additional Insured Coverages apply, Paragraph 6. (Additional Insureds When Required by Written Contract, Written Agreement or Permit) of Section C., Who Is An Insured, does not apply to the person or organization shown in the Declarations. These coverages are subject to the terms and conditions applicable to Business Liability Coverage in this policy, except as provided below:

**1. Additional Insured - Designated Person Or Organization**

WHO IS AN INSURED under Section C. is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

- a. In the performance of your ongoing operations; or
- b. In connection with your premises owned by or rented to you.

**2. Additional Insured - Managers Or Lessors Of Premises**

a. WHO IS AN INSURED under Section C. is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured - Designated Person Or Organization; but only with respect to liability arising out of the ownership, maintenance or use of that part of the premises leased to you and shown in the Declarations.

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

This insurance does not apply to:

- (1) Any "occurrence" which takes place after you cease to be a tenant in that premises; or
- (2) Structural alterations, new construction or demolition operations performed by or on behalf of such person or organization.

**3. Additional Insured - Grantor Of Franchise**

WHO IS AN INSURED under Section C. is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured - Grantor Of Franchise, but only with respect to their liability as grantor of franchise to you.

**4. Additional Insured - Lessor Of Leased Equipment**

a. WHO IS AN INSURED under Section C. is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured – Lessor of Leased Equipment, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your maintenance, operation or use of equipment leased to you by such person(s) or organization(s).

b. With respect to the insurance afforded to these additional insureds, this insurance does not apply to any "occurrence" which takes place after you cease to lease that equipment.

**5. Additional Insured - Owners Or Other Interests From Whom Land Has Been Leased**

a. WHO IS AN INSURED under Section C. is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured – Owners Or Other Interests From Whom Land Has Been Leased, but only with respect to liability arising out of the ownership, maintenance or use of that part of the land leased to you and shown in the Declarations.

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

This insurance does not apply to:

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

**6. Additional Insured - State Or Political Subdivision – Permits**

a. WHO IS AN INSURED under Section C. is amended to include as an additional insured the state or political subdivision shown in the Declarations as an Additional

Insured – State Or Political Subdivision - Permits, but only with respect to operations performed by you or on your behalf for which the state or political subdivision has issued a permit.

- b.** With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to:

- (1)** "Bodily injury", "property damage" or "personal and advertising injury" arising out of operations performed for the state or municipality; or
- (2)** "Bodily injury" or "property damage" included in the "product-completed operations" hazard.

**7. Additional Insured – Vendors**

- a.** WHO IS AN INSURED under Section **C.** is amended to include as an additional insured the person(s) or organization(s) (referred to below as vendor) shown in the Declarations as an Additional Insured - Vendor, but only with respect to "bodily injury" or "property damage" arising out of "your products" which are distributed or sold in the regular course of the vendor's business and only if this Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".
- b.** The insurance afforded to the vendor is subject to the following additional exclusions:

- (1)** This insurance does not apply to:
  - (a)** "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;
  - (b)** Any express warranty unauthorized by you;
  - (c)** Any physical or chemical change in the product made intentionally by the vendor;
  - (d)** Repackaging, unless unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;

- (e)** Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;
- (f)** Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;
- (g)** Products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor; or
- (h)** "Bodily injury" or "property damage" arising out of the sole negligence of the vendor for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:

- (i)** The exceptions contained in Subparagraphs **(d)** or **(f)**; or
- (ii)** Such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.

- (2)** This insurance does not apply to any insured person or organization from whom you have acquired such products, or any ingredient, part or container, entering into, accompanying or containing such products.

**8. Additional Insured – Controlling Interest**

WHO IS AN INSURED under Section **C.** is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured – Controlling Interest, but only with respect to their liability arising out of:

- a.** Their financial control of you; or
- b.** Premises they own, maintain or control while you lease or occupy these premises.

## BUSINESS LIABILITY COVERAGE FORM

This insurance does not apply to structural alterations, new construction and demolition operations performed by or for that person or organization.

### 9. Additional Insured – Owners, Lessees Or Contractors – Scheduled Person Or Organization

a. WHO IS AN INSURED under Section C. is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured – Owner, Lessees Or Contractors, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

- (1) In the performance of your ongoing operations for the additional insured(s); or
- (2) In connection with "your work" performed for that additional insured and included within the "products-completed operations hazard", but only if this Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".

b. With respect to the insurance afforded to these additional insureds, this insurance does not apply to "bodily injury", "property damage" or "personal an advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:

- (1) The preparing, approving, or failure to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or drawings and specifications; or
- (2) Supervisory, inspection, architectural or engineering activities.

### 10. Additional Insured – Co-Owner Of Insured Premises

WHO IS AN INSURED under Section C. is amended to include as an additional insured the person(s) or Organization(s) shown in the Declarations as an Additional Insured – Co-Owner Of Insured Premises, but only with respect to their liability as co-owner of the premises shown in the Declarations.

The limits of insurance that apply to additional insureds are described in Section D. – Limits Of Insurance.

How this insurance applies when other insurance is available to an additional insured is described in the Other Insurance Condition in Section E. – Liability And Medical Expenses General Conditions.

## G. LIABILITY AND MEDICAL EXPENSES DEFINITIONS

1. "Advertisement" means the widespread public dissemination of information or images that has the purpose of inducing the sale of goods, products or services through:

- a. (1) Radio;
- (2) Television;
- (3) Billboard;
- (4) Magazine;
- (5) Newspaper;

b. The Internet, but only that part of a web site that is about goods, products or services for the purposes of inducing the sale of goods, products or services; or

c. Any other publication that is given widespread public distribution.

However, "advertisement" does not include:

a. The design, printed material, information or images contained in, on or upon the packaging or labeling of any goods or products; or

b. An interactive conversation between or among persons through a computer network.

2. "Advertising idea" means any idea for an "advertisement".

3. "Asbestos hazard" means an exposure or threat of exposure to the actual or alleged properties of asbestos and includes the mere presence of asbestos in any form.

4. "Auto" means a land motor vehicle, trailer or semi-trailer designed for travel on public roads, including any attached machinery or equipment. But "auto" does not include "mobile equipment".

5. "Bodily injury" means physical:

- a. Injury;
- b. Sickness; or
- c. Disease

sustained by a person and, if arising out of the above, mental anguish or death at any time.

6. "Coverage territory" means:

- a. The United States of America (including its territories and possessions), Puerto Rico and Canada;
- b. International waters or airspace, but only if the injury or damage occurs in the course of travel or transportation between any places included in **a.** above;
- c. All other parts of the world if the injury or damage arises out of:
  - (1) Goods or products made or sold by you in the territory described in **a.** above;
  - (2) The activities of a person whose home is in the territory described in **a.** above, but is away for a short time on your business; or
  - (3) "Personal and advertising injury" offenses that take place through the Internet or similar electronic means of communication

provided the insured's responsibility to pay damages is determined in the United States of America (including its territories and possessions), Puerto Rico or Canada, in a "suit" on the merits according to the substantive law in such territory, or in a settlement we agree to.

- 7. "Electronic data" means information, facts or programs:
  - a. Stored as or on;
  - b. Created or used on; or
  - c. Transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMS, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.
- 8. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".
- 9. "Executive officer" means a person holding any of the officer positions created by your charter, constitution, by-laws or any other similar governing document.
- 10. "Hostile fire" means one which becomes uncontrollable or breaks out from where it was intended to be.
- 11. "Impaired property" means tangible property, other than "your product" or "your work", that cannot be used or is less useful because:
  - a. It incorporates "your product" or "your work" that is known or thought to be defective, deficient, inadequate or dangerous; or

- b. You have failed to fulfill the terms of a contract or agreement;

if such property can be restored to use by:

- a. The repair, replacement, adjustment or removal of "your product" or "your work"; or
- b. Your fulfilling the terms of the contract or agreement.

**12. "Insured contract" means:**

- a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire, lightning or explosion to premises while rented to you or temporarily occupied by you with permission of the owner is subject to the Damage To Premises Rented To You limit described in Section **D.** – Liability and Medical Expenses Limits of Insurance.
- b. A sidetrack agreement;
- c. Any easement or license agreement, including an easement or license agreement in connection with construction or demolition operations on or within 50 feet of a railroad;
- d. Any obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
- e. An elevator maintenance agreement; or
- f. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for "bodily injury" or "property damage" to a third person or organization, provided the "bodily injury" or "property damage" is caused, in whole or in part, by you or by those acting on your behalf. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

Paragraph **f.** includes that part of any contract or agreement that indemnifies a railroad for "bodily injury" or "property damage" arising out of construction or demolition operations within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road-beds, tunnel, underpass or crossing.

However, Paragraph **f.** does not include that part of any contract or agreement:

## BUSINESS LIABILITY COVERAGE FORM

- (1) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:
      - (a) Preparing, approving or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or drawings and specifications; or
      - (b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage; or
    - (2) Under which the insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in (1) above and supervisory, inspection, architectural or engineering activities.
  13. "Leased worker" means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm, to perform duties related to the conduct of your business. "Leased worker" does not include a "temporary worker".
  14. "Loading or unloading" means the handling of property:
    - a. After it is moved from the place where it is accepted for movement into or onto an aircraft, watercraft or "auto";
    - b. While it is in or on an aircraft, watercraft or "auto"; or
    - c. While it is being moved from an aircraft, watercraft or "auto" to the place where it is finally delivered;but "loading or unloading" does not include the movement of property by means of a mechanical device, other than a hand truck, that is not attached to the aircraft, watercraft or "auto".
  15. "Mobile equipment" means any of the following types of land vehicles, including any attached machinery or equipment:
    - a. Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;
    - b. Vehicles maintained for use solely on or next to premises you own or rent;
    - c. Vehicles that travel on crawler treads;
    - d. Vehicles, whether self-propelled or not, on which are permanently mounted:
      - (1) Power cranes, shovels, loaders, diggers or drills; or
      - (2) Road construction or resurfacing equipment such as graders, scrapers or rollers;
  - e. Vehicles not described in a., b., c., or d. above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:
    - (1) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or
    - (2) Cherry pickers and similar devices used to raise or lower workers;
  - f. Vehicles not described in a., b., c., or d. above maintained primarily for purposes other than the transportation of persons or cargo.

However, self-propelled vehicles with the following types of permanently attached equipment are not "mobile equipment" but will be considered "autos":

    - (1) Equipment, of at least 1,000 pounds gross vehicle weight, designed primarily for:
      - (a) Snow removal;
      - (b) Road maintenance, but not construction or resurfacing; or
      - (c) Street cleaning;
    - (2) Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and
    - (3) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.
16. "Occurrence" means an accident, including continuous or repeated exposure to substantially the same general harmful conditions.
17. "Personal and advertising injury" means injury, including consequential "bodily injury", arising out of one or more of the following offenses:
  - a. False arrest, detention or imprisonment;
  - b. Malicious prosecution;

- c. The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that the person occupies, committed by or on behalf of its owner, landlord or lessor;
  - d. Oral, written or electronic publication of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;
  - e. Oral, written or electronic publication of material that violates a person's right of privacy;
  - f. Copying, in your "advertisement", a person's or organization's "advertising idea" or style of "advertisement";
  - g. Infringement of copyright, slogan, or title of any literary or artistic work, in your "advertisement"; or
  - h. Discrimination or humiliation that results in injury to the feelings or reputation of a natural person.
- 18.** "Pollutants" means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.
- 19.** "Products-completed operations hazard";
- a. Includes all "bodily injury" and "property damage" occurring away from premises you own or rent and arising out of "your product" or "your work" except:
    - (1) Products that are still in your physical possession; or
    - (2) Work that has not yet been completed or abandoned. However, "your work" will be deemed to be completed at the earliest of the following times:
      - (a) When all of the work called for in your contract has been completed.
      - (b) When all of the work to be done at the job site has been completed if your contract calls for work at more than one job site.
      - (c) When that part of the work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.
- Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.
- The "bodily injury" or "property damage" must occur away from premises you own or rent, unless your business includes the selling, handling or distribution of "your product" for consumption on premises you own or rent.
- b. Does not include "bodily injury" or "property damage" arising out of:
    - (1) The transportation of property, unless the injury or damage arises out of a condition in or on a vehicle not owned or operated by you, and that condition was created by the "loading or unloading" of that vehicle by any insured; or
    - (2) The existence of tools, uninstalled equipment or abandoned or unused materials.
- 20.** "Property damage" means:
- a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or
  - b. Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of "occurrence" that caused it.
- As used in this definition, "electronic data" is not tangible property.
- 21.** "Suit" means a civil proceeding in which damages because of "bodily injury", "property damage" or "personal and advertising injury" to which this insurance applies are alleged. "Suit" includes:
- a. An arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with our consent; or
  - b. Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent.
- 22.** "Temporary worker" means a person who is furnished to you to substitute for a permanent "employee" on leave or to meet seasonal or short-term workload conditions.
- 23.** "Volunteer worker" means a person who:
- a. Is not your "employee";

## BUSINESS LIABILITY COVERAGE FORM

- b. Donates his or her work;
  - c. Acts at the direction of and within the scope of duties determined by you; and
  - d. Is not paid a fee, salary or other compensation by you or anyone else for their work performed for you.
- 24. "Your product":**
- a. Means:
    - (1) Any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by:
      - (a) You;
      - (b) Others trading under your name; or
      - (c) A person or organization whose business or assets you have acquired; and
    - (2) Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.
  - b. Includes:
    - (1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your product"; and
    - (2) The providing of or failure to provide warnings or instructions.
- 25. "Your work":**
- a. Means:
    - (1) Work or operations performed by you or on your behalf; and
    - (2) Materials, parts or equipment furnished in connection with such work or operations.
  - b. Includes:
    - (1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your work"; and
    - (2) The providing of or failure to provide warnings or instructions.



**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **NEW MEXICO CHANGES**

This endorsement modifies insurance provided under the following:

**COMMON POLICY CONDITIONS  
SPECIAL PROPERTY COVERAGE FORM  
STANDARD PROPERTY COVERAGE FORM**

- I. The following provisions modify the COMMON POLICY CONDITIONS.**
- A. Paragraph A.2. of the Cancellation Condition is deleted and replaced by the following:**
- 2. Permissible Reasons and Notice Period**
- a.** If this Policy has been in effect less than 60 days and is not a renewal of a policy we issued, we may cancel for any reason by mailing or delivering to the first Named Insured written notice of cancellation at least 10 days before the effective date of cancellation, provided that the cancellation becomes effective before the Policy has been in effect for 60 days.
- b.** If Paragraph **a.** does not apply, we may cancel only for one or more of the following reasons, or as permitted under applicable New Mexico law:
- (1)** Nonpayment of premium;
  - (2)** There has been a substantial change in the risk assumed by us since the policy was issued;
  - (3)** The policy was obtained through material misrepresentation, fraudulent statements, omissions or concealment of fact material to the acceptance of the risk or to the hazard assumed by us;
  - (4)** Willful and negligent acts or omission by you have substantially increased the hazards insured against;
  - (5)** You presented a claim based on fraud or material misrepresentation.
- c.** If we cancel subject to **2.b.** above, we will mail or deliver to the first Named Insured written notice of cancellation at least
- (1)** 10 days before the effective date of cancellation for the reason set forth in **2.b.(1)**;
  - (2)** 30 days before the effective date of cancellation for the reason set forth in **2.b.(2)**;
  - (3)** 15 days before the effective date of cancellation if for a reason set forth in **2.b.(3)**, **2.b.(4)**, or **2.b.(5)**
- The written notice will state the reason for cancellation, except that such statement may be omitted from a notice mailed to an additional insured or leinholder under this policy.
- B. The following is added to the Transfer Of Rights Of Recovery Against Others To Us Condition:**
- 1.** If we pay a co-insured for loss arising out of an act of domestic violence by another insured, the rights of the co-insured, who did not cooperate in or contribute to the loss, to recover damage from the perpetrator of domestic violence are transferred to us to the extent of our payment. Following the loss, the co-insured who did not cooperate in or contribute to the loss may not waive such rights to recover against the perpetrator of domestic violence.
  - 2.** In Paragraph **B.1.** above, domestic abuse means attempting to cause or intentionally, knowingly or recklessly cause damage to property for the purpose of intimidating or attempting to control the behavior of another person, including a minor.

- C. The following is added and supersedes any provision to the contrary:

**Nonrenewal**

If we decide not to renew this policy, we will mail to the first Named Insured written notice of the nonrenewal not less than 30 days before the expiration date of the policy.

Proof of mailing will be sufficient proof of notice.

- II. The following provisions modify the **STANDARD** or **SPECIAL PROPERTY COVERAGE FORM**.

- A. The following is added to paragraph **B.2. EXCLUSIONS**:

**Domestic Violence Exclusion**

1. We will not pay for loss or damage arising out of any act committed:
  - a. By or at the direction of any insured; and
  - b. With the intent to cause a loss.
2. However, this exclusion will not apply to deny coverage to an innocent co-insured victim of domestic abuse who did not cooperate in or contribute to the loss provided that the loss is otherwise covered under this Coverage Form and is proximately related to and in furtherance of domestic abuse
3. If we pay a claim pursuant to paragraph **1.b.** above, our payment to the insured is limited to the extent that the person's interest in the property. In no event will we pay more than the Limit of Insurance.
4. Domestic abuse means attempting to cause or intentionally, knowingly, or recklessly causing damage to property for the purpose of intimidating or attempting to control the behavior of another person, including a minor.

- B. With respect to coverage provided under this policy for one through four family residential buildings which you own and lease to others for use as a residence, the following is added to paragraph **E.5. Loss Payment** and supersedes any provision to the contrary:

1. We will pay, subject to the Limit of Insurance, no more than the actual cash value of the damaged residential building until the actual repair or replacement is complete. However, if the actual cash value amount is insufficient to initiate repair or replacement of the damaged residential building, we will advance to you the amount necessary for you to initiate such repair or replacement. After the

payment of actual cash value or such greater amount as described above, we will advance further amounts as necessary to continue the repair or replacement. The total of all advances and other payments hereunder will not exceed the amount allowed under paragraph **5.d.(1)(c)**, nor will that total exceed the amount of loss payment we agree upon.

Under this loss settlement procedure, the following special provisions apply:

- a. You shall promptly forward to us evidence of the agreement with the party repairing or replacing the damaged residential building, showing the cost and estimated completion date of the repairs to the building; and
- b. We will send to you the balance, if any, of the loss payment previously agreed upon when you forward to us evidence of the completion of the repairs to the damaged residential building.

2. You may disregard the replacement cost provisions and make claim under this policy, for loss or damage to a residential building, on an actual cash value basis. You may then make claim within 180 days after loss for any additional liability according to the provisions stated in **B.1.** above.
3. Paragraph **5.d.(2)** concerning the "Actual Cash Value Buildings" option does not apply.

- C. The following is added to **Property Loss Conditions**

**CATASTROPHE CONDITIONS**

1. The provisions of this endorsement apply to a claim for direct physical loss or damage to Covered Property, provided that:
  - a. The claim is for loss or damage that results from a catastrophe declared by the Superintendent of Insurance; and
  - b. The catastrophic event is a Covered Cause of Loss.
2. The following provisions, **2.a.** and **2.b.**, are added to the policy and supersede any provisions to the contrary:
  - a. If you reported your claim to us:
    - (1) Before the catastrophe was declared, we will reach agreement with you on the

amount of loss within 90 days after the date on which the catastrophe was declared;

(2) After the catastrophe was declared, we will reach agreement with you on the amount of loss within 90 days after the date on which you reported the claim.

b. However, the time periods specified in 2.a. above will be extended by the period of time taken to resolve the following situations:

(1) We suspect the claim is fraudulent and commence an investigation to make such a determination;

(2) You do not provide the necessary information regarding the nature of the claim, following our request for such information; or

(3) You filed suit against us in connection with the claim before expiration of the applicable 90-day period.

3. All other provisions of this policy continue to apply in the event of a catastrophe, including the **Legal Action Against Us** and **Appraisal Conditions**.

4. This endorsement does not invalidate our right to deny your claim, nor the right of either party to seek judgment in a court having jurisdiction.






# GB COMMUNITY HEALTH AND SAFETY NM IMMIGRANT LAW CENTER AMENDMENT

Final Audit Report

2021-03-16

Created:	2021-03-16
By:	Julie Sanchez (jjsanchez@ci.santa-fe.nm.us)
Status:	Signed
Transaction ID:	CBJCHBCAABAABUhh_wGI-i5TCS7SvbKHpQZCCtkVXI_Q

## "GB COMMUNITY HEALTH AND SAFETY NM IMMIGRANT LA W CENTER AMENDMENT" History

-  Document created by Julie Sanchez (jjsanchez@ci.santa-fe.nm.us)  
2021-03-16 - 7:37:14 PM GMT- IP address: 73.26.148.94
-  Document emailed to Kyra Ochoa (krochoa@santafenm.gov) for signature  
2021-03-16 - 7:38:06 PM GMT
-  Email viewed by Kyra Ochoa (krochoa@santafenm.gov)  
2021-03-16 - 8:56:05 PM GMT- IP address: 174.219.9.135
-  Document e-signed by Kyra Ochoa (krochoa@santafenm.gov)  
Signature Date: 2021-03-16 - 8:58:40 PM GMT - Time Source: server- IP address: 174.219.9.135
-  Agreement completed.  
2021-03-16 - 8:58:40 PM GMT









# GB COMMUNITY HEALTH AND SAFETY NM IMMIGRANT LAW CENTER ADMENDMENT R1

Final Audit Report

2021-04-28

Created:	2021-03-18
By:	Jimmy Tapia (jptapia@ci.santa-fe.nm.us)
Status:	Signed
Transaction ID:	CBJCHBCAABAAfTKdRU8JtYNQYjdV0w2XFdCEv2WqzBuk

## "GB COMMUNITY HEALTH AND SAFETY NM IMMIGRANT LA W CENTER ADMENDMENT R1" History

-  Document created by Jimmy Tapia (jptapia@ci.santa-fe.nm.us)  
2021-03-18 - 1:22:53 PM GMT- IP address: 63.232.20.2
-  Document emailed to Alexis Lotero (aclotero@santafenm.gov) for signature  
2021-03-18 - 1:26:06 PM GMT
-  Email viewed by Alexis Lotero (aclotero@santafenm.gov)  
2021-04-22 - 8:07:13 PM GMT- IP address: 104.47.65.254
-  Document e-signed by Alexis Lotero (aclotero@santafenm.gov)  
Signature Date: 2021-04-22 - 8:08:10 PM GMT - Time Source: server- IP address: 63.232.20.2
-  Document emailed to Fran Dunaway (fadunaway@santafenm.gov) for signature  
2021-04-22 - 8:08:17 PM GMT
-  Email viewed by Fran Dunaway (fadunaway@santafenm.gov)  
2021-04-28 - 11:13:23 PM GMT- IP address: 104.47.65.254
-  Document e-signed by Fran Dunaway (fadunaway@santafenm.gov)  
Signature Date: 2021-04-28 - 11:16:44 PM GMT - Time Source: server- IP address: 63.232.20.2
-  Agreement completed.  
2021-04-28 - 11:16:44 PM GMT



# City of Santa Fe, New Mexico

## Memorandum



**DATE:** March 24, 2021

**TO:** Alan Webber, Mayor and City Council

**VIA:** Mary McCoy, Finance Department Director  
Fran Dunaway, Chief Procurement Officer  
Kyra Ochoa, Community Health and Safety Department Acting Director <sup>KO</sup>  
Julie Sanchez, Youth and Family Services Division Director <sup>JJS</sup>

**FROM:** Elizabeth Peterson, Children and Youth Program Manager <sup>EP</sup>

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**ITEM AND ISSUE:** Review and Approve: Contract amendment for Gerard's House for a change to the scope of work. (Elizabeth Peterson, Children and Youth Program Manager, [empeterson@santafenm.gov](mailto:empeterson@santafenm.gov), (505)470-3186)

**No change to contract amount.**

### **BACKGROUND AND SUMMARY:**

The Children and Youth Commission is one of the City of Santa Fe's oldest standing committees, which was formed by Resolution and then Ordinance to serve in an advisory capacity to the City Council concerning policy recommendations related to child development and youth issues. The founding Ordinance stipulates that the Committee shall make funding recommendations to the City Council from the Children and Youth Commission Fund to support nonprofit organizations that provide programs and/or services to children and youth throughout the City of Santa Fe.

The Commission in partnership with the County wishes to ensure that essential services, which include primary health care, access to basic material goods and services like food and shelter, mental health counseling and related crisis services, are available to our residents. This year and beyond, we also intend to more directly support the people in agencies who help Santa Feans navigate a complex, sometimes challenging system of care, and to strengthen that system by supporting agencies in tracking and collecting data to show the scope of our community need and our collective impact on that need.

Gerard's House is requesting to change the scope of work to adequately reflect the services they are providing to youth. The contract executed only reflects navigation services. Safety net services are an integral part of service delivery for the youth served and should have been included in the original contract.

The safety net services will be specifically for youth participants in either;

1. Nuestra Jornada (Our Journey) is a program of ongoing, school-based peer grief support for students who have experienced the death of – or separation from – a parent or other loved one, provided in collaboration with Santa Fe Public Schools, Communities in Schools and other organizations.
2. The Semicolon group is a weekly peer support group for youth who have attempted or contemplated suicide, provided in partnership with the Sky Center. These are two of Gerard's House's eight direct service programs. Both programs include casework and the direct provision of some basic needs as needed.

Navigation services will be for youth who are receiving navigation to community partners by Gerard's House navigators on the Unite Us platform, with either the youth themselves or their parent/caregiver as the identified client. The proposed rates for navigation and safety net services are:

<u>FY</u>	<u>Tier</u>	<u>Rate</u>	<u>Amount not to exceed each year</u>
<u>FY22</u>	<u>II</u> <u>I</u>	<u>\$800 per navigation client x 15 =</u> <u>\$12,000</u>  <u>\$680 per safety net client x 100 =</u> <u>\$68,000</u>	<u>\$ 80,000.00</u>
<u>FY23</u>	<u>II</u> <u>I</u>	<u>\$800 per navigation client x 15 =</u> <u>\$12,000</u>  <u>\$680 per safety net client x 100 =</u> <u>\$68,000</u>	<u>\$ 80,000.00</u>

The Commission works cooperatively with the Community Services Department and Youth and Family Services Division staff throughout the year and advises on how to effectively plan, coordinate or support health and human issues in our community. The Commission has completed the process to review and recommends amending the Gerard's House contract scope of work.

**PROCUREMENT METHOD:**

On March 6, 2020, RFP#20/21/P was issued through the Purchasing Office with an amended receipt date of April 10, 2020.

The Commission reviewed each request individually based on the following variables: complete proposal packet, program summary; data collection; collaboration, fiscal and organizational stability.

The Contract was fully executed November 8, 2020.

**CONTRACT NUMBER:**

The Munis contract number is 3202193.

**FUNDING SOURCE:**

The funding source is:

**Fund Name/Number:** Children and Youth Fund/Fund 256

**Munis Org Name/Number:** Children and Youth/2560122

**Munis Object Name/Number:** Grants and Services/510400

**ACTION REQUESTED:**

The Community Health and Safety Department and the Youth and Family Services Division respectfully request your review and approval.

**Signature:** Elizabeth Peterson  
Elizabeth Peterson (Mar 29, 2021 09:58 MDT)  
**Email:** empeterson@santafenm.gov

**Signature:**   
Julie Sanchez (Mar 29, 2021 10:27 MDT)  
**Email:** jjsanchez@santafenm.gov

**Signature:**   
Kyra Ochoa (Mar 29, 2021 12:02 CDT)  
**Email:** krochoa@santafenm.gov

**CITY OF SANTA FE  
 AMENDMENT No. 1 TO  
 PROFESSIONAL SERVICES AGREEMENT  
 Tier II Navigation Services  
 #20-0563**

AMENDMENT No. 1 (the "Amendment") to the CITY OF SANTA FE PROFESSIONAL SERVICES AGREEMENT, dated October 28, 2020 (the "Agreement"), between the City of Santa Fe (the "City") and **GERARD'S HOUSE** (the "Contractor"). The date of this Amendment shall be the date when it is executed by the City and the Contractor whichever occurs last.

**RECITALS:**

A. Under the terms of the Agreement, Contractor has agreed to provide the Safety Net Services Delivery and Navigation Services.

B. Pursuant to Article 14 of the Agreement, and for good and valuable consideration, the receipt and sufficiency of which are acknowledged by the parties, the City and the Contractor agree as follows:

1. SCOPE OF WORK.

Article 2, of the Agreement is amended, so that Article 2, reads as follows:

Tier II. Safety Net Services Delivery and Navigation Services:

<u>FY</u>	<u>Tier</u>	<u>Rate</u>	<u>Amount not to exceed each year</u>
<u>FY21</u>	<u>II</u>	<u>\$800 per navigation client x 8 = \$6,400</u>	<u>\$ 54,000.00</u>
	<u>I</u>	<u>\$680 per safety net client x 70 = \$47,600</u>	
<u>FY22</u>	<u>II</u>	<u>\$800 per navigation client x 15 = \$12,000</u>	<u>\$ 80,000.00</u>
	<u>I</u>	<u>\$680 per safety net client x 100 = \$68,000</u>	
<u>FY23</u>	<u>II</u>	<u>\$800 per navigation client x 15 = \$12,000</u>	<u>\$ 80,000.00</u>
	<u>I</u>	<u>\$680 per safety net client x 100 = \$68,000</u>	



CITY OF SANTA FE  
PROFESSIONAL SERVICES CONTRACT  
Tier II Navigation Services

Item# 20-0563

THIS AGREEMENT is made and entered into by and between the City of Santa Fe, New Mexico, hereinafter referred to as the "City," and **GERARD'S HOUSE**, hereinafter referred to as the "Contractor," and is effective as of the date set forth below upon which it is executed by the Parties.

IT IS AGREED BETWEEN THE PARTIES:

1. **Definitions.**

- a. Safety Net Services: Social welfare services provided by state and local government and non-profit agencies. These services are geared toward eliminating or reducing potentially dangerous or life-threatening conditions of poverty.
- b. Navigation: the function of linking clients with essential health and community services. Navigation is performed by a navigator who coordinates care and services across siloed mental, behavioral, and physical health care delivery systems, leading to greater holistic and person-centered care. Navigation also assists individuals in overcoming barriers to care and increases their engagement and active participation in care.
- c. Warm hand off: A warm hand off is a referral conducted in person, between two members of a navigation team, in front of the client (and family if present).
- d. Health Insurance Portability and Accountability Act (HIPAA): HIPAA (Health Insurance Portability and Accountability Act of 1996) is United States legislation that provides data privacy and security provisions for safeguarding medical information. The HIPAA Privacy Rule applies to organizations that are considered HIPAA-covered entities, including health plans, healthcare clearinghouses and healthcare providers. In addition, the HIPAA Privacy Rule requires covered entities that work with a HIPAA business associate to produce a contract that imposes specific safeguards on the protected health information (PHI) that the business associate uses or discloses.
- e. Protected Health Information (PHI): The HIPAA Privacy Rule protects all individually identifiable health information that is held or transmitted by a covered entity or a business associate. This information can be held in any form, including digital, paper or oral. This individually identifiable health information is also known as PHI under the Privacy Rule. PHI includes:
  - i. a patient's name, address, birth date and Social Security number;
  - ii. an individual's physical or mental health condition;
  - iii. any care provided to an individual; or
  - iv. information concerning the payment for the care provided to the individual that identifies the patient, or information for which there is a reasonable basis to believe could be used to identify the patient.

v. The HIPAA Privacy Rule does not consider employment records -- including information about education, as well as other records subject to or defined in the Family Educational Rights and Privacy Act -- as PHI. For de-identified data, however, there are no restrictions to its use or disclosure. De-identified data does not identify or provide information that could identify an individual.

f. **HIPAA Business Associate Agreement (BAA):** Under HIPAA, a HIPAA business associate agreement (BAA) is a contract between a HIPAA-covered entity and a HIPAA business associate (BA). The contract protects PHI in accordance with HIPAA guidelines.

g. **Memorandum of Understanding (MOU):** A non-binding agreement between two or more parties outlining the terms and details of an understanding including each parties' requirements and responsibilities.

**This Space Intentionally Left Blank**

2. Scope of Work.

Tier II: Safety Net Services Delivery and Navigation Services

Funding Category/Goal Area	Indicators
<input type="checkbox"/> Early Childcare and Supplemental Education	<input type="checkbox"/> % 3-5 yr. old Pre K Enrollment <input type="checkbox"/> % Increase in 7 Pre-K Domains: NM Pre-K Observation Assessment; KOT <input type="checkbox"/> High School Graduation Rate <input type="checkbox"/> Outside of school, I am involved in music, art, literature, sports, or a hobby <input type="checkbox"/> At my school, a teacher or other adult who believes I will be a success <input type="checkbox"/> Habitual Truancy
<input checked="" type="checkbox"/> Youth Wellness	<input type="checkbox"/> % Teen Pregnant with Prenatal Care in the First Trimester <input type="checkbox"/> Rate of Babies Born to Adolescents Per 1K (ages 15-17) <input type="checkbox"/> Skipped School because of Safety Concerns <input type="checkbox"/> % of Youth 19-21 Not in School or Working <input type="checkbox"/> Juvenile Arrests per 1K (ages 10-17) <input type="checkbox"/> Housing Instability Percentage <u>Mental Health</u> <input checked="" type="checkbox"/> Youth Depression <input checked="" type="checkbox"/> Youth Attempted Suicide (9-12 grade) <u>Alcohol Use</u> <input type="checkbox"/> Current Alcohol Use <input type="checkbox"/> Reported Binge Drinking (Past 30 Days) <u>Other Substance Use</u> <input type="checkbox"/> Current Use of Painkillers to get High <input type="checkbox"/> Current Methamphetamine Use <input type="checkbox"/> Current Heroin Use <input type="checkbox"/> Tried Marijuana for the First Time before age 13

A. The Contractor shall perform the following work:

- 1) Navigation Services to City of Santa Fe residents.
  - a. Navigation services to a minimum of 105 participants a year at \$700.00 per client
- 2) Ensure navigator is experienced and qualified and engages in continued educational opportunities on an annual basis to increase professional qualifications.
- 3) Assess clients' social needs, including safe and secure housing, nutritious food, reliable utilities and transportation, and access to health insurance, employment and education. Collect client demographic data, Emergency Room (ER) and jail use data if relevant, and data on those indicators pertinent for the population served, i.e. chronic disease, suicide, alcohol, drug abuse, and access to healthy food.
- 4) Deliver navigation services tailored to the individual's priorities that are culturally relevant and based on a team approach of service delivery that reflects cross-agency collaboration. This includes:
  - a. Development of a navigation plan with the individual that sets appropriate goals, such as addressing safe and secure housing, food, utilities and transportation, health system enrollment, access and navigation, education and literacy, preventive care and treatment, chronic disease management, and effective social and community referrals.
  - b. Identification of community and social resources tailored to the individual's needs and interaction with a network/team to address priorities of the navigation plan, develop sustainable relationships with community resources, and provide and document a "warm hand-off." Referrals will be considered complete if a sustained relationship has been verified by the individual and service provider and documented by the navigator.
- 5) Use an agreed-upon IT system to be determined by the City of Santa Fe's Community Services Department and the Children and Youth Commission. This includes participation in data sharing with other community and social organizations on activities related to navigation plans with consent of the clients served and requires MOUs/BAA's with community partners, to be negotiated with the assistance of the City of Santa Fe. Share aggregate and non-medical client data with other City of Santa Fe and Santa Fe County-funded partners.
- 6) Provide Program Manager or other appointed City staff with quarterly data on performance measures, outcomes of navigation, demographics, and number of clients served.

- 7) Survey individuals served annually to assess their continued engagement with needed resources and satisfaction with service delivery and/or Tier II navigation services.
- 8) Ensure navigators receive training on HIPAA standards and adhere to all HIPAA policies and requirements.
- 9) Ensure as appropriate that clients served are representative of historically unserved communities e.g. American Indian/Alaska Native, Hispanic, and African American/Black with a priority on serving low to very low income households.

B. Performance Measures.

Contractor shall substantially perform the following:

- 1) # Clients served by Gerard's House programs
- 2) # Clients connected with services by navigator
- 3) # or percent % of clients who, after receiving services, report that they know how and have increased their belief that they know how grief affects them and that they know how and have increased their belief that they know how to take care of themselves when grieving.
- 4) # or % of clients served reporting an improvement in circumstances or positive change in social determinants of health

C. Deliverables:

- 1) Annual report and mid-year report documenting outcomes of referrals, including a year-end summary of City grant related expenses plus additional material as requested by the Children and Youth Commission or City of Santa Fe Community Services Department/Youth and Family Services Division.
- 2) The receipt of the deliverables contemplated under this Agreement shall assist the City and Children and Youth Commission in obtaining its goal(s) as set forth in its Strategic Plan.

**2. Compensation.**

The City shall pay to the Contractor in full payment for services satisfactorily performed pursuant to the Scope of Work at the rates listed below:

<u>FY</u>	<u>Tier</u>	<u>Rate</u>	<u>Amount not to be exceeded each year</u>
<u>A. FY21</u>	<u>II</u>	<i>Nuestra Jornada: 105 participants x \$700 = \$73,500 Semicolon Group: 10 participants x \$650 = \$6,500</i>	<u>\$80,000</u>
<u>B. FY22</u>	<u>II</u>	<i>Nuestra Jornada: 105 participants x \$700 = \$73,500 Semicolon Group: 10 participants x \$650 = \$6,500</i>	<u>\$80,000</u>
<u>C. FY23</u>	<u>II</u>	<i>Nuestra Jornada: 105 participants x \$700 = \$73,500 Semicolon Group: 10 participants x \$650 = \$6,500</i>	<u>\$80,000</u>
<u>The total amount payable to the Contractor under this Agreement, including gross receipts tax and expenses, shall not exceed two-hundred and forty thousand dollars (\$240,000).</u>			

D. Payment in FY21, FY22 and FY23 is subject to availability of funds pursuant to the Appropriations Paragraph set forth below and to any negotiations between the parties from year to year pursuant to Paragraph 1, Scope of Work, and to approval by the City. All invoices MUST BE received by the City no later than fifteen (15) days after the termination of the Fiscal Year in which the services were delivered. Invoices received after such date WILL NOT BE PAID.)

E. Contractor must submit a detailed statement accounting for all services performed and expenses incurred. If the City finds that the services are not acceptable, within thirty days after the date of receipt of written notice from the Contractor that payment is requested, it shall provide the Contractor a letter of exception explaining the defect or objection to the services, and outlining steps the Contractor may take to provide remedial action. Upon certification by the City that the services have been received and accepted, payment shall be tendered to the Contractor within thirty days after the date of acceptance. If payment is made by mail, the payment shall be deemed tendered on the date it is postmarked. However, the City shall not incur late charges, interest, or penalties for failure to make payment within the time specified herein.

3. **Term.**

THIS AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED BY THE CITY. This Agreement shall terminate on **June 30<sup>th</sup> 2023** unless terminated pursuant to paragraph 4 (Termination), or paragraph 5 (Appropriations). In accordance with Section 13-1-150 NMSA 1978, no contract term for a professional services contract, including extensions and renewals, shall exceed four years, except as set forth in Section 13-1-150 NMSA 1978.

4. **Termination.**

A. **Termination.** This Agreement may be terminated by either of the parties hereto upon written notice delivered to the other party at least thirty (30) days prior to the intended date of termination. Except as otherwise allowed or provided under this Agreement, the City's sole liability upon such termination shall be to pay for acceptable work performed prior to the Contractor's receipt of the notice of termination, if the City is the terminating party, or the Contractor's sending of the notice of termination, if the Contractor is the terminating party; provided, however, that a notice of termination shall not nullify or otherwise affect either party's liability for pre-termination defaults under or breaches of this Agreement. The Contractor shall submit an invoice for such work within thirty (30) days of receiving or sending the notice of termination. Notwithstanding the foregoing, this Agreement may be terminated immediately upon written notice to the Contractor if the Contractor becomes unable to perform the services contracted for, as determined by the City or if, during the term of this Agreement, the Contractor or any of its officers, employees or agents is indicted for fraud, embezzlement or other crime due to misuse of City funds or due to the Appropriations paragraph herein. THIS PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE THE City's OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THIS AGREEMENT.

B. **Termination Management.** Immediately upon receipt by either the City or the Contractor of notice of termination of this Agreement, the Contractor shall: 1) not incur any further obligations for salaries, services or any other expenditure of funds under this Agreement without written approval of the City; 2) comply with all directives issued by the City in the notice of termination as to the performance of work under this Agreement; and 3) take such action as the City shall direct for the protection, preservation, retention or transfer of all property titled to the City and records generated under this Agreement. Any non-expendable personal property or equipment provided to or purchased by the Contractor with contract funds shall become property of the City upon termination and shall be submitted to the City as soon as practicable.

5. **Appropriations.**

The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the City Council for the performance of this Agreement. If sufficient appropriations and authorization are not made by the City Council, this Agreement shall terminate immediately upon written notice being given by the City to the Contractor. The City's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. If the City proposes an amendment to the Agreement to unilaterally reduce funding, the Contractor shall have the option to terminate the Agreement or to agree to the reduced funding, within thirty (30) days of receipt of the proposed amendment.

**6. Status of Contractor.**

The Contractor and its agents and employees are independent contractors performing professional services for the City and are not employees of the City. The Contractor and its agents and employees shall not accrue leave, retirement, insurance, bonding, use of City vehicles, or any other benefits afforded to employees of the City as a result of this Agreement. The Contractor acknowledges that all sums received hereunder are reportable by the Contractor for tax purposes, including without limitation, self-employment and business income tax. The Contractor agrees not to purport to bind the City unless the Contractor has express written authority to do so, and then only within the strict limits of that authority.

**7. Assignment.**

The Contractor shall not assign or transfer any interest in this Agreement or assign any claims for money due or to become due under this Agreement without the prior written approval of the City.

**8. Subcontracting.**

The Contractor shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of the City. No such subcontract shall relieve the primary Contractor from its obligations and liabilities under this Agreement, nor shall any subcontract obligate direct payment from the City.

**9. Non-Collusion.**

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

**10. Release.**

Final payment of the amounts due under this Agreement shall operate as a release of the City, its officers and employees from all liabilities, claims and obligations whatsoever arising from or under this Agreement.

**11. Confidentiality.**

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

**12. Product of Service -- Copyright.**

All materials developed or acquired by the Contractor under this Agreement shall become the property of the City and shall be delivered to the City no later than the termination date of this Agreement. Nothing developed or produced, in whole or in part, by the Contractor under this Agreement shall be the subject of an application for copyright or other claim of ownership by or on behalf of the Contractor.

**13. Conflict of Interest; Governmental Conduct Act.**

A. The Contractor represents and warrants that it presently has no interest and, during

the term of this Agreement, shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under the Agreement.

B. The Contractor further represents and warrants that it has complied with, and, during the term of this Agreement, will continue to comply with, and that this Agreement complies with all applicable provisions of the Governmental Conduct Act, Chapter 10, Article 16 NMSA 1978.

C. Contractor's representations and warranties in Paragraphs A and B of this Article 12 are material representations of fact upon which the City relied when this Agreement was entered into by the parties. Contractor shall provide immediate written notice to the City if, at any time during the term of this Agreement, Contractor learns that Contractor's representations and warranties in Paragraphs A and B of this Article 12 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances. If it is later determined that Contractor's representations and warranties in Paragraphs A and B of this Article 12 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances, in addition to other remedies available to the City and notwithstanding anything in the Agreement to the contrary, the City may immediately terminate the Agreement.

D. All terms defined in the Governmental Conduct Act have the same meaning in this section.

**14. Amendment.**

A. This Agreement shall not be altered, changed or amended except by instrument in writing executed by the parties hereto and all other required signatories.

B. If the City proposes an amendment to the Agreement to unilaterally reduce funding due to budget or other considerations, the Contractor shall, within thirty (30) days of receipt of the proposed Amendment, have the option to terminate the Agreement, pursuant to the termination provisions as set forth in Article 4 herein, or to agree to the reduced funding.

**15. Merger.**

This Agreement incorporates all the Agreements, covenants and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, Agreements and understandings have been merged into this written Agreement. No prior Agreement or understanding, oral or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

**16. Penalties for violation of law.**

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

**17. Equal Opportunity Compliance.**

The Contractor agrees to abide by all federal and state laws and rules and regulations, and Santa Fe City Code, pertaining to equal employment opportunity. In accordance with all such laws of the State of New Mexico, the Contractor assures that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, or serious medical condition, spousal affiliation, sexual orientation or gender identity, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed under this Agreement. If Contractor is found not to be in compliance with these requirements during the life of this Agreement, Contractor agrees to take appropriate steps to correct these deficiencies.

**18. Applicable Law.**

The laws of the State of New Mexico shall govern this Agreement, without giving effect to its choice of law provisions. Venue shall be proper only in a New Mexico court of competent jurisdiction in accordance with Section 38-3-1 (G) NMSA 1978. By execution of this Agreement, Contractor acknowledges and agrees to the jurisdiction of the courts of the State of New Mexico over any and all lawsuits arising under or out of any term of this Agreement.

**19. Workers Compensation.**

The Contractor agrees to comply with state laws and rules applicable to workers compensation benefits for its employees. If the Contractor fails to comply with the Workers Compensation Act and applicable rules when required to do so, this Agreement may be terminated by the City.

**20. Professional Liability Insurance.** Contractor shall maintain professional liability insurance throughout the term of this Agreement providing a minimum coverage in the amount required under the New Mexico Tort Claims Act. The Contractor shall furnish the City with proof of insurance of Contractor's compliance with the provisions of this section as a condition prior to performing services under this Agreement.

**21. Other Insurance**

If the services contemplated under this Agreement will be performed on or in City facilities or property, Contractor shall maintain in force during the entire term of this Agreement, the following insurance coverage(s), naming the City as additional insured.

**A. Commercial General Liability** insurance shall be written on an occurrence basis and be as broad as ISO Form CG 00 01 with limits not less than \$2,000,000 per occurrence and \$2,000,000 in the aggregate for claims against bodily injury, personal and advertising injury, and property damage. Said policy shall include broad form Contractual Liability coverage and be endorsed to name the City of Santa Fe their officials, officers, employees, and agents as additional insureds.

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

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

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

**22. Records and Financial Audit.**

The City or city contractor shall have the right, at reasonable times and at a site designated by the City, to audit financial expenditures of City grant funding, documents, files and records of the Contractor to the extent that the finances, documents, files and records related to costs or accuracy of reimbursement for outcome or deliverable. The Contractor shall give full and free access to all records to the City and/or their authorized representative. The Contractor shall maintain detailed records that indicate the date, nature and cost of services rendered during the Agreement's term and effect and retain them for a period of three (3) years from the date of final payment under this Agreement. If offering Navigation Services, records must indicate that the City is the sole payor per client billed for. The records shall be subject to inspection by the City. The City shall have the right to audit billings both before and after payment. Payment under this Agreement shall not foreclose the right of the City to recover excessive or illegal payments.

**23. Indemnification.**

The Contractor shall defend, indemnify and hold harmless the City from all actions, proceeding, claims, demands, costs, damages, attorneys' fees and all other liabilities and expenses of any kind from any source which may arise out of the performance of this Agreement, caused by the negligent act or failure to act of the Contractor, its officers, employees, servants, subcontractors or agents, or if caused by the actions of any client of the Contractor resulting in injury or damage to persons or property during the time when the Contractor or any officer, agent, employee, servant or subcontractor thereof has or is performing services pursuant to this Agreement. In the event that any action, suit or proceeding related to the services performed by the Contractor or any officer, agent, employee, servant or subcontractor under this Agreement is brought against the Contractor, the Contractor shall, as soon as practicable but no later than two (2) days after it receives notice thereof, notify the legal counsel of the City.

**24. New Mexico Tort Claims Act**

Any liability incurred by the City of Santa Fe in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, Section 41-4-1, et. seq. NMSA 1978, as amended. The City and its "public employees" as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity, do not waive any defense and do not waive any

limitation of liability pursuant to law. No provision in this Agreement modifies or waives any provision of the New Mexico Tort Claims Act.

**25. Invalid Term or Condition.**

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

**26. Enforcement of Agreement.**

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

**27. Notices.**

Any notice required to be given to either party by this Agreement shall be in writing and shall be delivered in person, by courier service or by U.S. mail, either first class or certified, return receipt requested, postage prepaid, as follows:

To the City: [Julie Sanchez, Program Manager, 500 Market Station Suite 200,  
[jjsanchez@ci.santa-fe.nm.us](mailto:jjsanchez@ci.santa-fe.nm.us)].

To the Contractor: [Gerard's House, PO Box 28693 Santa Fe, NM 87592.

**28. Authority.**

If Contractor is other than a natural person, the individual(s) signing this Agreement on behalf of Contractor represents and warrants that he or she has the power and authority to bind Contractor, and that no further action, resolution, or approval from Contractor is necessary to enter into a binding contract.

**29. Site Visits.**

At any time during the contract period the director or designee of the COMMUNITY SERVICES DEPARTMENT may perform a site visit to contracted sites to review programming and meet with participants. Members of the oversight body will be informed and invited to participate, this may include community partners and program co-funders.

**30. Reporting.**

Grantees shall submit one annual and one mi-year reports on the programmatic accomplishments made toward the goals of the grant agreement. Reports are due to the YOUTH AND FAMILY SERVICES DIVISION or COMMUNITY SERVICES DEPARTMENT Program Manager. Reports shall include the following:

A. Total Amount of funds received, Amount of funds received that were expended for programs; Number of adults served in the current quarter (if not already included in reporting template); reporting template with attachments or reporting as requested by DIVISION, DEPARTMENT or the COMMISSION.

B. **Fiscal Year Quarters:**  
Mid-Year Report: July-December  
Final Report: January-June

**Reports Due:**  
January 15th  
July 5th

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

CITY OF SANTA FE:



ALAN M. WEBBER  
MAYOR

DATE: Nov 5, 2020

CONTRACTOR:

Gerard's House



NAME:  
TITLE: Executive Director

DATE: 9/21/2020

CRS # 02382950008  
REGISTRATION# 20-222800

ATTEST:



YOLANDA Y. VIGIL, CITY CLERK  
GB Mtg 10/28/2020  
APPROVED AS TO FORM: GC  
GC

SENIOR ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:



MARY T. MCCOY  
FINANCE DIRECTOR

2560122.510400  
Munis Org. and Obj. Code



# CITY OF SANTA FE PROCUREMENT CHECKLIST

Contractor Name: Gerard's House

Procurement Title: RFP 20/21/P

Procurement Method: State Price Agreement  Cooperative  Sole Source  Other

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

Department Requesting: Community Health and Safety Department Staff Name Elizabeth Peterson

### Procurement Requirements:

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

### REQUIRED DOCUMENTS FOR APPROVAL BY PURCHASING\*

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

Elizabeth Peterson Children and Youth Program Manager 3/9/2021

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

Fran Dunaway (Apr 28, 2021 17:20 MDT)

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

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

\*



# City of Santa Fe

## Real Estate Summary of Contracts, Agreements, Amendments & Leases

### Section to be completed by department

1. Munis Contract # 3202193

Contractor: Gerard's House

Description: Children and Youth Commission funded youth services

Contract  Agreement  Lease / Rent  Amendment

Term Start Date: July 1, 2020 Term End Date: June 30, 2023

Approved by Council Date: 10/28/2020

### **Contract / Lease: CYC funded youth services**

Amendment # 1 to the Original Contract / Lease # 20-0568

Increase/(Decrease) Amount \$ n/a

Extend Termination Date to: n/a

Approved by Council Date: \_\_\_\_\_

### **Amendment is for:**

2. **HISTORY of Contract, Amendments & Lease / Rent - Please Elaborate** (option: attach spreadsheet if multiple amendments)

**Revise scope of work**

3. Procurement History: RFP 20/21/P

Fran Dineen (Apr 28, 2021 1:20 MDT)

Apr 28, 2021

Purchasing Officer Review: \_\_\_\_\_ Date: \_\_\_\_\_

Comment & Exceptions: Amend RFP 20/21/P to increase comp. term thru 6/30/23

4. Funding Source: Children and Youth Fund

Org / Object: 2560122.510400

Andy Hopkins (Apr 28, 2021 16:32 MDT)

Apr 28, 2021

Budget Officer Approval: \_\_\_\_\_ Date: \_\_\_\_\_

Comment & Exceptions: \_\_\_\_\_

Staff Contact who completed this form: Elizabeth Peterson Phone # (505) 470-3186

Email: empeterson@santafenm.gov

### To be recorded by City Clerk:

Clerk # \_\_\_\_\_

Date of Execution: \_\_\_\_\_

# BUSINESS REGISTRATION

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



**Business Name:** GERARD'S HOUSE  
DBA: GERARD'S HOUSE

**Business Location:** 3204 MERCANTILE CT C  
SANTA FE, NM 87501

**Owner:** JERRY DURAN

**License Number:** 222800

**Issued Date:** March 08, 2021

**Expiration Date:** March 08, 2022

**CRS Number:** 02382950008

**License Type:** Business License - Renewable

**Classification:** Business Registration - Standard

**Fees Paid:** \$35.00

GERARD'S HOUSE  
P.O. BOX 28693  
SANTA FE, NM 87592

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

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

**TO BE POSTED IN A CONSPICUOUS PLACE**



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

3/24/2021

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

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

<b>PRODUCER</b> License # 0757776 <b>HUB International Insurance Services (SOW)</b> 2905 Rodeo Park Drive East Building 6, Suite 100 Santa Fe, NM 87505	<b>CONTACT NAME:</b> PHONE (A/C, No, Ext): <b>(505) 982-4296</b>		FAX (A/C, No): <b>(866) 621-0427</b>
	<b>E-MAIL ADDRESS:</b>		
<b>INSURER(S) AFFORDING COVERAGE</b>			<b>NAIC #</b>
<b>INSURER A : Philadelphia Indemnity Insurance Company</b>			<b>18058</b>
<b>INSURER B : New Mexico Mutual Casualty Company</b>			<b>40627</b>
<b>INSURER C :</b>			
<b>INSURER D :</b>			
<b>INSURER E :</b>			
<b>INSURER F :</b>			

**INSURED**

Gerard's House  
 PO Box 28693  
 Santa Fe, NM 87505

### COVERAGES

### CERTIFICATE NUMBER:

### REVISION NUMBER:

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	X		PHPK2248722	3/1/2021	3/1/2022	EACH OCCURRENCE	\$ 1,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 100,000
							MED EXP (Any one person)	\$ 5,000
							PERSONAL & ADV INJURY	\$ 1,000,000
							GENERAL AGGREGATE	\$ 2,000,000
							PRODUCTS - COMP/OP AGG	\$ 2,000,000
								\$
	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident)	\$
							BODILY INJURY (Per person)	\$
							BODILY INJURY (Per accident)	\$
							PROPERTY DAMAGE (Per accident)	\$
								\$
	<b>UMBRELLA LIAB</b> <input type="checkbox"/> OCCUR <b>EXCESS LIAB</b> <input type="checkbox"/> CLAIMS-MADE DED <input type="checkbox"/> RETENTION \$						EACH OCCURRENCE	\$
							AGGREGATE	\$
								\$
B	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	0097809104	3/1/2021	3/1/2022	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER	
							E.L. EACH ACCIDENT	\$ 100,000
							E.L. DISEASE - EA EMPLOYEE	\$ 100,000
							E.L. DISEASE - POLICY LIMIT	\$ 500,000
A	Professional Liabili			PHPK2248722	3/1/2021	3/1/2022		\$ 1,000,000

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

### CERTIFICATE HOLDER

### CANCELLATION

City of Santa Fe Children & Youth Commission  
 Santa Fe Youth & Family Services Division  
 PO Box 909  
 Santa Fe, NM 87504

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

AUTHORIZED REPRESENTATIVE

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**ADDITIONAL INSURED – DESIGNATED  
PERSON OR ORGANIZATION**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

**SCHEDULE**

<p><b>Name Of Additional Insured Person(s) Or Organization(s):</b>  City of Santa Fe Children &amp; Youth  Commission  Santa Fe Youth &amp; Family Services Div</p>
<p>Information required to complete this Schedule, if not shown above, will be shown in the Declarations.</p>

**A. Section II – Who Is An Insured** is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

1. In the performance of your ongoing operations; or
2. In connection with your premises owned by or rented to you.

However:

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

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

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

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

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









# GB COMMUNITY HEALTH AND SAFETY GERALDS HOUSE

Final Audit Report

2021-04-28

Created:	2021-04-28
By:	Jimmy Tapia (jptapia@ci.santa-fe.nm.us)
Status:	Signed
Transaction ID:	CBJCHBCAABAAXv-qfPVqwcRa3cS6WpmUmj6naVD6B7p

## "GB COMMUNITY HEALTH AND SAFETY GERALDS HOUSE" History

-  Document created by Jimmy Tapia (jptapia@ci.santa-fe.nm.us)  
2021-04-28 - 10:19:19 PM GMT- IP address: 63.232.20.2
-  Document emailed to Andy Hopkins (ajhopkins@santafenm.gov) for signature  
2021-04-28 - 10:21:57 PM GMT
-  Email viewed by Andy Hopkins (ajhopkins@santafenm.gov)  
2021-04-28 - 10:30:24 PM GMT- IP address: 104.47.64.254
-  Document e-signed by Andy Hopkins (ajhopkins@santafenm.gov)  
Signature Date: 2021-04-28 - 10:32:01 PM GMT - Time Source: server- IP address: 63.232.20.2
-  Document emailed to Fran Dunaway (fadunaway@santafenm.gov) for signature  
2021-04-28 - 10:32:03 PM GMT
-  Email viewed by Fran Dunaway (fadunaway@santafenm.gov)  
2021-04-28 - 11:18:50 PM GMT- IP address: 104.47.65.254
-  Document e-signed by Fran Dunaway (fadunaway@santafenm.gov)  
Signature Date: 2021-04-28 - 11:20:09 PM GMT - Time Source: server- IP address: 63.232.20.2
-  Agreement completed.  
2021-04-28 - 11:20:09 PM GMT




# City of Santa Fe, New Mexico


## Memorandum



**DATE:** April 14, 2021

**TO:** Governing Body  
Finance Committee  
Public Works/Public Utilities Committee

**VIA:** Shannon Jones, Public Utilities Department Director   
SJ

**FROM:** Michael Dozier, Wastewater Management Division Director   
MD

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### ITEM AND ISSUE:

Request for Approval of Change Order #1 to CIP #957 Aeration Project Bid number '20/17/B with RMCI Inc. for an increase of \$294,446.51 (Michael Dozier, Wastewater Management Division Director: mldozier@santafenm.gov, 505-955-4642)

### BACKGROUND AND SUMMARY:

In January 2019, the City contracted with Carollo Engineer Inc. to assist with a design of the Aeration Improvement Project. Through data collection and modeling, Carollo detailed the aeration improvements in each of the two basins should have a tapered down approach from the A to C passes, and a new grid would be installed in the D pass for times when a boost is needed for nitrification. Also recommending the purchase and installation of new turbo blowers as part of this project. The City's Wastewater aeration basins will also see improvements of scum removal system, and replacement of sluice gates. The north section of the Administration building's roof would also need replacing to accommodate the new blower system.

### CO#1

In change order #1 additional sludge hauling, pump, valve changes, and pipe supports in the aeration basins created additional costs not encapsulated in the original contract. Duct banks previously sized were enlarged to accommodate modified motor control center wiring. When bypass pumping was tested the original calculated pump capacity was not sufficient. An additional pump was sourced to safely perform the bypass pumping.

**PROCUREMENT METHOD:**

Procurement method: Construction Bid: Bid number '20/17/B

**FUNDING SOURCE:**

**Fund Name/Number:** WWMD Enterprise Fund/Fund 500/Cash Balance  
PL# WWM2050001

**BAR FUNDS TO:**

**Munis Org Name/Number:** WW Engineering/5000375  
**Munis Object Name/Number:** WIP Construction/572970

**ACTION REQUESTED:**

Approval of Change Order #1 to CIP #957 Aeration Project Bid number '20/17/B with RMCI Inc. for an increase in the amount of \$294,446.51 from WWMD Enterprise Fund cash balances.

Date of Issuance:	3/31/201	Effective Date:	3/31/21
Owner:	City of Santa Fe, NM	Owner's Contract No.:	CIP #957
Contractor:	RMCI, Inc.	Contractor's Project No.:	2006
Engineer:	Carollo Engineers, Inc.	Engineer's Project No.:	11283A.20
Project:	Paseo Real Wastewater Treatment Plant – Aeration Improvements	Contract Name:	Paseo Real Wastewater Treatment Plant – Aeration Improvements


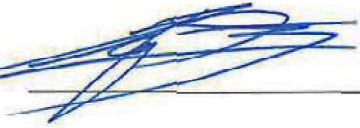
The Contract is modified as follows upon execution of this Change Order:

1. Modifications to Specification Section 01140 – Work Restrictions.....	No Cost
2. Additional Sludge Hauling – North Aeration Basin.....	\$80,625.00
3. COP No. 2 - Revise Model of Centrate Pumps to Match Digester Pumps .....	\$11,994.77
4. COP No. 3 - Revisions to Electrically Actuated Valve Schedule .....	\$ 6,186.07
5. COP No. 4 – Revise EQ Tank Sump Pump from Duplex to Simplex .....	\$(27,450.80)
6. COP No. 5 – Provide Remote Transmitters for Thermal Mass Flow Meters .....	\$34,445.90
7. COP No. 6 – Upsize Misc. Electrical Conduits in Ductbanks .....	\$11,538.16
8. COP No. 8 – Additional Pumps Required for By-pass Pumping – North Aeration Basin .....	\$60,900.98
9. COP No. 9 – Modifications to Scum Trough Discharge Piping .....	\$ 477.14
10. COP No. 10 – Concrete Equipment Pad for LCP-220 .....	\$ 2,583.79
11. COP No. 11 – Replacement of Existing Aeration Basins Air Piping Supports .....	\$84,901.97
12. COP No. 12 – Clean Existing Diffuser Grid Piping – North Basin, Pass A-2 .....	\$ 5,332.71
13. New Mexico Gross Receipts Tax @ 8.4375% .....	<u>\$22,910.82</u>
	TOTAL \$294,446.51

Attachments: *Change Order No. 1 Justification Summary with RMCI Pricing Attachments.*

CHANGE IN CONTRACT PRICE	CHANGE IN CONTRACT TIMES
Original Contract Price: <u>\$ 11,661,233.20 (Inclusive of NMGR)</u>	Original Contract Times: <u>481 Calendar Days</u>
<u>Increase</u> from previously approved Change Orders  <u>\$ N/A</u>	<u>Increase</u> from previously approved Change Orders  <u>N/A</u>
Contract Price prior to this Change Order: <u>\$ 11,661,233.20 (Inclusive of NMGR)</u>	Contract Times prior to this Change Order: <u>481 Calendar Days</u>

<u>Increase of this Change Order:</u> \$ <u>294,446.51</u> (Inclusive of NMGR)	<u>Increase of this Change Order:</u> <u>52 Calendar Days</u>
<u>Contract Price incorporating this Change Order:</u> \$ <u>11,955,679.71</u> (Inclusive of NMGR)	<u>Contract Times with all approved Change Orders:</u> <u>533 Calendar Days</u>

RECOMMENDED:	ACCEPTED:	ACCEPTED:
By: 	By: _____	By: 
Carollo Engineers, Inc.	City of Santa Fe, NM	RMCI, Inc.
Title <u>Senior Client Service Manager</u>	Title _____	Title <u>President/CEO</u>
Date <u>April 31, 2021</u>	Date _____	Date <u>3-31-21</u>

ATTEST:

\_\_\_\_\_  
KRISTINE BUSTOS MIHELICIC, CITY  
CLERK

CITY ATTORNEY'S OFFICE:

Marcos Martinez  
Marcos Martinez (Apr 20, 2021 14:41 MDT)

SENIOR ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

Alexis Lotero, Acting Finance Director  
Alexis Lotero, Acting Finance Director (Apr 30, 2021 17:04 MDT)

MARY MCCOY, FINANCE DIRECTOR

5000375.572970 AJH  
AJH



Project No. 101065

## Change Order No. 1 Justification

### JUSTIFICATION

<b>Modifications to Specification Section 01140 – Work Restrictions</b>	<b>Amount:</b> \$ No Cost
<p><b>Description of Change:</b></p> <p>Specification Section 01140 – Work Restrictions, limited the months of the year that the contractor could have an aeration basin out of service. Work requiring drainage of a basin was restricted to the months between the beginning of May and the end of October. Restricting the drainage of a basin to the warmer months of the year was done to provide the City the ability to adequately treat the total flow of the plant through one aeration basin. During the winter months prior to the execution of the contract, the City had successfully treated the total flow of the plant utilizing one basin. Because the City demonstrated the ability to effectively treat the plant’s total flow through one basin year-round, the City elected to eliminate the restraint on the time of year an aeration basin could be removed from service and drained.</p>	
<b>Additional Sludge Hauling – North Aeration Basin</b>	<b>Amount:</b> \$ 80,625.00
<p><b>Description of Change:</b></p> <p>The contract contains an allowance for the removal of sludge built-up on the bottom of the north and south aeration basin when each basin is drained. An estimate was made as to the total quantity of sludge that would be present in the basins and was used to set the quantity of the allowance in the bid form. The estimate of the total quantity of sludge to be removed from both basins was 365 cubic yards. It was derived based on previous experiences of the City when removing basins from service and observing the quantity of sludge remaining in the drained basin. Upon the draining of the north basin, it became evident that the amount of sludge remaining in the basin was significantly more than anticipated. The contractor was directed to remove all the sludge from the basin and would be compensated for the removal based on the unit price provided with the bid. The final quantity of sludge removed from the basin was 580 cubic yards which represented 215 cubic yards more than the total estimated quantity of sludge for both the north and south basin.</p>	



<b><u>COP No. 2: Revise Model of Centrate Pumps to Match Digester Pumps</u></b>	<b><u>Amount:</u> \$ 11,994.77</b>
<b><u>Description of Change:</u></b> <p>The City requested to have the pumps associated with the equalization tank revised to be the same manufacturer and model number as the pumps installed at the new digester complex. This change would reduce the number of spare parts required to be warehoused by the City. Borger pumps were installed at the new digesters. They are model number CL 390 with 10 hp motors and operate in a flow range of 125 to 250 gpm. Carollo determined that the requested pump will operate in the flow and pressure ranges designed for the equalization pump system.</p>	
<b><u>COP No. 3: Revisions to Electrically Actuated Valve Schedule</u></b>	<b><u>Amount:</u> \$ 6,186.07</b>
<b><u>Description of Change:</u></b> <p>The Intelligent Actuator Schedule as depicted in Specification Section 13447 was incorrect. The type of valve and valve sizing on various valves were depicted incorrectly. An updated schedule is provided as part of a Design Clarification and further refined in responses to Requests for Information.</p>	
<b><u>COP No. 4: Revise EQ Tank Sump Pump from Duplex to Simplex</u></b>	<b><u>Amount:</u> \$ (27,450.80)</b>
<b><u>Description of Change:</u></b> <p>The sump pump system in equalization tank the pump station was changed from a duplex pump system to a simplex (1 pump) system. Addendum No. 2 to the project erroneously changed the sump pump system from a simplex to a duplex system. A simplex system is required for the configuration of the sump. The NEMA 7 Vendor Control Panel was also deleted as it is not required because the drawings provide for the MCC to have a full voltage non-reversing starter and a local control panel.</p>	
<b><u>COP No. 5: Provide Remote Transmitters for Thermal Mass Flow Meters</u></b>	<b><u>Amount:</u> \$ 34,445.90</b>
<b><u>Description of Change:</u></b> <p>The ISA data sheet in Section 17305 for the thermal mass flow meters shows the transmitter as integral, as does detail NF112 on Drawing 99TN01. Drawing 22E04 shows the flow element as being remote from the transmitter for: FE/FIT-22-01-3, 5, 8, 13 and FE/FIT-22-02-3, 5, 8, 13. This change was to revise the thermal gas flowmeters so that they would be provided with remote indicators.</p>	
<b><u>COP No. 6: Upsize Misc. Electrical Conduits in Ductbanks</u></b>	<b><u>Amount:</u> \$ 11,538.16</b>
<b><u>Description of Change:</u></b> <p>Specification section 16130-3.03.-D.2.d shows a minimum ductbank conduit size of 2" for all ductbank conduit. The conduit ID labels shown on drawing 02E01 and the conduit schedules show conduits smaller than 2". Conduits L-83-030, L-83-031, L-83-032, and S-22-003 have been revised from ¾" to 2".</p>	



<b>COP No. 8: Additional Pumps Required for By-pass Pumping – North Aeration Basin</b>	<b>Amount:</b> \$ 60,900.98 <b>Time Extension:</b> 20-days
<b>Description of Change:</b> <p>Specification Section 01140 1.06.C.2 shows the bypass pumping requirements for the project. This section specified a minimum flow of one and one-half (1 ½ ) million gallons per day with a maximum flow of ten (10) million gallons per day, and an average flow of six and one-half (6 ½ ) million gallons per day. The bypass system was to be set up from the anoxic basin to the north aeration basin (in operation) and was provided with a one hundred (100) percent redundancy. RMCI confirmed this peak flow with the City (Alan MacGregor) prior to bringing out the bypass system. RMCI brought out two (2) pumps capable of ten (10) million gallons per day peak flow per pump. Upon startup of these pumps, it was found that the by-pass system could not keep up with the peak flow in the Anoxic Basin with one pump. With two (2) pumps operational, the by-pass system was still unable to keep up with the incoming flows. RMCI worked with the pump manufacturer to trouble shoot the pumps. The pump manufacturer insisted the issue was not with the pumps or the set-up of the bypass. RMCI ordered two (2) in line flow meters to monitor the amount of fluid being pumped and installed these flow meters on the bypass, using them in conjunction with two doppler flow meters. The flow meters proved one pump could handle ten (10) million gallons per day and two pumps could handle twenty (20) million gallons per day. There was substantially more flow being introduced in the anoxic basin verses what was specified. The numbers provided in the Specifications did not include the RAS return of five (5) million gallons of fluid per day. In addition, the plant was back feeding from the aeration basin to the anoxic basin through the MLS return valves. Once plant operations were able to isolate the valves, RMCI was able to keep up with the peak flow with two (2) pumps running simultaneously (this included the additional flow coming from the RAS return). Using both pumps did not allow for any redundancy. Design Clarification No. 005 and Work Change Directive No. 001 was issued to reduce the redundancy to fifty (50) percent and authorized RMCI to rent a third pump.</p>	
<b>COP No. 9: Modifications to Scum Trough Discharge Piping</b>	<b>Amount:</b> \$ 477.14
<b>Description of Change:</b> <p>The centerline elevation for the scum trough was revised after the design phase to accommodate the various operating regimes of the aeration basins. The information to determine water surface elevations in the aeration basins under all operating schemes was not available during design. It could only be obtained from observation of operating the plant with only one aeration basin in service. This revision resulted in other changes to the scum trough system that were detailed in a Design Clarification. These modifications include:</p> <ol style="list-style-type: none"><li>1. Location of the scum trough moved approximately 10'-4" from the centerline of the scum manhole.</li><li>2. The centerline of the scum trough is at elevation -2.26. This is based on a reference elevation of 0.00 for the top of exterior wall of the aeration basin.</li><li>3. Addition of a 12" gate valve to the discharge piping.</li><li>4. Scum pipe material changed from SST to PVC – SDR 35 with push on joints.</li></ol>	



- 5. Addition of a Fernco coupling at the discharge of the scum trough from the aeration basin.
- 7. Revisions to the layout of the stairs and platform.

<b>COP No. 10: Concrete Equipment Pad for LCP-220</b>	<b>Amount:</b> \$ 2,583.79
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**Description of Change:**

LCP-220 requires an equipment pad. The contract Documents did not call out for an equipment pad for this LCP. This change is for a concrete equipment pad to be placed under LCP-220.

<b>COP No. 11: Replacement of Existing Aeration Basins Air Piping Supports</b>	<b>Amount:</b> \$ 84,901.97 <b>Time Extension:</b> 30 days
--	---

**Description of Change:**

The pipe supports for the existing air piping in both the north and south aeration basin are corroding and past their useful life. The contractor was directed to replace all of the existing aluminum pipe supports with stainless-steel pipe supports on the existing air piping in the north and south aeration basins. A total of 80 pipe supports were installed.

<b>COP No. 12: Clean Existing Diffuser Grid Piping, North Basin, Pass A-2</b>	<b>Amount:</b> \$ 5,332.71 <b>Time Extension:</b> 2 days
---	---

**Description of Change:**

The continuous purge piping had broken from the manifold header and allowed sludge to get into the PVC manifold and grid piping and dry. RMCI disassembled the grid distribution piping, at the spline joints, and each twenty-foot section was cleaned using a pressure washer with a jetting nozzle and extended wand. The manifold piping was disconnected from the stainless-steel piping and the tee near the stainless-steel connection was rotated to allow for drainage. The jetting nozzle of the pressure washer was inserted into each end of the distribution grid openings allowing the cleaning to take place. The continuous purge piping was reconnected to the manifold end cap and the O-rings were replaced when the grid distribution piping was reassembled.

END OF DOCUMENT



# City of Santa Fe

## Real Estate Summary of Contracts, Agreements, Amendments & Leases

### Section to be completed by department

1. Munis Contract # 3201962

Contractor: RMCI Inc.

Description: Anaerobic Digesters  
WWM2050001

Contract  Agreement  Lease / Rent  Amendment

Term Start Date: 5/27/20 Term End Date: 6/30/24

Approved by Council Date: 5/27/20

### Contract / Lease: Contract

Amendment # Change Order #1 to the Original Contract / Lease # 20-0251

Increase/(Decrease) Amount \$ 0294,446.51

Extend Termination Date to: Increase contract amount and scope

Approved by Council Date: Pending

### Amendment is for: term extension

2. **HISTORY of Contract, Amendments & Lease / Rent - Please Elaborate** (option: attach spreadsheet if multiple amendments)  
**Original Contract #20-0251 \$11,661,233.20**

3. Procurement History: 20/17/B

John Dineen  
John Dineen (May 3, 2021 8:20 MDT)

Purchasing Officer Review: \_\_\_\_\_ Date: May 3, 2021

Comment & Exceptions: Amend-C/O to increase comp and scope

4. Funding Source: WWMD CIP Enterprise Fund Org / Object: 5000375.572970

Andy Hopkins  
Andy Hopkins (Apr 29, 2021 14:07 MDT)

Budget Officer Approval: \_\_\_\_\_ Date: Apr 29, 2021

Comment & Exceptions: \_\_\_\_\_

Staff Contact who completed this form: Maya Martinez Phone # 4271

Email: mfmartinez@santafenm.gov

To be recorded by City Clerk:

Clerk # \_\_\_\_\_

Date of Execution: \_\_\_\_\_



# CITY OF SANTA FE PROCUREMENT CHECKLIST

Contractor Name: RMCI, INC.

Procurement Title: CIP# 957 Aeration Improvement Project

Procurement Method: State Price Agreement  Cooperative  Sole Source  Other

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

Department Requesting Public Utilites/Wastewater Staff Name Mike Dozier

### Procurement Requirements:

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

### REQUIRED DOCUMENTS FOR APPROVAL BY PURCHASING\*

YES N/A

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

Mike Dozier, WWMD Director   
Michael Dozier (Apr 19, 2021 13:37 MDT)

4-19-21

Department Rep Printed Name (attesting that all information included)	Title	Date
<u></u>	Chief Procurement Officer	May 3, 2021

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

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




# City of Santa Fe, New Mexico


## Memorandum



**DATE:** April 14, 2021

**TO:** Governing Body  
Finance Committee  
Public Works/Public Utilities Committee

**VIA:** Shannon Jones, Public Utilities Department Director   
SJ

**FROM:** Michael Dozier, Wastewater Management Division Director   
MD

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### ITEM AND ISSUE:

Request for Approval of a BAR to fund Change Order #1 to CIP #957 Aeration Project Bid number '20/17/B with RMC Inc. for an increase of \$294,447 (Michael Dozier, Wastewater Management Division Director: mldozier@santafenm.gov, 505-955-4642)

### BACKGROUND AND SUMMARY:

In January 2019, the City contracted with Carollo Engineer Inc. to assist with a design of the Aeration Improvement Project. Through data collection and modeling, Carollo detailed the aeration improvements in each of the two basins should have a tapered down approach from the A to C passes, and a new grid would be installed in the D pass for times when a boost is needed for nitrification. Also recommending the purchase and installation of new turbo blowers as part of this project. The City's Wastewater aeration basins will also see improvements of scum removal system, and replacement of sluice gates. The north section of the Administration building's roof would also need replacing to accommodate the new blower system.

### CO#1

In change order #1 additional sludge hauling, pump, valve changes, and pipe supports in the aeration basins created additional costs not encapsulated in the original contract. Duct banks previously sized were enlarged to accommodate modified motor control center wiring. When bypass pumping was tested the original calculated pump capacity was not sufficient. An additional pump was sourced to safely perform the bypass pumping.

**PROCUREMENT METHOD:**

Procurement method: Construction Bid: Bid number '20/17/B

**FUNDING SOURCE:**

**Fund Name/Number:** WWMD Enterprise Fund/Fund 500/Cash Balance

**BAR FUNDS TO:**

**Munis Org Name/Number:** WW Engineering/5000375

**Munis Object Name/Number:** WIP Construction/572970

**ACTION REQUESTED:**

Approval of a BAR to fund Change Order #1 to CIP #957 Aeration Project Bid number '20/17/B with RMCI Inc. for an increase in the amount of \$294,447 from WWMD Enterprise Fund cash balances.

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

# City of Santa Fe, New Mexico

## BUDGET AMENDMENT RESOLUTION (BAR)

DEPARTMENT / DIVISION NAME					DATE	
PUD/Waste Water					4/19/2021	
ITEM DESCRIPTION	ORG	OBJECT	PROJECT	INCREASE	DECREASE	
<u>EXPENDITURES</u>				{enter as <u>positive</u> #}	{enter as <u>negative</u> #}	
WWMD Treatment Plant	5000375	572970	WWM2050001	294,447		
<u>REVENUES</u>				{enter as <u>negative</u> #}	{enter as <u>positive</u> #}	

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

\$ 294,447	\$ -
------------	------

Budget Increase from Cash Balance in WWMD Enterprise Fund for the contract change  
 order #1 with the RMCI Inc for Aeration Project

{Complete section below if BAR results in a net change to ANY Fund}	
Fund(s) Affected	Fund Balance Increase/(Decrease)
500	(294,447)
<b>TOTAL:</b>	<b>(294,447)</b>

Maya Martinez Prepared By {print name}	4/19/2021 Date	<i>{Use this form for Finance Committee/ City Council agenda items ONLY}</i>	<div style="text-align: right;">   <small>AJH (Apr 19, 2021 15:50 MDT)</small> </div> Budget Officer
<div style="text-align: right;">   <small>Michael Dozier (Apr 19, 2021 13:37 MDT)</small> </div> Division Director Signature {optional}	4-19-21 Date	<b>CITY COUNCIL APPROVAL</b> City Council Approval Date	Finance Director {≤ \$5,000}
<div style="text-align: right;">   <small>Shannon Jones</small> </div> Department Director Signature	4/19/21 Date	Agenda Item #:	City Manager {≤ \$60,000}



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

## BUSINESS REGISTRATION

**Business Name:** RMCI INC  
DBA: RMCI INC

**Business Location:** P.O. BOX 91447  
ALBUQUERQUE, NM 87199

**Owner:** RMCI INC

**License Number:** 223524

**Issued Date:** December 09, 2020

**Expiration Date:** December 09, 2021

**CRS Number:** 02157665003

**License Type:** Business License - Renewable

**Classification:** Out of Jurisdiction Contractor -  
General

**Fees Paid:** \$10.00

RMCI INC  
P.O. BOX 91447  
ALBUQUERQUE, NM 87199

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

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

**TO BE POSTED IN A CONSPICUOUS PLACE**





## ADDITIONAL REMARKS SCHEDULE

AGENCY <b>HUB International Insurance Services (SOW)</b>		License # 0757776	NAMED INSURED RMCI, Inc. P.O. Box 91447 Albuquerque, NM 87199
POLICY NUMBER <b>SEE PAGE 1</b>			
CARRIER <b>SEE PAGE 1</b>	NAIC CODE <b>SEE P 1</b>	EFFECTIVE DATE: <b>SEE PAGE 1</b>	

## ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,  
FORM NUMBER: ACORD 25 FORM TITLE: Certificate of Liability Insurance

**Description of Operations/Locations/Vehicles:**  
If required by contract:

**General Liability:** Blanket Additional Insured applies per endorsement attached/Primary Liability applies per GL coverage form attached/Engineer as An Additional Insured applies per endorsement attached/Waiver of Subrogation applies per endorsement attached/ Cancellation provision per endorsement attached

**Automobile Liability:** Blanket Additional Insured applies per endorsement attached/Blanket Waiver of Subrogation applies per endorsement attached

**Workers Compensation:** Blanket Waiver of Subrogation applies per endorsement attached/Cancellation Provision applies per endorsement attached

**RE:** Wastewater Aeration System Improvements Project

CITY OF SANTA FE

CONSTRUCTION/ENGINEERING CONTRACT

THIS AGREEMENT is made and entered into by and between the City of Santa Fe, New Mexico, hereinafter referred to as the "City," and **RMCI, Inc.**, hereinafter referred to as the "Contractor," and is effective as of the date set forth below upon which it is executed by the Parties.

IT IS AGREED BETWEEN THE PARTIES:

1. **Scope of Work.**

A. The Contractor shall perform the following work:

1) Construction services to upgrade the wastewater aeration system at the Paseo Real Wastewater Treatment Plant. The contractor shall provide services to install pre-furnished equipment and those furnished by the Contractor as specified in the plan drawings and specifications.

2) The aeration improvements associated with the above mentioned construction work are, but not limited to, work within the facility buildings, aeration diffusers, laterals, headers, control valves, blowers, variable frequency drives, airflow meters, construction of an equalization tank, HVAC, SCADA interfacing equipment for upgraded aeration processes and existing process analyzers, electrical system and controls, wiring, system controls and equipment, internal and external (yard) piping, utility extensions (Electrical Power/Auxiliary Power), scum removal system (selectors and aeration basins) replacement, upgrades to plant drain, piping, controls, and instrumentation.

3) Construction work for this project will need to meet specific milestone dates to ensure permit requirements can be met into 2021.

4) The construction services shall be scheduled and coordinated with City staff so the work during the project does not interrupt the City's ability to meet its current permit requirements as one aeration basin will be placed out of service at a time for construction work to be performed within the two basins.

B. **Performance Measures.**

Contractor shall substantially perform the following Performance Measures:

1) Implement the design of the improvements, as described in the Plans and Specifications for the project, the Contractor will provide improvements to the Paseo Real facilities that will assure the efficient and effective operation of the Paseo Real biological treatment process, in compliance with the facilities standard operating procedures, and meet applicable discharge permit requirements.

2. **Compensation.**

A. The City shall pay to the Contractor in full payment for services satisfactorily performed and amount not to exceed ten million seven hundred fifty three thousand eight hundred seventy five dollars (\$10,753,875), excluding gross receipts tax. The New Mexico gross receipts tax levied on the amounts payable under this Agreement totaling **nine hundred seven thousand**

three hundred fifty eight dollars and twenty cents (\$907,358.20) shall be paid by the City to the Contractor. The total amount payable to the Contractor under this Agreement, including gross receipts tax and expenses, shall not exceed eleven million six hundred sixty one thousand two hundred thirty three dollars and twenty cents (\$11,661,233.20). This amount is a maximum and not a guarantee that the work assigned to be performed by Contractor under this Agreement shall equal the amount stated herein. The parties do not intend for the Contractor to continue to provide services without compensation when the total compensation amount is reached. Contractor is responsible for notifying the City when the services provided under this Agreement reach the total compensation amount. In no event will the Contractor be paid for services provided in excess of the total compensation amount without this Agreement being amended in writing prior to those services in excess of the total compensation amount being provided.

B. Payment is subject to availability of funds pursuant to the Appropriations Paragraph set forth below and to any negotiations between the parties from year to year pursuant to Paragraph 1, Scope of Work, and to approval by the City. All invoices MUST BE received by the City no later than thirty (30) days after the termination of the Fiscal Year in which the services were delivered. Invoices received after such date WILL NOT BE PAID.

C. Contractor must submit a detailed statement accounting for all services performed and expenses incurred. If the City finds that the services are not acceptable, within thirty days after the date of receipt of written notice from the Contractor that payment is requested, it shall provide the Contractor a letter of exception explaining the defect or objection to the services, and outlining steps the Contractor may take to provide remedial action. Upon certification by the City that the services have been received and accepted, payment shall be tendered to the Contractor within thirty days after the date of acceptance. If payment is made by mail, the payment shall be deemed tendered on the date it is postmarked. However, the City shall not incur late charges, interest, or penalties for failure to make payment within the time specified herein.

3. **Term.**

THIS AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED BY THE CITY. This agreement shall begin on date approved by the City, and end on June 30, 2024. The City reserves the right to renew the contract on an annual basis by mutual Agreement not exceed a total of four (4) years in accordance with NMSA 1978, §§ 13-1-150 through 152.

4. **Termination.**

A. **Termination.** This Agreement may be terminated by either of the parties hereto upon written notice delivered to the other party at least thirty (30) days prior to the intended date of termination. Except as otherwise allowed or provided under this Agreement, the City's sole liability upon such termination shall be to pay for acceptable work performed prior to the Contractor's receipt of the notice of termination, if the City is the terminating party, or the Contractor's sending of the notice of termination, if the Contractor is the terminating party; provided, however, that a notice of termination shall not nullify or otherwise affect either party's liability for pre-termination defaults under or breaches of this Agreement. The Contractor shall submit an invoice for such work within thirty (30) days of receiving or sending the notice of

termination. Notwithstanding the foregoing, this Agreement may be terminated immediately upon written notice to the Contractor if the Contractor becomes unable to perform the services contracted for, as determined by the City or if, during the term of this Agreement, the Contractor or any of its officers, employees or agents is indicted for fraud, embezzlement or other crime due to misuse of City funds or due to the Appropriations paragraph herein. **THIS PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE THE City's OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THIS AGREEMENT.**

B. **Termination Management.** Immediately upon receipt by either the City or the Contractor of notice of termination of this Agreement, the Contractor shall: 1) not incur any further obligations for salaries, services or any other expenditure of funds under this Agreement without written approval of the City; 2) comply with all directives issued by the City in the notice of termination as to the performance of work under this Agreement; and 3) take such action as the City shall direct for the protection, preservation, retention or transfer of all property titled to the City and records generated under this Agreement. Any non-expendable personal property or equipment provided to or purchased by the Contractor with contract funds shall become property of the City upon termination and shall be submitted to the City as soon as practicable.

5. **Appropriations.**

The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the City Council for the performance of this Agreement. If sufficient appropriations and authorization are not made by the City Council, this Agreement shall terminate immediately upon written notice being given by the City to the Contractor. The City's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. If the City proposes an amendment to the Agreement to unilaterally reduce funding, the Contractor shall have the option to terminate the Agreement or to agree to the reduced funding, within thirty (30) days of receipt of the proposed amendment.

6. **Status of Contractor.**

The Contractor and its agents and employees are independent contractors performing professional services for the City and are not employees of the City. The Contractor and its agents and employees shall not accrue leave, retirement, insurance, bonding, use of City vehicles, or any other benefits afforded to employees of the City as a result of this Agreement. The Contractor acknowledges that all sums received hereunder are reportable by the Contractor for tax purposes, including without limitation, self-employment and business income tax. The Contractor agrees not to purport to bind the City unless the Contractor has express written authority to do so, and then only within the strict limits of that authority.

7. **Construction Contract Performance and Payment Bond.**

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

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

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

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

**8. Assignment.**

The Contractor shall not assign or transfer any interest in this Agreement or assign any claims for money due or to become due under this Agreement without the prior written approval of the City.

**9. Subcontracting.**

The Contractor shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of the City. No such subcontract shall relieve the primary Contractor from its obligations and liabilities under this Agreement, nor shall any subcontract obligate direct payment from the City.

**10. Release.**

Final payment of the amounts due under this Agreement shall operate as a release of the City, its officers and employees from all liabilities, claims and obligations whatsoever arising from or under this Agreement.

**11. Confidentiality.**

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

**12. Product of Service -- Copyright.**

All materials developed or acquired by the Contractor under this Agreement shall become the property of the City and shall be delivered to the City no later than the termination date of this Agreement. Nothing developed or produced, in whole or in part, by the Contractor under this Agreement shall be the subject of an application for copyright or other claim of ownership by or on behalf of the Contractor.

**13. Conflict of Interest; Governmental Conduct Act.**

A. The Contractor represents and warrants that it presently has no interest and, during the term of this Agreement, shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under the Agreement.

B. The Contractor further represents and warrants that it has complied with, and, during the term of this Agreement, will continue to comply with, and that this Agreement complies with all applicable provisions of the Governmental Conduct Act, Chapter 10, Article 16 NMSA 1978.

C. Contractor's representations and warranties in Paragraphs A and B of this Article 12 are material representations of fact upon which the City relied when this Agreement was entered into by the parties. Contractor shall provide immediate written notice to the City if, at any time during the term of this Agreement, Contractor learns that Contractor's representations and warranties in Paragraphs A and B of this Article 12 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances. If it is later determined that Contractor's representations and warranties in Paragraphs A and B of this Article 12 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances, in addition to other remedies available to the City and notwithstanding anything in the Agreement to the contrary, the City may immediately terminate the Agreement.

D. All terms defined in the Governmental Conduct Act have the same meaning in this section.

**14. Amendment.**

A. This Agreement shall not be altered, changed or amended except by instrument in writing executed by the parties hereto and all other required signatories.

B. If the City proposes an amendment to the Agreement to unilaterally reduce funding due to budget or other considerations, the Contractor shall, within thirty (30) days of receipt of the proposed Amendment, have the option to terminate the Agreement, pursuant to the termination provisions as set forth in Article 4 herein, or to agree to the reduced funding.

**15. Change Orders.**

A. Changes. The Contractor may only make changes or revisions within the Scope of Work as defined by Article 1 and/or Exhibit 1 after receipt of written approval by the City Manager or his/her designee. Such change may only be made to Tasks or Sub-Task as defined in the Scope of Work. Under no circumstance shall such change affect the:

1. Deliverable requirements, as outlined in the Scope of Work;
2. Due date of any Deliverable, as outlined in the Scope of Work;
3. Compensation of any Deliverable, as outlined in the Scope of Work;
4. Agreement compensation, as outlined in Article 2; or
5. Agreement termination, as outlined in Article 4.

B. Change Request Process. In the event that circumstances warrant a change to accomplish the Scope of Work as described above, a Change Request shall be submitted that meets the following criteria:

1) The Project Manager shall draft a written Change Request for review and approval by the City Manager to include:

- (a) the name of the person requesting the change;
- (b) a summary of the required change;
- (c) the start date for the change;
- (d) the reason and necessity for change;
- (e) the elements to be altered; and
- (f) the impact of the change.

2) The City Manager shall provide a written decision on the Change Request to the Contractor within a maximum of ten (10) Business Days of receipt of the Change Request. All decisions made by the City Manager are final. Change Requests, once approved, become a part of the Agreement and become binding as a part of the original Agreement.

**16. Merger.**

This Agreement incorporates all the Agreements, covenants and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, Agreements and understandings have been merged into this written Agreement. No prior Agreement or understanding, oral or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

**17. Penalties for violation of law.**

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

**18. Equal Opportunity Compliance.**

The Contractor agrees to abide by all federal and state laws and rules and regulations, and Santa Fe City Code, pertaining to equal employment opportunity. In accordance with all such laws of the State of New Mexico, the Contractor assures that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, or serious medical condition, spousal affiliation, sexual orientation or gender identity, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed under this Agreement. If Contractor is found not to be in compliance with these requirements during the life of this Agreement, Contractor agrees to take appropriate steps to correct these deficiencies.

**19. Applicable Law.**

The laws of the State of New Mexico shall govern this Agreement, without giving effect to its choice of law provisions. Venue shall be proper only in a New Mexico court of competent jurisdiction in accordance with Section 38-3-1 (G) NMSA 1978. By execution of this Agreement,

Contractor acknowledges and agrees to the jurisdiction of the courts of the State of New Mexico over any and all lawsuits arising under or out of any term of this Agreement.

**20. Workers Compensation.**

The Contractor agrees to comply with state laws and rules applicable to workers compensation benefits for its employees. If the Contractor fails to comply with the Workers Compensation Act and applicable rules when required to do so, this Agreement may be terminated by the City.

**21. Professional Liability Insurance.** Contractor shall maintain professional liability insurance throughout the term of this Agreement providing a minimum coverage in the amount required under the New Mexico Tort Claims Act. The Contractor shall furnish the City with proof of insurance of Contractor's compliance with the provisions of this section as a condition prior to performing services under this Agreement.

**22. Other Insurance**

If the services contemplated under this Agreement will be performed on or in City facilities or property, Contractor shall maintain in force during the entire term of this Agreement, the following insurance coverage(s), naming the City as additional insured.

**A. Required Insurance:**

Contractors required insurance as described in Exhibit A attached hereto and incorporated within.

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

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

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

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

**23. Records and Financial Audit.**

The Contractor shall maintain detailed time and expenditure records that indicate the date; time, nature and cost of services rendered during the Agreement's term and effect and retain them

for a period of three (3) years from the date of final payment under this Agreement. The records shall be subject to inspection by the City. The City shall have the right to audit billings both before and after payment. Payment under this Agreement shall not foreclose the right of the City to recover excessive or illegal payments

**24. Indemnification.**

The Contractor shall defend, indemnify and hold harmless the City from all actions, proceeding, claims, demands, costs, damages, attorneys' fees and all other liabilities and expenses of any kind from any source which may arise out of the performance of this Agreement, caused by the negligent act or failure to act of the Contractor, its officers, employees, servants, subcontractors or agents, or if caused by the actions of any client of the Contractor resulting in injury or damage to persons or property during the time when the Contractor or any officer, agent, employee, servant or subcontractor thereof has or is performing services pursuant to this Agreement. In the event that any action, suit or proceeding related to the services performed by the Contractor or any officer, agent, employee, servant or subcontractor under this Agreement is brought against the Contractor, the Contractor shall, as soon as practicable but no later than two (2) days after it receives notice thereof, notify the legal counsel of the City.

**25. New Mexico Tort Claims Act**

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

**26. Invalid Term or Condition.**

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

**27. Enforcement of Agreement.**

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

**28. Notices.**

Any notice required to be given to either party by this Agreement shall be in writing and shall be delivered in person, by courier service or by U.S. mail, either first class or certified, return receipt requested, postage prepaid, as follows:

City of Santa Fe:  
Waste Water Division Director  
Waste Water Management Division  
73 Paseo Real  
Santa Fe, NM 87507

To the Contractor:  
RMCI, Inc.  
6211 Chappell Road NE  
Albuquerque, NM 87113

29. **Authority.**

If Contractor is other than a natural person, the individual(s) signing this Agreement on behalf of Contractor represents and warrants that he or she has the power and authority to bind Contractor, and that no further action, resolution, or approval from Contractor is necessary to enter into a binding contract.

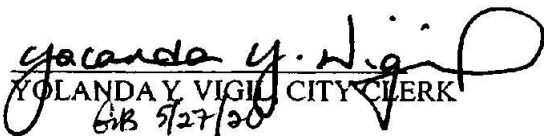
IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date of the signature by the required approval authorities below.

CITY OF SANTA FE:

  
ALAN WEBBER, MAYOR

DATE: 6/1/2020

ATTEST:

  
YOLANDA Y. VIGIL, CITY CLERK  
6/1/20

CITY ATTORNEY'S OFFICE:

 4/16/20  
SENIOR ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

  
MARY MCCOY, FINANCE DIRECTOR  
5000375.572970

CONTRACTOR:  
RMCI, Inc.

See Attached  
NAME

TITLE

DATE:  
CRS#02-157665-003  
Registration # 19-00110047

City of Santa Fe:  
Waste Water Division Director  
Waste Water Management Division  
73 Paseo Real  
Santa Fe, NM 87507

To the Contractor:  
RMCI, Inc.  
6211 Chappell Road NE  
Albuquerque, NM 87113

29. **Authority.**

If Contractor is other than a natural person, the individual(s) signing this Agreement on behalf of Contractor represents and warrants that he or she has the power and authority to bind Contractor, and that no further action, resolution, or approval from Contractor is necessary to enter into a binding contract.

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

CITY OF SANTA FE:

  
ALAN WEBBER, MAYOR

DATE: 6/1/2020

ATTEST:

YOLANDA Y. VIGIL, CITY CLERK

*YV* 6/27/20

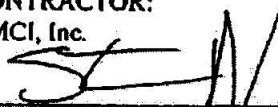
CITY ATTORNEY'S OFFICE:

  
4/16/20  
SENIOR ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

  
MARY MCCOY, FINANCE DIRECTOR  
5000375.57297

CONTRACTOR:  
RMCI, Inc.

  
NAME Steven J. Duffy  
Vice President of Estimating  
TITLE

DATE: 6/2/2020  
CRS#02-157665-003  
Registration # 19-00110047

# GB PUD AMENDMENT 1 TO RMCI #20-0251

Interim Agreement Report

2021-04-29

Created:	2021-04-21
By:	Lailah Herrera (lherrera@ci.santa-fe.nm.us)
Status:	Out for Signature
Transaction ID:	CBJCHBCAABAACWtuao0mh0YqMIGtW2dQilk-tghMyo

## Agreement History

Agreement history is the list of the events that have impacted the status of the agreement prior to the final signature. A final audit report will be generated when the agreement is complete.

## "GB PUD AMENDMENT 1 TO RMCI #20-0251" History

 Document created by Lailah Herrera (lherrera@ci.santa-fe.nm.us)

2021-04-21 - 3:01:57 PM GMT- IP address: 63.232.20.2

 Document emailed to aclotero@santafenm.gov for signature

2021-04-21 - 3:12:32 PM GMT




# City of Santa Fe, New Mexico


## Memorandum



**DATE:** April 12, 2021

**TO:** Governing Body  
Finance Committee  
Public Works/Public Utilities Committee

**VIA:** Shannon Jones, Public Utilities Department Director 

**FROM:** Michael Dozier, Wastewater Management Division Director 

**ITEM AND ISSUE:**

Recommend the approval of Amendment #2 with Carollo Engineers, Inc. in the amount of (\$126,353.00), exclusive of New Mexico Gross Receipts Tax, In accordance with the Professional Services Agreement 18-1065, to provide additional services detailed in the attached amendment.

**BACKGROUND AND SUMMARY:**

The Aeration Project began design soon after completion of the 2018 Nutrient Study. Carollo Engineers, Inc. after bid, received award for design and construction overview of the now in progress Aeration Project. The Aeration Project focuses on modification of effluent nutrient removal, added technological controls for facility operations, waste flow modifications, and process optimization.

Changes and modifications requested in Amendment#2 are as follows:

Task and Sub-Task Description	TOTAL PROJECT COSTS	
Task 11	Construction Administration and Inspection	\$126,353
11.3	Shop Drawings, Request for Information, Design and City Related Change Orders	
11.3.1	Shop Drawings	\$61,050
11.3.2	Design	
11.3.2.1	Turblex Blower Building Roof Replacement Design	\$19,662
11.3.2.2	Turblex Blower Building HVAC Replacement Design	\$33,578
11.3.2.3	Dissolved Oxygen and Ammonia Analyzers Manufacturer Change - Hach to YSI	\$4,629
11.3.3	City Related Change Orders	\$7,434
<b>Total</b>		<b>\$126,353</b>

**PROCUREMENT METHOD:**

Procurement method: Construction Bid

**Fund Name/Number:** WWMD Enterprise Fund/Fund 500/Cash Balance

**BAR FUNDS TO:**

**FUNDING SOURCE:**

**Munis Org Name/Number:** WW Engineering/5000375

**Munis Object Name/Number:** WIP Construction/572970

**ACTION REQUESTED:**

Approval of Amendment #2 with Carollo Engineers, Inc. for (\$126,353.00), exclusive of New Mexico Gross Receipts Tax, In accordance with the Professional Services Agreement 18-1065, to provide additional services detailed in the attached amendment.

**CITY OF SANTA FE  
AMENDMENT No. 2 TO  
PROFESSIONAL SERVICES AGREEMENT  
#18-1065, #20-0630**

AMENDMENT No. 2 (the "Amendment") to the CITY OF SANTA FE PROFESSIONAL SERVICES AGREEMENT, dated September 26, 2018 (the "Agreement"), between the City of Santa Fe (the "City") and Carollo Engineers, Inc. (the "Contractor"). The date of this Amendment shall be the date when it is executed by the City and the Contractor, whichever occurs last.

**RECITALS**

A. Under the terms of the Agreement, Contractor has agreed to provide engineering services as outlined in the original Agreement for the City.

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

1. SCOPE OF SERVICES:

Article 1, of the Agreement is amended to include Exhibit "D" titled Change Order #1 attached hereto and incorporated within.

2. COMPENSATION.

Article 2, paragraph A of the Agreement is amended to increase the amount of compensation by a total of one hundred twenty six thousand three hundred fifty three (\$126,353.) plus gross receipts tax, so that Article 2, paragraph A reads in its entirety as follows:

A. The City shall pay to the Contractor in full payment for services rendered, a sum not to exceed seven hundred eighty thousand four hundred fifty thousand dollars (\$780,450), plus applicable gross receipts taxes as described in Exhibit D attached hereto

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

CITY OF SANTA FE:

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

Date: \_\_\_\_\_

CONTRACTOR:

Carollo Engineers, Inc.

  
\_\_\_\_\_  
NAME

John Rehring    John Doller

\_\_\_\_\_  
TITLE    Vice President    Senior Vice President

Date: 4/23/21

NM Taxation & Revenue  
CRS # 03-162628-00-9  
City of Santa Fe Business  
Registration # 117760

ATTEST:

\_\_\_\_\_  
KRISTINE BUSTOS MIHELICIC, CITY CLERK

CITY ATTORNEY'S OFFICE:

*Marcos Martinez*

Marcos Martinez (Apr 19, 2021 11:06 MDT)

---

SENIOR ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

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MARY MCCOY, FINANCE DIRECTOR

5000375.572960  
Business Unit/Line Item

PL # WWM2050001

# Memorandum

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**To:** Mr. Michael Dozier  
WWM Division Manager  
City of Santa Fe

**Date:** April 6, 2021

**From:** John Doller, P.E.  
Carollo Engineers, Inc.

**Project:** Professional Services Agreement 18-1065  
Paseo Real WWTP Aeration Improvements Project

**Subject:** Construction Administration and Inspection Services  
Change Order No. 1

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In accordance with the Professional Services Agreement 18-1065, Carollo Engineers, Inc. is prepared to provide services detailed in the attached Change Order No.1 to the Agreement.

Compensation for these services shall be *lump sum*.

The total for the additional services associated with this change order is one hundred twenty-six thousand, three hundred fifty-three dollars (\$126,353.00), exclusive of New Mexico Gross Receipts Tax. The attached proposal provides details on the scope of services and fee computations.

Sincerely,

A handwritten signature in blue ink, appearing to read "John D. Doller", is written over a solid black horizontal line.

John D. Doller, P.E.  
Senior Client Services Manager  
Carollo Engineers, Inc.



**City of Santa Fe**  
**PASEO REAL WASTEWATER TREATMENT PLANT**  
**AERATION SYSTEM IMPROVEMENTS PROJECT**  
**Construction Administration and Inspection Services**  
**Additional Services No. 1**

**SCOPE OF SERVICES**

**March, 2021**

**GENERAL DESCRIPTION**

The *Nutrient Loading and Removal Optimization Study* (Carollo, 2018) completed a tiered evaluation of how the facility will be able to meet in a step-wise function future anticipated discharge permit requirements for total nitrogen (TN) and total phosphorus (TP).

The design of upgrades to the Aeration System (Tier 1), has been completed and is about to enter the construction phase. The City of Santa Fe has made a request for Carollo Engineers, Inc. to increase the level of participation during construction to augment City staff and assist in the completion of activities associated with the City.

During the final stages of design, the City of Santa Fe wanted to add scope of work to the project to replace the roof of the Turblex Blower Building. A decision was made to delay the design of the roof replacement until after project award to avoid a delay in the start of construction. An allowance was included in the bid schedule to cover the estimated cost of the roof replacement. Design drawings and specifications will be prepared by Carollo and provided to the Contractor for pricing.

There are other scope items either being added to the current project scope that have not been accounted for in the original construction administration and inspection services scope of services.

The following Scope of Services describes the additional professional services provided by Carollo Engineers, Inc. Inc., (ENGINEER) for the City of Santa Fe, New Mexico (OWNER) Paseo Real Wastewater Treatment Plant Aeration System Improvements Project, Construction Administration and Inspection Phase Services (Project) to accommodate the changes in project scope.

**BASIC SERVICES**

The purpose of this Scope of Work is to provide the OWNER additional construction phase services (including design services as required) for the Paseo Real Wastewater Treatment Plant Aeration System Improvements Project. The Basic Services portion of the Scope of Work consists of construction administration and inspection services during construction.

The following tasks are amended as part of this additional Scope of Services:

**Task 11 - Construction Administration and Inspection**

Only subtasks under Task 11 that were either added or amended as a part of this Scope of Services are shown below. If a subtask associated with Task 11 as depicted in the original Scope of Services is not shown below, it is not amended and remains as originally contracted.

**PROJECT DURATION**

This additional Scope of Services and associated Fee Proposal is based on a total project duration of 16 months from the Contractor's Notice to Proceed date as issued by the OWNER to the date of Substantial Completion. The Contractor Notice to Proceed was issued for July 20, 2020 with a corresponding substantial completion date of November 12, 2021.

**COMPENSATION**

The Fee Proposal associated with this Scope of Services is attached as Exhibit A.

Compensation is on a Lump Sum basis. Monthly invoices will be based on percent complete for each task.

Total compensation for this Scope of Work shall not exceed \$125,539.00 (one hundred twenty-five thousand, five hundred and thirty-nine dollars) without written authorization from the OWNER.

**TASK 11 – CONSTRUCTION ADMINISTRATION AND INSPECTION**

**Task 11.2 – Construction Inspection, Special Inspections, Progress Payments**

**Task 11.3 – Shop Drawings, Request for Information, Design and City Related Change Orders**

**Task 11.3.1 – Shop Drawings**

The ENGINEER will receive, review, evaluate, and distribute (or take other appropriate action in respect of) shop drawings, samples, test results, and other data which Contractor is required to submit. The ENGINEER's review shall be for conformance with the design concept of the Project and compliance with the information given in the Contract Documents. Such review or other action shall not extend to means, methods, sequences, techniques, or procedures of construction selected by Contractor(s), or to safety precautions and programs associated thereto. The ENGINEER will receive and review (for general contents as required by the Contract Documents) maintenance and operating schedules and instructions, operation and maintenance manuals, guarantees, and certificates of inspection which are to be assembled by Contractor(s) in accordance with the Contract Documents.

The Final Contract Documents as issued for construction will require the review of approximately 135 submittals. This task accounts for an additional 55 submittals from the original contracted quantity of 80 submittals. The total number of additional submittals is based on a maximum of two (2) reviews per submittal and that no more than fifty percent (50%) of first submittals will require two (2) reviews.

## **Task 11.3.2 – Design**

### **Task 11.3.2.1 – Turblex Blower Building Roof Replacement Design**

The ENGINEER will develop a design for the replacement of the roof on the Turblex Blower Building.

The ENGINEER will participate in a site inspection of the Turblex Blower Building roof and review any existing record information on the design of the existing roof.

The ENGINEER will prepare technical specifications to address the performance requirements for the roof; and the specifications will also address such issues as submittal requirements, construction, and sequencing and constraints. The design of the replacement roof will be based on a TPO (Thermoplastic polyolefin) roofing system including insulation, cover board, and a membrane.

The specifications for the roof replacement will be reviewed with the OWNER prior to issuance to the Contractor for pricing. All comments received from the OWNER during the review will be incorporated into the final set of documents.

The ENGINEER will issue the roof replacement specifications to the Contractor for pricing. The ENGINEER will make efforts to negotiate an acceptable price for the work with the contractor. The ENGINEER will prepare a change order to the contract to authorize the use of the Allowance in the contract for the work.

The OWNER has determined through an independent investigation that asbestos exists in the sealant used for sealing roof penetrations. The ENGINEER will include provisions in the technical specifications for the contractor to remove all material containing asbestos in accordance with all local, State, and Federal regulations governing the handling, removal, and disposal of materials containing asbestos. The technical specifications will also include a copy of the pre-renovation asbestos survey conducted for the OWNER by Keers Environmental, LLC (December 16, 2020)

### **Task 11.3.2.2 – Turblex Blower Building HVAC Replacement Design**

The ENGINEER will develop a design for the replacement of the three (3) roof mounted evaporative coolers on the Turblex Blower Building.

The ENGINEER will meet with the OWNER to define the scope for replacement of the HVAC system.

An analysis will be conducted to determine the required capacity of the units to provide maximize cooling in the blower building. Drawings and specifications for the evaporative cooler replacement will be reviewed with the OWNER prior to issuance to the Contractor for pricing. Comments received from the OWNER during the review will be addressed in preparing the final set of documents.

The ENGINEER will issue the evaporative cooler replacement drawings and specifications to the Contractor for pricing. The ENGINEER will make efforts to negotiate an acceptable price for

the work with the contractor. The ENGINEER will prepare a change order to the contract to authorize the work.

#### Task 11.3.2.3 – Dissolved Oxygen and Ammonia Analyzers Manufacturer Change – Hach to YSI

The original design for the Dissolved Oxygen (DO) and Ammonia analyzers was based on Hach, as directed by the OWNER to match existing analyzers. During construction, the OWNER requested that the manufacturers for the DO analyzers be changed from Hach to YSI. To accommodate this change, the original design had to be revised. These revisions were issued to the contractor in a Design Clarification. The revised design elements included:

- Development of specifications for the YSI DO and Ammonia analyzers
- Addition of conduit and wires to accommodate YSI analyzers
- Revise conduit schedule to accommodate YSI analyzers
- Revisions to circuit breakers to accommodate YSI analyzers
- Revise electrical and instrumentation drawings to accommodate YSI analyzers (18 drawings total)
- Revisions to circuit breakers to accommodate YSI analyzers

#### Task 11.3.3 – City Related Change Orders

The ENGINEER will prepare change order documents for the two scope of work additions to the project detailed in Tasks 11.3.2.1. and 11.3.2.2 and 11.3.2.3.

The ENGINEER will provide required drawings, specifications, and other supporting data, in the preparation of the change orders.

The ENGINEER will prepare and submit change order for the OWNER's approval and acceptance.

END OF DOCUMENT

**City of Santa Fe**  
**Paseo Real Wastewater Treatment Plant**

March 2021

**Construction Administration and Inspection Services**  
**Additional Services Request No. 1**

**Fee Proposal**

11283A-20

Task and Sub-Task Description	LUMP SUM LABOR PORTION											TOTAL PROJECT COSTS					
	LUMP SUM LABOR PORTION																
	Senior Specialist	Project Professional	Professional	Assistant Professional	Senior Technician	Clerical	Total Labor Hours	Total Direct Labor Cost	Other Direct Costs	PECF							
labor rate	\$ 246,00	\$ 182,00	\$ 166,00	\$ 135,00	\$ 169,00	\$ 98,00											
<b>Task 11 - Construction Administration and Inspection</b>	67	184	200	110	54	92	707	\$ 116,162	\$ 1,000	\$ 9,191		\$ 126,353					
11.3 Shop Drawings, Request for Information, Design and City Related Change Orders	56	82	112	44	0	36	330	\$56,760		\$4,290		\$61,050					
11.3.1 Shop Drawings																	
11.3.2 Design	4	34	8	62	0	8	116	\$17,654	\$500	\$1,508		\$19,662					
11.3.2.1 Turblex Blower Building Roof Replacement Design	2	48	56	0	48	40	194	\$30,556	\$500	\$2,522		\$33,578					
11.3.2.2 Turblex Blower Building HVAC Replacement Design	1	12	4	4	6	2	25	\$4,304		\$325		\$4,629					
11.3.2.3 Dissolved Oxygen and Ammonia Analyzers Manufacturer Change - Hach to YSI	4	8	20	4	0	6	42	\$6,888		\$546		\$7,434					
11.3.3 City Related Change Orders																	
<b>Total</b>	<b>67</b>	<b>184</b>	<b>200</b>	<b>110</b>	<b>54</b>	<b>92</b>	<b>707</b>	<b>\$ 116,162.00</b>	<b>\$ 1,000.00</b>	<b>\$ 9,191.00</b>		<b>\$ 126,353</b>					




# City of Santa Fe, New Mexico


## Memorandum



**DATE:** April 12, 2021

**TO:** Governing Body  
Finance Committee  
Public Works/Public Utilities Committee

**VIA:** Shannon Jones, Public Utilities Department Director   
SJ

**FROM:** Michael Dozier, Wastewater Management Division Director   
MD

---

**ITEM AND ISSUE:**

Request for Approval of a BAR to fund Amendment #2 with Carollo Engineers, Inc. in the amount of (\$126,353.00), exclusive of New Mexico Gross Receipts Tax, In accordance with the Professional Services Agreement 18-1065, to provide additional services detailed in the attached amendment.

**BACKGROUND AND SUMMARY:**

The Aeration Project began design soon after completion of the 2018 Nutrient Study. Carollo Engineers, Inc. after bid, received award for design and construction overview of the now in progress Aeration Project. The Aeration Project focuses on modification of effluent nutrient removal, added technological controls for facility operations, waste flow modifications, and process optimization.

Changes and modifications requested in Amendment#2 are as follows:

Task and Sub-Task Description	TOTAL PROJECT COSTS
Task 11 Construction Administration and Inspection	\$126,353
11.3 Shop Drawings, Request for Information, Design and City Related Change Orders	
11.3.1 Shop Drawings	\$61,050
11.3.2 Design	
11.3.2.1 Turblex Blower Building Roof Replacement Design	\$19,662
11.3.2.2 Turblex Blower Building HVAC Replacement Design	\$33,578
11.3.2.3 Dissolved Oxygen and Ammonia Analyzers Manufacturer Change - Hach to YSI	\$4,629
11.3.3 City Related Change Orders	\$7,434
<b>Total</b>	<b>\$126,353</b>

**PROCUREMENT METHOD:**

Procurement method: Construction Bid

**Fund Name/Number:** WWMD Enterprise Fund/Fund 500/Cash Balance

**BAR FUNDS TO:**

**FUNDING SOURCE:**

**Munis Org Name/Number:** WW Engineering/5000375

**Munis Object Name/Number:** WIP Construction/572970

**ACTION REQUESTED:**

Approval of a BAR to Fund Amendment #2 with Carollo Engineers, Inc. for (\$126,353.00), exclusive of New Mexico Gross Receipts Tax, In accordance with the Professional Services Agreement 18-1065, to provide additional services detailed in the attached amendment.

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

# City of Santa Fe, New Mexico

## BUDGET AMENDMENT RESOLUTION (BAR)

DEPARTMENT / DIVISION NAME PUD/Waste Water					DATE 4/16/2020	
ITEM DESCRIPTION	ORG	OBJECT	PROJECT	INCREASE	DECREASE	
<u>EXPENDITURES</u>				<i>{enter as positive #}</i>	<i>{enter as negative #}</i>	
WWMD Treatment Plant	5000375	572960	WWM2050001	137,014		
<u>REVENUES</u>				<i>{enter as negative #}</i>	<i>{enter as positive #}</i>	
<b>JUSTIFICATION:</b> <i>(use additional page if needed)</i> <i>--Attach supporting documentation/memo</i>				\$ 137,014	\$ -	

Budget Increase from Cash Balance in WWMD Enterprise Fund for the contract amendment #2 with the Carollo Engineering for Aeration Project

<i>{Complete section below if BAR results in a net change to ANY Fund}</i>	
Fund(s) Affected	Fund Balance Increase/(Decrease)
500	(137,014)
<b>TOTAL:</b>	<b>(137,014)</b>

Maya Martinez Prepared By <i>{print name}</i>  <small>Michael Dozier (Apr 16, 2021 18:11 MDT)</small>	4/16/2020 Date	<i>{Use this form for Finance Committee/ City Council agenda items ONLY}</i>	 <small>AJH (Apr 19, 2021 09:59 MDT)</small> Budget Officer Date
Division Director Signature <i>{optional}</i> 	Date	<b>CITY COUNCIL APPROVAL</b> City Council Approval Date: <input style="width: 100px; height: 20px;" type="text"/>	Finance Director <i>{≤ \$5,000}</i> Date
Department Director Signature	Date	Agenda Item #: <input style="width: 100px; height: 20px;" type="text"/>	City Manager <i>{≤ \$60,000}</i> Date



# City of Santa Fe

## Real Estate Summary of Contracts, Agreements, Amendments & Leases

### Section to be completed by department

1. Munis Contract # 3201012

Contractor: Bradbury Stamm Construction Inc

Description: Engineering Services  
PL# WWM2050001

Contract  Agreement  Lease / Rent  Amendment

Term Start Date: 9/26,18 Term End Date: 06

Approved by Council Date: 12/31/20

### Contract / Lease: Contract

Amendment # Amendment #2 to the Original Contract / Lease # 18-1065

Increase/(Decrease) Amount \$ 126,353 plus nmgrt

Extend Termination Date to: \_\_\_\_\_

Approved by Council Date: Pending

### Amendment is for: Increase compensation

2. **HISTORY** of Contract, Amendments & Lease / Rent - **Please Elaborate** (option: attach spreadsheet if multiple amendments)

**Original Contract #18-1065 \$6540,97 plus nmgrt**

**Amendment #1 # 20-0630 extend term 12/31/22**

3. Procurement History: 18/44/P 8/11/18

*John Dunaway*  
John Dunaway (Apr 28, 2021 08:27 MDT)

Apr 28, 2021

Purchasing Officer Review: \_\_\_\_\_ Date: \_\_\_\_\_

Comment & Exceptions: Amendment to current contract

4. Funding Source: WWMD CIP Enterprise Fund Org / Object: 5000375.572960

*Andy Hopkins*  
Andy Hopkins (Apr 26, 2021 15:46 MDT)

Apr 26, 2021

Budget Officer Approval: \_\_\_\_\_ Date: \_\_\_\_\_

Comment & Exceptions: \_\_\_\_\_

Staff Contact who completed this form: Maya Martinez Phone # 4271

Email: mfmartinez@santafenm.gov

To be recorded by City Clerk:

Clerk # \_\_\_\_\_

Date of Execution: \_\_\_\_\_

# CITY OF SANTA FE RFP PROCUREMENT CHECKLIST

Contractor Name: Carollo Engineering

Procurement Title: WWMD Aeration System Improvements

Solicitation RFP#: 18/44/P

Department Requesting/Staff Member PUD \_Mike\_Dozier

### Procurement Requirements:

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

### REQUIRED DOCUMENTS FOR APPROVAL BY PURCHASING\*


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

---

Department Rep Printed Name and Title

  
Michael Dozier (Apr 16, 2021 18:11 MDT)

Department Rep Signature attesting that all information included

  
Fran Dunaway (Apr 28, 2021 18:27 MDT)

Purchasing Officer attesting that all information is reviewed



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

## BUSINESS REGISTRATION

**Business Name:** CAROLLO ENGINEERS INC  
DBA: CAROLLO ENGINEERS INC

**Business Location:** 4600 E WASHINGTON STE 500  
PHOENIX, AZ 85034

**Owner:** CAROLLO ENGINEERS, INC.

**License Number:** 117760

**Issued Date:** February 10, 2021

**Expiration Date:** February 10, 2022

**CRS Number:** 03-162628-00-9

**License Type:** Business License - Renewable

**Classification:** Business Registration - Standard

**Fees Paid:** \$10.00

CAROLLO ENGINEERS INC  
4600 E WASHINGTON STE 500  
PHOENIX, AZ 85034

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

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

**TO BE POSTED IN A CONSPICUOUS PLACE**





## CITY OF SANTA FE

## PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT is made and entered into by and between the City of Santa Fe (the "City") and Carollo Engineers, Inc. (the "Contractor"). The date of this Agreement shall be the date when it is executed by the City and the Contractor, whichever occurs last.

1. SCOPE OF SERVICES

The Contractor shall provide engineering design and consulting services, project management and construction oversight for the City as described in Exhibit "A" and "B" attached hereto.

2. STANDARD OF PERFORMANCE; LICENSES

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

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

C. The Contractor shall perform the services required hereunder in accordance with the prevailing engineering standard of care by exercising the skill and ability ordinarily required of engineers performing the same or similar services, under the same or similar circumstances, in the State of New Mexico.

3. COMPENSATION

A. The City shall pay to the Contractor in full payment for services

rendered, a sum not to exceed six hundred fifty four thousand ninety seven dollars and 00/100 (\$654,097.00), plus applicable gross receipts taxes as described in Exhibit "C" attached hereto

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

C. Payment shall be made upon receipt and approval by the City of detailed statements containing a report of services completed. Compensation shall be paid only for services actually performed and accepted by the City.

4. APPROPRIATIONS

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

5. TERM AND EFFECTIVE DATE

This Agreement shall be effective when signed by the City and terminate on December 31, 2020, unless sooner pursuant to Article 6 below. Contract term may be extended for three (3) additional twelve (12) month terms.

6. TERMINATION

A. This Agreement may be terminated by the City upon 30 days written notice to the Contractor.

(1) The Contractor shall render a final report of the services

performed up to the date of termination and shall turn over to the City original copies of all work product, research or papers prepared under this Agreement.

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

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

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

A. The Contractor and its agents and employees are independent contractors performing professional services for the City and are not employees of the City. The Contractor, and its agents and employees, shall not accrue leave, retirement, insurance, bonding, use of City vehicles, or any other benefits afforded to employees of the City as a result of this Agreement.

B. Contractor shall be solely responsible for payment of wages, salaries and benefits to any and all employees or subcontractors retained by Contractor in the performance of the services under this Agreement.

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

8. CONFIDENTIALITY

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

9. CONFLICT OF INTEREST

The Contractor warrants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement. Contractor further agrees that in the performance of this Agreement no persons having any such interests shall be employed.

10. ASSIGNMENT; SUBCONTRACTING

The Contractor shall not assign or transfer any rights, privileges, obligations or other interest under this Agreement, including any claims for money due, without the prior written consent of the City. The Contractor shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of the City.

11. RELEASE

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

that authority.

12. INSURANCE

A. The Contractor, at its own cost and expense, shall carry and maintain in full force and effect during the term of this Agreement, comprehensive general liability insurance covering bodily injury and property damage liability, in a form and with an insurance company acceptable to the City, with limits of coverage in the maximum amount which the City could be held liable under the New Mexico Tort Claims Act for each person injured and for each accident resulting in damage to property. Such insurance shall provide that the City is named as an additional insured and that the City is notified no less than 30 days in advance of cancellation for any reason. The Contractor shall furnish the City with a copy of a Certificate of Insurance as a condition prior to performing services under this Agreement.

B. Contractor shall also obtain and maintain Workers' Compensation insurance, required by law, to provide coverage for Contractor's employees throughout the term of this Agreement. Contractor shall provide the City with evidence of its compliance with such requirement.

C. Contractor shall maintain professional liability insurance throughout the term of this Agreement providing a minimum coverage in the amount required under the New Mexico Tort Claims Act. The Contractor shall furnish the City with proof of insurance of Contractor's compliance with the provisions of this section as a condition prior to performing services under this Agreement.

13. INDEMNIFICATION

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

losses, damages, claims or judgments, including payments of all attorneys' fees and costs on account of any suit, judgment, execution, claim, action or demand whatsoever to the extent caused by Contractor's negligent performance under this Agreement as well as the performance of Contractor's employees, agents, representatives and subcontractors. The Contractor shall not be responsible for warranties, guarantees, fitness for a particular purpose, breach of fiduciary duty, loss of anticipated profits or for economic, incidental or consequential damages to the City or any third party arising out of breach of contract, termination, or for any other reason whatsoever. Additionally, Contractor shall not be responsible for acts and decisions of third parties, including governmental agencies, other than Contractor's subconsultants, that impact project completion and/or success.

14. NEW MEXICO TORT CLAIMS ACT

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

15. THIRD PARTY BENEFICIARIES

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

16. RECORDS AND AUDIT

The Contractor shall maintain, throughout the term of this Agreement and for a period of three years thereafter, detailed records that indicate the date, time and nature of services rendered. These records shall be subject to inspection by the City, the Department of Finance and Administration, and the State Auditor. The City shall have the right to audit the billing both before and after payment. Payment under this Agreement shall not foreclose the right of the City to recover excessive or illegal payments.

17. APPLICABLE LAW; CHOICE OF LAW; VENUE

Contractor shall abide by all applicable federal and state laws and regulations, and all ordinances, rules and regulations of the City of Santa Fe. In any action, suit or legal dispute arising from this Agreement, the Contractor agrees that the laws of the State of New Mexico shall govern. The parties agree that any action or suit arising from this Agreement shall be commenced in a federal or state court of competent jurisdiction in New Mexico. Any action or suit commenced in the courts of the State of New Mexico shall be brought in the First Judicial District Court.

18. AMENDMENT

This Agreement shall not be altered, changed or modified except by an amendment in writing executed by the parties hereto.

19. SCOPE OF AGREEMENT

This Agreement incorporates all the agreements, covenants, and understandings between the parties hereto concerning the services to be performed hereunder, and all such agreements, covenants and understandings have been merged into this Agreement. This Agreement expresses the entire Agreement and understanding

between the parties with respect to said services. No prior agreement or understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

20. NON-DISCRIMINATION

During the term of this Agreement, Contractor shall not discriminate against any employee or applicant for an employment position to be used in the performance of services by Contractor hereunder, on the basis of ethnicity, race, age, religion, creed, color, national origin, ancestry, sex, gender, sexual orientation, physical or mental disability, medical condition, or citizenship status.

21. SEVERABILITY

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

22. CITY-PROVIDED INFORMATION AND SERVICES

The City shall furnish Contractor available studies, reports and other data pertinent to Contractor's services; obtain or authorize Contractor to obtain or provide additional reports and data as required; furnish to Contractor services of others required for the performance of Contractor's services hereunder, and Contractor shall be entitled to use and rely upon all such information and services provided by the City or others in performing Contractor's services under this Agreement.

23. DOCUMENT USE AND REUSE

Documents, including drawings and specifications, prepared by Contractor

pursuant to this Agreement are not intended or represented to be suitable for reuse by the City or others for this Project or on any other project. Any reuse of completed documents or use of partially completed documents without written verification or concurrence by Contractor for the specific purpose intended will be at the City's sole risk and without liability or legal exposure to Contractor.

24. ESTIMATES AND PROJECTIONS

In providing opinions of cost, financial analyses, economic feasibility projections, and schedules for potential projects, Contractor has no control over cost or price of labor and material; unknown or latent conditions of existing equipment or structures that may affect operation and maintenance costs; competitive bidding procedures and market conditions; time or quality of performance of third parties; quality, type, management, or direction of operating personnel; and other economic and operational factors that may materially affect the ultimate project cost or schedule. Therefore, Contractor makes no warranty that the City's actual project costs, financial aspects, economic feasibility, or schedules will not vary from Contractor's opinions, analyses, projections, or estimates.

25. SERVICES DURING CONSTRUCTION

A. Contractor shall not be responsible for the means, methods, techniques, sequences, or procedures of construction selected by construction contractors or the safety precautions and programs incident to the work of construction contractors and will not be responsible for construction contractors' failure to carry out work in accordance with the construction documents.

26. NOTICES

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

City of Santa Fe:  
Wastewater Management Division  
73 Paseo Real  
Santa Fe, NM 87507

Carollo Engineers, Inc:  
6200 Uptown Blvd. NE, Suite 120  
Albuquerque, NM 87110

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

CITY OF SANTA FE:


CAROLLO ENGINEERS, INC.:

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

 Vice President  
\_\_\_\_\_  
NAME & TITLE

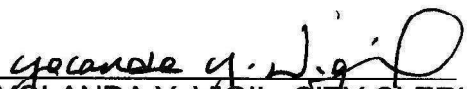
DATE: 10/5/18

DATE: 10-11-18

 VICE PRESIDENT  
\_\_\_\_\_  
NAME & TITLE  
DATE: 10.11.18

CRS #: 03-162628-00-9  
Business Registration #: 18-00117760

ATTEST:

  
\_\_\_\_\_  
YOLANDA Y. VIGIL, CITY CLERK  
cc mtg. 9/26/18

APPROVED AS TO FORM:

EMM 8/21  
ERIN K. MCSHERRY, CITY ATTORNEY

APPROVED:

Mary McCoy 10/13  
MARY MCCOY, FINANCE DIRECTOR

52468.572960  
Business Unit Line Item

**EXHIBIT "A"**  
**CITY OF SANTA FE (CITY)**  
**WASTEWATER TREATMENT PLANT AERATION SYSTEM IMPROVEMENTS**  
**SCOPE OF WORK FOR CAROLLO ENGINEERS, INC. (CONTRACTOR)**

Task 0 - Project Management

**0.1 Project Management Plan**

Prepare the Project Management Plan (PMP) Manual tabbed with the following information: Scope of Work, Schedule, Project Team and Contact List, Project Work Order Numbers and Budget Allocation, Document Templates, Calculations and Documentation Procedures, Quality Management Plan, Drawing List, Specifications List, Checklists for the City and Contractor, Equipment Lists, and Decision Log.

Setup, maintain, and use a SharePoint site for coordination and communication.

**0.2 Project Management, Invoicing, Action Item Log, Decision Log**

Prepare and submit a written monthly progress report to the City's Project Manager that will show the percentage of work completed and the percentage of contract billed, summarize the work completed during the month, and the work to be completed during the following month. Schedule or budget challenges will be discussed if necessary and corrective actions identified.

Maintain a decision log throughout the project to record the decisions made by the project team during site visits, workshops, and project meetings, as well as during telephone conversations or by email.

**0.3 Not Used**

**0.4 Kick-off Meeting**

Conduct a kick-off meeting with City staff in Santa Fe to review the scope of work and schedule for this Project, as well as discuss the roles and responsibilities of all participating stakeholders. A draft copy of the PMP will be submitted to the City's Project Manager in advance of the meeting. During the kick-off meeting, discuss the direction of the project and roles and responsibilities.

**Deliverables:** Monthly invoice and progress report and an updated decision log (presented with meeting notes).

**Phase 1 Pre-Design and 30% Drawings**

Phase 1 consists of the following tasks and subtasks:

**Task 1 Basis of Design Definition**

**Definition of Design Criteria, Filtrate EQ Tank Sizing and Siting**

These tasks involve developing the alternative evaluation and conceptual design for process modifications. A brief description for each area follows.

**Aeration System Design** For the aeration system conceptual design, undertake the following tasks:

1. Justify design influent flows and loads.

2. Quantify minimum, average, and maximum design air requirements.
3. Evaluate diffuser layout and improvement alternatives through process modeling.
4. Define the blower sizing criteria and solicit preliminary blower design and budget quotes.

Since the City is undertaking significant aeration system revisions in this project, replacing the remaining diffusers with new disc membranes will save energy. In this analysis, evaluate the following:

1. Is the number of diffusers in each zone adequate, or how many diffusers should be capped off in each zone to satisfy near-term air demand lows?
2. Confirm diffuser grids appropriate spacing. For example, would SNDN process control be better in the second half of the basin with only one active grid in the C pass, but one additional small grid in the D pass?

The final diffuser modifications will impact the minimum and maximum air demand in the near-term and in the future. Therefore, this analysis will be conducted first, before the future blower system is sized and designed.

**Blower Design** Discuss acceptable blower alternatives with the City during the kick off meeting. As a preliminary selection, include the following high-efficiency blower alternatives in this evaluation:

Sulzer  
Neuros  
Turblex

Evaluate the following alternatives for their technical and economic benefit, listed here in order of increasing capital costs:

- **Hoffman Solution:** Equip the Hoffmans with VFDs and use them as lead blowers for the aeration basins.
- **Hybrid Solution:** Equip one or two of the Hoffmans with VFDs and take credit for these units to cover a portion of your air demand.
- **Turbo Solution:** Continue to use the Hoffmans as a backup system while investing into replacing the existing Turblex units with likely two new units and one future blower.

### **Aeration Control Valves and Aeration Control Automation**

In addition to assessing the aeration diffusers and blower system, the system will be modeled in SIMBA, a software that focuses on aeration system and control process modeling. This model builds onto the Biowin model that was calibrated for your process in the 2018 nutrient planning study. SIMBA will allow verification of the adequate control valve sizing to each grid zone, and testing of the process benefits of alternative aeration control logics.

### **Scum and Foam Control**

Evaluate the various options for better managing scum and foam in the selectors and aeration basins, along with the preliminary cost estimates for associated modifications. It is anticipated that the following alternatives will be considered, listed here in order of increasing capital investments:

1. Assessing (and possibly testing) operational strategies with plant staff for removing scum in the aeration basins, thereby "outselecting" filaments continuously.
2. Repairing the existing surface wasting and pumping system in the selectors and aeration basins.
3. Installing a dedicated surface wasting system in the aeration basins to best protect the secondary clarifiers, tertiary filters, UV system, and effluent quality.

### **Filtrate Equalization (EQ) Tank**

For the conceptual design of the filtrate EQ tank, the foremost five aspects should be refined:

- . 1. Sizing of the tank: Assess current filtrate flows, and consider future filtration operation strategy and schedule. Redundancy: Design the filtrate tank as two chambers to simplify periodic cleaning and maintenance of the mixing system.
- . 2. Site location of the tank: Accommodate possible future expansion.
- . 3. Location of filtrate return to mainstream treatment: Evaluate the pros and cons of routing the filtrate back to the primary clarifiers or directly to the aeration basins.
- . 4. Filtrate recycle control: Consider options of flow based, load based, inverse to influent flow. Control for recycle from the EQ tank to the main stream process.
- . 5. Evaluate the benefits of load based recycle control. Regardless of phosphorus and ammonia concentration in the filtrate, this will allow the City to recycle steady nutrient loads to the aeration basins.

### **Site Utilities and EI&C**

Develop conceptual design solutions to integrate the secondary treatment improvements into the SCADA overall architecture. EI&C needs supporting the design improvements will be identified. This task will be led by Contractor's EI&C group.

### **Drain Pumping**

Review the existing drain pumps and aeration drain valves and make recommendations that will be included into the Final design.

### **Deliverables:**

- TM 1: Diffuser System and Aeration Control
- TM 2: Blower Alternative Evaluation
- TM 3: Scum Management
- TM 4: Site, Civil, and Survey
- TM 5: Filtrate EQ Tank and Pumping Sizing
- TM 6: Plant Drain
- TM 7: EI&C Evaluation

### **Task 2 (Not Used)**

### **Task 3 Permitting (SUPPLEMENTAL SERVICES Tasks 3.1 – Permitting Coordination and 3.2 – NMED Coordination)**

It is not anticipated that permitting will require significant time resources for this project. The State of New Mexico does not require approval of wastewater modifications unless the project is co-funded with state funds. Funds are reserved in this task if the City needs support for any outreach communication during or following the construction project related to regulators, other approval agencies, the City Council, or the general public.

#### **Task 4 Technical Workshops**

In the workshops, Contractor will spend time with City staff to summarize and discuss the essentials of each TM developed in Task 1, and review the respective drawing sets to solicit feedback from City staff.

Provide materials for each workshop no less than one week before each workshop to City participants. Discuss agenda and informational highlights with the City project manager in advance.

Provide O&M staff with a suggested checklist to guide their review and feedback.

Any feedback and review comments provided by the City will be incorporated into the Preliminary Design Report and drawing sets within two weeks following the meetings. Consolidate the project design elements into the following three workshops:

##### **4.1 Aeration System & Controls and Scum Management Workshop (Workshop 1)**

Workshop 1 will determine the design criteria of the blowers, aeration, control description, and scum removal alternatives. Decisions made through this workshop include blower selection, blower electrical demands, aeration control and scum removal strategies.

##### **4.2 Filtrate EQ Tank Siting/Facility layout Workshop (Workshop 2)**

Workshop 2 will provide the necessary engineering and cost analysis to help City participants make a decision on sizing, site location, mixing, and pump system for the filtrate EQ tank. The process modeling completed to date will save time to quantify projected filtrate flows and drain back control alternatives.

The final location of the Filtrate EQ Tank and Pumping System will be determined by the existing survey data provided by the City and existing record drawings that show the utilities (electrical, yard piping, etc)

Also prepare a preliminary site plan of where future side stream treatment facilities for phosphorus and nitrogen removal may be placed to reserve sufficient flexibility.

##### **4.3 Site Utilities/Electrical/Instrumentation Workshop (Workshop 3)**

In workshop 3, facilitate City decisions on necessary upgrades for the plant drain system and any other ancillary improvements that may be identified. Also discuss the Site Utilities/Electrical/ Instrumentation and determine the location and sizing of any new required utilities (electrical, yard piping) to accommodate the new design elements. This will include an evaluation of the ability to supply electrical service from the existing blower building switchgear. The workshop will also determine the site layout for all utilities.

At each workshop, the findings from the recommended layouts, design criteria, and preliminary control philosophies will be presented and discussed. All review comments and decisions made (in either verbal or written form) will be documented and incorporated into the Preliminary Design Report (PDR) summarized in Task 5.

**Deliverables:** Pre-meeting review materials, decision logs, meeting notes.

## **Task 5 Pre-Design Documentation**

### **5.1 Preliminary Design Report (PDR) and 30% Design Drawings**

In this task, consolidate the design definition from the TMs and drawings as the basis for Design Development Phase and Contract Document Phase. Selected layouts, design criteria, and preliminary control philosophies will be summarized and included in the PDR. Where necessary, additional engineering evaluations will be conducted based on input received from the City during the workshops in Task 4. This may include alternative layouts, costs analysis, site visits, and refined design criteria. The information presented at the workshops and the workshop meeting notes will be combined into one PDR containing information and recommendations that will serve as the basis for final design.

The PDR will consist of an executive summary and a collection of TMs as described above. A draft and final draft PDR will be provided to the City. City staff shall review a draft report and comments will be incorporated into the final PDR. The PDR will include 30 percent drawings and outline specifications as appendices.

**Deliverables:** Preliminary List of Drawings and Specifications; 30% Drawing Package (including Preliminary PI&D, Structural, Mechanical, Architectural Drawings); Summary Design Report

### **5.2 Preliminary Construction Sequencing Plan**

It is assumed that the ongoing solids treatment and SCADA improvements will be installed and operable by the end of the design of this project. A Maintenance of Plant Operations (MOPOs) schedule will be included in the contract documents for this project detailing the blower shutdown and start-up procedures, and allowable construction sequences for the construction contractor, based on City inputs. The MOPO will address procedural steps, time and scheduling constraints, and plant interface issues that will aid the construction contractor in developing the sequence of work in order to minimize interferences and maintain continuous operation of the plant.

**Deliverables:** Preliminary Construction Sequencing Plan

### **5.3 Budgetary Cost Estimate and Probable Annual O&M Costs**

Provide preliminary basis of cost, as well as construction and project cost estimates. The updated basis of cost will be used in all cost estimates prepared during the preliminary design phase.

**Deliverables:** Cost estimate (Class 3, Budgetary Cost Estimate, Probable Annual O&M Costs)

## **Phase 2 Design Development**

Phase 2 consists of the following tasks and subtasks:

## **Task 6 Design Development and Workshops**

### **6.1 SUPPLEMENTAL SERVICE TASK - Progress Meetings**

Host three progress meetings during design development. Along with City staff, focus on the detailed plans and specifications prepared with emphasis on the facilities' layout, design details, and EI&C. Submit and discuss detailed plans and specifications at least one week ahead of the meetings. This will provide the Contractor initial feedback prior to the meeting to make any necessary adjustments, give the City the opportunity to decide who is essential to have in the meeting from the City, and to facilitate likely comments or concerns of City staff during the meeting. The three meetings are:

1. Filtrate EQ Tank Siting/Facility Layout Meeting
2. Aeration System & Controls and Scum Control Meeting

### 3. Site Utilities/Electrical/Instrumentation Meeting

**Deliverables:** (Minimum) 60% draft drawings

#### 6.2 Design Development Review Workshop

Hold one workshop to present the 60 % level drawings and specifications.

Conduct a final internal Quality Control review of the drawings and specs prior to submitting any deliverables to the City.

#### Task 7 Design Development Documentation

##### 7.1 Drawings and Specifications

The PDR developed in Task 5 will be the basis for the design development documents. The design development documents will include preliminary facility layouts, equipment configurations, major equipment technology selection, major process piping, process schematics, draft P&IDs, preliminary electrical load lists, electrical single-line diagrams, location/dimensions of major structures, and a complete specification list.

Plans will be prepared using the City's standards and title block. All drawings will be prepared using AutoCAD or MicroStation, and Contractor will prepare the General Conditions and Special Conditions using the City's standard documents.

Prepare the technical specifications using Contractor's standard detailed specifications. Contractor's construction drawings will include general, architectural, mechanical, structural, civil, electrical, and instrumentation drawings. Coordinate drawing organization closely with City staff to provide that this deliverable reflects City preferences and remains user friendly during the construction.

**Deliverables:** 60% design drawings and specifications.

##### 7.2 Design Development Cost Estimate

Provide an updated basis of cost, as well as construction and project cost estimates. The updated basis of cost will be used in all cost estimates prepared during the design (Design Development Phase) portion of this work.

**Deliverables:** Cost Estimate (Class 2)

##### 7.3 Refine Construction Sequencing Plan

The MOPO schedule established in Task 5.2 will be updated based on the 60% design drawings and specifications.

**Deliverables:** Refined Construction Sequencing Plan

#### Phase 3 Contract Documents

Phase 3 consists of the following tasks and subtasks:

#### Task 8 Final Design Workshops

##### 8.1 Progress Meetings

Contractor will participate in two final design progress meetings with the City to be scheduled at a mutually-agreeable time. Brief meeting minutes will be provided to the City's project manager.

## **8.2 Final Design Review Workshop**

Contractor will conduct a final design review workshop with the City to review final design features and receive City input. Contractor will provide a meeting agenda and minutes for the workshop.

**Deliverables:** Final design progress meeting minutes for two meetings; final design workshop agenda and minutes.

## **Task 9 Final Design Documentation**

### **9.1 Construction Document Drawings and Specifications**

Prepare the technical drawings and specifications to the 90% design level. Receive City comments on the 90% design package and prepare bid-ready (100%) design documents.

### **9.2 Construction Document Cost Estimate (Class 1)**

Provide an updated cost construction cost estimate consistent with an AACE Class 1 estimate.

**Deliverables:** 90/100 % design drawings and specifications; final schedule of quantities and construction cost review.

## **Phase 4 Bidding Phase**

Phase 4 consists of the following tasks and subtasks:

### **Task 10 Bid Support**

#### **10.1 Pre-Bid Conference**

Prepare and help the City conduct the pre-bid conference.

**10.2 Addenda Preparation** Provide written responses to bidders' inquiries and assist the City in the preparation of addenda.

**10.3 Bid Opening, Bid Evaluation, Recommendation** Review the bid results and provide recommendations on the award of the construction contract.

#### **10.4 Conformed Drawings and Specifications**

Following bidding, provide conformed drawings, including all comments and changes made by Addenda.

**Deliverables:** Addenda; Recommendation on award; Conformed design drawings.

## **Phase 5 Construction Management**

Phase 5 consists of the following tasks and subtasks:

### **Task 11 Construction Administration and Inspection**

#### **11.1 Pre-Construction Conference**

Schedule, coordinate, and conduct a pre-construction conference. This will include preparing an agenda in advance to notify attendee of key items of discussion and preparation of meeting minutes.

#### **11.2 Construction Inspection, Special Inspections, Progress Payments**

Site visits will consist of on-site construction inspection for an average of 2 days per week for up to an 18-month construction period, or an equivalent amount of onsite time. Review and monitor the construction contractor's work against the contract documents to ensure compliance. During the course of the work, arrange and coordinate special inspections for structural, mechanical, and electrical work. Review progress payment submitted from the construction contractor and provide the City comments on the construction contractor progress.

### **11.3 Shop Drawings, Request for Information, Design and City Related Change Orders**

Review submitted items (e.g., shop drawings, requests for information, and completion of construction) for conformance to the intent of the plans and specifications. Level of effort based on 80 submittals. Review and respond to design-related requests for clarifications, information, and proposals. Level of effort based on 100 construction contractor-initiated design-related requests.

### **11.4 Construction Progress Meetings**

Participate in weekly on-site construction progress meetings. Meetings to occur during one of the days designated for on-site construction inspection.

### **11.5 Final Inspection**

Schedule and conduct a final inspection of the completed work and issue punch lists of uncompleted items, where necessary. Assist the City in negotiation of unsettled changes or disputes associated with these inspections. Once the final punch list items have been completed, recommend acceptance to the City.

### **11.6 Start-Up Services**

Oversee facilities acceptance testing and startup in cooperation with the construction contractor and the City. Startup and testing service will include assistance with comprehensive testing of functional equipment and the secondary treatment process.

### **11.7 Training**

Provide system training on the design and operation of equipment related to this work. Training material will address the design intent, and operations and maintenance associated with the equipment for this work.

### **11.8 One year Warranty Inspection**

Provide services after completion of the construction phase, to include inspection 1 year from substantial completion. The services include reporting discrepancies under guarantees in the construction contract documents.

**Deliverables:** Construction documents and documentation

## **Task 12 Construction Documentation**

### **12.1 Field Observations**

Prepare daily reports prepared for each day of on-site inspection.

### **12.2 Progress Meetings**

Prepare meeting minutes for the weekly construction progress meetings.

**12.3 Monthly Progress Report**

Prepare a monthly progress report detailing the status of the project relative activities performed during the month, anticipated activities during the coming month, and actual budget expenditures versus as-planned expenditures.

**12.4 Training, Start up and Testing Plan**

Provide two (2) classroom and on-site training sessions to assist City personnel in fine-tuning the new processes of the new facilities.

**12.5 O&M Manual** Prepare an electronic O&M manual for all new facilities designed under the project.

**12.6 Contract Record Drawings** Prepare record drawings will be in electronic format (“pdf” and “dwg”) produced from the AutoCAD or MicroStation file updated with as-built information provided by the construction contractor, assuming 80 drawings.

**12.7 One-year Inspection Closeout Report**

Prepare report on finding and observations during one-year project inspection.

**Deliverables:**

Progress meeting minutes

Monthly progress reports

Training Materials

Start-up testing Plan

Electronic O&M manual.

AutoCAD or MicroStation files of Contract Record Drawings

One-year inspection closeout report

**EXHIBIT B – SCHEDULE**  
**City of Santa Fe Wastewater Treatment Facility Aeration System Improvements**

The scope of services described in Exhibit A will be completed based on the following anticipated schedule after receiving Notice to Proceed from the City.

<b>PHASE</b>	<b>SCHEDULE (working days)</b>	<b>*ESTIMATED COMPLETION DATE</b>
1. Pre-Design and 30%	60	2/1/19
2. Design Development (60%)	60	5/1/19
3. Contract Documents (90 and 100%)	40	7/1/19
4. Bid Support	60	10/1/19
5. Construction Management	200	9/1/20

\*Estimated completion dates are based on assumed Notice to Proceed dates of 11/1/18 for design and 10/1/19 for construction. Estimated completion dates will be adjusted based on actual Notice to Proceed dates. The total duration of the project is anticipated to be 21 months including design and construction.

**EXHIBIT C – Fee Schedule**  
**City of Santa Fe Wastewater Treatment Facility**  
**Aeration System Improvements**

The scope of services described in Exhibit A will be completed for a fixed price fee as summarized in the following table.

Task Number	Task Description	Cost
Task 0	Project Management	\$10,893
<b>Phase 1</b>	<b>Pre-Design and 30% Drawings</b>	
Task 1	Basis of Design Definition	13,683
Task 3	Permitting	6,296
Task 4	Technical Workshops	11,186
Task 5	Pre-Design Documentation	133,894
<b>Phase 2</b>	<b>Design Development</b>	
Task 6	Design Development Workshops	22,139
Task 7	Design Development Documentation	102,585
<b>Phase 3</b>	<b>Contract Documents</b>	
Task 8	Final Design Workshops	12,693
Task 9	Final Design Documentation	34,421
<b>Phase 4</b>	<b>Bidding Support</b>	
Task 10	Bid Support	18,168
<b>Phase 5</b>	<b>Construction Management</b>	
Task 11	Construction Administration and Inspection	244,621
Task 12	Construction Related Documentation	43,528
	<b>Total Excluding NMGRT</b>	<b>\$654,097</b>

**Signature:**

**Email:** bksnyder@santafenm.gov

**Signature:**

**Email:** swjones@santafenm.gov

**Signature:**

**Email:** mldozier@santafenm.gov

**CITY OF SANTA FE  
AMENDMENT No. 1 TO  
PROFESSIONAL SERVICES AGREEMENT  
#18-1065**

AMENDMENT No.1 (the "Amendment") to the CITY OF SANTA FE PROFESSIONAL SERVICES AGREEMENT, dated September 26, 2018 (the "Agreement"), between the City of Santa Fe (the "City") and Carollo Engineers, Inc. (the "Contractor"). The date of this Amendment shall be the date when it is executed by the City and the Contractor, whichever occurs last.

**RECITALS**

A. Under the terms of the Agreement, Contractor has agreed to provide engineering services as outlined in the original Agreement for the City.

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

1. TERM.

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

This Agreement shall terminate on December 31, 2022, unless terminated pursuant to Paragraph 6, infra.

2. AGREEMENT IN FULL FORCE.

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

IN WITNESS WHEREOF, the parties have executed this Amendment No. 1 to the

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

CITY OF SANTA FE:

By:   
ALAN WEBBER, MAYOR

Date: Nov 17, 2020

CONTRACTOR:

Carollo Engineers, Inc.

  
Name John Rehring  
Vice President


Title \_\_\_\_\_

Date: 10/14/2020

NM Taxation & Revenue  
CRS # 03-162628-00-9  
City of Santa Fe Business  
Registration # 117760

ATTEST:

  
YOLANDA Y. VIGIL, CITY CLERK


GB Mtg 11/10/2020 

CITY ATTORNEY'S OFFICE:

  
Marcos Martinez (Oct 13, 2020 13:37 MDT)  
SENIOR ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

  
MARY MCCOY, FINANCE DIRECTOR

5000375.572960  
Business Unit/Line Item 

PL # WWM2050001

**ACTION SHEET**  
**ITEM FROM FINANCE COMMITTEE MEETING OF 11/02/20**  
**FOR CITY COUNCIL MEETING OF 11/10/20**

h) Request for approval of Amendment No.1 to Professional Services Agreement (PSA) with Carollo Engineers Inc. for a term extension of two (2) years. (John Del Mar, Public Utilities Engineer, jpdelmar@santafenm.gov, 955-4231)

**Committee Review:**

Public Works & Utilities Committee: 10/26/2020

Finance Committee: 11/02/2020

Governing Body: 11/10/2020

**FINANCE COMMITTEE ACTION:**

Approved on Consent

**FUNDING SOURCE:**

**SPECIAL CONDITIONS OR AMENDMENTS**

<b>VOTE</b>	<b>FOR</b>	<b>AGAINST</b>	<b>ABSTAIN</b>
COUNCILOR ROMERO-WIRTH	x		
COUNCILOR CASSUTT-SANCHEZ	x		
COUNCILOR LINDELL	x		
COUNCILOR VILLARREAL	x		
CHAIRPERSON ABEYTA	x		

<b>ACTION SHEET</b>
<b>PUBLIC WORKS AND UTILITES COMMITTEE MEETING OF 10/26/2020</b>
<b>ISSUE NO. 9F</b>
Request for approval of Amendment No.1 to Professional Services Agreement (PSA) with Carollo Engineers Inc. for a term extension of two (2) years. (John Del Mar, Public Utilities Engineer, jpdelmar@santafenm.gov, 955-4231)
<b><u>COMMITTEE REVIEW:</u></b> Public Works and Utilities Committee 10/26/2020 Finance Committee 11/02/2020 Governing Body 11/10/2020
<b>PUBLIC WORKS AND UTILITES COMMITTEE ACTION: Approved on Consent Agenda to forward to 11/02/2020 Finance Committee.</b>
<b>SPECIAL CONDITIONS OR AMENDMENTS:</b>
<b>STAFF FOLLOW UP:</b>



<b>VOTE:</b>	<b>FOR</b>	<b>AGAINST</b>	<b>ABSTAIN</b>
COUNCILOR RIVERA, CHAIR	X		
COUNCILOR GARCIA	X		
COUNCILOR ABEYTA	X		
COUNCILOR LINDELL	X		
COUNCILOR VIGIL COPPLER	X		



# City of Santa Fe, New Mexico

# MEMO

**Date:** October 7, 2020

**To:** Public Utilities/Public Works Committee, Finance Committee and City Council

**Via:** Shannon Jones, Public Utilities Director   
Mike Dozier, Wastewater Management Division Director 

**From:** John Del Mar, Engineer   
Brian Snyder, Engineer Supervisor 

**RE:** Amendment #1 to Professional Services Agreement (PSA) with Carollo Engineers Inc. (Carollo) for a term extension of two years.

---

## ITEM AND ISSUE

The City of Santa Fe's (City) Wastewater Management Division (WWMD) is working on a project making improvements to the aeration system at the Paseo Real Water Reclamation Facility (PRWRF). The WWMD is requesting a term extension of two years to our PSA for *Wastewater Treatment Plant Aeration System Improvements* contract with Carollo Engineers. The extension is needed to maintain professional services through the construction phase of the project that is currently underway. Additional funding is not requested.

## BACKGROUND AND SUMMARY

The City's WWMD began improvements to the aeration system at the PRWRF in 2018. Carollo was contracted to provide professional services to the WMD starting at the design phase of the project with annual contract extensions planned for three years to bring the project through the construction phase and to completion. Due to initial delays during the design phase, and then additional supply chain and personnel delays caused by the COVID pandemic, it has become necessary to extend this contract beyond the originally planned four years. The requested two year term extension is needed to provide engineering and technical support services during construction and is aligned with the term of the construction contract awarded to RMCI Inc.

The current contract term with Carollo ends on December 31, 2020. The construction schedule extends into spring of 2022. In order to ensure coverage of professional services throughout the project, and to avoid unnecessary requests for an extension beyond Dec 2021, this request is for an extension to December 31, 2022. This request does not impact the scope of work for the project, and no additional funding is requested.

## ACTION REQUESTED

Staff requests approval of Amendment #1 to PSA with Carollo Engineers Inc. for *Wastewater Treatment Plant Aeration System Improvements* for a term extension of two years, ending on December 31, 2022.



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

**Section to be completed by department for each contract or contract amendment**

1 **FOR: ORIGINAL CONTRACT**  or **CONTRACT AMENDMENT**

2 Name of Contractor Carollo Engineers, Inc

3 Complete information requested  Plus GRT  
 Inclusive of GRT

Original Contract Amount: \$654,097.00

Termination Date: December 31, 2020

Approved by Council Date: \_\_\_\_\_

or by City Manager Date: September 26, 2018

**Contract is for:** consulting services

Amendment # 1 to the Original Contract# 18-1065

Increase/(Decrease) Amount \$ \$0.00

Extend Termination Date to: December 31, 2022

Approved by Council pending

or by City Manager Date: \_\_\_\_\_

**Amendment is for:** Extend term

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

Amount \$ 654,097.00 of original Contract# pending Termination Date: 12/31/2020  
Reason: Original Contract

Amount \$ 0.00 amendment # 1 Termination Date: 12/31/2022  
Reason: extend term

Amount \$ \_\_\_\_\_ amendment # \_\_\_\_\_  
Reason: \_\_\_\_\_

Amount \$ \_\_\_\_\_ amendment # \_\_\_\_\_ Termination Date: \_\_\_\_\_  
Reason: \_\_\_\_\_

Total of Original Contract plus all amendments: \$ \$654,097.00



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

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

RFP# 18/44/P Date: June 11, 2018

RFQ  \_\_\_\_\_ Date: \_\_\_\_\_

Sole Source  \_\_\_\_\_ Date: \_\_\_\_\_

Other \_\_\_\_\_

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

*Fran Dunaway*  
Fran Dunaway (Oct 9, 2020 09:57 MDT)

**Purchasing Officer Review**

**Comments or Exceptions:** Amendment #1 to extend only no increase to compensation. for a total of 4 years. 2022

7 **Funding Source:** WWMD **BU/Line Item:** 5000375.572960

*Alexis Lotero*  
Alexis Lotero (Oct 19, 2020 09:20 MDT)

PL # WWM2050001

**Budget Officer Approval**

**Comments or Exceptions:** \_\_\_\_\_

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

(Memo may be attached to explain detail.)

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

Phone # #

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

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

**To be recorded by City Clerk:**

Contract # \_\_\_\_\_

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

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

**Comments:**

# CITY OF SANTA FE RFP PROCUREMENT CHECKLIST

Contractor Name: Carollo Engineering

Procurement Title: WWMD Aeration System Improvements

Solicitation RFP#: 18/44/P

Department Requesting/Staff Member PUD John Del Mar

### Procurement Requirements:

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

### REQUIRED DOCUMENTS FOR APPROVAL BY PURCHASING\*

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

Department Rep Printed Name and Title

John Del Mar  
John Del Mar (Oct 15, 2020 07:46 MDT)

Department Rep Signature attesting that all information included

Fran Dunaway  
Fran Dunaway (Oct 9, 2020 09:57 MDT)

Purchasing Officer attesting that all information is reviewed



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

## BUSINESS REGISTRATION

**Business Name:** CAROLLO ENGINEERS INC  
DBA: CAROLLO ENGINEERS INC

**Business Location:** SF COUNTY  
NM

**Owner:**

**License Number:** 117760

**Issued Date:** March 04, 2020

**Expiration Date:** December 31, 2020

**License Type:** Business License - Renewable

**Classification:** Business Registration - Standard

**Fees Paid:** \$10.00

CAROLLO ENGINEERS INC  
4600 E WASHINGTON STE 500  
PHOENIX, AZ 85034

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

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

**TO BE POSTED IN A CONSPICUOUS PLACE**



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

7/4/2021

10/13/2020

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

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

PRODUCER Lockton Companies 444 W. 47th Street, Suite 900 Kansas City MO 64112-1906 (816) 960-9000	CONTACT NAME:		
	PHONE (A/C, No. Ext):	FAX (A/C, No):	
INSURED 1472613 CAROLLO ENGINEERS, INC. 2795 MITCHELL DR. WALNUT CREEK CA 94598-1601	INSURER(S) AFFORDING COVERAGE		NAIC #
	INSURER A : Zurich American Insurance Company		16535
	INSURER B : American Guarantee and Liab. Ins. Co.		26247
	INSURER C : Continental Casualty Company		20443
	INSURER D :		
	INSURER E :		
INSURER F :			

**COVERAGES**

CERTIFICATE NUMBER: 16520868

REVISION NUMBER: XXXXXXXX

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	Y	N	GLO 9730569	7/4/2020	7/4/2021	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 25,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
B	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY	N	N	BAP 9730571	7/4/2020	7/4/2021	COMBINED SINGLE LIMIT (Ea accident) \$ 2,000,000 BODILY INJURY (Per person) \$ XXXXXXXX BODILY INJURY (Per accident) \$ XXXXXXXX PROPERTY DAMAGE (Per accident) \$ XXXXXXXX DED: COMP/COLL \$ 1,000
	<input type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$			NOT APPLICABLE			EACH OCCURRENCE \$ XXXXXXXX AGGREGATE \$ XXXXXXXX \$ XXXXXXXX
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <input checked="" type="checkbox"/> N	N/A	WC 9730570	7/4/2020	7/4/2021	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
C	PROFESSIONAL LIABILITY UNLIMITED PRIOR ACTS	N	N	AEH 288354410	7/4/2020	7/4/2021	EACH CLAIM: \$1,000,000; AGGREGATE: \$1,000,000

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

THIS CERTIFICATE SUPERSEDES ALL PREVIOUSLY ISSUED CERTIFICATES FOR THIS HOLDER, APPLICABLE TO THE CARRIERS LISTED AND THE POLICY TERM(S) REFERENCED.  
PASEO REAL WASTEWATER TREATMENT PLANT AERATION SYSTEM IMPROVEMENTS - Item # 18-065. CITY OF SANTA FE IS AN ADDITIONAL INSURED AS RESPECTS GENERAL LIABILITY, AS REQUIRED BY WRITTEN CONTRACT. CAROLLO PROJECT #11283A.10

**CERTIFICATE HOLDER**

16520868  
CITY OF SANTA FE  
2651 SIRINGO ROAD, BUILDING H  
SANTA FE NM 87505

**CANCELLATION** See Attachments

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

AUTHORIZED REPRESENTATIVE

ZURICH

## Other Insurance Amendment – Primary And Non-Contributory

Policy No.	Eff. Date of Pol.	Exp. Date of Pol.	Eff. Date of End.	Producer No.	Add'l. Prem	Return Prem.
GLO 9730569	7/4/2020	7/4/2021				

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

This endorsement modifies insurance provided under the:

**Commercial General Liability Coverage Part**

1. The following paragraph is added to the Other Insurance Condition of Section **IV – Commercial General Liability Conditions**:

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

- a. The additional insured is a Named Insured under such other insurance; and
- b. You are required by a written contract or written agreement that this insurance would be primary and would not seek contribution from any other insurance available to the additional insured.

2. The following paragraph is added to Paragraph **4.b.** of the Other Insurance Condition of Section **IV – Commercial General Liability Conditions**:

This insurance is excess over:

Any of the other insurance, whether primary, excess, contingent or on any other basis, available to an additional insured, in which the additional insured on our policy is also covered as an additional insured on another policy providing coverage for the same "occurrence", offense, claim or "suit". This provision does not apply to any policy in which the additional insured is a Named Insured on such other policy and where our policy is required by written contract or written agreement to provide coverage to the additional insured on a primary and non-contributory basis.


All other terms and conditions of this policy remain unchanged.



# City of Santa Fe, New Mexico

# memo

**Date:** February 8, 2021

**To:** Public Utilities Committee / Finance Committee / City Council

**From:** Brian K. Snyder, Water Division Engineering Manager   
BKS

**Via:** Shannon Jones, Public Utilities Department director   
Jesse Roach, Water Division Director   
SJ

**RE:** Request approval of Exempt Procurement for a contract amendment #4 with Eric Blinman, Director of the New Mexico Office of Archaeological Studies (OAS) in the amount of \$100,000 (plus NMGRT) to provide continued service to the Water Division construction projects.

## **ITEM AND ISSUE:**

The Water Division requests approval of an exempt procurement for a contract amendment #4 in the amount of \$100,000 plus NMGRT to the contract with Eric Blinman, Director of the MNM Office of Archaeological Studies (OAS) to allow for continuation of needed repair and replacement work throughout the City and extending the term through June 30, 2022. This amendment makes the total contract amount \$400,000 plus nmgrt.

## **BACKGROUND AND SUMMARY:**

OAS provides archaeological support to the Water Division as needed for work such as water line replacements and emergency repairs. Procurements with OAS are exempt from Procurement Code under New Mexico Statute 13-1-98.

Funds for this work are available in Business will be available upon approval of the FY 21/22 Budget in Obj/Org # 5050381.510310 in the amount of \$100,000.00 plus NMGRT.

The funding source is:

Fund Name /Number: Water Enterprise 505

Munis Org Name /Number: Water Division 5050381

Munis Object Name /Number: Service Contracts 510310

Munis # 3200461

**CITY OF SANTA FE  
AMENDMENT No. 4 TO  
PROFESSIONAL SERVICES AGREEMENT  
ITEM#18-1371; #19-0396; #19-0925; 20-0376**

AMENDMENT No. 4 (the "Amendment") to the CITY OF SANTA FE PROFESSIONAL SERVICES AGREEMENT, dated December 12, 2018 (the "Agreement"), between the City of Santa Fe (the "City") and Office of Archaeological Studies (the "Contractor"). The date of this Amendment shall be the date when the City and the Contractor execute it whichever occurs last.

**RECITALS**

A. Under the terms of the Agreement, Contractor has agreed to provide professional archeological services for the City;

B. Pursuant to Article 13 of the Agreement, and for good and valuable consideration, the parties, the City, acknowledge the receipt and sufficiency of which and the Contractor agree as follows:

1. COMPENSATION.

Article 2, paragraph A of the Agreement is amended to increase the amount of compensation by a total of one hundred thousand dollars (\$100,000) excluding applicable gross receipts tax, so that Article 3, paragraph A reads in its entirety as follows:

A. The City shall pay to the Contractor in full payment for services satisfactorily performed and such compensation not to exceed four hundred thousand dollars (\$400,000), excluding gross receipts tax. The New Mexico gross receipts tax levied on the amounts payable under this Agreement totaling thirty three thousand seven hundred fifty dollars (\$33,750.) shall be paid by the City to the Contractor. **The**

**total amount payable to the Contractor under this Agreement, including gross receipts tax and expenses, shall not exceed four hundred thirty three thousand seven hundred fifty dollars (\$433,750). This amount is a maximum and not a guarantee that the work assigned to be performed by Contractor under this Agreement shall equal the amount stated herein. The parties do not intend for the Contractor to continue to provide services without compensation when the total compensation amount is reached. Contractor is responsible for notifying the City when the services provided under this Agreement reach the total compensation amount. In no event will the Contractor be paid for services provided in excess of the total compensation amount without this Agreement being amended in writing prior to those services in excess of the total compensation amount being provided.**

**2. TERM.**

Article 3 of the Agreement is amended to extend the term of the Agreement, so that Article 3 reads in its entirety as follows:

THIS AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED BY THE CITY. This Agreement shall terminate on **June 30, 2022** unless terminated pursuant to paragraph 4 (Termination), or paragraph 5 (Appropriations). In accordance with Section 13-1-150 NMSA 1978, no contract term for a professional services contract, including extensions and renewals, shall exceed four years, except as set forth in Section 13-1-150 NMSA 1978.

**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. 4 to the








# 2021 02 08 Amendment 4 OAS

Final Audit Report

2021-02-08

Created:	2021-02-08
By:	Irene Romero (ikromero@ci.santa-fe.nm.us)
Status:	Signed
Transaction ID:	CBJCHBCAABAAgyUVHLnLCiUW-8FDxnG3l8AOh1cs6mQ0

## "2021 02 08 Amendment 4 OAS" History

-  Document created by Irene Romero (ikromero@ci.santa-fe.nm.us)  
2021-02-08 - 5:42:45 PM GMT- IP address: 63.232.20.2
-  Document emailed to Marcos Martinez (mdmartinez@santafenm.gov) for signature  
2021-02-08 - 5:44:25 PM GMT
-  Email viewed by Marcos Martinez (mdmartinez@santafenm.gov)  
2021-02-08 - 5:58:16 PM GMT- IP address: 174.56.49.116
-  Document e-signed by Marcos Martinez (mdmartinez@santafenm.gov)  
Signature Date: 2021-02-08 - 5:58:26 PM GMT - Time Source: server- IP address: 174.56.49.116
-  Agreement completed.  
2021-02-08 - 5:58:26 PM GMT



# City of Santa Fe

## Real Estate Summary of Contracts, Agreements, Amendments & Leases

### Section to be completed by department

1. Munis Contract # 3200461

Contractor: Office of Archaeological Studies/ Museum of NM

Description: Archaeological Services for City of Santa Fe projects.

Contract  Agreement  Lease / Rent  Amendment

Term Start Date: 12/12/18 Term End Date: 06/30/21

Approved by Council Date: 12/12/18

### **Contract / Lease: Professional Services Agreement**

Amendment # 4 to the Original Contract / Lease # 18-1371

Increase/(Decrease) Amount \$ 100,000 plus grt

Extend Termination Date to: 6/30/22

Approved by Council Date: Pending

### **Amendment is for: New FY yearly amount and extend term through the next FY.**

2. **HISTORY of Contract, Amendments & Lease / Rent - Please Elaborate** (option: attach spreadsheet if multiple amendments)

**Original 18-1371 \$100,000 plus grt 6/30/19**

**Am #1 19-0396 \$100,000 plus grt**

**Am #2 19-0925 Term extension through 6/30/20**

**Am #3 20-0376 FY Comp increase \$100,000 plus nmgrt and Term extension 6/30/21**

3. **Procurement History: Exempt Procurement Procurement Code under New Mexico Statute 13-1-98.**

*Fran Duway*  
Fran Duway (May 3, 2021 10:43 MDT)

May 3, 2021

Purchasing Officer Review: \_\_\_\_\_ Date: \_\_\_\_\_

Comment & Exceptions: \_\_\_\_\_

4. **Funding Source: Water Enterprise Fund** **Org / Object: 5050381.510300**

*Andy Hopkins*  
Andy Hopkins (May 3, 2021 09:32 MDT)

May 3, 2021

Budget Officer Approval: \_\_\_\_\_ Date: \_\_\_\_\_

Comment & Exceptions: \_\_\_\_\_

Staff Contact who completed this form: Maya Martinez Phone # 955-4271

Email: mfmartinez@santafenm.gov

To be recorded by City Clerk:

Clerk # \_\_\_\_\_

Date of Execution: \_\_\_\_\_



**MEMORANDUM NUMBER: RMD-EOC-FY21**

This Evidence of Coverage is used as a matter of information only and confers no rights upon the Certificate Holder. This Evidence of Coverage does not amend, extend, or alter the coverage afforded by the Tort Claims Act or the applicable Certificates of Coverage or policies for the type(s) of coverage listed below.

**CERTIFICATE HOLDER INFORMATION**

**INSURED**  
**STATE OF NEW MEXICO**  
**and**  
**OFFICE OF CULTURAL AFFAIRS DEPARTMENT (50500)**  
**LOSS PAYEE: TO WHOM IT MAY CONCERN**

**Coverage Period:**  
**12:00 AM 07/01/2020 to 11:59 PM 06/30/2021**

This is to certify that the Insured has the coverages listed below for the period indicated. Notwithstanding any requirement, term or condition of any contract or other document with respect to which this Evidence of Coverage may be used or may pertain, the coverages indicated in this Evidence of Coverage are subject to all terms, exclusions, and conditions of the Certificates of Coverage and other insurance policy(s) to which this Evidence of Coverage pertains. Property and Liability Certificates of Coverage may be obtained by contacting the State of New Mexico's Risk Management Division at 505-827-2036.

Type of Coverage	Limit of Liability/Coverage
A) Liability i. General Liability ii. Automobile Liability iii. Law Enforcement iv. Civil Rights	Statutory Limit NMSA § 41-4-19
B) Workers Compensation.....	Statutory Limits NMSA § 52-1-1 et seq.
C) Property..... i. Auto Physical Damage .....	\$550,000,000.00 Limit Actual Cash Value (ACV)
D) Medical Malpractice .....	Statutory Limit NMSA § 41-4-19
E) Boiler & Machinery.....	\$100,000,000.00 Limit
F) Fine Arts.....	\$300,000,000.00

**Per 66-5-207, NMSA 1978, - A motor vehicle owned by the United States Government, any state, or political subdivision of the state, is exempt from the Mandatory Financial Responsibility Act.**

**Per 66-6-15(E), NMSA 1978, - A vehicle or trailer owned by and used in the service of the State of New Mexico or any county or municipality thereof need not be registered but must continually display plates furnished by the Transportation Services Division of the General Services Department.**

Should any of the above coverages for the Covered Party be changed or withdrawn prior to the expiration date issued above, the State of New Mexico will notify the Certificate Holder, but failure of such notification shall impose no obligation or liability of any kind upon the State of New Mexico, its agents, or representatives.

**Authorized Representative:** Mark Tyndall, Director, Risk Management Division, GSD

**Date Issued:** 7-1-2020



For questions please contact the Loss Prevention and Control Bureau at 505-827-2036 or GSD.LPCB@state.nm.us

N. M. S. A. 1978, § 41-4-19

§ 41-4-19. Maximum liability

Effective: July 1, 2020

A. Unless limited by Subsection B of this section, in any action for damages against a governmental entity or a public employee while acting within the scope of the employee's duties as provided in the Tort Claims Act, the liability shall not exceed:

(1) the sum of two hundred thousand dollars (\$200,000) for each legally described real property for damage to or destruction of that legally described real property arising out of a single occurrence;

(2) the sum of three hundred thousand dollars (\$300,000) for all past and future medical and medically related expenses arising out of a single occurrence; and

(3) the sum of four hundred thousand dollars (\$400,000) to any person for any number of claims arising out of a single occurrence for all damages other than real property damage and medical and medically related expenses as permitted under the Tort Claims Act.

B. The total liability for all claims pursuant to Paragraphs (1) and (3) of Subsection A of this section that arise out of a single occurrence shall not exceed seven hundred fifty thousand dollars (\$750,000).



# CITY OF SANTA FE PROCUREMENT CHECKLIST

Contractor Name: Office of Archaeological Studies Museum of New Mexico  
Procurement Title: Exempt

Procurement Method: State Price Agreement  Cooperative  Sole Source  Other

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

Department Requesting PUD/ Water/ Engineering Staff Name Brian Sndyer

### Procurement Requirements:

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

### REQUIRED DOCUMENTS FOR APPROVAL BY PURCHASING\*

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

<u>Brian Snyder</u>	<u><i>Brian K. Snyder</i></u> <small>Brian K. Snyder (Feb 8, 2021 16:04 MST)</small>	<u>Engineering Supervisor</u>
Department Rep Printed Name (attesting that all information included)	Title	Date
<u><i>Fran Dunaway</i></u> <small>Fran Dunaway (May 3, 2021 10:43 MDT)</small>	<u>Chief Procurement Officer</u>	<u>May 3, 2021</u>
Purchasing Officer (attesting that all information is reviewed)	Title	Date


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



# City of Santa Fe, New Mexico

# MEMO

**Date:** 2/5/21

**To:** Fran Dunaway, Purchasing Director

**From:** Brian K. Snyder, Water Division Engineering Manager   
BKS

**Via:** Shannon W. Jones, Public Utilities Director   
Jesse D. Roach, Water Division Director JR

**RE:** Request approval of Exempt Procurement for a contract amendment #4 with Dr. Eric Blinman, Director of MNM Office of Archaeological Studies in the amount of \$100,000 (plus NMGRT) to provide continued service to Water Division construction projects.

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## ITEM AND ISSUE

The Water Division requests approval of an exempt procurement for a contract amendment #4 in the amount of \$100,000 plus NMGRT to the contract with Dr. Eric Blinman, Director of MNM Office of Archaeological Studies (OAS) to allow for the continuation of archaeological services on repair and replacement work and projects throughout the City until June 30, 2022.

This will be the fourth amendment and fourth fiscal year for this contract and exempt procurement. The contract total with this amendment will be \$400,000 plus nmgrt.

## BACKGROUND AND SUMMARY

OAS provides archaeological support to the Water Division as needed for work such as water line replacements and emergency repairs. Procurement with OAS are exempt from Procurement Code under New Mexico Statute 13-1-98.

Approved:



Fran Dunaway (May 3, 2021 10:43 MDT)

---

Fran Dunaway, Purchasing Director

CITY OF SANTA FE

PROFESSIONAL SERVICES CONTRACT

THIS AGREEMENT is made and entered into by and between the City of Santa Fe, New Mexico, hereinafter referred to as the "City," and Office of Archaeological Studies hereinafter referred to as the "Contractor," and is effective as of the date set forth below upon which it is executed by the Parties.

IT IS AGREED BETWEEN THE PARTIES:

1. **Scope of Work.**

A. The Contractor shall be prepared to provide archaeological research, historic research, inventory, monitoring, testing, treatment, analysis, and reporting services as required for City of Santa Fe Water Division projects. The following laboratory analysis specialties may be requested, either in-house or through contracts with specialists include the following materials: pottery, chipped stone, groundstone, fauna, macrobotanical, human remains, pollen, all historic artifact categories, radiocarbon dating, tree-ring dating, luminescence dating, and archaeomagnetic dating. The Contractor may be requested to provide support on projects with GIS, graphic artists, and editors, with both an informal (Administrative Reports) and formal (Archaeology Notes) publication series. The Contractor may also be requested, on behalf of the City of Santa Fe, to prepare and submit artifacts and samples to the Museum of Indian Arts and Culture's Archaeological Research Collections for permanent curation.

B. The Contractor shall work with the Water Division to assess the crew needs and duration of project needs of particular scopes of work. These may include, at the Water Division's discretion, preparation of monitoring plans, execution of monitoring plans, analyses of artifacts, and preparation of monitoring reports. The Contractor may provide other archaeological services as needed.

C. For each scope of work, The Contractor shall prepare a cost estimate based on the approved rates. Contractor estimates shall be submitted to the Water Division for review and approval. If scopes of work change, the Contractor will submit amended estimates for Water Division review and approval prior to initiating additional work. Invoices will be based only on actual work completed.

2. **Compensation.**

A. The City shall pay to the Contractor in full payment for services satisfactorily performed and such compensation not to exceed one hundred thousand dollars (\$100,000), excluding gross receipts tax. The New Mexico gross receipts tax levied on the amounts payable under this Agreement totaling eight thousand four hundred thirty seven and fifty cents. (\$8,437.50) shall be paid by the City to the Contractor. **The total amount payable to the Contractor under this Agreement, including gross receipts tax and expenses, shall not exceed one hundred eight thousand four hundred thirty seven dollars and fifty cents (108,437.50). This amount is a maximum and not a guarantee that the work assigned to be performed by Contractor under this Agreement shall equal the amount stated herein. The parties do not intend for the**

**Contractor to continue to provide services without compensation when the total compensation amount is reached. Contractor is responsible for notifying the City when the services provided under this Agreement reach the total compensation amount. In no event will the Contractor be paid for services provided in excess of the total compensation amount without this Agreement being amended in writing prior to those services in excess of the total compensation amount being provided.**

B. Payment is subject to availability of funds pursuant to the Appropriations Paragraph set forth below and to any negotiations between the parties from year to year pursuant to Paragraph 1, Scope of Work, and to approval by the City. All invoices MUST BE received by the City no later than thirty (30) days after the termination of the Fiscal Year in which the services were delivered. Invoices received after such date WILL NOT BE PAID.

C. Contractor must submit a detailed statement accounting for all services performed and expenses incurred. If the City finds that the services are not acceptable, within thirty days after the date of receipt of written notice from the Contractor that payment is requested, it shall provide the Contractor a letter of exception explaining the defect or objection to the services, and outlining steps the Contractor may take to provide remedial action. Upon certification by the City that the services have been received and accepted, payment shall be tendered to the Contractor within thirty days after the date of acceptance. If payment is made by mail, the payment shall be deemed tendered on the date it is postmarked. However, the City shall not incur late charges, interest, or penalties for failure to make payment within the time specified herein.

**3. Term.**

THIS AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED BY THE CITY. This Agreement shall terminate on **June 30, 2019** unless terminated pursuant to paragraph 4 (Termination), or paragraph 5 (Appropriations). In accordance with Section 13-1-150 NMSA 1978, no contract term for a professional services contract, including extensions and renewals, shall exceed four years, except as set forth in Section 13-1-150 NMSA 1978.

**4. Termination.**

A. Termination. This Agreement may be terminated by either of the parties hereto upon written notice delivered to the other party at least thirty (30) days prior to the intended date of termination. Except as otherwise allowed or provided under this Agreement, the City's sole liability upon such termination shall be to pay for acceptable work performed prior to the Contractor's receipt of the notice of termination, if the City is the terminating party, or the Contractor's sending of the notice of termination, if the Contractor is the terminating party; provided, however, that a notice of termination shall not nullify or otherwise affect either party's liability for pre-termination defaults under or breaches of this Agreement. The Contractor shall submit an invoice for such work within thirty (30) days of receiving or sending the notice of termination. Notwithstanding the foregoing, this Agreement may be terminated immediately upon written notice to the Contractor if the Contractor becomes unable to perform the services contracted for, as determined by the City or if, during the term of this Agreement, the Contractor or any of its officers, employees or agents is indicted for fraud, embezzlement or other crime due to misuse of City funds or due to the Appropriations paragraph herein. THIS PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE THE City's OTHER LEGAL RIGHTS AND

REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THIS AGREEMENT.

B Termination Management. Immediately upon receipt by either the City or the Contractor of notice of termination of this Agreement, the Contractor shall: 1) not incur any further obligations for salaries, services or any other expenditure of funds under this Agreement without written approval of the City; 2) comply with all directives issued by the City in the notice of termination as to the performance of work under this Agreement; and 3) take such action as the City shall direct for the protection, preservation, retention or transfer of all property titled to the City and records generated under this Agreement. Any non-expendable personal property or equipment provided to or purchased by the Contractor with contract funds shall become property of the City upon termination and shall be submitted to the City as soon as practicable.

5. Appropriations.

The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the City Council for the performance of this Agreement. If sufficient appropriations and authorization are not made by the City Council, this Agreement shall terminate immediately upon written notice being given by the City to the Contractor. The City's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. If the City proposes an amendment to the Agreement to unilaterally reduce funding, the Contractor shall have the option to terminate the Agreement or to agree to the reduced funding, within thirty (30) days of receipt of the proposed amendment.

6. Status of Contractor.

The Contractor and its agents and employees are independent contractors performing professional services for the City and are not employees of the City. The Contractor and its agents and employees shall not accrue leave, retirement, insurance, bonding, use of City vehicles, or any other benefits afforded to employees of the City as a result of this Agreement. The Contractor acknowledges that all sums received hereunder are reportable by the Contractor for tax purposes, including without limitation, self-employment and business income tax. The Contractor agrees not to purport to bind the City unless the Contractor has express written authority to do so, and then only within the strict limits of that authority.

7. Assignment.

The Contractor shall not assign or transfer any interest in this Agreement or assign any claims for money due or to become due under this Agreement without the prior written approval of the City.

8. Subcontracting.

The Contractor shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of the City. No such subcontract shall relieve the primary Contractor from its obligations and liabilities under this Agreement, nor shall any subcontract obligate direct payment from the City.

9. Release.

Final payment of the amounts due under this Agreement shall operate as a release of the

City, its officers and employees from all liabilities, claims and obligations whatsoever arising from or under this Agreement.

**10. Confidentiality.**

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

**11. Product of Service -- Copyright.**

All materials developed or acquired by the Contractor under this Agreement shall become the property of the City and shall be delivered to the City no later than the termination date of this Agreement. Nothing developed or produced, in whole or in part, by the Contractor under this Agreement shall be the subject of an application for copyright or other claim of ownership by or on behalf of the Contractor.

**12. Conflict of Interest; Governmental Conduct Act.**

A. The Contractor represents and warrants that it presently has no interest and, during the term of this Agreement, shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under the Agreement.

B. The Contractor further represents and warrants that it has complied with, and, during the term of this Agreement, will continue to comply with, and that this Agreement complies with all applicable provisions of the Governmental Conduct Act, Chapter 10, Article 16 NMSA 1978.

C. Contractor's representations and warranties in Paragraphs A and B of this Article 12 are material representations of fact upon which the City relied when this Agreement was entered into by the parties. Contractor shall provide immediate written notice to the City if, at any time during the term of this Agreement, Contractor learns that Contractor's representations and warranties in Paragraphs A and B of this Article 12 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances. If it is later determined that Contractor's representations and warranties in Paragraphs A and B of this Article 12 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances, in addition to other remedies available to the City and notwithstanding anything in the Agreement to the contrary, the City may immediately terminate the Agreement.

D. All terms defined in the Governmental Conduct Act have the same meaning in this section.

**13. Amendment.**

A. This Agreement shall not be altered, changed or amended except by instrument in writing executed by the parties hereto and all other required signatories.

B. If the City proposes an amendment to the Agreement to unilaterally reduce funding due to budget or other considerations, the Contractor shall, within thirty (30) days of receipt of the

proposed Amendment, have the option to terminate the Agreement, pursuant to the termination provisions as set forth in Article 4 herein, or to agree to the reduced funding.

**14. Merger.**

This Agreement incorporates all the Agreements, covenants and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, Agreements and understandings have been merged into this written Agreement. No prior Agreement or understanding, oral or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

**15. Penalties for violation of law.**

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

**16. Equal Opportunity Compliance.**

The Contractor agrees to abide by all federal and state laws and rules and regulations, and Santa Fe City Code, pertaining to equal employment opportunity. In accordance with all such laws of the State of New Mexico, the Contractor assures that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, or serious medical condition, spousal affiliation, sexual orientation or gender identity, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed under this Agreement. If Contractor is found not to be in compliance with these requirements during the life of this Agreement, Contractor agrees to take appropriate steps to correct these deficiencies.

**17. Applicable Law.**

The laws of the State of New Mexico shall govern this Agreement, without giving effect to its choice of law provisions. Venue shall be proper only in a New Mexico court of competent jurisdiction in accordance with Section 38-3-1 (G) NMSA 1978. By execution of this Agreement, Contractor acknowledges and agrees to the jurisdiction of the courts of the State of New Mexico over any and all lawsuits arising under or out of any term of this Agreement.

**18. Workers Compensation.**

The Contractor agrees to comply with state laws and rules applicable to workers compensation benefits for its employees. If the Contractor fails to comply with the Workers Compensation Act and applicable rules when required to do so, this Agreement may be terminated by the City.

**19. Professional Liability Insurance.** Contractor shall maintain professional liability insurance throughout the term of this Agreement providing a minimum coverage in the amount required under the New Mexico Tort Claims Act. The Contractor shall furnish the City with proof of insurance of Contractor's compliance with the provisions of this section as a condition prior to performing services under this Agreement.

**20. Other Insurance**

If the services contemplated under this Agreement will be performed on or in City facilities or property, Contractor shall maintain in force during the entire term of this Agreement, the following insurance coverage(s), naming the City as additional insured.

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

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

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

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

**21. Records and Financial Audit.**

The Contractor shall maintain detailed time and expenditure records that indicate the date; time, nature and cost of services rendered during the Agreement's term and effect and retain them for a period of three (3) years from the date of final payment under this Agreement. The records shall be subject to inspection by the City. The City shall have the right to audit billings both before and after payment. Payment under this Agreement shall not foreclose the right of the City to recover excessive or illegal payments

**22. Indemnification.**

The Contractor shall defend, indemnify and hold harmless the City from all actions, proceeding, claims, demands, costs, damages, attorneys' fees and all other liabilities and expenses of any kind from any source which may arise out of the performance of this Agreement, caused by the negligent act or failure to act of the Contractor, its officers, employees, servants, subcontractors or agents, or if caused by the actions of any client of the Contractor resulting in injury or damage to persons or property during the time when the Contractor or any officer, agent, employee, servant or subcontractor thereof has or is performing services pursuant to this Agreement. In the event that any action, suit or proceeding related to the services performed by the Contractor or any officer, agent, employee, servant or subcontractor under this Agreement is brought against the Contractor, the Contractor shall, as soon as practicable but no later than two (2) days after it receives notice thereof, notify the legal counsel of the City.

**23. Invalid Term or Condition.**

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

**24. Enforcement of Agreement.**

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

**25. Notices.**

Any notice required to be given to either party by this Agreement shall be in writing and shall be delivered in person, by courier service or by U.S. mail, either first class or certified, return receipt requested, postage prepaid, as follows:

To the City:  
Water Division Director  
801 W. San Mateo  
Santa Fe, NM 87505

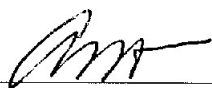
To the Contractor:  
Office of Archaeological Studies  
Museum of New Mexico  
P.O. Box 2087  
Santa Fe, NM 87504-2087

**26. Authority.**

If Contractor is other than a natural person, the individual(s) signing this Agreement on behalf of Contractor represents and warrants that he or she has the power and authority to bind Contractor, and that no further action, resolution, or approval from Contractor is necessary to enter into a binding contract.

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

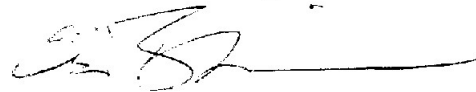
CITY OF SANTA FE:

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

DATE: 12/17/18

CONTRACTOR:

Office of Archaeological Studies



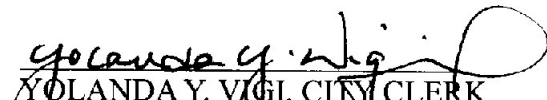
\_\_\_\_\_  
NAME AND TITLE

DATE: 12/18/18

CRS#02-171616-001

Registration # NA

ATTEST:

  
YOLANDA Y. VIGI, CITY CLERK  
cc mtg. 12/12/18

APPROVED AS TO FORM:

  
ERIN K. MCSHERRY, CITY ATTORNEY

APPROVED:

  
MARY MCCOY, FINANCE DIRECTOR

52300.510310  
Business Unit Line Item

**CITY OF SANTA FE  
AMENDMENT No. 1 TO  
PROFESSIONAL SERVICES AGREEMENT  
ITEM#18-1371**

AMENDMENT No. 1 (the "Amendment") to the CITY OF SANTA FE PROFESSIONAL SERVICES AGREEMENT, dated December 12, 2018 (the "Agreement"), between the City of Santa Fe (the "City") and Office of Archaeological Studies (the "Contractor"). The date of this Amendment shall be the date when it is executed by the City and the Contractor whichever occurs last.

**RECITALS**

A. Under the terms of the Agreement, Contractor has agreed to provide professional archeological services for the City;

B. Pursuant to Article 13 of the Agreement, and for good and valuable consideration, the receipt and sufficiency of which are acknowledged by the parties, the City and the Contractor agree as follows:

1. COMPENSATION.

Article 3, paragraph A of the Agreement is amended to increase the amount of compensation by a total of one hundred thousand dollars (\$100,000) excluding applicable gross receipts tax, so that Article 3, paragraph A reads in its entirety as follows:

A. The City shall pay to the Contractor in full payment for services satisfactorily performed and such compensation not to exceed two hundred thousand dollars (\$200,000), excluding gross receipts tax. The New Mexico gross receipts tax levied on the amounts payable under this Agreement totaling sixteen thousand eight

hundred seventy five dollars (\$16,875) shall be paid by the City to the Contractor. **The total amount payable to the Contractor under this Agreement, including gross receipts tax and expenses, shall not exceed two hundred sixteen thousand eight hundred seventy-five dollars (\$216,875). This amount is a maximum and not a guarantee that the work assigned to be performed by Contractor under this Agreement shall equal the amount stated herein. The parties do not intend for the Contractor to continue to provide services without compensation when the total compensation amount is reached. Contractor is responsible for notifying the City when the services provided under this Agreement reach the total compensation amount. In no event will the Contractor be paid for services provided in excess of the total compensation amount without this Agreement being amended in writing prior to those services in excess of the total compensation amount being provided.**

2. AGREEMENT IN FULL FORCE.

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

IN WITNESS WHEREOF, the parties have executed this Amendment No. 1 to the City of Santa Fe Professional Services Agreement as of the dates set forth below.

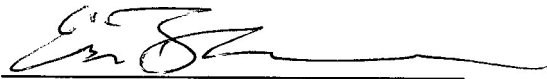
CITY OF SANTA FE:

  
ALAN WEBBER, MAYOR

Date: 6/6/19

CONTRACTOR:

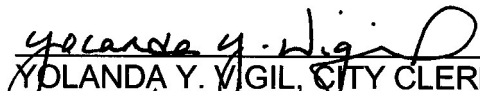
Office of Archaeological Studies

  
NAME & TITLE

Date: 4/23/19

CRS#02-171616-001  
Registration # NA

ATTEST:

  
YOLANDA Y. VIGIL, CITY CLERK  
cc mtg 5/29/2019

APPROVED AS TO FORM:

 4/15  
ERIN K. MCSHERRY, CITY ATTORNEY

APPROVED:

  
MARY MCCOY, FINANCE DIRECTOR

52300.510310  
Business Unit/Line Item

## EVIDENCE OF COVERAGE

**MEMORANDUM NUMBER: RMD-EOC-FY19**

This Evidence of Coverage is used as a matter of information only and confers no rights upon the Certificate Holder. This Evidence of Coverage does not amend, extend, or alter the coverage afforded by the Tort Claims Act or the applicable Certificates of Coverage or policies for the type(s) of coverage listed below.

### CERTIFICATE HOLDER INFORMATION

**INSURED: STATE OF NEW MEXICO    LOSS PAYEE: TO WHOM IT MAY CONCERN**  
and  
**DEPARTMENT OF CULTURAL AFFAIRS (50500)**

**Coverage Period:**

**12:01 AM 07/01/18 to 12:01 AM 07/01/19**

This is to certify that the Insured has the coverages listed below for the period indicated. Notwithstanding any requirement, term or condition of any contract or other document with respect to which this Evidence of Coverage may be used or may pertain, the coverages indicated in this Evidence of Coverage are subject to all terms, exclusions, and conditions of the Certificates of Coverage and other insurance policy(s) to which this Evidence of Coverage pertains. Property and Liability Certificates of Coverage may be obtained at [http://www.generalservices.state.nm.us/riskmanagement/Resources\\_1.aspx](http://www.generalservices.state.nm.us/riskmanagement/Resources_1.aspx)

Type of Coverage	Limit of Liability/Coverage
A) Liability i. General Liability ii. Automobile Liability iii. Law Enforcement iv. Civil Rights	Statutory Limit NMSA § 41-4-19
B) Workers Compensation.....	Statutory Limits NMSA § 52-1-1 et seq.
C) Property..... i. Auto Physical Damage .....	\$550,000,000.00                      Limit Actual Cash Value (ACV)
D) Medical Malpractice .....	Statutory Limit NMSA § 41-4-19
E) Boiler & Machinery.....	\$100,000,000.00                      Limit
F) Fine Arts.....	\$300,000,000.00

Per 66-5-207, NMSA 1978, - A motor vehicle owned by the United States Government, any state, or political subdivision of the state, is exempt from the Mandatory Financial Responsibility Act.

Per 66-6-15(E), NMSA 1978, - A vehicle or trailer owned by and used in the service of the State of New Mexico or any county or municipality thereof need not be registered but must continually display plates furnished by the Transportation Services Division of the General Services Department.

Should any of the above coverages for the Covered Party be changed or withdrawn prior to the expiration date issued above, the State of New Mexico will notify the Certificate Holder, but failure of such notification shall impose no obligation or liability of any kind upon the State of New Mexico, its agents, or representatives. If you have any questions, contact:

**Authorized Representative:**




**Date Issued:**

7-1-2018

Lara White Davis, Director, Risk Management Division, GSD

**CITY OF SANTA FE  
AMENDMENT No. 2 TO  
PROFESSIONAL SERVICES AGREEMENT  
ITEM#18-1371**

AMENDMENT No. 2 (the "Amendment") to the CITY OF SANTA FE PROFESSIONAL SERVICES AGREEMENT, dated December 12, 2018 (the "Agreement"), between the City of Santa Fe (the "City") and Office of Archaeological Studies (the "Contractor"). The date of this Amendment shall be the date when the City and the Contractor execute it whichever occurs last.

**RECITALS**

A. Under the terms of the Agreement, Contractor has agreed to provide professional archeological services for the City;

B. Pursuant to Article 13 of the Agreement, and for good and valuable consideration, the parties, the City, acknowledge the receipt and sufficiency of which and the Contractor agree as follows:

1. TERM.

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

This Agreement shall terminate on June 30, 2020 unless terminated pursuant to Paragraph 6, infra.

2. AGREEMENT IN FULL FORCE.

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

IN WITNESS WHEREOF, the parties have executed this Amendment No. 2 to the

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


CITY OF SANTA FE:

  
ALAN WEBBER, MAYOR

Date: 12/17/2019

CONTRACTOR:

Office of Archaeological Studies

 DIRECTOR  
NAME & TITLE

Date: 10/28/19

CRS#02-171616-001  
Registration # NA

ATTEST:

  
YOLANDA Y. MIGIL, CITY CLERK  
CCmtg 12/11/19

APPROVED AS TO FORM:

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

APPROVED:

  
MARY MCCOY, FINANCE DIRECTOR

5050381.510310  
Business Unit/Line Item

# Item #20-0376

**CITY OF SANTA FE  
AMENDMENT No. 3 TO  
PROFESSIONAL SERVICES AGREEMENT  
ITEM#18-1371; #19-0396; #19-0925**

AMENDMENT No. 3 (the "Amendment") to the CITY OF SANTA FE PROFESSIONAL SERVICES AGREEMENT, dated December 12, 2018 (the "Agreement"), between the City of Santa Fe (the "City") and Office of Archaeological Studies (the "Contractor"). The date of this Amendment shall be the date when the City and the Contractor execute it whichever occurs last.

**RECITALS**

A. Under the terms of the Agreement, Contractor has agreed to provide professional archeological services for the City;

B. Pursuant to Article 13 of the Agreement, and for good and valuable consideration, the parties, the City, acknowledge the receipt and sufficiency of which and the Contractor agree as follows:

1. COMPENSATION.

Article 3, paragraph A of the Agreement is amended to increase the amount of compensation by a total of one hundred thousand dollars (\$100,000) excluding applicable gross receipts tax, so that Article 3, paragraph A reads in its entirety as follows:

A. The City shall pay to the Contractor in full payment for services satisfactorily performed and such compensation not to exceed three hundred thousand dollars (\$300,000), excluding gross receipts tax. The New Mexico gross receipts tax levied on the amounts payable under this Agreement totaling twenty five thousand three hundred twelve dollars and fifty cents (\$25,312.50) shall be paid by the City to the

**Contractor. The total amount payable to the Contractor under this Agreement, including gross receipts tax and expenses, shall not exceed three hundred twenty five thousand three hundred twelve dollars and fifty cents (\$325,312.50). This amount is a maximum and not a guarantee that the work assigned to be performed by Contractor under this Agreement shall equal the amount stated herein. The parties do not intend for the Contractor to continue to provide services without compensation when the total compensation amount is reached. Contractor is responsible for notifying the City when the services provided under this Agreement reach the total compensation amount. In no event will the Contractor be paid for services provided in excess of the total compensation amount without this Agreement being amended in writing prior to those services in excess of the total compensation amount being provided.**

**2. TERM.**

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

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

**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. 3 to the City of Santa Fe Professional Services Agreement as of the dates set forth below.

CITY OF SANTA FE:

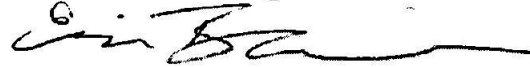


ALAN WEBBER, MAYOR

Date: 8/10/2020

CONTRACTOR:

Office of Archaeological Studies



ERIC BLINMAN, DIRECTOR  
NAME & TITLE

Date: 7/20/20

CRS#02-171616-001  
Registration # NA

ATTEST:



YOLANDA Y. VIGIL, CITY CLERK

CC Mtg 07/29/2020

gc  
gc

CITY ATTORNEY'S OFFICE:



4/16/20

SENIOR ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:



MARY MCCOY, FINANCE DIRECTOR

5050381.510310

Business Unit/Line Item

# City of Santa Fe, New Mexico

# **MEMO**

**Date:** April 7, 2020

**To:** Fran Dunaway, Purchasing

**From:** Paul A. Duran, Water Division Archaeological Technician

**Via:** Shannon W. Jones, Public Utilities Director  
Jesse D. Roach, Water Division Director  
Brian K. Snyder, Water Division Engineering Manager

**RE:** Request approval of Exempt Procurement for a contract with Dr. Eric Blinman, Director of MNM Office of Archaeological Studies in the amount of \$100,000 (plus NMGRT) to provide continued service to Water Division construction projects.

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## **ITEM AND ISSUE**

The Water Division requests approval of an exempt procurement for a contract in the amount of \$100,000 plus NMGRT to the contract with Dr. Eric Blinman, Director of MNM Office of Archaeological Studies (OAS) to allow for the continuation of needed repair and replacement work throughout the City until June 30, 2021.

## **BACKGROUND AND SUMMARY**

OAS provides archaeological support to the Water Division as needed for work such as water line replacements and emergency repairs. Procurement with OAS are exempt from Procurement Code under New Mexico Statute 13-1-98.

City of Santa Fe, New Mexico

memo

**Date:** March 12, 2020 Munis # 3200461

**To:** Public Utilities Committee / Finance Committee / City Council

**From:** Paul A. Duran, Water Division Archaeological Technician *PAD*  
PAG

*MM*  
mm

**Via:** Shannon Jones, Public Utilities Department director *SJ*  
Jesse Roach, Water Division Director *JR*  
Brian K. Snyder, Water Division Engineering Manager *BKS*  
BKS

**RE:** Request approval of Exempt Procurement for a contract with Eric Blinman, Director of the New Mexico Office of Archaeological Studies (OAS) in the amount of \$100,000 (plus NMGRT) to provide continued service to the Water Division construction projects.

**ITEM AND ISSUE:**

The Water Division requests approval of a exempt procurement for a contract in the amount of \$100,000 plus NMGRT to the contract with Eric Blinman, Director of the MNM Office of Archaeological Studies (OAS) to allow for continuation of needed repair and replacement work throughout the City until June 30, 2021.

**BACKGROUND AND SUMMARY:**

OAS provides archaeological support to the Water Division as needed for work such as water line replacements and emergency repairs. Procurements with OAS are exempt from Procurement Code under New Mexico Statute 13-1-98.

Funds for this work are available in Business Unit, Line Item 5050381.510310 in the amount of \$100,000.00 plus NMGRT.

**Signature:** Paul A. Duran  
Paul A. Duran (Jun 4, 2020 07:10 PDT)  
**Email:** paduran@santafenm.gov

**Signature:** JD  
**Email:** jdroach@santafenm.gov

**Signature:** Brian K. Snyder  
Brian K. Snyder (Jun 4, 2020 08:22 PDT)  
**Email:** bksnyder@santafenm.gov

**Signature:** Shantae Jones  
Shantae Jones (Jun 4, 2020 19:42 PDT)  
**Email:** swjones@santafenm.gov



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

**Section to be completed by department for each contract or contract amendment**

1 FOR: ORIGINAL CONTRACT  or CONTRACT AMENDMENT

2 Name of Contractor Office of Archaeological Studies

3 Complete information requested  Plus GRT  
 Inclusive of GRT

Original Contract Amount: \$100,000.00

Termination Date: June 30, 2019

Approved by Council Date: December 12, 2018

or by City Manager Date: \_\_\_\_\_

Contract is for: Archaeological studies for line projects

Amendment # 3 to the Original Contract# 18-1371

Increase/(Decrease) Amount \$ \$100,000.00

Extend Termination Date to: June 30, 2021

Approved by Council Pending

or by City Manager Date: \_\_\_\_\_

Amendment is for: Increase the comp and extend term for Fy 20/21

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

Amount \$ 100,000.00 of original Contract# Pending Termination Date: 6/30/2019

Reason: arch services

Amount \$ 0.00 amendment 1 Termination Date: 6/30/2020

Reason: \_\_\_\_\_

Amount \$ 100,000.00 amendment 2 Termination Date: 1/0/1900

Reason: \_\_\_\_\_

Amount \$ 100,000.00 amendment # 3 Termination Date: 6/30/2021

Reason: \_\_\_\_\_

Total of Original Contract plus all amendments: \$ \$300,000.00



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

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

RFP# \_\_\_\_\_ Date: \_\_\_\_\_

RFQ  \_\_\_\_\_ Date: \_\_\_\_\_

Sole Source  \_\_\_\_\_ Date: \_\_\_\_\_

Other Exempt Procurement approved 9/12/18 and pending \_\_\_\_\_

6 Procurement History: \_\_\_\_\_

example: (First year of 4 year contract)

Fran Dunaway, CPO 5/12/20

Purchasing Officer Review

Comments or Exceptions: \_\_\_\_\_

7 Funding Source: WATER BU/Line Item: 5050381.510310

Alexis Lotero
Alexis Lotero (Jul 23, 2020 13:33 MDT)

Budget Officer Approval

Comments or Exceptions: \_\_\_\_\_

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

N/A

(Memo may be attached to explain detail.)

9 Staff Contact who completed this form: Maya Martinez

Phone # 4271 \_\_\_\_\_

10 Certificate of Insurance attached. (if original Contract) [checked]

Submit to City Attorney for review/signature

Forward to Finance Director for review/signature

Return to originating Department for Committee(s) review or forward to City Manager for review and approval (depending on dollar level).

To be recorded by City Clerk:

Contract # \_\_\_\_\_

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

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

Comments:

## CITY OF SANTA FE OTHER METHOD PROCUREMENT CHECKLIST

Contractor Name: Office of Archaeological Studies: Museum Of New Mexico

Procurement Title: OAS Exempt

Other Methods: State Price Agreement  Cooperative  Sole Source  Exempt  Other

Department Requesting/Staff Member: PUD/Water/ Paul Duran

**Procurement Requirements:**

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

**REQUIRED DOCUMENTS FOR APPROVAL BY PURCHASING\***

YES	N/A	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Approved Procurement Checklist (by Purchasing)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Departments Recommendation of Award Memo addressed to Finance
<input checked="" type="checkbox"/>	<input type="checkbox"/>	State Price Agreement
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Cooperative Agreement
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Sole Source Request and Determination Form
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Contractors Exempt Letter
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Purchasing Officers approval for exempt procurement
<input type="checkbox"/>	<input checked="" type="checkbox"/>	BAR
<input type="checkbox"/>	<input checked="" type="checkbox"/>	FIR
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Contract, Agreement or Amendment
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Current Business Registration and CRS numbers on contract or agreement
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Summary of Contracts and Agreements form
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Certificate of Insurance
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Other: _____

Public Utilities/Water Division/Engineering/ Paul Duran Archaeological Technician  
 Department Rep Printed Name and Title

  
 Department Rep Signature attesting that all information included

Fran Dunaway, CPO 5/12/20  
 Purchasing Officer attesting that all information is reviewed

**REQUIRED DOCUMENTS FOR OTHER METHOD FILE\***

YES	N/A	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	State Price Agreement
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Cooperative Agreement
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Sole source Request and Determination Form
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Contractors Exempt Letter
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Purchasing Officers approval of exempt procurement
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Copies of all Sole Source submittals

Other: \_\_\_\_\_

**AWARD\***

YES N/A

Fully executed Memo to Committees from the Department with recommendation of award  
  Other: \_\_\_\_\_

**CONTRACT\***

YES N/A

Copy of Executed Contract  
  Copy of all documentation presented to the Committees  
  Finalized Council Committee Minutes  
  Other: \_\_\_\_\_

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

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

Paul Duran Archaeological Technician  
Department Rep Printed Name and Title

  
Department Rep Signature attesting that all information included

Signature:  Fran Dunaway, PC May 12, 2020

Email: fadunaway@santafenm.gov

Signature:

Email:



**NEW MEXICO**

GENERAL SERVICES DEPARTMENT  
Risk Management Division

**EVIDENCE OF COVERAGE**

**MEMORANDUM NUMBER: RMD-EOC-FY20**

This Evidence of Coverage is used as a matter of information only and confers no rights upon the Certificate Holder. This Evidence of Coverage does not amend, extend, or alter the coverage afforded by the Tort Claims Act or the applicable Certificates of Coverage or policies for the type(s) of coverage listed below.

**CERTIFICATE HOLDER INFORMATION**

**INSURED: OFFICE OF CULTURAL AFFAIRS DEPART (50500)**

**LOSS PAYEE: TO WHOM IT MAY CONCERN**

**Coverage Period:**

**12:00 AM 07/01/19 to 11:59 PM 06/30/20**

This is to certify that the Insured has the coverages listed below for the period indicated. Notwithstanding any requirement, term or condition of any contract or other document with respect to which this Evidence of Coverage may be used or may pertain, the coverages indicated in this Evidence of Coverage are subject to all terms, exclusions, and conditions of the Certificates of Coverage and other insurance policy(s) to which this Evidence of Coverage pertains. Property and Liability Certificates of Coverage may be obtained by contacting the State of New Mexico's Risk Management Division at 505-827-2036.

Type of Coverage	Limit of Liability/Coverage
A) Liability i. General Liability ii. Automobile Liability iii. Law Enforcement iv. Civil Rights	Statutory Limit NMSA § 41-4-19
B) Workers Compensation.....	Statutory Limits NMSA § 52-1-1 et seq.
C) Property..... i. Auto Physical Damage .....	\$550,000,000.00 Limit Actual Cash Value (ACV)
D) Medical Malpractice .....	Statutory Limit NMSA § 41-4-19
E) Boiler & Machinery.....	\$100,000,000.00 Limit
F) Fine Arts.....	\$300,000,000.00

Per 66-5-207, NMSA 1978, - A motor vehicle owned by the United States Government, any state, or political subdivision of the state, is exempt from the Mandatory Financial Responsibility Act.

Per 66-6-15(E), NMSA 1978, - A vehicle or trailer owned by and used in the service of the State of New Mexico or any county or municipality thereof need not be registered but must continually display plates furnished by the Transportation Services Division of the General Services Department.

Should any of the above coverages for the Covered Party be changed or withdrawn prior to the expiration date issued above, the State of New Mexico will notify the Certificate Holder, but failure of such notification shall impose no obligation or liability of any kind upon the State of New Mexico, its agents, or representatives.

<b>Authorized Representative:</b>	<i>Clinton Nicley</i>	
<b>Date Issued:</b>	7-1-2019	Clinton Nicley, Director, Risk Management Division , GSD

N. M. S. A. 1978, § 41-4-19

§ 41-4-19. Maximum liability

Effective: July 1, 2008

A. Unless limited by Subsection B of this section, in any action for damages against a governmental entity or a public employee while acting within the scope of the employee's duties as provided in the Tort Claims Act, the liability shall not exceed:

(1) the sum of two hundred thousand dollars (\$200,000) for each legally described real property for damage to or destruction of that legally described real property arising out of a single occurrence;

(2) the sum of three hundred thousand dollars (\$300,000) for all past and future medical and medically related expenses arising out of a single occurrence; and

(3) the sum of four hundred thousand dollars (\$400,000) to any person for any number of claims arising out of a single occurrence for all damages other than real property damage and medical and medically related expenses as permitted under the Tort Claims Act.

B. The total liability for all claims pursuant to Paragraphs (1) and (3) of Subsection A of this section that arise out of a single occurrence shall not exceed seven hundred fifty thousand dollars (\$750,000).

**CITY OF SANTA FE  
AMENDMENT No. 2 TO  
PROFESSIONAL SERVICES AGREEMENT  
ITEM#18-1371**

AMENDMENT No. 2 (the "Amendment") to the CITY OF SANTA FE PROFESSIONAL SERVICES AGREEMENT, dated December 12, 2018 (the "Agreement"), between the City of Santa Fe (the "City") and Office of Archaeological Studies (the "Contractor"). The date of this Amendment shall be the date when the City and the Contractor execute it whichever occurs last.

**RECITALS**

A. Under the terms of the Agreement, Contractor has agreed to provide professional archeological services for the City;

B. Pursuant to Article 13 of the Agreement, and for good and valuable consideration, the parties, the City, acknowledge the receipt and sufficiency of which and the Contractor agree as follows:

1. TERM.

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

This Agreement shall terminate on June 30, 2020 unless terminated pursuant to Paragraph 6, infra.

2. AGREEMENT IN FULL FORCE.

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

IN WITNESS WHEREOF, the parties have executed this Amendment No. 2 to the


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

CITY OF SANTA FE:

  
ALAN WEBBER, MAYOR

Date: 12/17/2019

CONTRACTOR:  
Office of Archaeological Studies

  
DIRECTOR

NAME & TITLE

Date: 10/28/19

CRS#02-171616-001  
Registration # NA

ATTEST:

  
YOLANDA Y. VIGIL, CITY CLERK  
Cmtg 12/11/19

APPROVED AS TO FORM:

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

APPROVED:

  
MARY MCCOY, FINANCE DIRECTOR

5050381.510310  
Business Unit/Line Item

**CITY OF SANTA FE  
AMENDMENT No. 1 TO  
PROFESSIONAL SERVICES AGREEMENT  
ITEM#18-1371**

AMENDMENT No. 1 (the "Amendment") to the CITY OF SANTA FE PROFESSIONAL SERVICES AGREEMENT, dated December 12, 2018 (the "Agreement"), between the City of Santa Fe (the "City") and Office of Archaeological Studies (the "Contractor"). The date of this Amendment shall be the date when it is executed by the City and the Contractor whichever occurs last.

**RECITALS**

A. Under the terms of the Agreement, Contractor has agreed to provide professional archeological services for the City;

B. Pursuant to Article 13 of the Agreement, and for good and valuable consideration, the receipt and sufficiency of which are acknowledged by the parties, the City and the Contractor agree as follows:

1. COMPENSATION.

Article 3, paragraph A of the Agreement is amended to increase the amount of compensation by a total of one hundred thousand dollars (\$100,000) excluding applicable gross receipts tax, so that Article 3, paragraph A reads in its entirety as follows:

A. The City shall pay to the Contractor in full payment for services satisfactorily performed and such compensation not to exceed two hundred thousand dollars (\$200,000), excluding gross receipts tax. The New Mexico gross receipts tax levied on the amounts payable under this Agreement totaling sixteen thousand eight

**hundred seventy five dollars (\$16,875) shall be paid by the City to the Contractor. The total amount payable to the Contractor under this Agreement, including gross receipts tax and expenses, shall not exceed two hundred sixteen thousand eight hundred seventy-five dollars (\$216,875). This amount is a maximum and not a guarantee that the work assigned to be performed by Contractor under this Agreement shall equal the amount stated herein. The parties do not intend for the Contractor to continue to provide services without compensation when the total compensation amount is reached. Contractor is responsible for notifying the City when the services provided under this Agreement reach the total compensation amount. In no event will the Contractor be paid for services provided in excess of the total compensation amount without this Agreement being amended in writing prior to those services in excess of the total compensation amount being provided.**

**2. AGREEMENT IN FULL FORCE.**

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


IN WITNESS WHEREOF, the parties have executed this Amendment No. 1 to the City of Santa Fe Professional Services Agreement as of the dates set forth below.

CITY OF SANTA FE:

  
ALAN WEBBER, MAYOR

Date: 4/6/19

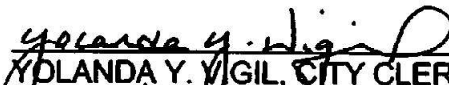
CONTRACTOR:  
Office of Archaeological Studies

  
NAME & TITLE

Date: 4/23/19

CRS#02-171616-001  
Registration # NA

ATTEST:

  
YOLANDA Y. VIGIL, CITY CLERK  
cc mtg 5/29/2019

APPROVED AS TO FORM:

 4/15  
ERIN K. MCSHERRY, CITY ATTORNEY

APPROVED:

  
MARY MCCOY, FINANCE DIRECTOR

52300.510310  
Business Unit/Line Item

## EVIDENCE OF COVERAGE

**MEMORANDUM NUMBER: RMD-EOC-FY19**

This Evidence of Coverage is used as a matter of information only and confers no rights upon the Certificate Holder. This Evidence of Coverage does not amend, extend, or alter the coverage afforded by the Tort Claims Act or the applicable Certificates of Coverage or policies for the type(s) of coverage listed below.

### CERTIFICATE HOLDER INFORMATION

**INSURED: STATE OF NEW MEXICO    LOSS PAYEE: TO WHOM IT MAY CONCERN**  
and  
**DEPARTMENT OF CULTURAL AFFAIRS (50500)**

**Coverage Period:**

12:01 AM 07/01/18 to 12:01 AM 07/01/19



This is to certify that the Insured has the coverages listed below for the period indicated. Notwithstanding any requirement, term or condition of any contract or other document with respect to which this Evidence of Coverage may be used or may pertain, the coverages indicated in this Evidence of Coverage are subject to all terms, exclusions, and conditions of the Certificates of Coverage and other insurance policy(s) to which this Evidence of Coverage pertains. Property and Liability Certificates of Coverage may be obtained at [http://www.generalservices.state.nm.us/riskmanagement/Resources\\_L.aspx](http://www.generalservices.state.nm.us/riskmanagement/Resources_L.aspx)

Type of Coverage	Limit of Liability/Coverage
A) Liability i. General Liability ii. Automobile Liability iii. Law Enforcement iv. Civil Rights	Statutory Limit NMSA § 41-4-19
B) Workers Compensation.....	Statutory Limits NMSA § 52-1-1 et seq.
C) Property..... i. Auto Physical Damage .....	\$550,000,000.00      Limit Actual Cash Value (ACV)
D) Medical Malpractice .....	Statutory Limit NMSA § 41-4-19
E) Boiler & Machinery.....	\$100,000,000.00      Limit
F) Fine Arts.....	\$300,000,000.00

Per 66-5-207, NMSA 1978, - A motor vehicle owned by the United States Government, any state, or political subdivision of the state, is exempt from the Mandatory Financial Responsibility Act.

Per 66-6-15(E), NMSA 1978, - A vehicle or trailer owned by and used in the service of the State of New Mexico or any county or municipality thereof need not be registered but must continually display plates furnished by the Transportation Services Division of the General Services Department.

Should any of the above coverages for the Covered Party be changed or withdrawn prior to the expiration date issued above, the State of New Mexico will notify the Certificate Holder, but failure of such notification shall impose no obligation or liability of any kind upon the State of New Mexico, its agents, or representatives. If you have any questions, contact:

<b>Authorized Representative:</b>			
<b>Date Issued:</b>	7-1-2018	Lara White Davis, Director, Risk Management Division, GSP	

ITEM # 18-1371

CITY OF SANTA FE

PROFESSIONAL SERVICES CONTRACT

THIS AGREEMENT is made and entered into by and between the City of Santa Fe, New Mexico, hereinafter referred to as the "City," and Office of Archaeological Studies hereinafter referred to as the "Contractor," and is effective as of the date set forth below upon which it is executed by the Parties.

IT IS AGREED BETWEEN THE PARTIES:

1. Scope of Work.

A. The Contractor shall be prepared to provide archaeological research, historic research, inventory, monitoring, testing, treatment, analysis, and reporting services as required for City of Santa Fe Water Division projects. The following laboratory analysis specialties may be requested, either in-house or through contracts with specialists include the following materials: pottery, chipped stone, groundstone, fauna, macrobotanical, human remains, pollen, all historic artifact categories, radiocarbon dating, tree-ring dating, luminescence dating, and archaeomagnetic dating. The Contractor may be requested to provide support on projects with GIS, graphic artists, and editors, with both an informal (Administrative Reports) and formal (Archaeology Notes) publication series. The Contractor may also be requested, on behalf of the City of Santa Fe, to prepare and submit artifacts and samples to the Museum of Indian Arts and Culture's Archaeological Research Collections for permanent curation.

B. The Contractor shall work with the Water Division to assess the crew needs and duration of project needs of particular scopes of work. These may include, at the Water Division's discretion, preparation of monitoring plans, execution of monitoring plans, analyses of artifacts, and preparation of monitoring reports. The Contractor may provide other archaeological services as needed.

C. For each scope of work, The Contractor shall prepare a cost estimate based on the approved rates. Contractor estimates shall be submitted to the Water Division for review and approval. If scopes of work change, the Contractor will submit amended estimates for Water Division review and approval prior to initiating additional work. Invoices will be based only on actual work completed.

2. Compensation.

A. The City shall pay to the Contractor in full payment for services satisfactorily performed and such compensation not to exceed one hundred thousand dollars (\$100,000), excluding gross receipts tax. The New Mexico gross receipts tax levied on the amounts payable under this Agreement totaling eight thousand four hundred thirty seven and fifty cents. (\$8,437.50) shall be paid by the City to the Contractor. **The total amount payable to the Contractor under this Agreement, including gross receipts tax and expenses, shall not exceed one hundred eight thousand four hundred thirty seven dollars and fifty cents (108,437.50).** This amount is a maximum and not a guarantee that the work assigned to be performed by Contractor under this Agreement shall equal the amount stated herein. The parties do not intend for the

**Contractor to continue to provide services without compensation when the total compensation amount is reached. Contractor is responsible for notifying the City when the services provided under this Agreement reach the total compensation amount. In no event will the Contractor be paid for services provided in excess of the total compensation amount without this Agreement being amended in writing prior to those services in excess of the total compensation amount being provided.**

B. Payment is subject to availability of funds pursuant to the Appropriations Paragraph set forth below and to any negotiations between the parties from year to year pursuant to Paragraph 1, Scope of Work, and to approval by the City. All invoices MUST BE received by the City no later than thirty (30) days after the termination of the Fiscal Year in which the services were delivered. Invoices received after such date WILL NOT BE PAID.

C. Contractor must submit a detailed statement accounting for all services performed and expenses incurred. If the City finds that the services are not acceptable, within thirty days after the date of receipt of written notice from the Contractor that payment is requested, it shall provide the Contractor a letter of exception explaining the defect or objection to the services, and outlining steps the Contractor may take to provide remedial action. Upon certification by the City that the services have been received and accepted, payment shall be tendered to the Contractor within thirty days after the date of acceptance. If payment is made by mail, the payment shall be deemed tendered on the date it is postmarked. However, the City shall not incur late charges, interest, or penalties for failure to make payment within the time specified herein.

3. **Term.**

THIS AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED BY THE CITY. This Agreement shall terminate on **June 30, 2019** unless terminated pursuant to paragraph 4 (Termination), or paragraph 5 (Appropriations). In accordance with Section 13-1-150 NMSA 1978, no contract term for a professional services contract, including extensions and renewals, shall exceed four years, except as set forth in Section 13-1-150 NMSA 1978.

4. **Termination.**

A. **Termination.** This Agreement may be terminated by either of the parties hereto upon written notice delivered to the other party at least thirty (30) days prior to the intended date of termination. Except as otherwise allowed or provided under this Agreement, the City's sole liability upon such termination shall be to pay for acceptable work performed prior to the Contractor's receipt of the notice of termination, if the City is the terminating party, or the Contractor's sending of the notice of termination, if the Contractor is the terminating party; **provided, however,** that a notice of termination shall not nullify or otherwise affect either party's liability for pre-termination defaults under or breaches of this Agreement. The Contractor shall submit an invoice for such work within thirty (30) days of receiving or sending the notice of termination. Notwithstanding the foregoing, this Agreement may be terminated immediately upon written notice to the Contractor if the Contractor becomes unable to perform the services contracted for, as determined by the City or if, during the term of this Agreement, the Contractor or any of its officers, employees or agents is indicted for fraud, embezzlement or other crime due to misuse of City funds or due to the Appropriations paragraph herein. **THIS PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE THE City's OTHER LEGAL RIGHTS AND**

**REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THIS AGREEMENT.**

**B** **Termination Management.** Immediately upon receipt by either the City or the Contractor of notice of termination of this Agreement, the Contractor shall: 1) not incur any further obligations for salaries, services or any other expenditure of funds under this Agreement without written approval of the City; 2) comply with all directives issued by the City in the notice of termination as to the performance of work under this Agreement; and 3) take such action as the City shall direct for the protection, preservation, retention or transfer of all property titled to the City and records generated under this Agreement. Any non-expendable personal property or equipment provided to or purchased by the Contractor with contract funds shall become property of the City upon termination and shall be submitted to the City as soon as practicable.

**5. Appropriations.**

The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the City Council for the performance of this Agreement. If sufficient appropriations and authorization are not made by the City Council, this Agreement shall terminate immediately upon written notice being given by the City to the Contractor. The City's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. If the City proposes an amendment to the Agreement to unilaterally reduce funding, the Contractor shall have the option to terminate the Agreement or to agree to the reduced funding, within thirty (30) days of receipt of the proposed amendment.

**6. Status of Contractor.**

The Contractor and its agents and employees are independent contractors performing professional services for the City and are not employees of the City. The Contractor and its agents and employees shall not accrue leave, retirement, insurance, bonding, use of City vehicles, or any other benefits afforded to employees of the City as a result of this Agreement. The Contractor acknowledges that all sums received hereunder are reportable by the Contractor for tax purposes, including without limitation, self-employment and business income tax. The Contractor agrees not to purport to bind the City unless the Contractor has express written authority to do so, and then only within the strict limits of that authority.

**7. Assignment.**

The Contractor shall not assign or transfer any interest in this Agreement or assign any claims for money due or to become due under this Agreement without the prior written approval of the City.

**8. Subcontracting.**

The Contractor shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of the City. No such subcontract shall relieve the primary Contractor from its obligations and liabilities under this Agreement, nor shall any subcontract obligate direct payment from the City.

**9. Release.**

Final payment of the amounts due under this Agreement shall operate as a release of the

City, its officers and employees from all liabilities, claims and obligations whatsoever arising from or under this Agreement.

**10. Confidentiality.**

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

**11. Product of Service – Copyright.**

All materials developed or acquired by the Contractor under this Agreement shall become the property of the City and shall be delivered to the City no later than the termination date of this Agreement. Nothing developed or produced, in whole or in part, by the Contractor under this Agreement shall be the subject of an application for copyright or other claim of ownership by or on behalf of the Contractor.

**12. Conflict of Interest; Governmental Conduct Act.**

A. The Contractor represents and warrants that it presently has no interest and, during the term of this Agreement, shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under the Agreement.

B. The Contractor further represents and warrants that it has complied with, and, during the term of this Agreement, will continue to comply with, and that this Agreement complies with all applicable provisions of the Governmental Conduct Act, Chapter 10, Article 16 NMSA 1978.

C. Contractor's representations and warranties in Paragraphs A and B of this Article 12 are material representations of fact upon which the City relied when this Agreement was entered into by the parties. Contractor shall provide immediate written notice to the City if, at any time during the term of this Agreement, Contractor learns that Contractor's representations and warranties in Paragraphs A and B of this Article 12 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances. If it is later determined that Contractor's representations and warranties in Paragraphs A and B of this Article 12 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances, in addition to other remedies available to the City and notwithstanding anything in the Agreement to the contrary, the City may immediately terminate the Agreement.

D. All terms defined in the Governmental Conduct Act have the same meaning in this section.

**13. Amendment.**

A. This Agreement shall not be altered, changed or amended except by instrument in writing executed by the parties hereto and all other required signatories.

B. If the City proposes an amendment to the Agreement to unilaterally reduce funding due to budget or other considerations, the Contractor shall, within thirty (30) days of receipt of the

proposed Amendment, have the option to terminate the Agreement, pursuant to the termination provisions as set forth in Article 4 herein, or to agree to the reduced funding.

14. **Merger.**

This Agreement incorporates all the Agreements, covenants and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, Agreements and understandings have been merged into this written Agreement. No prior Agreement or understanding, oral or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

15. **Penalties for violation of law.**

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

16. **Equal Opportunity Compliance.**

The Contractor agrees to abide by all federal and state laws and rules and regulations, and Santa Fe City Code, pertaining to equal employment opportunity. In accordance with all such laws of the State of New Mexico, the Contractor assures that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, or serious medical condition, spousal affiliation, sexual orientation or gender identity, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed under this Agreement. If Contractor is found not to be in compliance with these requirements during the life of this Agreement, Contractor agrees to take appropriate steps to correct these deficiencies.

17. **Applicable Law.**

The laws of the State of New Mexico shall govern this Agreement, without giving effect to its choice of law provisions. Venue shall be proper only in a New Mexico court of competent jurisdiction in accordance with Section 38-3-1 (G) NMSA 1978. By execution of this Agreement, Contractor acknowledges and agrees to the jurisdiction of the courts of the State of New Mexico over any and all lawsuits arising under or out of any term of this Agreement.

18. **Workers Compensation.**

The Contractor agrees to comply with state laws and rules applicable to workers compensation benefits for its employees. If the Contractor fails to comply with the Workers Compensation Act and applicable rules when required to do so, this Agreement may be terminated by the City.

19. **Professional Liability Insurance.** Contractor shall maintain professional liability insurance throughout the term of this Agreement providing a minimum coverage in the amount required under the New Mexico Tort Claims Act. The Contractor shall furnish the City with proof of insurance of Contractor's compliance with the provisions of this section as a condition prior to performing services under this Agreement.

**20. Other Insurance**

If the services contemplated under this Agreement will be performed on or in City facilities or property, Contractor shall maintain in force during the entire term of this Agreement, the following insurance coverage(s), naming the City as additional insured.

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

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

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

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

**21. Records and Financial Audit.**

The Contractor shall maintain detailed time and expenditure records that indicate the date; time, nature and cost of services rendered during the Agreement's term and effect and retain them for a period of three (3) years from the date of final payment under this Agreement. The records shall be subject to inspection by the City. The City shall have the right to audit billings both before and after payment. Payment under this Agreement shall not foreclose the right of the City to recover excessive or illegal payments

**22. Indemnification.**

The Contractor shall defend, indemnify and hold harmless the City from all actions, proceeding, claims, demands, costs, damages, attorneys' fees and all other liabilities and expenses of any kind from any source which may arise out of the performance of this Agreement, caused by the negligent act or failure to act of the Contractor, its officers, employees, servants, subcontractors or agents, or if caused by the actions of any client of the Contractor resulting in injury or damage to persons or property during the time when the Contractor or any officer, agent, employee, servant or subcontractor thereof has or is performing services pursuant to this Agreement. In the event that any action, suit or proceeding related to the services performed by the Contractor or any officer, agent, employee, servant or subcontractor under this Agreement is brought against the Contractor, the Contractor shall, as soon as practicable but no later than two (2) days after it receives notice thereof, notify the legal counsel of the City.

**23. Invalid Term or Condition.**

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

**24. Enforcement of Agreement.**

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

**25. Notices.**

Any notice required to be given to either party by this Agreement shall be in writing and shall be delivered in person, by courier service or by U.S. mail, either first class or certified, return receipt requested, postage prepaid, as follows:

To the City:  
Water Division Director  
801 W. San Mateo  
Santa Fe, NM 87505


To the Contractor:  
Office of Archaeological Studies  
Museum of New Mexico  
P.O. Box 2087  
Santa Fe, NM 87504-2087

**26. Authority.**

If Contractor is other than a natural person, the individual(s) signing this Agreement on behalf of Contractor represents and warrants that he or she has the power and authority to bind Contractor, and that no further action, resolution, or approval from Contractor is necessary to enter into a binding contract.

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

CITY OF SANTA FE:

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

DATE: 12/17/18

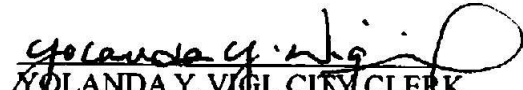
CONTRACTOR:

Office of Archaeological Studies

  
\_\_\_\_\_  
NAME AND TITLE

DATE: 12/18/18  
CRS#02-171616-001  
Registration # NA

ATTEST:

  
YOLANDA Y. VIGI, CITY CLERK  
cc mtg. 12/12/18

APPROVED AS TO FORM:

  
ERIN K. MCSHERRY, CITY ATTORNEY

APPROVED:

  
MARY MCCOY, FINANCE DIRECTOR

52300.510310  
Business Unit Line Item

**Signature:** Maya Martinez  
Maya Martinez (Aug 6, 2020 15:05 MDT)

**Email:** mfmartinez@santafenm.gov

**Signature:** Geralyn Cardenas  
Geralyn Cardenas (Aug 10, 2020 08:21 MDT)

**Email:** gfcardenas@santafenm.gov











# GB PUD 20-0376 Office of Archaeological Studies - not executed


Final Audit Report


2020-08-11


Created:	2020-08-06
By:	YODEL CATANACH (yocatanach@ci.santa-fe,nm.us)
Status:	Signed
Transaction ID:	CBJCHBCAABAA3j9bnRXJP_GwpZDsqtIIKm-LqSPHbJPA


## "GB PUD 20-0376 Office of Archaeological Studies - not executed" History


-  Document created by YODEL CATANACH (yocatanach@ci.santa-fe,nm.us)  
2020-08-06 - 8:50:00 PM GMT- IP address: 63.232.20.2
-  Document emailed to Maya Martinez (mfmartinez@santafenm.gov) for signature  
2020-08-06 - 8:56:33 PM GMT
-  Email viewed by Maya Martinez (mfmartinez@santafenm.gov)  
2020-08-06 - 9:04:12 PM GMT- IP address: 104.47.65.254
-  Document e-signed by Maya Martinez (mfmartinez@santafenm.gov)  
Signature Date: 2020-08-06 - 9:05:26 PM GMT - Time Source: server- IP address: 63.232.20.2
-  Document emailed to Mary McCoy (mtmccoy@santafenm.gov) for signature  
2020-08-06 - 9:05:28 PM GMT
-  Email viewed by Mary McCoy (mtmccoy@santafenm.gov)  
2020-08-07 - 10:01:18 PM GMT- IP address: 104.47.64.254
-  Document e-signed by Mary McCoy (mtmccoy@santafenm.gov)  
Signature Date: 2020-08-07 - 10:13:51 PM GMT - Time Source: server- IP address: 73.26.218.44
-  Document emailed to Geralyn Cardenas (gfcardenas@santafenm.gov) for signature  
2020-08-07 - 10:13:53 PM GMT
-  Email viewed by Geralyn Cardenas (gfcardenas@santafenm.gov)  
2020-08-10 - 2:15:54 PM GMT- IP address: 104.47.64.254
-  Document e-signed by Geralyn Cardenas (gfcardenas@santafenm.gov)  
Signature Date: 2020-08-10 - 2:21:01 PM GMT - Time Source: server- IP address: 63.232.20.2


 Document emailed to Alan Webber (amwebber@santafenm.gov) for signature  
2020-08-10 - 2:21:03 PM GMT


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2020-08-10 - 2:24:25 PM GMT- IP address: 63.232.20.2

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Signature Date: 2020-08-10 - 2:25:11 PM GMT - Time Source: server- IP address: 63.232.20.2

 Document emailed to Yolanda Vigil (yyvigil@santafenm.gov) for signature  
2020-08-10 - 2:25:13 PM GMT

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2020-08-11 - 1:57:30 AM GMT- IP address: 104.47.64.254

 Document e-signed by Yolanda Vigil (yyvigil@santafenm.gov)  
Signature Date: 2020-08-11 - 1:58:05 AM GMT - Time Source: server- IP address: 63.232.20.2

 Signed document emailed to Shannon Jones (swjones@santafenm.gov), Mary McCoy (mtmccoy@santafenm.gov), Alan Webber (amwebber@santafenm.gov), Yolanda Vigil (yyvigil@santafenm.gov), and 5 more  
2020-08-11 - 1:58:05 AM GMT

**Signature:** 

**Email:** [jdroach@santafenm.gov](mailto:jdroach@santafenm.gov)

**Signature:** *Shannon Jones*

**Email:** [swjones@santafenm.gov](mailto:swjones@santafenm.gov)












# OAS #4 FY 2122

Final Audit Report

2021-02-09

Created:	2021-02-08
By:	Maya Martinez (mfmartinez@ci.santa-fe.nm.us)
Status:	Signed
Transaction ID:	CBJCHBCAABAA-w--8zw9bjXzsF_ChPq49HFRSt24tRmk

## "OAS #4 FY 2122" History

-  Document created by Maya Martinez (mfmartinez@ci.santa-fe.nm.us)  
2021-02-08 - 10:50:58 PM GMT- IP address: 63.232.20.2
-  Document emailed to Brian K. Snyder (bksnyder@santafenm.gov) for signature  
2021-02-08 - 10:52:49 PM GMT
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-  Document e-signed by Brian K. Snyder (bksnyder@santafenm.gov)  
Signature Date: 2021-02-08 - 11:04:23 PM GMT - Time Source: server- IP address: 63.232.20.2
-  Document emailed to Jesse Roach (jdroach@santafenm.gov) for signature  
2021-02-08 - 11:04:25 PM GMT
-  Email viewed by Jesse Roach (jdroach@santafenm.gov)  
2021-02-09 - 6:28:25 PM GMT- IP address: 104.47.64.254
-  Document e-signed by Jesse Roach (jdroach@santafenm.gov)  
Signature Date: 2021-02-09 - 7:25:57 PM GMT - Time Source: server- IP address: 63.232.20.2
-  Document emailed to Shannon Jones (swjones@santafenm.gov) for signature  
2021-02-09 - 7:26:00 PM GMT
-  Email viewed by Shannon Jones (swjones@santafenm.gov)  
2021-02-09 - 7:58:37 PM GMT- IP address: 174.237.134.182
-  Document e-signed by Shannon Jones (swjones@santafenm.gov)  
Signature Date: 2021-02-09 - 7:59:06 PM GMT - Time Source: server- IP address: 174.237.134.182
-  Agreement completed.  
2021-02-09 - 7:59:06 PM GMT



# City of Santa Fe, New Mexico

## Memorandum



**DATE:** April 12, 2021

**TO:** Governing Body

**VIA:** Regina Wheeler, Public Works Department Director *RW*

**FROM:** Sam Burnett, Public Works Property Maintenance Manager *SB*

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### ITEM AND ACTION:

Request for the Approval of Amendment #2 to Service Contract 20-0027 extending the term of the agreement by one year, from June 30, 2021 to June 20, 2022, and increasing compensation in the amount of \$500,000 to a total amount of \$1,250,000 plus NMGRT for HVAC, Mechanical, Plumbing and Electrical Services with B&D Industries, Inc; (Sam Burnett, Public Works Property Maintenance Manager, [jsburnett@santafenm.gov](mailto:jsburnett@santafenm.gov), 505-955-5933)

### BACKGROUND AND SUMMARY:

This On-Call Contract is with B&D Industries and provides on-call HVAC, Mechanical, Plumbing and Electrical services. This on-call is a critical to the ability of the Facilities Division to prevent major damage to Midtown Santa Fe and other City facilities, to mitigate damage once it has occurred. These services will be used to supplement the capacity and or expertise of City staff as needed. Notice of the potential use of this contract has been provide to AFSCME.

Amendment #2 to On-Call Contract #20-0027 will increase compensation by \$500,000 from the existing \$750,000 to \$1,250,000 plus applicable NMGRT. This will allow for the continued maintenance and repairs at Midtown Santa Fe as well as throughout the other City Facilities services by the Public Works Facilities Division. This contract is managed by the Public Works Property Maintenance Manager. Purchase requisitions requested for work outside of Midtown will be reviewed and authorized by the Property Maintenance Manager based upon need.

B&D Industries has been chosen from the State Price Agreement to provide this service for a number of important reasons. First, B&D has provided these services at Midtown Santa Fe for the last two and a half years and has considerable knowledge of the campus. Second, B&D has done a thorough assessment of the HVAC, plumbing, electrical and mechanical systems and generated a detailed equipment database, which gives them extensive familiarity with the campus. Third, B&D has been assisting the Facilities Division Maintenance Section with work throughout many of the City's facilities giving them extensive knowledge of the City's equipment beyond Midtown. Finally, B&D's experience modifier is 0.77, which demonstrates the high quality and safety of their operations.

Examples of how this contract has been used include the following:

- \$39,839.69 – Emergency Shelter Commissioning of St Michael Hall, Kennedy Hall and Apartments A&B
- \$145,000.00 – Misc. On-Call Services to Support the Public Works Facilities Maintenance Section
- \$48,218.58 – Water Division San Mateo HVAC Rehabilitation
- \$28,122.96 – Temporary Heating for the Genoveva Chavez Pool

**PROCUREMENT METHOD:**

The procurement method is via State Price Agreement #90-000-18-00073.

**CONTRACT NUMBER:**

The FY20 Munis contract number is 3201686

**FUNDING SOURCE:**

**Fund Name/Number:** Various

**Munis Org Name/Number:** Various

**Munis Object Name/Number:** Various

**CITY OF SANTA FE  
AMENDMENT No. 2 TO  
SERVICE AGREEMENT  
ITEM# 20-0027**

AMENDMENT No. 2 (the "Amendment") to the CITY OF SANTA FE SERVICE AGREEMENT, dated January 28, 2020 the "Agreement"), between the City of Santa Fe (the "City") and B&D Industries, Inc (the "Contractor"). The date of this Amendment shall be the date when it is executed by the City and the Contractor whichever occurs last.

**RECITALS:**

A. Under the terms of the Agreement, Contractor has agreed to provide professional HVAC, plumbing and electrical services for the City of Santa Fe.

B. Pursuant to Article 8 of the Agreement, and for good and valuable consideration, the receipt and sufficiency of which are acknowledged by the parties, the City and the Contractor agree as follows:

1. COMPENSATION.

Article 3, paragraph A of the Agreement is amended to increase the amount of compensation by a total of five hundred thousand dollars (\$500,000.00), plus applicable gross receipts taxes and as described in Exhibit "A" attached hereto so that Article 3, paragraph A reads in its entirety as follows:

A. City shall pay to the Contractor on a time and materials basis for work pre-approved by an authorized City of Santa Fe Facilities Division representative in an amount that shall not exceed \$750,000.00 plus applicable New Mexico Gross Receipts Tax.

<u>Deliverable item:</u>	<u>U/I (unit of issue)</u>	<u>Price</u>
01 On-Call HVAC, Mechanical, Plumbing & Electrical Services		\$1,250,000.00

The total compensation under this Agreement shall not exceed \$1,250,000.00 plus applicable NMGRT (8.4375%).

2. TERM:

Article 5 of the Agreement is hereby deleted in its entirety and substitute the following Article 5 in its place:

This Agreement shall be effective when signed by the City and the Contractor, whichever occurs last, and shall terminate on June 30, 2022 unless sooner pursuant to Article 7 below.

3. AGREEMENT IN FULL FORCE.

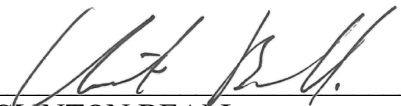
Except as specifically provided in this Amendment, the Agreement remains and shall remain in full force and effect, in accordance with its terms.

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

CITY OF SANTA FE:

CONTRACTOR:

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

  
\_\_\_\_\_  
CLINTON BEALL  
~~SENIOR VICE PRESIDENT B&D~~  
INDUSTRIES

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

DATE: 04.20.2021

CRS#01-716872-004  
Registration #20-00110523

ATTEST:

\_\_\_\_\_  
KRISTINE BUSTOS MIHELICIC  
CITY CLERK

CITY ATTORNEY'S OFFICE:

*Marcos Martinez*

Marcos Martinez (Apr 14, 2021 10:52 MDT)

SENIOR ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

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MARY MCCOY  
FINANCE DIRECTOR

Business Unit Line Item: VARIOUS

City of Santa Fe Contract  
**HVAC, Mechanical, Plumbing and Electrical On-Call for City Facilities**

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

**IT IS MUTUALLY AGREED BETWEEN THE PARTIES:**

1. **Definitions**

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

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

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

D. "You" and "your" refers **B&D Industries, Inc** "We," "us" or "our" refers to the City and whose accounts are created under this Agreement.

2. **Scope of Work**

A. The Contractor shall perform the following work: miscellaneous HVAC, mechanical, plumbing and electrical services for City Facilities via State Price Agreement #90-000-18-00073. See the attached proposal marked "Exhibit A" attached hereto and made a part thereof from **B&D Industries, Inc** to include the following, but is not necessarily inclusive to the following: miscellaneous general contractor services for City Facilities.

3. **Compensation**

The City shall pay to the Contractor on a time and materials basis for work pre-approved by an authorized City of Santa Fe Facilities Division representative in an amount that shall not exceed \$250,000.00 plus applicable New Mexico Gross Receipts Tax.

<u>Deliverable item:</u>	<u>U/I (unit of issue)</u>	<u>Price</u>
01 On-Call HVAC, Mechanical, Plumbing & Electrical Services		\$250,000.00

The total compensation under this Agreement shall not exceed **\$271,093.75 including applicable NMGR (8.4375%)**.

4. **Payment Provisions**

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

- A. Acceptance - In accordance with Section 13-1-158 NMSA 1978, the City shall determine if the product or services provided meet specifications. Until the products or services have been accepted in writing by the City, the City shall not pay for any products or services. Unless otherwise agreed upon between the City and the Contractor, within thirty (30) days from the date the City receives written notice from the Contractor that payment is requested for services or within thirty (30) days from the receipt of products, the City shall issue a written certification (by letter or email) of complete or partial acceptance or rejection of the products or services. Unless the City gives notice of rejection within the specified time period, the products or services will be deemed to have been accepted.
  
- B. Payment of Invoice - Upon acceptance that the products or services have been received and accepted, payment shall be tendered to the Contractor within thirty (30) days after the date of invoice. After the thirtieth day from the date that written certification of acceptance is issued, late payment charges shall be paid on the unpaid balance due on the contract to the Contractor at the rate of 1.5 % per month. Contractor may submit invoices for payment no more frequently than monthly. Payment will be made to the Contractor's designated mailing address. Payment on each invoice shall be due within 30 days from the date of the acceptance of the invoice. The City agrees to pay in full the balance shown on each account's statement, by the due date shown on said statement.

5. **Term**

THIS AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED IN WRITING BY THE CITY. This Agreement shall begin on date approved by the City, and end on 6/30/2021. The City reserves the right to renew the contract on an annual basis by mutual Agreement not exceed a total of four years in accordance with NMSA 1978, §§ 13-1-150 through 152.

6. **Default and Force Majeure**

The City reserves the right to cancel all or any part of any orders placed under this contract without cost to the City, if the Contractor fails to meet the provisions of this contract and, except as otherwise provided herein, to hold the Contractor liable for any excess cost occasioned by the City due to the Contractor's default. The Contractor shall not be liable for any excess costs if failure to perform the order arises out of causes beyond the control and without the fault or negligence of the Contractor; such causes include, but are not restricted to, acts of God or the public enemy, acts of the State or Federal Government, fires, floods, epidemics,

quarantine restrictions, strikes, freight embargoes, unusually severe weather and defaults of sub-contractors due to any of the above, unless the City shall determine that the supplies or services to be furnished by the sub-contractor were obtainable from other sources in sufficient time to permit the Contractor to meet the required delivery scheduled. The rights and remedies of the City provided in this paragraph shall not be exclusive and are in addition to any other rights now being provided by law or under this contract.

## 7. Termination

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

B. Notice; City Opportunity to Cure.

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

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

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

C. Liability. Except as otherwise expressly allowed or provided under this Agreement, the City's sole liability upon termination shall be to pay for acceptable work performed prior to the Contractor's receipt or issuance of a notice of termination; provided, however, that a notice of termination shall not nullify or otherwise affect either party's liability for pre-termination defaults under or breaches of this Agreement. The Contractor shall submit an invoice for such work within thirty (30) days of receiving or sending the notice of termination. *THIS PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE THE CITY'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THIS AGREEMENT.*

## 8. Amendment

A. This Agreement shall not be altered, changed or amended except by instrument in writing executed by the parties hereto and all other required signatories.

B. If the City proposes an amendment to the Agreement to unilaterally reduce funding due to budget or other considerations, the Contractor shall, within thirty (30) days of

receipt of the proposed Amendment, have the option to terminate the Agreement, pursuant to the termination provisions as set forth in Paragraph 7 herein, or to agree to the reduced funding.

9. **Status of Contractor**

The Contractor, and Contractor's agents and employees, are independent Contractors for the City and are not employees of the City. The Contractor, and Contractor's agents and employees, shall not accrue leave, retirement, insurance, bonding, use of City vehicles, or any other benefits afforded to employees of the City as a result of this Agreement. The Contractor acknowledges that all sums received hereunder are personally reportable by the Contractor for income tax purposes, including without limitation, self-employment tax and business income tax. The Contractor agrees not to purport to bind the City unless the Contractor has written authority to do so, and then only within the strict limits of that authority.

10. **Assignment**

The Contractor shall not assign or transfer any interest in this Agreement or assign any claims for money due or to become due under this Agreement without the prior written approval of the City.

11. **Subcontracting**

The Contractor shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of the City. No such subcontract shall relieve the primary Contractor from its obligations and liabilities under this Agreement, nor shall any subcontract obligate direct payment from the City.

12. **Non-Collusion**

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

13. **Inspection of Plant**

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

14. **Commercial Warranty**

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

15. **Condition of Proposed Items**

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

16. **Records and Audit**

During the term of this Agreement and for three years thereafter, the Contractor shall maintain detailed records pertaining to the services rendered and products delivered. These records shall be subject to inspection by the City, the State Auditor and other appropriate state and federal authorities. The City shall have the right to audit billings both before and after payment. Payment under this Agreement shall not foreclose the right of the City to recover excessive or illegal payments.

17. **Appropriations**

The terms of this Agreement, and any orders placed under it, are contingent upon sufficient appropriations and authorization being made by the City Council for the performance of this Agreement. If sufficient appropriations and authorization are not made by the legislature, this Agreement, and any orders placed under it, shall terminate upon written notice being given by the City to the Contractor. The City's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. If the City proposes an amendment to the Agreement to unilaterally reduce funding, the Contractor shall have the option to terminate the Agreement or to agree to the reduced funding, within thirty (30) days of receipt of the proposed amendment.

18. **Release**

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

19. **Confidentiality**

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

20. **Conflict of Interest**

A. The Contractor represents and warrants that it presently has no interest and,

during the term of this Agreement, shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under the Agreement. The Contractor shall comply with any applicable provisions of the New Mexico Governmental Conduct Act and the New Mexico Financial Disclosures Act.

B. The Contractor further represents and warrants that it has complied with, and, during the term of this Agreement, will continue to comply with, and that this Agreement complies with all applicable provisions of the Governmental Conduct Act, Chapter 10, Article 16 NMSA 1978.

C. Contractor's representations and warranties in Paragraphs A and B of this Paragraph are material representations of fact upon which the City relied when this Agreement was entered into by the parties. Contractor shall provide immediate written notice to the City if, at any time during the term of this Agreement, Contractor learns that Contractor's representations and warranties in Paragraphs A and B of this Paragraph 20 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances. If it is later determined that Contractor's representations and warranties in Paragraphs A and B of this Paragraph 20 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances, in addition to other remedies available to the City and notwithstanding anything in the Agreement to the contrary, the City may immediately terminate the Agreement.

D. All terms defined in the Governmental Conduct Act have the same meaning in this section.

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

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

22. **Scope of Agreement; Merger**

This Agreement incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements and understandings have been merged into this written Agreement. No prior agreements or understandings, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

23. **Notice**

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

24. **Equal Opportunity Compliance**

The Contractor agrees to abide by all federal and state laws, and local Ordinances, pertaining to equal employment opportunity. In accordance with all such laws, rules, and regulations, the Contractor agrees to assure that no person in the United States shall on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, or serious medical condition, spousal affiliation, sexual orientation or gender identity, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed under this Agreement. If Contractor is found not to be in compliance with these requirements during the life of this Agreement, Contractor agrees to take appropriate steps to correct these deficiencies.

25. **Indemnification**

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

26. **New Mexico Tort Claims Act**

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

27. **Applicable Law**

The laws of the State of New Mexico shall govern this Agreement, without giving effect to its choice of law provisions. Venue shall be proper only in a New Mexico court of competent jurisdiction in accordance with NMSA 1978, § 38-3-1 (G). By execution of this Agreement, Contractor acknowledges and agrees to the jurisdiction of the courts of the State of New Mexico over any and all lawsuits arising under or out of any term of this Agreement.

28. **Limitation of Liability**

The Contractor's liability to the City, for any cause whatsoever shall be limited to the purchase price paid to the Contractor for the products and services that are the subject of the City's, claim. The foregoing limitation does not apply to paragraph 25 of this Agreement or to damages resulting from personal injury caused by the Contractor's negligence.

29. **Incorporation by Reference and Precedence**

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

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

30. **Workers' Compensation**

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

31. **Inspection**

If this contract is for the purchase of tangible personal property (goods), final inspection and acceptance shall be made at Destination. Tangible personal property rejected at Destination for non-conformance to specifications shall be removed at Contractor's risk and expense promptly after notice of rejection and shall not be allowable as billable items for payment.

32. **Inspection of Services**

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

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

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

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

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

- (1) require the Contractor to take necessary action(s) to ensure that future performance conforms to the requirements of this Agreement; and
- (2) reduce the contract price to reflect the reduced value of the services performed.

E. If the Contractor fails to promptly re-perform the services or to take the necessary action(s) to ensure future performance in conformity with the requirements of this Agreement, the City may:

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

### 33. **Insurance**

If the services contemplated under this Agreement will be performed on or in City facilities or property, Contractor shall maintain in force during the entire term of this Agreement, the following insurance coverage(s), naming the City as additional insured.

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

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

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

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

### 34. **Impracticality of Performance**

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

35. **Invalid Term or Condition**

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

36. **Enforcement of Agreement**

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

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

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

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

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

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

38. **Survival**

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

39. **Disclosure Regarding Responsibility**

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

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

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

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

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

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

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

The City may, without cause, order the Contractor, in writing, to suspend, delay or interrupt the work in whole or in part for such period of time as the City may determine. The contract sum and contract time shall be adjusted for increases in cost and/or time associated with Contractor's compliance therewith. Upon receipt of such notice, Contractor shall leave the

jobsite and any equipment in a safe condition prior to departing. Contractor must assert rights to additional compensation within thirty (30) days after suspension of work is lifted and return to work is authorized. Any compensation requested for which entitlement is granted and the contract sum adjusted, shall have profit included (for work completed) and for cost only (not profit) for Contractor costs incurred directly tied to the suspension itself and not otherwise covered by Contract remedy. Any change in Total Compensation must be reflected in an Amendment executed pursuant to Section 8 of this Agreement.

41. **Notification**

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

J. Sam Burnett, Property Maintenance Manager  
City of Santa Fe Public Works Dept.  
2651 Siringo Road, Building E  
Santa Fe, New Mexico 87504  
jsburnett@santafenm.gov  
505-955-5933

To Contractor:  
B&D Industries, Inc  
9720 Bell Ave SE  
Albuquerque, New Mexico 87123  
505-299-4464 – Office

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

To Contractor:  
B&D Industries, Inc  
9720 Bell Ave SE  
Albuquerque, New Mexico 87123  
505-299-4464 – Office

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


42. **Succession**

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

IN WITNESS WHEREOF, the parties have executed this Agreement to the City of Santa Fe Professional Services Agreement as of the date set forth below.

CITY OF SANTA FE:

CONTRACTOR:

  
ALAN WEBBER,  
MAYOR

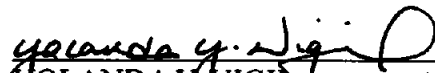
See Attached  
CLINTON BEALL  
SENIOR VICE PRESIDENT B&D  
INDUSTRIES

DATE: 1/28/2020


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

CRS#01-716872-004  
Registration #19-00110523

ATTEST:

  
YOLANDA Y. VIGIL *comtg 12/11/19*  
CITY CLERK

APPROVED AS TO FORM:

 *11/2/19*  
ERIN K. MCSHERRY  
CITY ATTORNEY

APPROVED:

 *mc*  
MARY MCCOY  
FINANCE DIRECTOR

Business Unit Line Item: VARIOUS

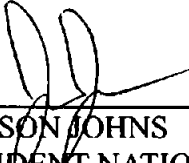
*on-call / citywide  
See attached email*

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

CITY OF SANTA FE:

CONTRACTOR:

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

  
\_\_\_\_\_  
JACKSON JOHNS  
PRESIDENT NATIONAL ROOFING

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

DATE: 12-19-19

CRS#01-851145-007  
Registration #19-00123596

ATTEST:

\_\_\_\_\_  
YOLANDA Y. VIGIL, CITY CLERK

APPROVED AS TO FORM:

\_\_\_\_\_  
ERIN K. MCSHERRY  
CITY ATTORNEY

APPROVED:

\_\_\_\_\_  
MARY MCCOY  
FINANCE DIRECTOR

Business Unit Line Item: MISC

# Item #20-0370

**CITY OF SANTA FE  
AMENDMENT No. 1 TO  
SERVICE AGREEMENT  
ITEM# 20-0027**

AMENDMENT No. 1 (the "Amendment") to the CITY OF SANTA FE SERVICE AGREEMENT, dated January 28, 2020 the "Agreement"), between the City of Santa Fe (the "City") and B&D Industries, Inc (the "Contractor"). The date of this Amendment shall be the date when it is executed by the City and the Contractor whichever occurs last.

**RECITALS:**

A. Under the terms of the Agreement, Contractor has agreed to provide professional HVAC, mechanical plumbing and electrical services for the City of Santa Fe.

B. Pursuant to Article 8 of the Agreement, and for good and valuable consideration, the receipt and sufficiency of which are acknowledged by the parties, the City and the Contractor agree as follows:

1. COMPENSATION.

Article 3, paragraph A of the Agreement is amended to increase the amount of compensation by a total of five hundred thousand dollars (\$500,000.00), plus applicable gross receipts taxes and as described in Exhibit "A" attached hereto so that Article 3, paragraph A reads in its entirety as follows:

A. City shall pay to the Contractor on a time and materials basis for work pre-approved by an authorized City of Santa Fe Facilities Division representative in an amount that shall not exceed \$750,000.00 plus applicable New Mexico Gross Receipts Tax.

<u>Deliverable item:</u>	<u>U/I (unit of issue)</u>	<u>Price</u>
01 On-Call HVAC, Mechanical, Plumbing & Electrical Services		\$750,000.00

The total compensation under this Agreement shall not exceed \$750,000.00 plus applicable NMGRT (8.4375%).

2. TERM:

Article 5 of the Agreement is hereby deleted in its entirety and substitute the following Article 5 in its place:

This Agreement shall be effective when signed by the City and the Contractor, whichever occurs last, and shall terminate on June 30, 2021 unless sooner pursuant to Article 6 below.

3. AGREEMENT IN FULL FORCE.

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

IN WITNESS WHEREOF, the parties have executed this Amendment No. 1 to the City of Santa Fe Professional Services Agreement as of the dates set forth below.

CITY OF SANTA FE:



ALAN WEBBER,  
MAYOR

DATE: 8/17/2020

CONTRACTOR:



CLINTON BEALL  
SENIOR VICE PRESIDENT B&D  
INDUSTRIES

DATE: 7/28/2020

CRS#01-716872-004  
Registration #20-00110523

ATTEST:

*Yolanda Y. Vigil*

YOLANDA Y. VIGIL  
CITY CLERK

gc  
gc

CC Mtg 07/29/2020

CITY ATTORNEY'S OFFICE:

*Marcos Martinez*

Marcos Martinez (May 6, 2020)

SENIOR ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

*Mary McCoy*

MARY MCCOY  
FINANCE DIRECTOR

Business Unit Line Item: VARIOUS

AL  
AL



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

## Section to be completed by department for each contract or contract amendment

1 **FOR:** ORIGINAL CONTRACT  or CONTRACT AMENDMENT

2 Name of Contractor B&D Industries, Inc

3 Complete information requested  Plus GRT  
 Inclusive of

Original Contract Amount: \$271,093.75

Termination Date: June 30, 2021

Approved by Council Date: January 28, 2020

or by City Manager Date: \_\_\_\_\_

**Contract is for:** On-Call HVAC, Mechanical, Plumbing and electrical services for City Facilities using SPA#90-000-18-00073

Amendment # 2 to the Original Contract# 20-0027

Increase/(Decrease) Amount \$ \$500,000.00

Extend Termination Date to: June 30, 2022

Approved by Council Pending

or by City Manager Date: \_\_\_\_\_

### Amendment is for:

-----

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

Amount \$ 250,000.00 of original Contract# 20-0027 Termination Date: 6/30/2021

Reason: \_\_\_\_\_

Amount \$ 500,000.00 amendment # 1 Termination Date: 6/30/2021

Reason: Increase compensation for next fiscal year.

Amount \$ 500,000.00 amendment # 2 Termination Date: 6/30/2021

Reason: Increase compensation and extend term for next fiscal year.

Amount \$ \_\_\_\_\_ amendment # \_\_\_\_\_ Termination Date: \_\_\_\_\_

Reason: \_\_\_\_\_

Total of Original Contract plus all amendments: \$ \$1,250,000.00



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

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

RFP# \_\_\_\_\_ Date: \_\_\_\_\_

RFQ  \_\_\_\_\_ Date: \_\_\_\_\_

Sole Source  \_\_\_\_\_ Date: \_\_\_\_\_

Other State Price Agreement 90-000-18-00073

6 **Procurement History:** Second year of a (2) year contract  
example: (First year of 4 year contract)

*Fran Dunaway*  
Fran Dunaway (Apr 28, 2021 08:29 MDT)

### Purchasing Officer Review

**Comments or Exceptions:** issuance of contract -use NM SWPA \$1.2 million

Citywide various funding plus

7 **Funding Source:** Midtown Operations Repairs & Maintenance **BU/Line Item:** Misc Org/Obj 5256175.520100

*Andy Hopkins*  
Andy Hopkins (Apr 26, 2021 15:47 MDT)

### Budget Officer Approval

**Comments or Exceptions:** \_\_\_\_\_

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

\_\_\_\_\_  
(Memo may be attached to explain detail.)

9 **Staff Contact who completed this form:** J Sam Burnett

Phone # 505-795-2491

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

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

**To be recorded by City Clerk:**

Contract # \_\_\_\_\_

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

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

**Comments:**



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

## BUSINESS REGISTRATION

**Business Name:** B & D INDUSTRIES, INC.  
DBA: B & D INDUSTRIES, INC.

**Business Location:** 9720 BELL SE  
ALBUQUERQUE, NM 87123

**Owner:** B & D INDUSTRIES INC

**License Number:** 224955

**Issued Date:** December 29, 2020

**Expiration Date:** December 29, 2021

**CRS Number:** 01-716872-004

**License Type:** Business License - Renewable

**Classification:** Out of Jurisdiction Contractor -  
General

**Fees Paid:** \$10.00

B & D INDUSTRIES, INC.  
9720 BELL SE  
ALBUQUERQUE , NM 87123

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

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

**TO BE POSTED IN A CONSPICUOUS PLACE**



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
11/11/2020

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

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

<b>PRODUCER</b> License # 0757776 <b>HUB International Insurance Services (SOW)</b> 6565 Americas Parkway Suite 720 Albuquerque, NM 87110	<b>CONTACT NAME:</b> Carrie Butler <b>PHONE (A/C, No, Ext):</b> (505) 262-9412 9412 <b>FAX (A/C, No):</b> (866) 487-3972 <b>E-MAIL ADDRESS:</b> Carrie.Butler@hubinternational.com													
	<table border="1"> <tr> <th>INSURER(S) AFFORDING COVERAGE</th> <th>NAIC #</th> </tr> <tr> <td>INSURER A : <b>Valley Forge Insurance Company</b></td> <td><b>20508</b></td> </tr> <tr> <td>INSURER B : <b>National Fire Insurance Company of Hartford</b></td> <td><b>20478</b></td> </tr> <tr> <td>INSURER C : <b>Continental Insurance Company of New Jersey</b></td> <td><b>42625</b></td> </tr> <tr> <td>INSURER D : <b>Builders Trust of New Mexico</b></td> <td></td> </tr> <tr> <td>INSURER E :</td> <td></td> </tr> <tr> <td>INSURER F :</td> <td></td> </tr> </table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A : <b>Valley Forge Insurance Company</b>	<b>20508</b>	INSURER B : <b>National Fire Insurance Company of Hartford</b>	<b>20478</b>	INSURER C : <b>Continental Insurance Company of New Jersey</b>	<b>42625</b>	INSURER D : <b>Builders Trust of New Mexico</b>		INSURER E :		INSURER F :
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**INSURED**

**B & D Industries, Inc.**  
 9720 Bell Ave SE  
 Albuquerque, NM 87123

### COVERAGES

**CERTIFICATE NUMBER:**


**REVISION NUMBER:**

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> <b>COMMERCIAL GENERAL LIABILITY</b> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:	X	X	6016149399	11/11/2020	11/11/2021	EACH OCCURRENCE \$ <b>1,000,000</b>
							DAMAGE TO RENTED PREMISES (Ea occurrence) \$ <b>1,000,000</b>
							MED EXP (Any one person) \$ <b>15,000</b>
							PERSONAL & ADV INJURY \$ <b>1,000,000</b>
							GENERAL AGGREGATE \$ <b>2,000,000</b>
							PRODUCTS - COMP/OP AGG \$ <b>2,000,000</b>
							\$
B	<input checked="" type="checkbox"/> <b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS ONLY	X	X	6016149371	11/11/2020	11/11/2021	COMBINED SINGLE LIMIT (Ea accident) \$ <b>1,000,000</b>
							BODILY INJURY (Per person) \$
							BODILY INJURY (Per accident) \$
							PROPERTY DAMAGE (Per accident) \$
							\$
C	<input checked="" type="checkbox"/> <b>UMBRELLA LIAB</b> <input type="checkbox"/> EXCESS LIAB DED <input checked="" type="checkbox"/> RETENTION \$ <b>10,000</b>	X	X	6016149404	11/11/2020	11/11/2021	EACH OCCURRENCE \$ <b>5,000,000</b>
							AGGREGATE \$ <b>5,000,000</b>
							\$
B	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <b>N</b>	N/A	6016149385	11/11/2020	11/11/2021	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER
							E.L. EACH ACCIDENT \$ <b>500,000</b>
							E.L. DISEASE - EA EMPLOYEE \$ <b>500,000</b>
							E.L. DISEASE - POLICY LIMIT \$ <b>500,000</b>
D	<b>Worker's Compensatio</b>		X	5672	1/1/2021	1/1/2022	<b>Accid/Empl/Pol Limit</b> \$ <b>2,000,000</b>

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

SEE ATTACHED ACORD 101

<b>CERTIFICATE HOLDER</b>  City of Santa Fe 500 Market Santa Fe, NM 87501	<b>CANCELLATION</b>  SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE 

**ADDITIONAL REMARKS SCHEDULE**

AGENCY <b>HUB International Insurance Services (SOW)</b>	License # 0757776	NAMED INSURED <b>B &amp; D Industries, Inc. 9720 Bell Ave SE Albuquerque, NM 87123</b>
POLICY NUMBER <b>SEE PAGE 1</b>		
CARRIER <b>SEE PAGE 1</b>	NAIC CODE <b>SEE P 1</b>	EFFECTIVE DATE: <b>SEE PAGE 1</b>

**ADDITIONAL REMARKS**

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,  
FORM NUMBER: ACORD 25 FORM TITLE: Certificate of Liability Insurance

**Description of Operations/Locations/Vehicles:**

**Umbrella is Form Following over General Liability, Auto Liability and Employers Liability. Additional Insured, Waiver of Subrogation and Primary Non-Contributory apply per attached policy forms.**

# CITY OF SANTA FE PROCUREMENT CHECKLIST

Contractor Name: B&D Industries, Inc

Procurement Title: B&D Industries Inc – HVAC On-Call Amendment #2

State Price Agreement #90-000-18-00073

Department Requesting/Staff Member: Public Works Dept, Facilities Division. J Sam Burnett, Property Manager

**Procurement Requirements:**

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

**REQUIRED DOCUMENTS FOR APPROVAL BY PURCHASING\***

YES	N/A	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Approved Procurement Checklist (by Purchasing)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Departments Recommendation of Award Memo addressed to Finance
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Evaluation Committee Report
<input type="checkbox"/>	<input checked="" type="checkbox"/>	BAR
<input type="checkbox"/>	<input checked="" type="checkbox"/>	FIR
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Contract, Agreement or Amendment – How does Purchasing staff verify the contract has been approved to form by City Attorney?
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Current Business Registration and CRS numbers on contract or agreement
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Summary of Contract
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Certificate of Insurance
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Other: _____

J Sam Burnett, Public Works Property Manager

Department Rep Printed Name and Title

\_\_\_\_\_  
Department Rep Signature attesting that all information included

\_\_\_\_\_  
Purchasing Officer attesting that all information is reviewed

**REQUIRED DOCUMENTS FOR RFP FILE\***

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

\*

- |                          |                                     |  |
|--------------------------|-------------------------------------|--|
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Documentation sent to Proponents/Offerors and responses received regarding clarifications, decisions, negotiations, and/or best and final offers, etc. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Reference Reviews/Reference Check Questionnaires   |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Pricing evaluation   |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Final overall evaluation matrix or summary of evaluator scores   |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Other: _____   |

**AWARD\***

**YES      N/A**

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

**DISCLOSURES\***

**YES      N/A**

- |   |                                     |  |
|---|-------------------------------------|--|
| <b>Contractor Disclosures &amp; Conflicts of Interest</b> |                                     |  |
| <input type="checkbox"/>                                  | <input checked="" type="checkbox"/> | Disclosures & Conflicts of Interest Form(s) (winning proponent(s)/offeror(s))            |
| <b>Contractor –Conflicts of Interest</b>                  |                                     |  |
| <input type="checkbox"/>                                  | <input checked="" type="checkbox"/> | Purchasing Office Letter or e-mail to designated individual regarding potential conflict |
| <input type="checkbox"/>                                  | <input checked="" type="checkbox"/> | Conflict of Interest Form signed by all parties  |
| <input type="checkbox"/>                                  | <input checked="" type="checkbox"/> | Letter from Procurement Office regarding the potential conflict                          |
| <b>Subcontractor Disclosures</b>                          |                                     |  |
| <input type="checkbox"/>                                  | <input checked="" type="checkbox"/> | Disclosures & Conflicts of Interest form of Subcontractor(s)                             |
| <b>Subcontractor –Conflicts of Interest</b>               |                                     |  |
| <input type="checkbox"/>                                  | <input checked="" type="checkbox"/> | Purchasing Officer Letter or email to designated individual regarding potential conflict |
| <input type="checkbox"/>                                  | <input checked="" type="checkbox"/> | Conflict of Interest form signed by all parties  |
| <input type="checkbox"/>                                  | <input checked="" type="checkbox"/> | Letter from Legal Office regarding the potential conflict                                |
| <input type="checkbox"/>                                  | <input checked="" type="checkbox"/> | Other: _____   |

**CONTRACT\***

**YES      N/A**

- |                                     |                          |   |
|-------------------------------------|--------------------------|---|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Copy of Executed Contract                             |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Copy of all documentation presented to the Committees |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Finalized Council Committee Minutes                   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Other: _____  |

**MISCELLANEOUS FILE\***

**YES      N/A**

- |                          |                                     |                           |
|--------------------------|-------------------------------------|---------------------------|
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Local Preference Form     |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | New Mexico Residence Form |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Veterans Exemption        |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Other: _____              |

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

\*

**PROTEST (If applicable)\***

YES	N/A	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Documentation from protester filed with the Purchasing Office
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Letter from Department to Purchasing Office Providing response to protest
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Letter from Purchasing Officer to protester and Department on final outcome
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Other: _____

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

YES	N/A	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Original proposal (s) with no redactions

J Sam Burnett, Public Works Property Manager

Department Rep Printed Name and Title

\_\_\_\_\_  
Department Rep Signature attesting that all information included

**Signature:** *J Samuel Burnett*  
J Samuel Burnett (Apr 26, 2021 14:55 MDT)

**Email:** jsburnett@santafenm.gov








# GB PWD AMENDMENT 2 TO B D ON-CALL

Final Audit Report

2021-04-26

Created:	2021-04-26
By:	Lailah Herrera (lherrera@ci.santa-fe.nm.us)
Status:	Canceled / Declined
Transaction ID:	CBJCHBCAABAAvVtrGrSbCxah1m98I7Xj4PGcsTc3JwWB

## "GB PWD AMENDMENT 2 TO B D ON-CALL" History

-  Document created by Lailah Herrera (lherrera@ci.santa-fe.nm.us)  
2021-04-26 - 7:54:39 PM GMT- IP address: 63.232.20.2
-  Document emailed to J Samuel Burnett (jsburnett@santafenm.gov) for signature  
2021-04-26 - 8:03:40 PM GMT
-  Email viewed by J Samuel Burnett (jsburnett@santafenm.gov)  
2021-04-26 - 8:54:26 PM GMT- IP address: 63.232.20.2
-  Document e-signed by J Samuel Burnett (jsburnett@santafenm.gov)  
Signature Date: 2021-04-26 - 8:55:34 PM GMT - Time Source: server- IP address: 63.232.20.2
-  Document emailed to ajhopkins@santafenm.gov for signature  
2021-04-26 - 8:55:36 PM GMT
-  Email viewed by ajhopkins@santafenm.gov  
2021-04-26 - 9:05:26 PM GMT- IP address: 104.47.65.254
-  Document declined by ajhopkins@santafenm.gov  
2021-04-26 - 9:06:37 PM GMT- IP address: 63.232.20.2