City of Santa Fe

AGENDA

SPECIAL MEETING OF THE PUBLIC WORKS AND UTILITIES COMMITTEE
SEPTEMBER 07, 20215:00 PM
ATTEND VIRTUALLY

AMENDED AGENDA FOR PUBLIC WORKS AND UTILITIES COMMITTEE MEETING

Attendance: In response to the State's declaration of a Public Health Emergency, the Mayor's Proclamation of Emergency, and the ban on public gatherings in excess of those permitted in the current Public Health Order, and the need to incorporate technology and practices to re-institute in-person meetings consistent with the limitations established by the Order, the Public Works and Utilities 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.

Internet: To join the Zoom meeting on the internet using a computer, laptop, smartphone, or tablet, use the following link: https://santafenm-gov.zoom.us/j/87292558897?pwd=bWpzbXBKUW91aUJNM2tsZDdIaGFSUT09
Passcode: 585492
Attendees should use the "Raise Hand" function to be recognized by the Chair to speak at the appropriate time.
Phone: To join the Zoom meeting using a phone, use the following phone numbers and Webinar ID: **US:1 669 900 6833 - Webinar ID:872 9255 8897**
Passcode: 585492
Phone attendees should press *9 to use the "Raise Hand" function to be recognized by the Chair to speak at the appropriate time.
The agenda and packet for the meeting will be posted at https://santafe.primegov.com/public/portal.

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

5. **APPROVAL OF MINUTES**

a. Approval of minutes from the August 23, 2021 Public Works and Utilities Committee Meeting.

6. **PRESENTATION/INFORMATIONAL ITEMS**

a. City of Santa Fe Monthly Water Supply and Demand Update. (Jesse Roach, Water Division Director, jdroach@santafenm.gov, 955-4309) **INFORMATION ONLY**

b. Presentation on the Santa Fe Watershed Academy by Intern Participants. (Alan G. Hook, Water Resources Coordinator Assistant, aghook@santafenm.gov, 955-4205)

7. **ACTION ITEMS: CONSENT**

a. **Request to Publish Notice of Public Hearing on September 29, 2021.** An Ordinance Amending the Land Development Code, Chapter 14 FCC 1987, to Address Zoning Issues Related to Cannabis; Amending Table 14-6.1-1, Table of Permitted Uses, to Clarify Zoning Districts for Various Types of Cannabis Establishments, and to Adopt Operating Times, Density Limitations, and a Minimum Distance Between Cannabis Retail Establishments and Schools or Daycare Centers; Amending Subsection 14-6.2(H), Agricultural Uses, to Address Cannabis Production; Adding a New Subsection 14-6.2(I) to Adopt Use-Specific Standards for Cannabis Establishments, Including Operating Times, Density Limitations, and a Minimum Distance Between Cannabis Retail Establishments and Schools or Daycare Centers; Amending Subsection 14-6.3(B)(2) to Prohibit Commercial Cannabis Establishments as Accessory Uses or Structures on Residentially Zoned Property; Amending Subsection 14-6.3(D)(2) to Prohibit the Conduct of a Cannabis Establishment as a Home Occupation; Amending Section 14-12.1 to Add Definitions for Various Types of Cannabis Establishments; Establishing an Effective Date; and Making Such Other Changes as are Necessary to Carry Out the Purpose of this Ordinance. (Andrea Salazar, Assistant City Attorney: asalazar@santafenm.gov,

955-6303 and Noah Berke, Current Planning Manager: nlberke@santafenm.gov, 955-6647)

Committee Review:
Planning Commission: 08/19/21
Planning Commission: 09/02/21
Public Works and Utilities Committee: 09/07/21
Economic Development Advisory Committee: 09/08/21
Governing Body (Request to Publish): 09/08/21
Quality of Life Committee: 09/15/21
Finance Committee: 09/20/21
Governing Body (Public Hearing): 09/29/21

b. Request Approval for Award of Bid Number '21/43/B for the FY 2022 Priority Line Replacement Price Agreement, CIP # 3058 to Sub Surface Contracting, Inc. and A.A.C Construction, LLC. (Bill Huey, Water Division Engineer, bchuey@santafenm.gov, 955-4273)

1) Request for Approval of a Budget Adjustment Resolution (BAR) in the Amount of $3,500,000.

Committee Review:
Finance Committee: 08/30/2021
Public Works and Utilities Committee: 09/07/2021
Governing Body: 09/08/2021

c. Request for Approval of Change Order #2 to CIP #957 Aeration, Project, Bid number '20/17/B with RMCI Inc. for an increase in the amount of $750,968.20. (Efran Morales, Wastewater Management Plant Supervisor, emmorales@santafenm.gov, 955-4618)

1) Request of a BAR (Budget Adjustment Resolution) from the Wastewater Enterprise Fund in the amount of $750,968.20

Committee Review:
Public Works and Utilities Committee: 09/07/2021
Finance Committee: 09/20/2021
Governing Body: 09/29/2021

d. Request for Approval to Award ITB #21/38/B to Low Bidder EMCO of Santa Fe, LLC, for Runway 2 Runway Safety Area (RSA) Grading, in a Total

Amount of $396,886.41, Inclusive of New Mexico Gross Receipts Tax. (Mark Baca, Airport Manager: mdcaca@santafenm.gov, 955-2901)

Committee Review:
Finance Committee: 08/30/21
PW/U Committee: 09/07/21
Governing Body: 09/08/21

e. Review and Recommend Approval of Consolidated Annual Performance Evaluation Review (CAPER) on Uses of CDBG Funds for the 2020 - 2021 Program Year, as Required by HUD. (Alexandra Ladd, Director, Office of Affordable Housing: agladd@santafenm.gov, 505-303-9868)

Committee Review:
Finance Committee: 08/30/2021
Community Development Commission: 09/01/2021
Quality of Life Committee: 09/01/2021
Public Works and Utilities Committee: 09/07/2021
Govering Body (Public Hearing): 09/08/2021

f. Request for Approval of Budget Amendment Resolution (BAR) Amendment to Allocate $4,000,000 for Use of General Fund GRT Revenues Earned in the Prior Year (FY21) Above Budgeted Revenue to Fund the Southside Teen Center Project. (Sam Burnett, Facilities Division Director, jsburnett@santafenm.gov, 505-795-2491)

Committee Review:
Finance Committee: 08/30/2021
Public Works and Utilities Committee: 09/07/2021
Governing Body: 09/08/2021

g. **Ratification of the City Manager's Approval of** Airport Coronavirus Response Grant Program (ACRGP) Concessions Relief Addendum Award No. 3-35-0037-056-2021 in the Amount of $30,578 and Approval of the BAR to Budget Grant Funds into the Airport FY22 Operating Budget Federal Grant Revenue Org and Object 5456050.490550. (Mark Baca, Airport Manager: mdbaca@santafenm.gov, 955-2901)

Committee Review:
Public Works and Utilities Committee: 09/07/21
Governing Body: 09/08/21

h. **Ratification of the City Manager's Approval of** Airport Rescue Grant Award No. 3-35-0037-057-2021 in the Amount of $2,226,110 and Approval of the BAR to Budget Grant Funds Into the Airport FY22 Operating Budget Federal Grant Revenue Org and Object 5456050.490550. (Mark Baca, Airport Manager: mdbaca@santafenm.gov, 955-2901)

Committee Review:
Public Works and Utilities Committee: 09/07/21
Governing Body: 09/08/2021

i. Request for Award of Proposal #22/04/P Professional Services Agreement with Financial Consulting Solutions Group, Inc. for 4 years in the amount of $636,052.51 inclusive of NMGRT. (Maya Martinez, Public Utilities Fiscal Administrator, mfmartinez@santafenm.gov, 955-4271)
Committee Review:
Public Works and Utilities Committee: 09/07/2021
Finance Committee: 09/20/2021
Governing Body: 09/29/2021

j. Request for Approval of Professional Services Agreement with John Shoe Maker and Associates, for Hydrology, Hydrogeology and Water Resources services in the amount of $197,560 exclusive of NMGRT. (William Schneider, Water Resources Manager,whschneider@santafenm.gov, 955-4203)
Committee Review:
Public Works and Utilities Committee: 09/07/2021
Finance Committee: 09/20/2021
Governing Body: 09/29/2021

k. Request for Approval of an Agreement with Jayne's Corporation for the Construction of the South Side Teen Center in the Total Amount of $9,267,014.53 Including New Mexico Gross Receipts Tax. (Sam Burnett, Facilities Division Director: jsburnett@santafenm.gov, 505-795-2491)

Committee Review:
Governing Body: 09/08/2021

8. **MATTERS FROM STAFF**

9. **MATTERS FROM THE COMMITTEE**

10. **MATTERS FROM THE CHAIR**

11. **NEXT MEETING: Monday, September 27, 2021**

12. **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.

City of Santa Fe

MINUTES

REGULAR MEETING OF THE PUBLIC WORKS AND UTILITIES COMMITTEE AUGUST 23, 2021 AT 5:00 PM VIRTUAL MEETING

1. CALL TO ORDER

meeting started at 5:00pm

2. ROLL CALL

Members Present:
Councilor Chris Rivera
Councilor Michael Garcia
Councilor Roman Abeyta
Councilor Signe Lindell
Councilor JoAnne Vigil Coppler

Members Excused:
None

Others Attending:
Jamie-Rae Diaz, Administrative Manager
Regina Wheeler, Public Works Department Director
Shannon Jones, Public Utilities Department Director

3. APPROVAL OF AGENDA

MOTION: Councilor Lindell moved, seconded by Councilor Vigil Coppler, to approve the as presented.

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

For: Councilor Rivera, Councilor Garcia, Councilor Abeyta, Councilor Lindell, Councilor Vigil Coppler

Against: None

Abstain: None

4. APPROVAL OF CONSENT AGENDA

MOTION: Councilor Lindell moved, seconded by Councilor Vigil Coppler, to approve the as amended.

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

For: Councilor Rivera, Councilor Garcia, Councilor Abeyta, Councilor Lindell, Councilor Vigil Coppler

Against: None

Abstain: None

Item 7a was pulled by Councilor Vigil Coppler for discussion

5. **APPROVAL OF MINUTES**

a. Approval of minutes from the August 9, 2021 Public Works and Utilities Committee.

MOTION: Councilor Vigil Coppler moved, seconded by Councilor Lindell, to approve the minutes as presented.

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

For: Councilor Rivera, Councilor Garcia, Councilor Abeyta, Councilor Lindell, Councilor Vigil Coppler

Against: None

Abstain: None

6. **PRESENTATION**

a. Update on Public Works Employee Training for the FY21 4th Quarter. (Regina Wheeler, Public Works Director, rawheeler@santafenm.gov, 955-6622)

7. **ACTION ITEMS: CONSENT**

a. CONSIDERATION OF RESOLUTION NO. 2021-__. (Councilor Cassutt)

A Resolution Finding the Building and Premises Located at 3003 Calle Caballero to be Ruined, Damaged, and Dilapidated and a Menace to the Public Comfort, Health, Peace, and Safety; Ordering the Owner of Record of 3003 Calle Caballero to Remove the Building, Rubbish, and Debris from the Municipality; and Providing that if the Owner of Record of 3003 Calle Caballero Does Not Remove the Building Rubbish, and Debris, the City of Santa Fe Shall Remove the Building, Rubbish, and Debris and Place a Lien on the Property in an Amount of the Cost of the City's Clean-Up Efforts. (Mike Prinz, Assistant City Attorney; mnprinz@santafenm.gov, 955-6554)

Committee Review:
Introduced: 08/02/21
Finance Committee: 08/16/21
Public Works and Utilities Committee: 08/23/21
Governing Body: 08/25/21

MOTION: Councilor Vigil Coppler moved, seconded by Councilor Lindell, to Pulled by Councilor Vigil Coppler for discussion. Approv the resolution as presented.

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

For: Councilor Rivera, Councilor Garcia, Councilor Abeyta, Councilor Lindell, Councilor Vigil Coppler

Against: None

Abstain: None

8. **ACTION ITEMS: DISCUSSION**

9. **EXECUTIVE SESSION**

10. **MATTERS FROM STAFF**

11. **MATTERS FROM THE COMMITTEE**

12. **MATTERS FROM THE CHAIR**

13. **NEXT MEETING: September 07 2021**

14. **ADJOURN**

meeting adjourn at approximately 5:20pm

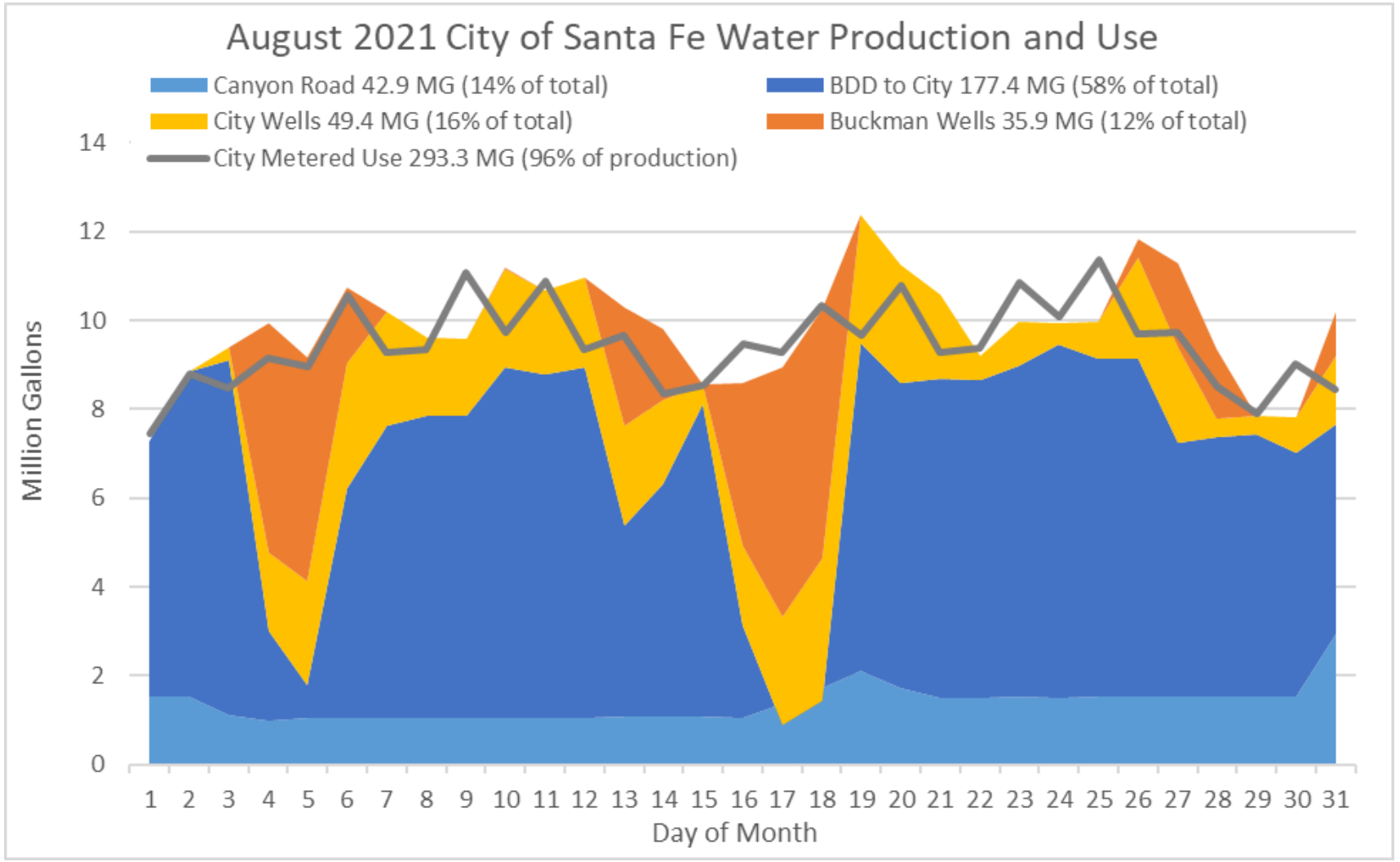
Liaison

Chair

CoSF Water Supply & Demand Update: August 2021

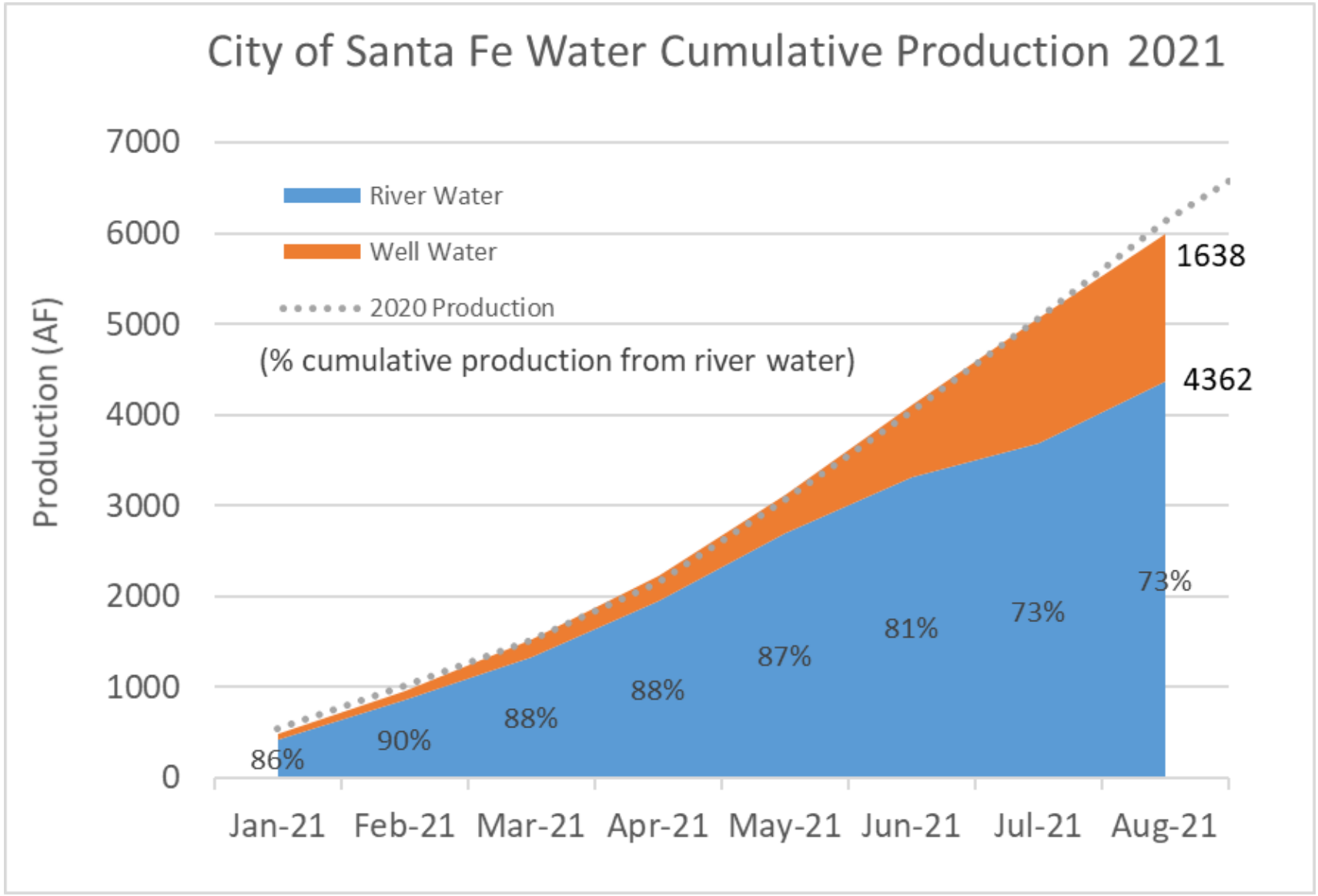
1. Monthly Supply and Demand Summary

- City of Santa Fe Water produced 306 million gallons of potable water in August.
- 72% of that production came from surface water sources (rivers).
- Turbidity (muddy water) on the Rio Grande caused reductions in production at Buckman Direct Diversion around the 5th and 17th.
- 96% of potable water produced was delivered to customers (4% "unaccounted" water loss).
- Potable production and use by day through the month shown on Page 2.
- Use numbers are provisional as they estimate use at 3 County meters.


August 2021 City of Santa Fe Water Production and Use
Canyon Road 42.9 MG (14% of total)
BDD to City 177.4 MG (58% of total)
City Wells 49.4 MG (16% of total)
Buckman Wells 35.9 MG (12% of total)
City Metered Use 293.3 MG (96% of production)
Million Gallons
0
2
4
6
8
10
12
14
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31
Day of Month

2. Cumulative Annual Surface Water and Groundwater Production

- Through August of 2021, City of Santa Fe Water has produced 6000 AF of potable water
- 73% (4362 AF) of this annual production has come from river water
- 27% (1638 AF) of this annual production has come from wells.
- City of Santa Fe Water estimates renewable groundwater availability from all of our wells of approximately 5000 AF per year.
- Total production through August 2021 is slightly below 2020 production for the same time period.
- 2021 well water use is approximately double 2020 amounts.
- Cumulative annual production from rivers and wells is shown on Page 4.


City of Santa Fe Water Cumulative Production 2021
Production (AF)
7000
6000
5000
4000
3000
2000
1000
0
River Water
Well Water
2020 Production
(% cumulative production from river water)
1638
4362
86%
90%
88%
88%
87%
81%
73%
73%
Jan-21
Feb-21
Mar-21
Apr-21
May-21
Jun-21
Jul-21
Aug-21

3. City of Santa Fe Water Reservoir Storage

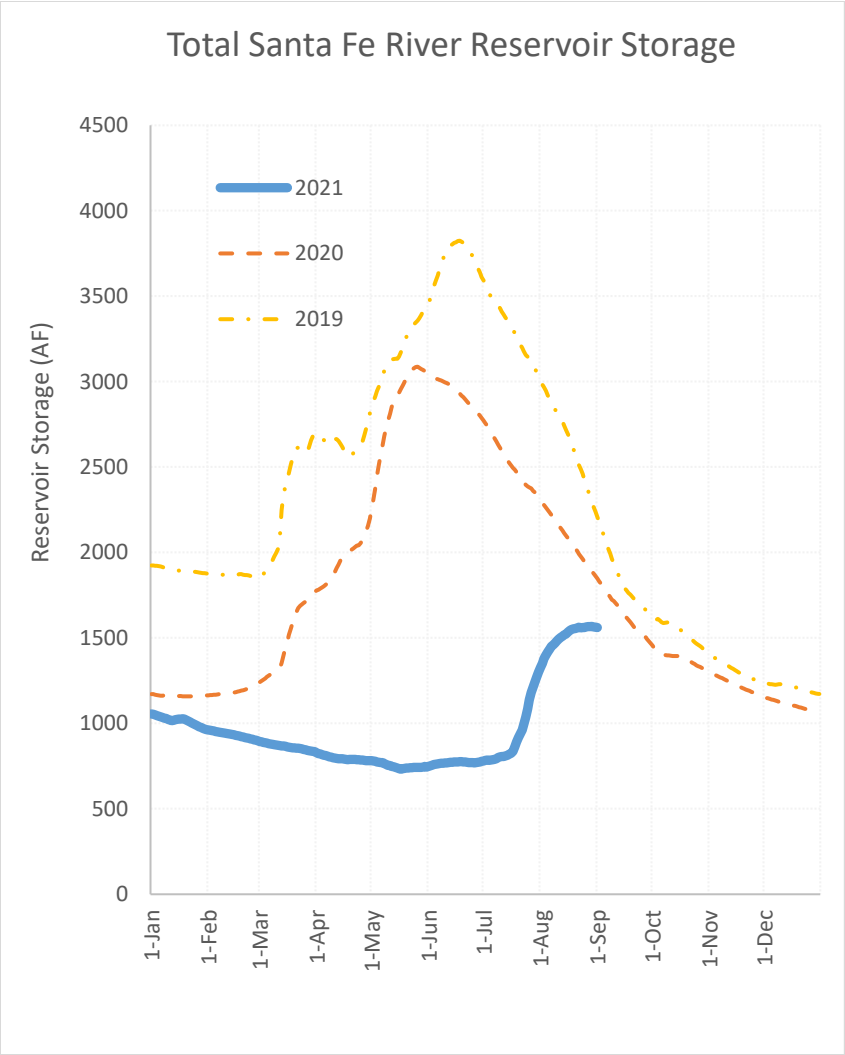
- Through August of 2021, City of Santa Fe Water has produced 6000 AF of potable water

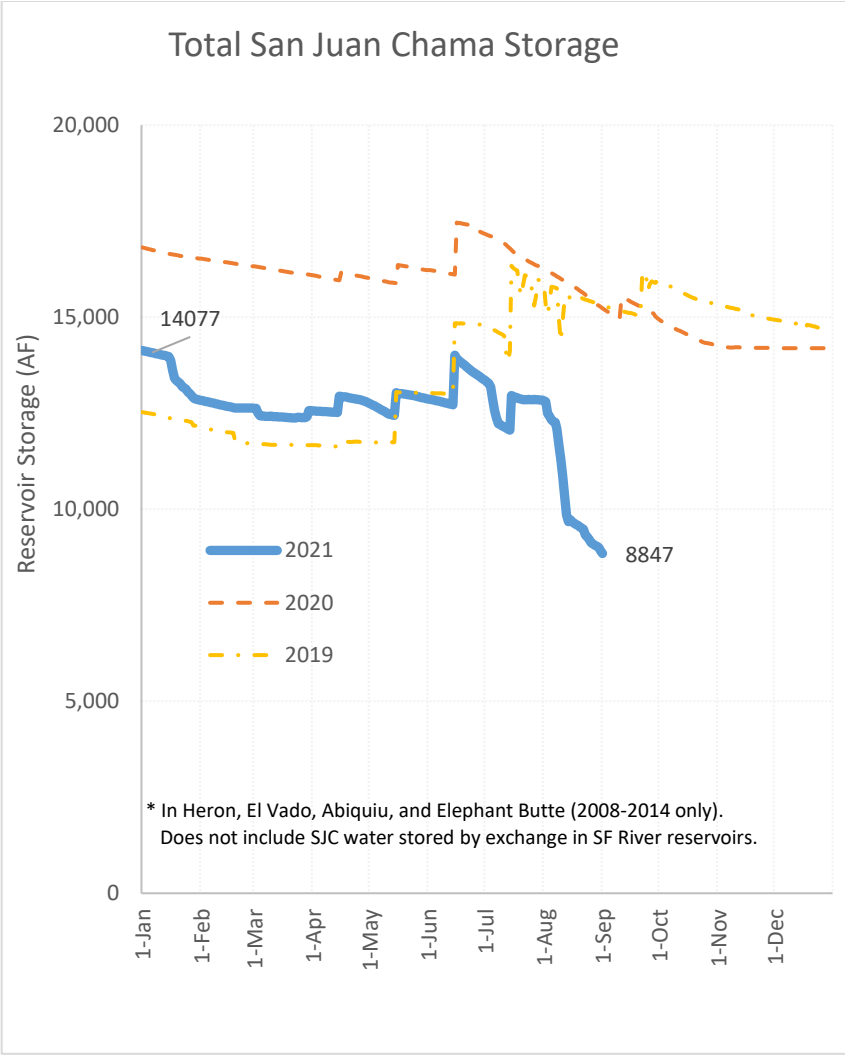
- July brought exceptional inflows to the upper Santa Fe River which has allowed us to increase storage in Santa Fe River reservoirs such that they are now at similar levels seen in the past couple of years at the end of August.

- San Juan Chama storage is as low as it has been in the past 20 years.

- San Juan Chama storage will increase by 4345 AF in early September when a temporary loan made to MRGCD (irrigators below Cochiti) to help with their operations is repaid.

- Reservoir storage in 2021 compared to 2019 and 2020 is show on Page 6.


Total Santa Fe River Reservoir Storage
Reservoir Storage (AF)
4500
4000
3500
3000
2500
2000
1500
1000
500
0
2021
2020
2019
1-Jan
1-Feb
1-Mar
1-Apr
1-May
1-Jun
1-Jul
1-Aug
1-Sep
1-Oct
1-Nov
1-Dec

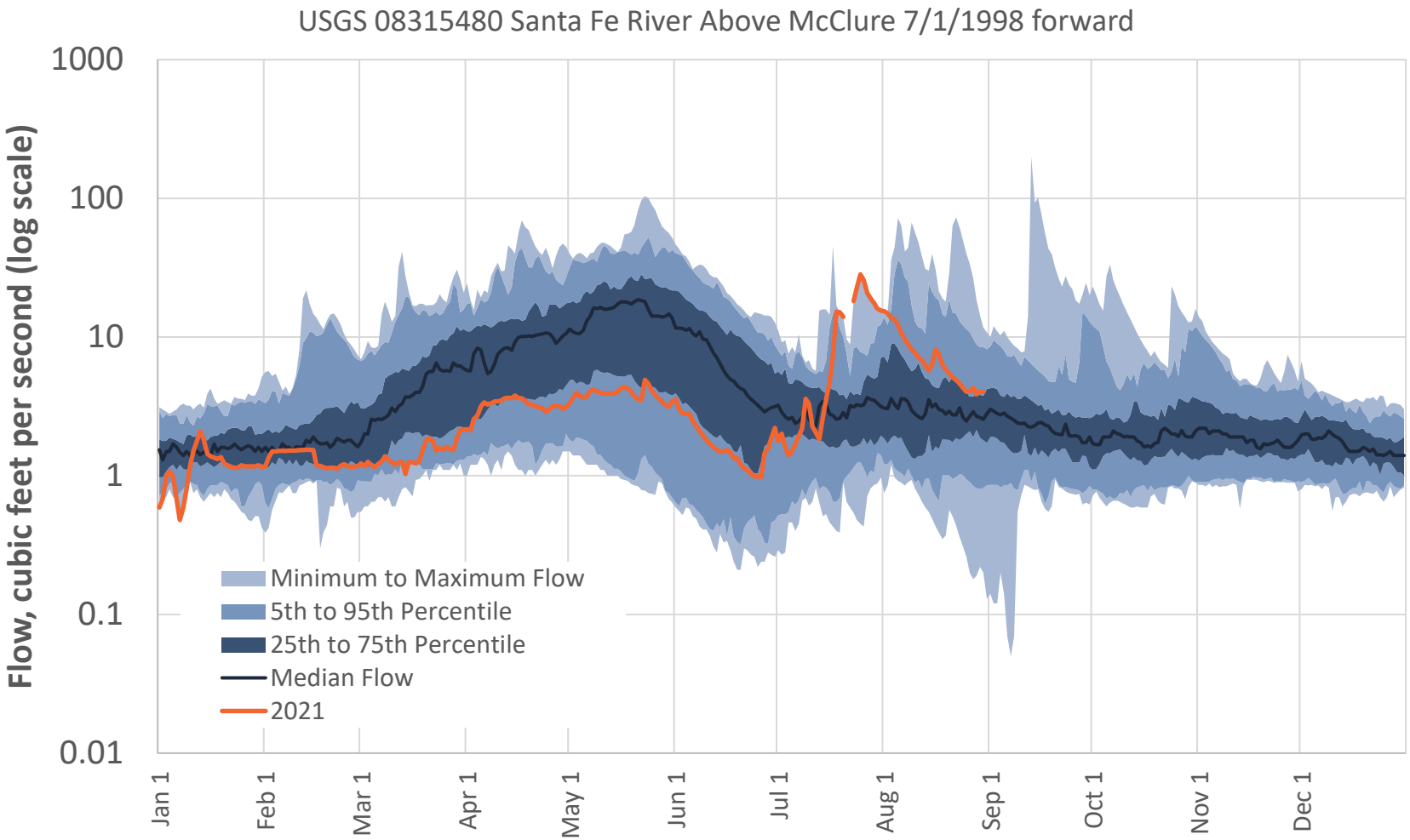

Total San Juan Chama Storage
Reservoir Storage (AF)
20,000
15,000
10,000
5,000
0
14077
8847
2021
2020
2019
* In Heron, El Vado, Abiquiu, and Elephant Butte (2008-2014 only).
Does not include SJC water stored by exchange in SF River reservoirs.
1-Jan
1-Feb
1-Mar
1-Apr
1-May
1-Jun
1-Jul
1-Aug
1-Sep
1-Oct
1-Nov
1-Dec

4. Miscellaneous

- January through June inflows to McClure were lower than 3 of 4 years since 1998

- July rains resulted in flows that for the second half of July were the largest July inflows to McClure seen since the gage was installed in 1998.

- Santa Fe River inflows to McClure Reservoir in 2021 compared to 1998 through 2020 are shown on a log scale on page 8.


USGS 08315480 Santa Fe River Above McClure 7/1/1998 forward
Flow, cubic feet per second (log scale)
1000
100
10
1
0.1
0.01
Jan 1
Feb 1
Mar 1
Apr 1
May 1
Jun 1
Jul 1
Aug 1
Sep 1
Oct 1
Nov 1
Dec 1
Minimum to Maximum Flow
5th to 95th Percentile
25th to 75th Percentile
Median Flow
2021

Santa Fe Watershed Academy
Water Job Pathways for Santa Fe Youth

Youth increasingly face pressure to detach from the natural world and the resources that keep them connected to their community, natural resources, and job opportunities. 60% of 9-12 grade students spend more than 3 hours of screen time on phones, TVs and computers daily in 2015 and only 31% of youth engaged in daily physical activity (NM Youth Risk YRRS, 2015, p.54). Even fewer youth get outdoors doing physical activity or working outside, participating in assessing and improving watershed conditions so that they have greater resilience in the face of climate change.

Public schools often struggle to develop meaningful connections between business enterprises that offer employment for youth. Teachers rarely have adequate time to make the necessary community connections and create projects that have meaning outside the classroom. The COVID pandemic only has increased the negative aspects of these trends.

River Source creates water job pathways that includes hydrology, restoration ecology, watershed management, and green stormwater infrastructure. The experiences provide youth with meaningful public engagement with water professionals, business partners and government agencies. River Source builds capacity, rather than creating dependency, with awareness that more work needs to be done to create water resilience than can be done by a few isolated people or groups. This approach helps sustain hope in a world with few economic opportunities for youth and degraded environment. The goal is to nurture the growth of the watershed protection sector by building job skills for youth to assess watershed conditions and take action to make a difference for partners tasked with managing tribal, local, state, and federal lands and waters.

River Source seeks support for the ***New Mexico Watershed Academy 2021-22*** to hire and train youth in Santa Fe, Tierra Amarilla, San Felipe Pueblo, El Rito, and Peñasco. The work-based learning will give youth skills in watershed restoration through shovel-ready, inter-generational water and land conservation work. We will build job skills and capacity to take action using on-the-ground watershed stewardship practices while honoring traditional knowledge. By creating pathways for youth to get off the streets and out of isolated homes, the interns gain a sense of purpose by providing watershed services to the community in local arroyos and open spaces in the Santa Fe watershed.
An example of an intern-produced video is found here: https://youtu.be/Ch3kPOxEeFI

Proposed focus areas for 2021-22 include assessing and improving the health of riparian areas, mapping and building green stormwater infrastructure, and setting up participatory science tools like PicturePosts. The project will also lead to on-the-ground improvements in the health of the water, land and wildlife of the Rio Grande watershed.

Interns install a PicturePost in the Upper Santa Fe River Watershed

Please contact Rich Schrader or Carlos Herrera for additional information
Rich@riversource.net or *Carlos@riversource.net*
www.riversource.net

City of Santa Fe, New Mexico

memo

DATE: September 2, 2021

TO: Public Works & Public Utilities Committee

VIA: Shannon Jones, Public Utilities Director

VIA: Jesse Roach, Water Division Director JR

FROM: Alan G. Hook, Water Resources Coordinator Assistant & Santa Fe Municipal Watershed Program Manager. AGH

RE: Informational Item on the Watershed Academy, a Water Job Pathways Project in partnership with the City of Santa Fe, Santa Fe National Forest and River Source

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Background

The purpose for briefing the committee is to provide an overview of the Santa Fe Watershed Academy from the youth interns and staff who conducted river assessment studies in the upper Santa Fe River watershed and erosion control work within the City of Santa Fe (City). Staff from River Source will describe project objectives and the summer 2021 interns will share the impact of their work-learn experiences. River Source anticipates continuing the Santa Fe Watershed Academy in 2022 and is scoping potential projects with the partners, the City and Santa Fe National Forest, and can answer any questions the committee members have.

Information

The Santa Fe Watershed Academy creates internships for Santa Fe youth that provides paid work-learn experiences in the fields of hydrology, restoration ecology, watershed science and job shadowing with mentors. By getting exposed to best professional practices in watershed management using cutting-edge technology the interns become ambassadors, helping family members and friends become aware of the need for water conservation and stewardship efforts. The interns also gain access and connections to career professionals in forestry, hydrology, water conservation, stormwater management and community planning.

River Source hopes to continue conversations with staff within the City and Santa Fe National Forest this upcoming fall 2021 for work to be conducted during the spring 2022 and into the summer 2022. Potential Watershed Academy activities include creating conceptual designs of riparian restoration in the upper Santa Fe Watershed and serving as ambassadors for water conservation and green stormwater infrastructure. This work will complement ongoing watershed management efforts in the upper Santa Fe River Watershed, water conservation and stormwater management in Santa Fe.

Given the committee's recommendation, the Santa Fe Watershed Academy's participants are available for a presentation to the governing body at a suitable time.

Attachment 1: Santa Fe Watershed Academy Prospectus

City of Santa Fe, New Mexico
Memorandum

Date: August 13, 2021

To: Planning Commission, Finance Committee, Quality of Life Committee, Public Works and Utilities Committee, and Governing Body

From: Noah L. Berke, AICP, Current Planning Division Manager NLB

Via: Jason M. Kluck, Interim Planning and Land Use Department Director JMK

RE: Proposed Legislation to Address Zoning Issues Related to Cannabis Legislation

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EXECUTIVE SUMMARY:

This Bill would amend the Land Development Code by adding a new category of specific uses, "Commercial Cannabis Establishments," in the Santa Fe City Code ("SFCC" 14-6.1-1 (Table of Permitted Uses). The Bill further clarifies in which zoning districts the various types of Commercial Cannabis Establishments would be permitted and adopts minimum distances between cannabis retail establishments and schools or daycares. The Bill includes proposed changes to Subsection 14-6.2(H) (agricultural uses), 14-6.3(D)(2) (home occupations), 14-12.1 (definitions), and adds a new subsection 14-6.2(I) to adopt use specific standards for cannabis establishments including density limitations and operating times. The goal of this proposed legislation is to promote the cannabis economy while protecting public health, safety, and the general welfare of the residents and visitors to the City of Santa Fe.

Commercial Cannabis Establishments:

With the proposed amendments, a new "Commercial Cannabis Establishments" category of specific uses would be created within SFCC Section 14-6.1-1 (table of permitted uses), which stipulates specific definitions and uses in zoning districts as "permitted use", "special use permit", "accessory use", and "prohibited use". The Commercial Cannabis Establishments use would be divided into four classes for Production:

> **Cannabis Producer, Extra Small (up to 2500 sq. ft. canopy) is a business conducted by a person licensed to cultivate cannabis, including the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis, provided that the cannabis canopy area for an extra small cannabis producer may not exceed twenty-five hundred (2,500) square feet at any one time.**
>
> - **Permitted indoors: I-1, I-2**
> - **Permitted indoors or outdoors with Special Use Permit: C-4, BIP**

Cannabis Producer, Small (2,500-10,000 sq. ft. canopy) is a business conducted by a person licensed to cultivate cannabis, including the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis, provided that the cannabis canopy area for a small cannabis producer may not exceed five thousand (5,000) square feet at any one time.

- **Permitted indoors: I-1, I-2**
- **Permitted indoors or outdoors with Special Use Permit: C-4, BIP**

Cannabis Producer, Medium (10,000-22,000 sq. ft. canopy indoors or up to 1 acre outdoors) is a business conducted by a person licensed to cultivate cannabis, including the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis, provided that the cannabis canopy area for a medium cannabis producer may not exceed twenty-two thousand (22,000) square feet at any one time, or one (1) acre, if growing will occur outdoors.

- **Permitted indoors: I-1, I-2**
- **Permitted indoors or outdoors with Special Use Permit: C-4, BIP**

Cannabis Producer, Large (over 22,000 sq. ft. canopy) is a business conducted by a person licensed to cultivate cannabis, including the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis. The cannabis canopy area for a large cannabis producer may exceed twenty-two thousand (22,000) square feet.

- **Permitted indoors or outdoors with Special Use Permit: I-1, I-2.**

The Commercial Cannabis Establishments would include the following two categories for Manufacturing:

Cannabis Manufacturing, Heavy is a use that involves compounding, blending, extracting, infusing, packaging, or otherwise preparing a cannabis product using volatile solvents, e.g., butane, heptane, hexane, or propane.

- **Permitted in indoors in I-1, I-2, and BIP**

Cannabis Manufacturing, Light is a use that involves compounding, blending, extracting, infusing, packaging, or otherwise preparing a cannabis product using mechanical methods, nonvolatile solvents, or no solvents.

- **Permitted in C-2, BCD, I-1, I-2, and BIP**

The Commercial Cannabis Establishments category would include two categories for Cannabis research and testing laboratories:

Cannabis Research Laboratory is a facility that produces or possesses cannabis or cannabis products for the purpose of studying cannabis cultivation, characteristics, or uses, provided that a cannabis research laboratory that conducts heavy cannabis manufacturing activities shall be classified as "cannabis manufacturing, heavy."

- **Permitted in C-2, BCD, I-1, I-2, and BIP**

Cannabis Testing Laboratory is a facility where cannabis products are sampled, collected, and tested, provided that a cannabis testing laboratory that conducts heavy cannabis manufacturing activities shall be classified as "cannabis manufacturing, heavy."

- **Permitted in C-2, BCD, I-1, I-2, and BIP**

The Commercial Cannabis Establishments would include one category for Cannabis Retail:

Commercial Cannabis Retailer is a business conducted by a person that is licensed to sell cannabis products directly to consumers who are twenty-one years of age or older.

- **Permitted in C-2, BCD, I-1, I-2, BIP, SC-1, SC-2, SC-3, and MU (limited to hours of operation from 7:00 AM to 10:00 PM in MU districts only)**

The commercial cannabis Retailer use would only be permitted if not located within three hundred (300) feet of an existing school or daycare center; subject to density limitations set forth in Subsection 14-6.2(I) and would be limited to hours of operation from 7:00 AM to 12:00 AM (midnight).

The final permitted use added to the Commercial Cannabis Establishments would be "Cannabis Consumption Area", defined as an area where cannabis products may be served and consumed by smoking, vaping, or ingesting, provided that alcohol cannot be sold or consumed in a cannabis consumption area and entry is limited to patrons 21 years of age or older. The State of New Mexico is currently working on a framework for regulating cannabis consumption areas and legislation will be further drafted and presented to the Planning Commission and Governing Body after the State's framework is completed.

BACKGROUND:

In the 2021 Special Session, the New Mexico Legislature adopted the Cannabis Regulation Act (House Bill 2), which legalized recreational cannabis use by adults twenty-one (21) years old and over. The Act, which took effect on June 29, 2021, allows local jurisdictions to adopt zoning and land use regulations but limits the extent of local regulatory authority. This memorandum sets forth the Policy Subcommittee's preliminary recommendations for cannabis land use regulations. The Policy

Subcommittee requests input from the full Planning Commission on these recommendations. Following input from the Planning Commission, the Policy Subcommittee will work with Staff to incorporate the recommendations into draft amendments to the Land Development Code, as set forth in Chapter 14 of the Santa Fe City Code. The resulting legislation will require review at public hearings before the Planning Commission and Governing Body prior to adoption.

The State has clearly outlined that local jurisdictions cannot:

- Prevent anyone properly licensed from transporting cannabis products on public roads;
- Completely prohibit the operation of a cannabis licensee;
- Prohibit or limit signage identifying a business as a cannabis establishment if it's attached to or located on the business premises;
- Require a cannabis establishment or a cannabis consumption area be located more than 300 feet from a school or daycare center that existed when the cannabis establishment or consumption area was licensed;
- Require an existing cannabis licensee to relocate to a new premises; or
- Prohibit an adult New Mexican from producing homegrown cannabis.

Local jurisdictions can adopt rules that reasonably limit conditions like density of cannabis establishments and operating times.

The Cannabis Regulation Act defines new types of recreational cannabis establishments, including the following:

- Cannabis Retailer (commercial sales of cannabis);
- Cannabis Producer (growing or farming of cannabis);
- Cannabis Producer Microbusiness (produces cannabis at a single premise with no more than 200 mature plants at one time);
- Cannabis Manufacturer (turns uncultivated cannabis into oils, edibles, and products); and
- Cannabis Research and/or Testing Laboratories;
- Cannabis Consumption Areas (place where cannabis is smoked, vaporized, or ingested);
- Integrated Cannabis Microbusiness (may include combination of producer microbusiness, manufacture and retail at a single location selling only their own products); and
- Vertically Integrated Cannabis Establishment (may include combination of retail, producer, and manufacturer).

The proposed City ordinance would mirror the existing definitions set forth by the State of New Mexico. The City ordinance would also adopt further restrictions regarding density, classifications, and hours of operation.

On July, 14, 2021, the Governing Body heard a presentation from Staff which outlined how the Land Use Department would classify cannabis establishments under the current zoning and land use codes. Staff also made formal cannabis recommendations moving forward. As contemplated in Chapter 14, the Planning Commission is making the recommendations for changes to the Chapter, beginning with the recommendations from its policy subcommittee.

The Policy Subcommittee conducted several meetings to formalize answers to the broad land use policy questions that Staff posed to the Governing Body on July 14, 2021. Subcommittee members have also worked to research the legislative limitations, best practices, and experiences of other places, and have noted their appreciation of staff for assistance with this research. The Subcommittee's primary focus has been to make recommendations regarding appropriate time, place, and manner restrictions for the following types of cannabis establishments: commercial retail, production (growing), testing and research laboratories, manufacturing facilities, and vertically integrated cannabis establishments. The Policy Subcommittee's recommendations are aimed at promoting the cannabis economy while protecting public health, safety, and the general welfare.

Planning and Land Use Department Review of Proposed Legislation:

Under SFCC Section 14-3.3, the Planning and Land Use Department is required to review proposed amendments to the text of Chapter 14 to ensure compliance with the following criteria:

1. compliance with law;
2. consistency with the general plan;
3. consistency with other policies adopted by the Governing Body;
4. consistency with the purpose and intent of Chapter 14 and of the section being amended;
5. consideration of how the amendment relates to other provisions of the Santa Fe City Code and the avoidance of unintended consequences; and
6. consistency with any approved neighborhood conservation overlay districts.

The Planning and Land Use Department, in consultation with the City Attorney's Office, has reviewed and crafted the proposed legislation to ensure that all of the above criteria are met.

ACTION REQUESTED:

The Planning and Land Use Department requests that the Planning Commission and council committees consider the proposed legislation and make a positive recommendation to the Governing Body and that the Governing Body adopt the proposed legislation.

ATTACHMENTS:

1. Bill
2. Policy Subcommittee Memo on Recommendations
3. Fiscal Impact Report

CITY OF SANTA FE, NEW MEXICO

BILL NO. 2021-__

AN ORDINANCE

AMENDING THE LAND DEVELOPMENT CODE, CHAPTER 14 SFCC 1987, TO ADDRESS ZONING ISSUES RELATED TO CANNABIS; AMENDING TABLE 14-6.1-1, TABLE OF PERMITTED USES, TO CLARIFY ZONING DISTRICTS FOR VARIOUS TYPES OF CANNABIS ESTABLISHMENTS, AND TO ADOPT OPERATING TIMES, DENSITY LIMITATIONS, AND A MINIMUM DISTANCE BETWEEN CANNABIS RETAIL ESTABLISHMENTS AND SCHOOLS OR DAYCARE CENTERS; AMENDING SUBSECTION 14-6.2(H), AGRICULTURAL USES, TO ADDRESS CANNABIS PRODUCTION; ADDING A NEW SUBSECTION 14-6.2(I) TO ADOPT USE-SPECIFIC STANDARDS FOR CANNABIS ESTABLISHMENTS, INCLUDING OPERATING TIMES, DENSITY LIMITATIONS, AND A MINIMUM DISTANCE BETWEEN CANNABIS RETAIL ESTABLISHMENTS AND SCHOOLS OR DAYCARE CENTERS; AMENDING SUBSECTION 14-6.3(B)(2) TO PROHIBIT COMMERCIAL CANNABIS ESTABLISHMENTS AS ACCESSORY USES OR STRUCTURES ON RESIDENTIALLY ZONED PROPERTY; AMENDING SUBSECTION 14-6.3(D)(2) TO PROHIBIT THE CONDUCT OF A CANNABIS ESTABLISHMENT AS A HOME OCCUPATION;

underscored material = new [~~bracketed material~~] = delete

AMENDING SECTION 14-12.1 TO ADD DEFINITIONS FOR VARIOUS TYPES OF CANNABIS ESTABLISHMENTS; ESTABLISHING AN EFFECTIVE DATE; AND MAKING SUCH OTHER CHANGES AS ARE NECESSARY TO CARRY OUT THE PURPOSE OF THIS ORDINANCE.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SANTA FE:

Section 1. Table 16-1.1-1 of the Land Development Code (being Ord. No. 2011-37, § 8, as amended) is amended to read:

Table 14-6.1-1

[REMAINDER OF PAGE LEFT BLANK INTENTIONALLY]

CATEGORY Specific Use	RR	R-1	R-7	R-7	RC-5,	R-10	MHP	RAC	AC**	C-1	C-2	C-4	HZ	BCD	I -1	I -2	BIP	SC-1	SC-2	SC-3	MU ***	Use-Specific Regs 14-6.2
RESIDENTIAL																						
Group Living																						
Continuing care community	S	S	S	S	S	S		S		P	S	P	P	P			S				P	(A)(1)
Group Residential Care Facility	S	S	S	S	S	S		S		P	S	P	P	P			S				P	
Group Residential Care Facility, Limited	P	P	P	P	P	P		P		P	S	P	P	P			S				P	
Group Residential Care Facility, Correctional			S		S	S		S		P*	P*	P*	P*	S			S				S	

Boarding, dormitory, monastery	S	S	S	S	S	P		P		P	S	P	S	P			S				S	
Household Living																						
Dwelling, multiple- family	P [1]	P	P		P	P	P	P		P	P [6]	P	P	P				P [6]	P [6]	P [6]	P	(A)(5), (A)(6)
Dwelling, single-family	P	P	P	P	P	P	P	P		P	P [6]	P	P	P							P	(A)(5)
Manufactured homes	P	P	P	P	P	P	P	P		P	P [6]	P	P	P							P	(A)(4)
Mobile home, permanent installation	S	S	S	S	S	S		S		S		S	S									(A)(2)
Mobile home park							P 9															(A)(3); See 14-6.4(B)
Short-Term Rental Unit	Prohibited except as set forth in Section 14-6.2(A)(5)(a)									P	P	P	P						P	P		(A)(5), (A)(6)

PUBLIC, INSTITUTIONAL AND CIVIC																							
Emergency Services																							
Police and fire stations	S	S	S	S	S	S	S	S		P	P	P	P	P	P	P	P	P	P	P	P		
Police substations (6 or fewer staff)	P	P	P	P	P	P	P	P		P	P	P	P	P	P	P	P	P	P	P	P		
Preschool, Daycare for Infants or Children																							
Small (6 or fewer)	P	P	P	P	P	P	P	P		P	P	P	P	P	P		P	P	P	P	P		
Large (More than 6)	S	S	S	S	S	S	S	S		P	P	P	P	P	S		P	P	P	P	S		
Electrical Facilities (See 14-6.2(F) for Planning Commission Review Requirements)																							
Distribution facilities	P	P	P	P	P	P	P	P		P	P	P	P	P	P	P	P	P	P	P	P	(F), (G)	
Substation	P	P	P	P	P	P	P	P		P	P	P	P	P	P	P	P	P	P	P	P	(F)	

Switching station	P	P								P	P	P		P	P	P	P	P	P	P	P	(F)
Transmission lines	P	P	P	P	P	P	P	P		P	P	P	P	P	P	P	P	P	P	P	P	(F)
Educational																						
Elementary and secondary schools, public and private	S	S	S		S	S		S		P*	P*	P*	S	P*	S		P*	S	S	S	P*	
Colleges and universities, residential	S	S	S		S	S		S		S	S	S	S	P			S				S	(B)(2)
Colleges and universities, nonresidential										P	P	P	P	P	P		P	P	P	P	P	
Museums		S	S		S	S		P[10]		P	P	P		P	P		P	P	P	P	P	
Vocational or trade schools, nonindustrial								P[10]		P	P	P		P	P		P	P	P	P	P	

Vocational or trade schools, light industrial														P*	P	P	P*				
Community Centers and Institutions																					
Neighborhood and community centers, including youth and senior centers	S	S	S		S	S		S		P	P	P	P	P			P	P	P	P	P
Religious, educational and charitable institutions (does not include schools or assembly uses)						S		S	S	P*	P*	P*	P*	P*	P*		P*	P*	P*	P*	P*
Hospitals and Extended Care Facilities																					
Extended care, convalescent, nursing, recovery care facilities	S	S	S	S	S	S		S		P	P	P	P	P			P				P

Hospitals										S	S		P/S [6]	P			P					(B)(3)
Hospital heliport													P									(B)(3)(b)
Human Services																						
Adult day care	S	S	S	S	S	S		S		P	P	P	P	P			P	P	P	P	P	
Foster homes licensed by the appropriate state agencies	P	P	P			P		P		P		P	P	P							P	
Human service establishments											P*			P*	P*			P*	P*	P*	P*	(B)(4)
Sheltered care facilities	S	S	S		S	S		S		S	S	S	S	P							S	(B)(5)
Parks and Open Space																						
Cemeteries, mausoleums and columbariums	S	S	S							S	S		S	P								(B)(1)

Public parks, playgrounds, playfields	P	P	P		P	P		P		P	P	P	P	P	P	P	P	P	P	P	P	
Religious Assembly																						
All	S	S	S		S	S		S		P	P	P	P	P	P		P	P	P	P	P	
Utilities																						
All (includes natural gas regulator station, telephone exchange, water or sewage pumping station or water storage facility)	S	S	S		S	S		S		S	P	S	S	P	P	P					S	(B)(6)
COMMERCIAL																						
Animal Sales and Service																						
Veterinary establishments, pet grooming	S									P*	P*	P*		P	P	P	P*		P*	P*	P*[2]	

Kennel	S									P*	P*	P*		P	P	P	P*					
Arts Activities																						
Arts and crafts studios, galleries and shops; gift shops for the sale of arts and crafts								P [10]	P	P	P	P		P	P			P	P	P	P [2]	
Arts and crafts schools								P [10]	P	P	P	P		P	P		P	P	P	P	P [2]	
Dance studios								P [10]	P	P	P			P	P		P	P	P	P	P [2]	
Photographers' studios								P [10]	P	P	P			P	P		P	P	P	P	P [2]	
Assembly																						
Private clubs and lodges	S	S	S		S	S		S	S	P*	P*	P*	P*	P*	P*		P*	P*	P*	P*	P* [2]	
<u>Commercial Cannabis Establishments</u>																						

Cannabis consumption area																						(I)
Cannabis manufacturing, heavy															P	P	P					(I)
Cannabis manufacturing, light											P			P	P	P	P					(I)
Cannabis producer, extra small (2,500 sq. ft. canopy max.), indoor growing only											S				P	P	S					(H), (I)
Cannabis producer, extra small (2,500 sq. ft. canopy max.), with outdoor growing											S				S	S	S					(H), (I)

Cannabis producer, small (2,501 - 10,000 sq. ft. canopy), indoor growing only											S				P	P	S				(H), (I)
Cannabis producer, small (2,501- 10,000 sq. ft. canopy), with outdoor growing											S				S	S	S				(H), (I)
Cannabis producer, medium (10,001 - 22,000 sq. ft. canopy) indoor growing only											S				P	P	S				(H), (I)
Cannabis producer, medium (10,001 sq. ft. to 1 acre canopy), with outdoor growing											S				S	S	S				(H), (I)

Cannabis producer, large (22,001 or more sq. ft. canopy), indoor growing only														S	S						(H), (I)
Cannabis research laboratory											P			P	P	P	P				(D)(4), (I)
Cannabis testing laboratory											P			P	P	P	P				(D)(4), (I)
Commercial cannabis retailer											P11			P11	P11	P11		P11	P11	P2	(I)
Financial Services																					
Banks, credit unions (without drive-through)										P	P			P	P		P	P	P	P[2]	
Banks, credit unions (with drive-through)										P*	P*			P	P*		P*	P*	P*	P[2]	
Food and Beverages																					

Bar, cocktail lounge, nightclub, no outdoor entertainment								S [3, 10]	S [3]		P*			P	P	P		P*	P*	P*	P [2]	
Bar, cocktail lounge, nightclub, with outdoor entertainment								S [3, 10]	S [3]		P*			P*	P*	P*		P*	P*	P*	P* [2]	
Restaurant - full service, with or without incidental alcohol service								S 3 ,10	S 3		P			P	P	P	S	P	P	P	P	
Restaurant with bar, cocktail lounge or nightclub comprising more than 25% of total serving area.								S 3 ,10	S* 3		P*			P*	P	P		P*	P*	P*	P* 2	
Restaurant - Fast service/take-out, no drive-through/ drive-up								S 3 ,10		P 4	P	P 4		P	P	P	S	P	P	P	P	

Restaurant - with drive-through/ drive-up											P*			P*	P*	P*	S	P*	P*	P*	P* 2	
Commissary kitchen										P*												
Medical																						
Apothecary shops or pharmacies										P	P		P	P	P			P	P	P	P [2]	
Medical and dental offices or clinics								S [10]	S	P	P	P	P	P	P		P	P	P	P	P [2]	
Offices, Business and Professional																						
Business and professional offices excluding medical and dental and financial services								S [10]	S	P	P	P	P	P	P	P	P	P	P	P	P [2]	
Public Accommodation																						

Bed and breakfast houses and inns											P			P	P		P			P		
Conference and extended stay lodging facilities											P			P	P		P					
Hotels, motels, residential suite hotels											P			P	P					P		
Vacation time share projects											P			P	P							(C)(7)
Public Transportation																						
Transit transfer facilities											S		S	P	P	P	S	S	P	P	S	
Recreation and Entertainment																						
Commercial recreational uses and structures; theaters, bowling alleys, pool-rooms, driving ranges, etc.											P			P	P	P		P	P	P	S[2]	

Exercise, spas or gym facilities											P			P	P	P		P	P	P	P [2]	
Nonprofit theaters for production of live shows								P* [10]	S		P			P	P	P	P	P	P	P	P [2]	
Retail Sales and Services																						
Antique stores								P [10]	P		P			P	P			P	P	P	P [2]	
Art supply stores								P [10]	P		P			P	P			P	P	P	P [2]	
Bookshops								P [10]	P		P			P	P			P	P	P	P [2]	
Cabinet shops, custom								P [10]	P		P	P		P	P	P	P					
Department and discount stores											P			P	P				P	P	P [2]	
Flea markets											P			P	P							(C) (3)

Florist shops								P [10]	P		P		P	P	P			P	P	P	P [2]	
Funeral homes or mortuaries										P	P			P	P							
Furniture stores											P			P	P	P			P	P	P [2]	
Neighborhood grocery stores and laundromats	S	S	S		S	S		S		S	P	S	S								P [2]	(C)(4)
Office equipment sales and service; retail sale of office supplies											P			P	P	P			P	P	P [2]	
Retail establishments not listed elsewhere											P			P	P	P		P	P	P	P [2]	

Retail and service uses that are intended to serve the primary uses and that do not exceed 5,000 square feet													P	P	P	P				P [2]	
Retail sales accessory to any permitted use, provided that such commercial uses shall not occupy more than ten percent of the total floor area of all buildings occupied by the principal use																A				S [2]	
Sign shops											P	P		P	P	P					P [2]	
Service Establishments																					
Barber shops and beauty salons										P	P	P		P	P			P	P	P	P [2]	

Personal care facilities for the elderly						S		S		P	P	P	P	P	P		P	P	P	P	P [2]	(C)(7)
Personal service establishments including cleaning and laundry, appliance repair and similar services											P			P	P			P	P		P [2]	
Tailoring and dressmaking shops								P	P	P	P	P		P	P		P	P	P	P	P [2]	
Sexually Oriented Businesses																						
All															P	P						(C)(1)
Storage																						
Individual storage areas within a completely enclosed building											S			P	P	P	P	P	P	P		(D)(2)
Mini-storage units											S			P	P	P		P	P	P		(D)(3)

Telecommunication																						
Telecommunications Facilities	Permitted as set forth in Section 14-6.2(E) (for facilities in public rights of way see Article 27-2 SFCC 1987)																					
Vehicles and equipment																						
Commercial parking lots and garages											P		P	P	P	P	A	P	P	P		See 14-8.6(B)(6)
Service and repair establishments including filling stations and repair garages											P			P	P	P			S	S		
Tire recapping and retreading											P			P	P	P						
Industrial																						

Automobile salvage and wrecking yards, junkyards or yards used in whole or in part for scrap or salvage operations or for processing, storage, display or sales of any scrap, salvage or secondhand building materials, junk automobiles or second hand automobile parts															P						
Research, experimental and testing laboratories											P			P	P	P	P					(D)(4)
Manufacturing and Production																					
Light assembly and manufacturing											P			P	P	P	P					

Outdoor Storage																					
Outdoor storage lots and yards, except wrecking yards, junkyards or yards used in whole or in part for scrap or salvage operations or for processing, storage, display, or sales of any scrap, salvage or second-hand building materials, junk automobiles or second-hand automobile parts														P	P	A					
Warehouse and Freight Movement																					
Wholesaling and distribution operations - 3,000 square feet or less of storage											P			P	P	P					

Wholesaling and distribution operations - over 3,000 square feet of storage															P	P						
AGRICULTURAL USES																						
Animal production																						(H)
Commercial stable	S																					(H)
Urban Farm Ground Level, less than 10,000 sq ft.	A	A	A	A	A	A				P	P	P			P	P		P	P	P		(I)
Urban Farm Ground Level, 10,000 sq ft. - 1 acre	S	S	S	S	S	S				P	P	P			P	P		P	P	P		(I)
Urban Farm Ground Level, greater than 1 acre	S	S	S	S	S	S				S	S	S			P	P		S	S	S		(I)

Urban Farm Roof Level, Open Air, 1000 sq ft. or less	S	S	S	S	S	S				S	S	S			S	S		S	S	S		(I)
Urban Farm Roof Level, Open Air, greater than 1000 sq ft., less than 5000 sq ft.										S	S	S			S	S		S	S	S		(I)
Aquaculture, less than 750 sq ft.										S	S	S			S	S		S	S	S		(I)
Aquaponics, less than 750 sq ft.										S	S	S			S	S		S	S	S		(I)
Aquaponics, greater than 750 sq. ft										S	S	S			S	S		S	S	S		(I)
Hydroponics, any size										S	S	S			S	S		S	S	S		(I)
Composting															S	S						
ACCESSORY USES																						

Accessory structures of a permanent, temporary or portable nature such as coverings not constructed of solid building materials, including inflatable covers over swimming pools and tennis courts and such other accessory structures which exceed 30 inches in height from the average ground elevation.	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
Children's play areas and play equipment	A	A	A	A	A	A	A	A		A	A	A	A	A	A	A	A	A	A	A	A	
Accessory dwelling units	A	A	A	A	A	A	A	A		A	A	A	A	A	A	A	A				A	14-6.3 (C)(1)

Greenhouses, noncommercial	A	A	A	A	A	A	A	A		A	A	A	A	A	A	A	A				A	
Home occupations	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	14-6.3 (C)(2)
Hospital heliport													A [8]									
Other uses and structures customarily accessory and clearly incidental and subordinate to permitted permissible uses and structures	A	A	A	A	A	A	A	A		A	A	A	A	A	A	A	A				A	
Private barbecue pits, private swimming pools	A	A	A	A	A	A	A	A		A	A	A	A	A	A		A				A	
Private daycare for infants and children	A	A	A	A	A	A	A	A		A	A	A	A	A	A		A	A	A	A	A	
Private garages	A	A	A	A	A	A	A	A		A	A	A	A	A	A	A	A	A	A	A	A	

Residential use ancillary to an approved use		A	A	A	A	A	A	A		A	A	A	A	A	A		A	A	A	A	A	14-6.3(B)(5), (B)(6) and (B)(7)
Utility sheds, located within the rear yard only	A	A	A	A	A	A		A		A		A	A								A	
Apothecaries, pharmacies, or laboratories accessory to a clinic								A	A	A	A	A	A	A	A		A	A	A	A	A	

* Special use permit required if located within 200 feet of *residentially-zoned property* unless a *qualifying project* located within the Midtown LINC Overlay District; otherwise permitted. (Ord. No. 2013-16 § 29; Ord. No. 2016-39 § 3)

**Uses listed are in addition to those permitted in the underlying district. No more than 3,000 square feet of *gross floor area* may be devoted to *nonresidential* uses.

***See Section 14-7.3(B)(1) for additional MU district regulations including minimum percentage of residential use. (Ord. No. 2013-16 § 22)

1. In the RR district, multiple- family dwellings are limited to four per lot .

2. Hours of operation limited to 7 a.m. to 10 p.m.
3. Amplified live entertainment or amplified music for dancing prohibited after 10 p.m.
4. Not to exceed 1,000 square feet *gross floor area*, sales of alcohol prohibited.
5. Hospital is a permitted use in the Las Soleras Hospital District; requires special use *permit* in the Christus St. Vincent Hospital District.
6. See Section 14-6.2(A)(7) for additional regulations for *principal dwelling units* in the C-2, BIP and SC districts.
7. See Section 14-6.3 for additional *accessory* use regulations; see Section 14-6.4 (Temporary Uses or Structures)
8. In the Las Soleras Hospital District a heliport serving a hospital is a permitted use.
9. See Section 14-7.2(I) for standards for pre-existing mobile home parks and Section 14-6.2(A)(3)(a) for prohibition of new mobile home parks in MHP districts.
10. See Section 14-7.2(H) 3,000 square foot limit applies to specified uses in RAC district. (Ord. No. 2014-31 § 11)

[REMAINDER OF PAGE LEFT BLANK INTENTIONALLY]

Section 2. Subsection 14-6.2(H) of the Land Development Code (being Ord. No. 2016-42, § 2, as amended) is amended to read:

(H) **Agricultural Uses**

(1) Agricultural uses for noncommercial purposes that are *accessory* uses to a permitted *principal* use are permitted in all zoning districts but shall not create a public nuisance, subject to Subsection 10-9 SFCC 1987, Nuisance Abatement Ordinance, and shall meet all other applicable *city* codes.

(2) Agricultural uses for commercial purposes are permitted as set forth in Table 14-6.1-1; however, the following commercial agricultural uses are specifically prohibited:

(a) animal production;

(b) slaughterhouses and slaughtering of livestock; and

(c) any other use prohibited by 5-7.1 SFCC 1987.

(3) Applicability. No agricultural activity shall be conducted, or *farm structure* erected, except in compliance with the provisions of this Subsection 14-6.2(H), and shall not supersede the rights of home owners associations (HOAs) or any existing covenants, conditions and restrictions of HOAs or other neighborhood associations. The provisions of this subsection shall apply to all agricultural activities, whether such activity is a primary use or an accessory use, except for:

(a) Gardens for the personal noncommercial use of residents as accessory uses to *residential* uses.

(b) Community gardens located on city-owned property and regulated by written policies and procedures of the City of Santa Fe.

(c) Community gardens for noncommercial purposes permitted as an accessory use.

(d) The growing of cannabis for personal use, as permitted by the

Lynn and Erin Compassionate Use Act, NMSA 1978, Sections 26-2B-1 to -10 NMSA 1978; and the Cannabis Regulation Act, NMSA 1978, Sections 26-2C-1 to -42.

4) Approval Procedures.

(a) Agricultural uses are allowed as an accessory use; with a special use permit; or permitted by right, all as shown in Table 14-6.1-1.

(b) Except as otherwise provided in this Subsection 14-6.2(H), the procedural and other requirements for *home occupations*, special use permits and development plans apply to agricultural uses and *structures*. No commercial cannabis activity, including cannabis production, may be conducted as a *home occupation*.

(c) Agricultural uses and *structures* shall comply with all other applicable provisions of SFCC 1987, including Chapter VII relating to building and housing, and Chapter XII relating to fire prevention and protection.

(d) The governing body may adopt by resolution guidelines for the development and operation of agricultural uses, which shall guide the *land use director* in the administration of this Subsection 14-6.2(H).

(5) Development Standards.

(a) Except as otherwise provided in this Subsection 14-6.2(H), *structures* associated with agricultural uses are subject to the development standards established for the underlying and overlay zoning districts within which the property is located.

(b) Agricultural *home occupations* shall comply with Subsection 14-6.3(D)(2).

(6) *Urban Farm, Ground Level*.

(a) The principal activity to be performed on a *ground level urban farm* shall be the cultivation of agricultural crops.

(b) *Ground level urban farms* are permitted as provided in Table 14-

6.1-1.

(7) *Urban Farm, Roof Level*

(a) The principal activity to be performed on a *roof level urban farm* shall be the cultivation of agricultural crops.

(b) *Roof level urban farms* are permitted as provided in Table 14-6.1-1.

(8) *Aquaculture*, *Aquaponics* and *Hydroponics*.

(a) *Aquaculture*, *aquaponics* and *hydroponics* are permitted as provided in Table 14-6.1-1.

(b) Operations must comply with applicable Federal and State regulations for water use and discharge, and for the possession, propagation, culture, sale and disposition of living marine organisms.

(9) *Farm Stands*.

(a) An urban farm may include a *farm stand*. *Farm stands* located in zoning districts which otherwise prohibit retail sales shall be limited to sales of agricultural products that are grown on the premises, shall not be larger than 48 square feet, and shall be erected only during business operating hours and during the farming season.

(b) Operation of a *farm stand* requires a *home occupation* permit or other type of business license issued by the City of Santa Fe Business Licensing Division.

(10) *Cannabis Producer*

(a) *Cannabis Producers* are permitted as provided in Table 14-6.1-1.

(b) *Cannabis Producers* must comply with applicable State regulations and licensure, in addition to applicable provisions of the SFCC 1987.

([~~10~~]11) Screening and Buffering.

(a) Any composting, loading or disposal areas within or adjacent to a *residential* or *commercial* zoning district shall be screened from view by a wall, fence, berm or vegetative screen, or combination thereof. Any fencing shall be constructed of opaque materials and shall comply with the standards and requirements applicable to fences in the zoning district where the property is located.

(b) Any material or equipment stored outdoors within a *residential* or *commercial* zoning district shall be surrounded by a wall or fence or vegetative screen not less than six (6) feet high, as may be necessary, to screen such material or equipment from view from any public street or public open space.

([~~11~~]12) Maintenance and Operation. Urban farms, and *cannabis producers* shall be used and maintained in such a manner in which at no time shall they constitute a nuisance or hazard to the surrounding neighborhood.

([~~12~~]13) Soil Safety. All urban farms and *cannabis producers* using conditioned soil will be required to comply with the New Mexico Soil and Water Conservation Act, Sections 73-20-25 through 73-20-48 NMSA 1978.

([~~13~~]14) *Composting*.

(a) *Composting* is accessory to an urban farm, *cannabis producer* and shall be used only onsite where any *ground level urban farm*[~~or~~], *roof level urban farm* and *cannabis producer* is permitted. Composting shall occupy no more than ten (10) percent of the *farm area*, and cooked food, raw animal matter, animal waste, and human waste shall not be used in the creation of compost.

(b) *Composting* as a principal use requires approval of a special use permit in *industrial* zoning districts, and is prohibited in other zoning districts.

(c) Maximum Height:

(i) Maximum height of composting structures or bins shall

not exceed the maximum height permitted for fences and walls in the zoning district where the property is located.

(ii) On a *roof level urban farm*, any *composting* must be contained within a fully enclosed inflammable bin that does not have direct contact with flammable materials.

(d) *Setbacks*:

(i) Subject to Subsection 14-6.3(B)(2) Accessory Uses, compost bins, accessory structures and windrows shall comply with the applicable *setback* requirements in all zoned districts.

(ii) Compost bins, structures and windrows located in a required yard or street frontage in all *residential* and *commercial* zoned districts must be screened from street view, and *setback* a minimum of ten (10) feet from the property line.

([~~14~~]15) Water.

(a) Urban farms and *cannabis producers* are allowed to use the following water resources:

(i) Captured rainwater on-site meeting the requirements of the New Mexico State Engineer's Office (OSE) and Subsection 14-8.4(E).

(ii) Passive water harvesting designed to infiltrate water, control runoff and erosion.

(iii) *Gray water* or treated effluent from permitted on-site sources adhering to the requirements of Section 20-7-3 NMAC and Subsection 14-8.4(E)(2) consistent with its adjudicated, licensed, or permitted use.

(iv) Well water from existing on-site wells, provided that such wells are permitted by the OSE for agricultural use, are metered, and tested annually by a laboratory certified by the New Mexico environment department to ensure that the well is

bacteria-free and that the levels of arsenic, fluoride, nitrate, and uranium are compliant with EPA primary drinking water standards (maximum contamination levels, or MCLs), and such lab reports shall be sent to the *land use director*.

(v) Municipal water system.

(vi) Stormwater infiltration where or permitted by the OSE.

(b) Any constructed water catchment systems shall meet all permitting requirements of the City of Santa Fe's planning and land use department.

(c) Water supplied through the municipal water system shall be charged at the rate applicable to the meter size, and shall comply with all applicable requirements of Section 14-8.13 of the land use development code.

(i) Separate meters shall be required for irrigation in *commercial* and *industrial* zoned areas unless the total farm area on the lot is less than five hundred (500) square feet, and meter data denoting monthly and annual water use shall be sent to the *land use director* for monitoring purposes.;

(ii) Water efficient irrigation systems are required to be installed and used when water from the municipal water system is used for irrigation.

(d) Irrigation systems shall comply with Subsection 14-8.4(E)(4), including installation of an approved backflow prevention device.

(e) Watering times shall comply with the outdoor conservation regulations pursuant to Subsection 25-2.7 SFCC 1987.

(f) The use of other water efficient technologies and water management best practices, such as use of ollas or other water-holding materials, are allowed. The *land use director* shall provide all urban farms with city-authored water efficient irrigation guidelines and low-water use landscape literature, such as landscape irrigation design standards.

([~~15~~]16) Abandonment.

(a) If an agricultural use ceases for any reason for three hundred sixty-five (365) consecutive days without the prior written approval of the *land use director*, the use shall be deemed to be abandoned.

(b) Any property used for agricultural purposes pursuant to this section shall be cleared and restored to the state in which it existed prior to commencement of the agricultural use. The property owner shall remove from the property all *farm structures* within ninety (90) days after the date the agricultural use is discontinued. Site clearing shall consist of:

(i) Physical removal of all *farm structures*, farm equipment and machinery; and

(ii) Disposal of all *composting* and agricultural waste in accordance with local and state waste disposal regulations; and

(iii) Stabilization of the site's vegetation as necessary to minimize erosion and invasive species encroachment. The *land use director* may allow the owner to leave landscaping in order to minimize erosion and disruption to vegetation.

(c) If the applicant fails to remove *farm structures*, farm equipment, and farm machinery in accordance with the requirements of this Subsection 14-6.2(H)([~~15~~]16) within ninety (90) days of the date the agricultural use is discontinued, the *land use director* shall proceed with enforcement actions as provided for in Section 14-11.

Section 3. [NEW MATERIAL] A New Subsection 14-6.2(I) of the Land Development Code is ordained to read:

(I) *Cannabis Establishments*

(1) Applicable law. *Cannabis establishments* are subject to applicable sections of the Land Development Code, as set forth in Chapter 14 of the SFCC 1987; other applicable city ordinances, as set forth in the SFCC 1987; and applicable state laws and regulations.

Applicable provisions include, but are not limited to, the Lynn and Erin Compassionate Use Act, Sections 26-2B-1 to -10 NMSA 1978; the Cannabis Regulation Act, Sections 26-2C-1 to -42 NMSA 1978; the Dee Johnson Clean Indoor Air Act, Sections 24-16-1 to -20 NMSA 1978; the Santa Fe Smoke Free Ordinance, Section 10-6 SFCC 1987; the Nuisance Abatement Ordinance, Section 10-9 SFCC 1987; and the Business License Ordinance, Section 18-1 SFCC 1987.

(2) Enforcement. A person who fails to adhere to the provisions of Chapter 14 of the SFCC shall be subject to the enforcement provisions set forth in Sections 1.3 and 14-11 SFCC 1987 and all other legal remedies and enforcement actions available under the law.

(3) Permitted Uses. *Cannabis establishments* are permitted only as set forth in Table 14-6.1-1 and this subsection. A *vertically integrated cannabis establishment* or *integrated cannabis* is permitted only if all of the uses encompassed by the license are permitted in the zoning district.

(3) Minimum Distance from Schools. A new *cannabis establishment* is not a permitted use if the new *cannabis establishment* would be located within a three hundred (300) foot radius of an existing preschool, daycare center, elementary school, or secondary school. The radius shall be measured from the subject property boundaries.

(4) Retail Establishments.

(a) Density limitation. A new *commercial cannabis retailer* is not a permitted use if the new *commercial cannabis retailer* would be located within a ____ hundred (____) foot radius of an existing *commercial cannabis retailer*. The radius shall be measured from the subject property boundaries.

(b) Operating hours. The hours of operation for a *commercial cannabis retailer* are limited to 7:00 a.m. to 12:00 a.m. (midnight).

(5) Odors and Ventilation. All *cannabis establishments* must comply with applicable state and *city* laws and regulations concerning odors and ventilation, including building

and fire codes. Cannabis producers and cannabis manufacturers must use industry standard techniques to minimize odorous, toxic, or noxious matter, such as activated carbon filtration and regular maintenance of HVAC systems. Cannabis producers, cannabis manufacturers, and cannabis consumption areas must have an odor control plan approved by the City.

(6) Safety and Security. All *cannabis establishments* must comply with state law and regulations concerning safety and security, in addition to applicable provisions of the SFCC 1987.

*** Editor's Note: the current subsection (I) shall be re-lettered as subsection (J).**

Section 4. Subsection 14-6.3(B)(2) of the Land Development Code (being Ord. No. 2011-37, § 8, as amended) is amended to read:

(B) Permitted Accessory Uses and Structures

(2) RR, R1-R-6, R-7, R-7(I), R-8, R-9, RC-5, RC-8, R-10, R-21, R-29, RAC, C-1, C-4, and HZ Districts (Ord. No. 2014-31 § 14)

(a) The following *accessory* uses and *structures* are permitted in the RR, R1-R-6, R-7, R-7(I), R-8, R-9, RC-5, RC-8, R-10, R-21, R-29, RAC, C-1, C-4 and HZ districts: (Ord. No. 2013-16 § 31)

(i) *home occupations*, as provided for in Subsection 14-6.3(D)(2);

(ii) noncommercial *greenhouses* and plant nurseries;

(iii) private *garages*;

(iv) *utility sheds*, located within the *rear yard* only;

(v) children's play areas and play equipment;

(vi) private barbeque pits and private swimming pools;

(vii) *accessory dwelling units* as regulated in Subsection 14-6.3(D)(1);

(viii) other uses and *structures* customarily *accessory* and clearly incidental and subordinate to permitted or permissible uses and *structures*; and

(ix) *accessory structures* of a permanent, temporary or portable nature such as coverings not constructed of solid building materials, including inflatable covers over swimming pools and tennis courts, and such other *accessory structures* that exceed thirty (30) inches in height from the average ground elevation.

(b) All *accessory* uses and *structures* allowed under Subsection 14-6.3(B)(2)(a) shall: (Ord. No. 2013-16 § 32)

(i) not involve the conduct of *business* on the *premises*, except *home occupations*;

(ii) be located on the same *lot* as the permitted *principal* use or *structure* or on a contiguous *lot* in the same ownership; and

(iii) not be likely to attract visitors in larger numbers than would normally be expected in a single-*family residential* neighborhood.

(c) The following activities are prohibited within *residentially zoned districts*:

(i) Storage or parking, either continuous or intermittent, of commercial or industrial vehicles, except for those vehicles that are authorized by a special use *permit* or other permitted *non-residential* use.

A. Commercial or industrial vehicles include:

1. vehicles requiring a commercial driver's license to operate;

2. tour buses or school buses;

3. concrete mixer trucks or concrete pumper trucks;

4. towing vehicles;

5. earthmoving or *grading* equipment;

6. trailers or tractors (except lawn trailers or tractors)

7. motorized construction or agricultural equipment;

8. cranes;

9. roll-off trash containers (except as related to an active construction *permit*); or

10. any other vehicles designed by the manufacturer for *business* purposes.

B. Commercial or industrial vehicles do not include:

1. *recreational vehicles* or trailers related to *recreational vehicles* that are used for personal purposes; or

2. passenger vehicles, pickup trucks or small trailers that may be used for *business* purposes related to a registered *home occupation business*.

(ii) Outdoor storage of construction materials, except in connection with active construction activities on the *premises*;

(iii) Storage of *mobile homes* or commercial shipping containers;

(iv) Vehicles, tents or other *structures* that do not comply with this chapter or other applicable codes, used as dwellings;

(v) Storage of PODS ® or similar style moving/shipping containers for more than thirty (30) days;

(vi) Storage or parking within any portion of a *street yard* other than a driveway of a noncommercial vehicle used for storage of goods, materials or equipment other than those items considered to be a part of the vehicle or essential for its immediate use; [~~and~~]

(vii) Use of any vehicle as a receptacle for the storage of litter or refuse as provide by Subsections 10-1.13 and 10-1.14 SFCC 1987[~~.~~]; and

(viii) Use of any *structure* or conduct of any *business* or *home occupation* for any *cannabis establishment* or *commercial cannabis activity*.

Section 5. Subsection 14-6.3(D)(2) of the Land Development Code (being Ord. No. 2011-37, § 8, as amended) is amended to read:

(D) Standards for Specific Accessory Uses

(2) Home occupations

(a) Purposes

The purposes of the this Subsection 14-6.3(D)(2) are to increase the economic vitality of Santa Fe; provide increased worker independence, self-sufficiency and motivation; decrease traffic congestion through the enhancement of community; increase the safety of the neighborhoods by promoting neighborhood activity; integrate the ideas of working and residing in the same environment; protect the stability and character of the neighborhood; and encourage neighborhood participation in the determination of a successful balance between neighborhood residents and home-based *businesses*.

(b) Standards

Home occupations are permitted on all *property*, including *residential* or *mixed-use residential*/commercial if the standards provided in this paragraph are met.

(c) General Standards

(i) The *home occupation* shall involve the primary sale of goods or services in connection with the *home occupation* , including: 1) goods that are prepared, produced or grown on the *premises* ; 2) services that are developed on the *premises* and provided on or off the *premises* ; 3) the sale of goods that are not produced on the *premises* and that are only distributed off the *premises* ; or 4) repair services that take place solely within the home.

(ii) The *home occupation* shall be located on the same *lot* as the permitted *principal* use or *structure* or on a contiguous *lot* in the same ownership.

(iii) The *home occupation* shall be conducted by the *business* owner who resides continuously for a substantial period of time at the *premises* in which the *home occupation* is conducted. Continuous residence is determined by the land use director by review of relevant factors. The address listed on a driver's license, voter registration or tax return may not be sufficient to establish continuous residence.

(iv) Not more than two persons, other than members of the *family* who reside on the *premises*, shall be regularly engaged in the *home occupation*.

(v) Except for on-street parking, as set forth in this section, a *home occupation* shall be completely contained within the *property* lines of the lot on which the *home occupation* is located. A *home occupation* shall be in compliance with the performance standards set forth in Section 10-4 SFCC (General Environmental Standards); not produce any offensive noise, vibration, smoke, dust, odors, heat, gas, glare or electrical interference; or otherwise create a risk to health, safety or *property* of residents and occupants of adjacent and neighboring *properties* . The storage of firearms, ammunition, fireworks or similar explosives for sale or service is prohibited. Mechanical or electrical equipment that is incidental to the *home occupation* may be used if it does not create visible or audible interference in radio, computer or television receivers or cause fluctuation in voltage of the premises or neighboring premises.

Depending upon the nature of the *home occupation* , the land use director may require proof of compliance with these restrictions prior to issuance of a *business* registration.

(vi) *Employees* , customers, clients or deliveries shall not enter the *premises* between the hours of 7:00 p.m. and 8:00 a.m. weekdays and 7:00 p.m. and 10:00 a.m. weekends. Depending on the nature of the *home occupation* , the *land use director* may reduce the hours of operation. Deliveries are limited to vehicles that do not exceed eleven (11) feet in height and twenty (20) feet in length.

(vii) No *cannabis establishment* or *commercial cannabis activity* may be conducted as a *home occupation*.

(d) Structural Standards

(i) Not more than twenty-five percent of the *gross floor area* of the *dwelling unit* , including *accessory buildings* , shall be used to conduct a *home occupation* . In determining the *gross floor area* of an *accessory dwelling unit* , no more than one thousand (1,000) square feet shall be used.

(ii) Nothing incidental to the conduct of a *home occupation* shall be constructed, installed, placed, parked or stored on a residentially zoned *lot* on which a *home occupation* is being conducted if it is visible from any adjacent or neighboring *property* and if it is not in keeping with the *residential* character of the neighborhoods surrounding the *lot* , except for *signs* and parking set forth in item (iii) below. A person who conducts a *home occupation* and applies for a construction *permit* shall demonstrate to the *land use director* that the proposed construction does not violate any section of this Subsection 14-6.3(D)(2).

(iii) No more than one *sign* is permitted, and the area of the *sign* shall not exceed one square foot.

(e) Parking Standards

(i) Depending on the nature of the *home occupation*, the following parking spaces shall be provided on the *lot* : 1) if there are no *employees* who reside off the *premises* and customers or clients do not come to the *premises*, only parking for the *dwelling unit* is required; 2) if there are no *employees* who reside off the premises and customers or clients come to the *premises* , at least one parking space shall be provided on the lot for every four hundred (400) square feet of the *gross floor area* of the *premises* used for the *home occupation*, in addition to that required for the *dwelling unit*; 3) if there are any *employees* who reside off the *premises* and customers or clients do not come to the *premises*, at least one parking space shall be provided on the *lot* for every *employee* simultaneously working, in addition to that required for the *dwelling unit*; 4) if there are *employees* who reside off the *premises* and customers or clients come to the *premises*, at least one parking space shall be provided on the *lot* for every *employee* simultaneously working and at least one parking space shall be provided on the *lot* for every four hundred (400) square feet of the *gross floor area* of such *premises* used for the *home occupation* in addition to that required for the *dwelling unit*;

(ii) No more than one vehicle relating to a *home occupation* may be parked at any one time on the *streets* adjacent or proximate to the *lot* on which the *home occupation* is being conducted; however, in light of the character of the surrounding neighborhood, the *land use director* may prohibit any vehicles used in connection with a *home occupation* from parking on the *street*. This item regulates parked vehicles not associated with the *residential* use of the *dwelling unit*.

(f) Other Requirements; Inspections

(i) The *home occupation* shall comply with all other applicable codes, including without limitation the currently adopted fire and building codes, the federal American disabilities act and the *city's* wastewater requirements. Depending on the

location of the *home occupation*, private covenants enforceable by those governed by the covenants may apply.

(ii) Inspections by the *city* are required prior to issuance of the *business* registration for the *home occupation* only for those *home occupations* in which the following occur: 1) *employees* reside off the *premises* come to the *premises*; 2) customers or clients come to the *premises*; or 3) goods for sale are prepared, produced, grown or stored on the *premises*. The *city* reserves the right to inspect all *home occupations* for code compliance at such times as the *city* receives a complaint or has reason to believe the *city's* codes may be violated.

(g) Notice; Registration; Violations; Complaints; Variances; Appeals

(i) A person proposing to conduct a *home occupation* that will have more than one *employee* who will reside off the *premises* or that will have customers or clients coming to the *premises*, shall as part of the *application* be required to give notice, by first class mail with mailing certificate, of the *home occupation application* to all residents and *property owners* within one hundred fifty (150) feet of the *premises* and nearby neighborhood associations. The notice shall include the nature of the *home occupation*, the number of *employees*, whether customers or clients will be involved, the willingness of the *applicant* to meet with the neighboring residents and *property owners* and that the neighboring resident and *property* owner may review the *application* at the *city* offices. The neighboring residents and *property owners* have fifteen days from the date the notice was mailed to review the *application*. The *land use director* shall collect and evaluate this public comment that shall be used in determining whether the *home occupation* shall be approved and what restrictions, if any, shall be placed on it.

(ii) Each person who engages in a *home occupation* shall register the *home occupation* with the *city* on forms designated by the *city*, shall provide such information as required by the forms to verify compliance with the regulations, and shall renew such registration each year.

(iii) A person shall not conduct a *home occupation* in violation of this section. In addition to any other remedies available, the *city* may revoke the *business* registration for the *home occupation* or the *certificate of occupancy* for any *building* in which a *home occupation* is being conducted in violation of this section. A person who fails to comply with the provisions of this section is subject to a penalty as provided in Article 14-11.

(iv) A *person* who is aggrieved by an approved *home occupation business* may file a complaint with the *city*. Within thirty calendar days of the *city's* receipt of the complaint, the *city* shall investigate the complaint and issue a written decision as to whether the *home occupation* against which the complaint was filed violates or complies with this section. If a violation is found, the *land use director* shall determine the actions that have been or should be taken to address the violation. Complaints shall be kept on file and be open to the public. When investigating complaints, the *land use director* shall review the file for prior complaints.

Section 5. Section 14-12.1 of the Land Development Code (being Ord. No. 2011-37, § 15, as amended) is amended to add the following definitions:

CANNABIS CANOPY AREA

The surface area utilized to produce mature plants calculated in square feet and measured using the outside boundaries of any area that includes mature marijuana plants including all of the space within the boundaries. Square footage of canopy space is measured horizontally starting from the outermost point of the furthest mature flowering plant in a designated growing space and

continuing around the outside of all mature flowering plants located within the designated growing space.

CANNABIS CONSUMPTION AREA

An area where cannabis products may be served and consumed by smoking, vaping, or ingesting, provided that alcohol cannot be sold or consumed in a cannabis consumption area.

CANNABIS ESTABLISHMENT

A broad term that includes a cannabis testing laboratory, a cannabis manufacturer, a cannabis producer, a cannabis retailer, a cannabis research laboratory, a vertically integrated cannabis establishment, or an integrated cannabis producer.

CANNABIS MANUFACUTURING, LIGHT

A use that involves compounding, blending, extracting, infusing, packaging, or otherwise preparing a cannabis product using nonvolatile solvents, alcohol, or carbon dioxide, or no solvents.

CANNABIS MANUFACTURING, HEAVY

A use that involves compounding, blending, extracting, infusing, packaging, or otherwise preparing a cannabis product using volatile solvents or other methods that fall outside the scope of light cannabis manufacturing.

CANNABIS PRODUCER, LARGE

A business conducted by a person licensed to cultivate cannabis, including the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis, provided that the producer may not possess more than ten thousand (10,000) total mature cannabis plants at any one time.

CANNABIS PRODUCER, MEDIUM

A business conducted by a person licensed to cultivate cannabis, including the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis, provided that the producer may not possess more than three thousand (3000) total mature cannabis plants at any one time.

CANNABIS PRODUCT

A product that is or that contains cannabis or cannabis extracts, including edible or topical products that may also contain other ingredients.

CANNABIS RESEARCH LABORATORY

A facility that produces or possesses cannabis or cannabis products for the purpose of studying cannabis cultivation, characteristics, or uses.

CANNABIS TESTING LABORATORY

A facility where cannabis products are sampled, collected, and tested.

COMMERCIAL CANNABIS ACTIVITY

Cultivating, producing, possessing, manufacturing, storing, testing, researching, labeling, selling, purchasing for resale, or consigning cannabis products (but excluding personal growing and use, medical cannabis program activities, and cannabis training and education programs).

COMMERCIAL CANNABIS RETAILER

A business conducted by a person that is licensed to sell cannabis products directly to consumers who are twenty-one years of age or older.

VERTICALLY INTEGRATED CANNABIS ESTABLISHMENT

A business conducted by a person that is authorized to act as all or any combination of the following: a cannabis courier, a cannabis manufacturer, a cannabis producer or a cannabis retailer.

Section 6. Effective Date. This ordinance shall take effect immediately upon adoption.

APPROVED AS TO FORM:

_____

ERIN K. McSHERRY, CITY ATTORNEY

Legislation/2021/Bills/Cannabis Zoning

City of Santa Fe New Mexico
Memorandum

Date: August 13, 2021, for the August 19, 2021 Meeting of the Planning Commission

To: Planning Commission

From: The Policy Subcommittee of the Planning Commission

CC: Jason Kluck, Interim Planning and Land Use Department Director
Noah Berke, Current Planning Division Manager

RE: Policy Subcommittee Cannabis Recommendations

ITEM & ISSUE:

In the 2021 Special Session, the New Mexico Legislature adopted the Cannabis Regulation Act (House Bill 2), which legalized recreational cannabis use by adults twenty-one (21) years old and over. The Act, which took effect on June 29, 2021, allows local jurisdictions to adopt zoning and land use regulations but limits the extent of local regulatory authority. This memorandum sets forth the Policy Subcommittee's preliminary recommendations for cannabis land use regulations. The Policy Subcommittee requests input from the full Planning Commission on these recommendations. Following input from the Planning Commission, the Policy Subcommittee will work with Staff to incorporate the recommendations into draft amendments to the Land Development Code, as set forth in Chapter 14 of the Santa Fe City Code. The resulting legislation will require review at public hearings before the Planning Commission and Governing Body before adoption.

The State has clearly outlined that local jurisdictions cannot:

- Prevent anyone properly licensed from transporting cannabis products on public roads;
- Completely prohibit the operation of a cannabis licensee;
- Prohibit or limit signage identifying a business as a cannabis establishment if it's attached to or located on the business premises;
- Require a cannabis establishment or a cannabis consumption area be located more than 300 feet from a school or daycare center that existed when the cannabis establishment or consumption area was licensed;
- Require an existing cannabis licensee to relocate to a new premises; or
- Prohibit an adult New Mexican from producing homegrown cannabis.

Local jurisdictions can adopt rules that reasonably limit conditions like density of cannabis establishments and operating times.

The Policy Subcommittee has conducted several meetings to formalize answers to the broad land use policy questions that Staff posed to the Governing Body on July 14, 2021. Subcommittee members have also worked to research the legislative limitations, best practices, and experiences of other places, and have appreciated the assistance of staff in this research. The Subcommittee's primary focus has been to make recommendations regarding appropriate time, place, and manner restrictions for the following types of cannabis establishments: commercial retail, production (growing), testing and research laboratories, manufacturing facilities, and vertically integrated cannabis establishments. The Policy Subcommittee's recommendations are aimed at promoting the cannabis economy while protecting public health, safety, and the general welfare.

During this process, the Policy Subcommittee has expressed concern that the City's desired timeline assigned to the promulgation of the policy related to the cannabis legislation has impeded the Subcommittee's completion of a thorough and effective set of recommendations. The Subcommittee notes the complexity of this industry and its impacts (both positive and negative) on the community need further examination. It would be beneficial to seek more community feedback prior to making any final recommendations.

Although the Policy Subcommittee has submitted a limited series of general recommendations, it is the intent of the Subcommittee to continue working on producing more impactful and substantive recommendations to address several gaps and "unknowns" in the current recommendation submission. Regulatory requirements for cannabis consumption areas have not been addressed in this work because of additional time available before that licensing is implemented and because of time pressures to complete the regulations for the other uses. The Subcommittee recommends that cannabis consumption areas be an immediate priority after the current ordinance is adopted, so that thoughtful and complete work can be done before that licensing begins. The Subcommittee intends to address consumption in a separate set of recommendations (estimated start date mid-to-late September). The Policy Subcommittee recognizes that additional recommendations and legislation will likely be required in the future to address unresolved issues and make any desired adjustments to the City's regulatory framework.

UPDATE:
The Policy Subcommittee met on August 12, 2021 to work on definitions, density, and permitted uses. The Policy Subcommittee recommends the following:

- Regarding density for retail: 400 feet to replace 100 to 600 feet.

- Regarding production: micro and all other facilities fall under the subcategories Extra Small, Small, Medium, and Large. It is important that the state's definition of Micro-business remain in the drafted legislation under definitions and a statement be included before subcategory definitions (XS, S, M, L) and the zoning table. "Micro-business and all other production facilities shall fall under the subcategories, Extra Small, Small, Medium, and Large as defined based on indoor/outdoor canopy size."

RECOMMENDATIONS:

The Policy Subcommittee proposes the following recommendations in response to the questions posed by Staff.

- Should the density of cannabis establishments be limited, in all or part of the City?

  Yes. The Policy Subcommittee recommends the adoption of a minimum distance between commercial retail establishments, as measured from the property lines of a parcel, to avoid the potential negative consequences that might result from concentrating retail establishments, and recommends a uniform minimum distance across the city to promote equitable requirements in all areas of town and ease of enforcement. Staff has provided maps that illustrate buffer zones of various sizes, ranging from 100 feet to 600 feet. The Policy Subcommittee anticipates making a recommendation for a buffer of between 300 and 600 feet, following input from the public and the full Planning Commission. The Policy Subcommittee is also exploring whether density limitations might be appropriate for other types of cannabis establishments, including production (growing) and manufacturing establishments.

  The Policy Subcommittee recommends that density be uniform throughout the entire city, meaning that no district shall be at a higher or lesser density than any other district. Consistency in regards to density is a critical part of the intent of the New Mexico state law to ensuring equity.

- Should the City adopt operating times for cannabis establishments?

  Yes. The Policy Subcommittee recommends limiting commercial retail establishments to operating hours of 7 AM – 12 AM (midnight). This would be consistent with what Santa Fe County has adopted.

- Should cannabis uses be located a minimum distance from schools, daycare centers, religious institutions, and/or residential neighborhoods?

  Yes. Cannabis establishments should be located no closer than 300 feet from a school or daycare center. The Policy Subcommittee does not recommend a minimum distance from religious institutions or residentially zoned districts. The Policy Subcommittee notes that existing provisions in Chapter 14 require up to an 8 foot wall and a 15 foot landscape buffer between commercial uses and residentially zoned districts, which appear sufficient to address potential residential concerns about noise and odor. To further protect residential neighborhoods, the Policy Subcommittee also recommends prohibiting home occupations that involve commercial cannabis activities, which would be consistent with what Santa Fe County has adopted.

- Should a special use permit be required to operate a cannabis establishment in certain areas?

  Yes. At a minimum, the Policy Subcommittee recommends that a Special Use Permit should be required for all outdoor commercial growing operations; all large growing operations

(22,000 sq. ft. of canopy or more); and all growing operations in C-2 and BIP districts.

- Should the City adopt regulations to allow recreational cannabis consumption areas?

  Yes, but not as part of the initial legislation currently under way. The Policy Subcommittee recommends that consumption areas should be prohibited until the City has had an opportunity to conduct further study and obtain additional input from the community and stakeholders. The State of New Mexico has not drafted regulations for consumption areas and therefore the Policy Subcommittee is not in a position to offer guidance until such regulations are promulgated at the State level. The Policy Subcommittee anticipates that additional legislation on this topic will be drafted and proposed in the near future.

- Should the Table of Permitted Uses be revised to clarify or amend the zoning districts in which the various types of cannabis establishments may be located? E.g., should certain zoning districts be reserved for uses other than cannabis establishments to prevent unintended consequences, such as a proliferation of cannabis establishments that could drive other businesses out or cause rent and property prices to go up?

  Yes. For clarity, the Policy Subcommittee recommends that various types of cannabis establishments should be added to the Table of Permitted Uses. The Policy Subcommittee recommends basing the permitted zoning districts on the existing categories, with the following recommended changes:

  Retail cannabis should be allowed in zones where other retail is allowed, subject to the density and proximity to school/daycare limitations described above. Permitted districts include the C-2, BCD, industrial districts, shopping center districts, and mixed use districts.

  Cannabis manufacturing uses should be divided into two categories. Methods of manufacturing that involve volatile solvents pose a greater risk to public safety should be restricted to industrial zoning districts. Research and testing laboratories that use volatile solvents should likewise be treated as heavy manufacturing. Methods of manufacturing that pose a lower risk to public safety should be allowed in the zoning districts that currently allow laboratory, light manufacturing, and assembly uses, which includes the C-2, BCD, and industrial zoning districts.

  Regarding cannabis production (growing), the Policy Subcommittee notes that facility size appears to be critical to managing this industry in other cities and states, and that other jurisdictions have regulated facility size based on a calculation of the total area of the canopy of mature plants present at the facility at any one time. The Policy Subcommittee recommends ongoing study of this issue and intends to retain this as a policy priority in the near future. At this time, the Policy Subcommittee recommends creating four different sub categories that all producers, including Micro-businesses, will fall under and requiring special use permits for most growing operations, as follows:

  ~~**Regarding cannabis production (growing), the Policy Subcommittee notes that facility size appears to be critical to managing this industry in other cities and states, and that other jurisdictions have regulated facility size based on a calculation of the total area of the canopy**~~

~~of mature plants present at the facility at any one time. The Policy Subcommittee recommends ongoing study of this issue and intends to retain this as a policy priority in the near future. At this time, the Policy Subcommittee recommends creating five different categories of producers and requiring special use permits for most growing operations~~, as follows:

~~Cannabis Producer Microbusiness (up to 200 mature plants)~~
- ~~Permitted indoors: I-1, I-2~~
- ~~Permitted indoors or outdoors with Special Use Permit: C-4, BIP~~

Cannabis Producer, Extra Small (up to 2500 sq. ft. canopy)
- **Permitted indoors: I-1, I-2**
- **Permitted indoors or outdoors with Special Use Permit: C-4, BIP**

Cannabis Producer, Small (2,500-10,000 sq. ft. canopy)
- **Permitted indoors: I-1, I-2**
- **Permitted indoors or outdoors with Special Use Permit: C-4, BIP**

Cannabis Producer, Medium (10,000-22,000 sq. ft. canopy indoors or up to 1 acre outdoors)
- **Permitted indoors: I-1, I-2**
- **Permitted indoors or outdoors with Special Use Permit: C-4, BIP**

Cannabis Producer, Large (over 22,000 sq. ft. canopy)
- **Permitted indoors or outdoors with Special Use Permit: I-1, I-2.**

Finally, House Bill 2 creates a type of establishment called a "vertically integrated cannabis establishment" that allows a person licensed by the State to act as all or any combination of the following: a cannabis courier, a cannabis manufacturer, a cannabis producer, or a cannabis retailer. The Policy Subcommittee recommends that a licensee seeking to run one a vertically integrated cannabis establishments must be located in a zoning district that allows all of the contemplated uses.

- Are Chapter 14 amendments needed to address issues related to safety and security, or odors and ventilation?

Regarding safety and security, House Bill 2 requires the Cannabis Control Division of the New Mexico Regulation and Licensing Department to adopt regulations to address security requirements, and comprehensive draft regulations have been published for comment. The Policy Subcommittee intends to review the regulations when they have been promulgated and made available to the public to ensure they are appropriate for the City of Santa Fe. The Policy Subcommittee intends to propose additional legislation if any gaps are identified.

Regarding odor and ventilation, the Policy Subcommittee notes that existing building and fire codes and the City's nuisance ordinance likely address most of the concerns about preventing nuisance odors and ensuring safe, well-ventilated operations. The Policy Subcommittee recommends adding some general language to Chapter 14 to further address these issues, based on provisions that have been adopted by the City of Albuquerque and the County of Santa Fe. The City of Albuquerque requires cannabis establishments to have

an odor control plan approved by the City. The County of Santa Fe requires certain cannabis producers and manufacturers to use industry standards to minimize odorous, toxic, or noxious matter.

- What should the process be for conducting stakeholder outreach and community conversations, prior to the adoption of new land use regulations for cannabis?

  The Policy Subcommittee understands that the Governing Body solicited public input on cannabis at the Governing Body meeting held August 2, 2021. Public input is invited at the Planning Commission meeting scheduled for August 5, and notice of this opportunity has been posted on the City's Facebook page. In addition, public hearings are legally required as part of the approval of any legislative language. The Policy Subcommittee recommends that the City continue to issue media releases to alert the public to additional opportunities to provide input at upcoming Planning Commission and Governing Body meetings. Additional public input will also be sought for the regulations for cannabis consumption areas.

  The Policy Subcommittee regrets that there is not more time available for more stakeholder outreach outside of public meetings and recommends that this be improved as part of the Subcommittee's process for all future work.

- Should the definitions in Chapter 14 be amended to include new definitions for various types of cannabis establishments?

  Yes. The definitions should be consistent with State and County definitions, as customized to describe various types of land uses.

APPENDIX:
PROPOSED NEW DEFINITIONS FOR § 14-12.1 (WORKING DRAFT)

CANNABIS CANOPY AREA

~~The measurement in square feet of the boundaries of all area(s) that will contain mature cannabis plants. If plants are being cultivated using a shelving system, the surface area of each level shall be included in the total canopy calculation.~~ The surface area utilized to produce mature plants calculated in square feet and measured using the outside boundaries of any area that includes mature marijuana plants including all of the space within the boundaries. Square footage of canopy space is measured horizontally starting from the outermost point of the furthest mature flowering plant in a designated growing space and continuing around the outside of all mature flowering plants located within the designated growing space.

CANNABIS CONSUMPTION AREA

An area where cannabis products may be served and consumed by smoking, vaping, or ingesting, provided that alcohol cannot be sold or consumed in a cannabis consumption area and entry is limited to patrons 21 years of age or older.

CANNABIS ESTABLISHMENT

A broad term that includes a cannabis testing laboratory, a cannabis manufacturer, a cannabis producer, a cannabis retailer, a cannabis research laboratory, a vertically integrated cannabis establishment, a

cannabis producer microbusiness, or an integrated cannabis microbusiness.

CANNABIS MANUFACUTURING, LIGHT
A use that involves compounding, blending, extracting, infusing, packaging, or otherwise preparing a cannabis product using mechanical methods, nonvolatile solvents, or no solvents.

CANNABIS MANUFACTURING, HEAVY
A use that involves compounding, blending, extracting, infusing, packaging, or otherwise preparing a cannabis product using volatile solvents, e.g., butane, heptane, hexane, or propane.

CANNABIS PRODUCER, EXTRA SMALL
A business conducted by a person licensed to cultivate cannabis, including the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis, provided that the cannabis canopy area for an extra small cannabis producer may not exceed twenty-five hundred (2,500) square feet at any one time.

CANNABIS PRODUCER, LARGE
A business conducted by a person licensed to cultivate cannabis, including the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis. The cannabis canopy area for a large cannabis producer may exceed twenty-two thousand (22,000) square feet.

CANNABIS PRODUCER, MEDIUM
A business conducted by a person licensed to cultivate cannabis, including the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis, provided that the cannabis canopy area for a medium cannabis producer may not exceed twenty-two thousand (22,000) square feet at any one time, or one (1) acre, if growing will occur outdoors.

CANNABIS PRODUCER, SMALL
A business conducted by a person licensed to cultivate cannabis, including the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis, provided that the cannabis canopy area for a small cannabis producer may not exceed five thousand (5,000) square feet at any one time.

CANNABIS PRODUCER MICROBUSINESS
A small business conducted by a person licensed to cultivate cannabis at a single location, including the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis, provided that the person may not possess more than two hundred (200) total mature cannabis plants at any one time.

CANNABIS PRODUCT
A product that is or that contains cannabis or cannabis extracts, including edible or topical products that may also contain other ingredients.

CANNABIS RESEARCH LABORATORY
A facility that produces or possesses cannabis or cannabis products for the purpose of studying cannabis cultivation, characteristics, or uses, provided that a cannabis research laboratory that conducts heavy cannabis manufacturing activities shall be classified as “cannabis manufacturing, heavy.”

CANNABIS TESTING LABORATORY

A facility where cannabis products are sampled, collected, and tested, provided that a cannabis testing laboratory that conducts heavy cannabis manufacturing activities shall be classified as "cannabis manufacturing, heavy."

COMMERCIAL CANNABIS ACTIVITY
Cultivating, producing, possessing, manufacturing, storing, testing, researching, labeling, selling, purchasing for resale, or consigning cannabis products (but excluding personal growing and use, medical cannabis program activities, and cannabis training and education programs).

COMMERCIAL CANNABIS RETAILER
A business conducted by a person that is licensed to sell cannabis products directly to consumers who are twenty-one years of age or older.

INTEGRATED CANNABIS MICROBUSINESS
A small business conducted by a person that is authorized to act as all or any combination of the following: a cannabis courier, a cannabis producer at a single location (and possessing no more than two hundred (200) total mature cannabis plants at any one time), a cannabis manufacturer at a singled location, or a cannabis retailer at a single location selling only products that they have manufactured.

VERTICALLY INTEGRATED CANNABIS ESTABLISHMENT
A business conducted by a person that is authorized to act as all or any combination of the following: a cannabis courier, a cannabis manufacturer, a cannabis producer or a cannabis retailer.

FIR No. 10332

FISCAL IMPACT REPORT

General Information:

(Check) Bill: X Resolution: _____

Short Title(s): **Cannabis Zoning**

Sponsor(s): N/A

Reviewing Department(s): Community Development/Planning and Land Use, Finance

Staff Completing FIR: Jason Kluck, Bradley Fluetsch, CFA Date: 8/11/2021 Phone: 231-8753

Reviewed by City Attorney: _____ Date: _____

Reviewed by Finance Director: _____ Date: _____

Summary:
This Bill amends the Land Development Code by adding a new specific use category of Commercial Cannabis Establishments in the Santa Fe City Code ("SFCC" 14-6.1-1 (Table of Permitted Uses). The Bill further clarifies what zoning districts various types of Commercial Cannabis Establishments are permitted in, as well as adopts minimum distances between cannabis retail establishments and schools or daycares. The Bill includes proposed changes to Subsection 14-6.2(H) (agricultural uses), 14-6.3(D)(2) (home occupations), 14-12.1 (definitions), and adds a new subsection 14-6.2(I) to adopt use-specific standards for cannabis establishments including density limitations, and operating times. The goal of the Bill is to promote the cannabis economy while protecting public health, safety, and the general welfare of the City of Santa Fe.

Departments Affected:
Community Development – Planning and Land Use, City Attorney

Consequences of Not Enacting Legislation:
Current zoning regulations do not adequately address the needs and complexities of this new use and emerging industry. Without legislation allowing implementation of land development regulations that guide and support the commercial cannabis industry, a negative impact may result regarding issues such as lost or delayed economic opportunity, impeded facilitation and clarity of needed local approvals and lack of appropriate local control of time, place and manner criteria.

Conflict, Duplication, Companionship, or Relationship to Other Legislation:
This legislation is necessary due to the State's legalization of recreational cannabis during the 2021 Special Legislative Session.

Performance and Administrative Implications:
Once the Bill has been adopted, there will be more new businesses starting than usual and there will be an increased work load on staff and that is anticipated to subside after the initial wave of permit applications has been filed.

Fiscal Implications:
The fiscal implication is negligible and would be consistent with adding any new business to our community, in this case it is an entire industry being added and it will bring a number of new businesses in a short time frame. Sale of recreational cannabis would be legal without this Bill, which is intended to define various limitations on the location and density of Commercial Cannabis Establishments.

Fiscal Impact

X Check here if no fiscal impact

Expenditures

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

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

Expenditure Narrative:

There is no expense narrative, this is normal course business that would be done for any new business.

Revenue

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

Revenue Narrative:

There is no expected revenue.

ACTION SHEET
ITEM FROM FINANCE COMMITTEE MEETING OF 08/30/21
FOR CITY COUNCIL MEETING OF 09/08/21

Request Approval for Award of Bid Number '21/43/B for the FY 2022 Priority Line Replacement Price Agreement, CIP # 3058 to Sub Surface Contracting, Inc. and A.A.C Construction, LLC. (Bill Huey, Water Division Engineer, bchuey@santafenm.gov, 955-4273)

1) Request for Approval of a Budget Adjustment Resolution (BAR) in the amount of $3,500,000.

Committee		**Review:**
Finance	Committee:	8/30/2021
PU/PWC:		9/7/2021
Governing Body: 9/8/2021		

FINANCE COMMITTEE ACTION:
Approved on consent

FUNDING SOURCE:

SPECIAL CONDITIONS OR AMENDMENTS

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

01/13/21

City of Santa Fe, New Mexico

memo

Date: August 9, 2021

To: Public Works-Public Utilities Committee / Finance Committee

From: Michael R. Moya, T&D Section Manager MM
Bill Huey, Water Division Engineer Associate BH

Via: Jesse D. Roach, Water Division Director JR

RE: Request to award bid number '21/43/B for the FY 2022 Priority Line Replacement Price Agreement, CIP # 3058 to Sub Surface Contracting, Inc. and A.A.C. Construction, LLC.; Request approval of a Budget Adjustment Request/Budget increase in the amount of $3,500,000.

ITEM AND ISSUE:

The Water Division requests award of bid number '21/43/B for the FY 21/22 Priority Line Replacement Price Agreement, CIP # 3058 to Sub Surface Contracting, Inc. and A.A.C. Construction, LLC for the remainder of four (4) Fiscal Years, FY 2021-22 until FY2024-25. Initial funding of $3,500,000 inclusive NMGRT is requested for FY2021-22. Funding is broken down for each contractor as follows: $2,250,000.00 inclusive of NMGRT for Sub Surface and $1,250,000.00 inclusive of NMGRT for AAC. .Future funding will depend upon the availability of CIP funds.

BACKGROUND AND SUMMARY:

The Priority Line Replacement Price Agreement is an on-call requirements contract, with the Water Division issuing work orders as needed for work such as water line replacements. The contract is funded from CIP for Transmission and Distribution to work on their infrastructure. The initial Contract amount is limited to $3,500,000.00 inclusive of New Mexico Gross Receipt Tax (NMGRT).

This is was multi-contractor award ITB to set the applicable Bid Items for future work. The ITB was only used to select the winning Contractors. Future work will be assigned under fully signed Work Orders for planned work on will be followed with a signed Work Order for Emergency repair. The exact type of work required will be used to select from the applicable Bid Items. Not every Bit Item is anticipated to be used.

The initial contract period is Fiscal Years 2021-2025. The bids for this project were opened on June 17, 2021 and were subsequently evaluated for completeness and accuracy. The low bid in the amount of $892,448.25 plus NMGRT was submitted by Sub Surface Contracting, Inc. A second acceptable bid of $933,364.22 was submitted by A.A.C. Construction, LLC. The Water Division is planning on replacing pipe on multiple streets in the Apache, San Ildefonso, San Felipe, MaClovia, Isabel and Rosina neighborhood, as well as Bishops Lodge between Artist and Murales Roads, Lorenzo Road, Malaga

Lane, Pino Road, San Isabel Street, Sosaya Street, Camino Santander and Camino Santiago/Camino Matias.

A summary of the bids is provided below:

Bidders	Total Bid without NMGRT	Bid Including Veterans preference without NMGRT
Sub Surface Contracting, Inc.	$892,448.25	$821,052.39
A.A.C. Construction, LLC	$933,364.22	
TLC Plumbing & Utility	$1,158,308.40	
Blueline Construction, Inc.	$1,476,101.57	
Allied 360 Construction, LLC	$2,364,321.74	

CONTRACT NUMBER:
The FY22 Munis contract number:
Sub Surface Contracting # 3202929
A.A.C Construction # 3202927

FUNDING SOURCE:
The funding source is:
Water Enterprise Fund/ CIP
FY 2022
Fund Name/Number: Water Enterprise Fund/ 500
Munis Org Name/Number: Water CIP / 5050395
Munis Object Name/Number: WIP Construction / 572970

Funds for this work will be available in Business Unit, Line Item 5050395.572970 in the amount of $1,600,000.00 plus NMGRT upon approval of the BAR Budget Increase.

RECOMMENDATION:

The Water Division recommends:

- Review and approval of award of contracts to Sub Surface Contracting, Inc. and A.A.C Construction, LLC for the FY 21/22 Priority Line Replacement Price Agreement, CIP # 3058 under ITB No. '21/43/B for a total amount of $3,500,000.00 inclusive of NMGRT for FY2021-22.

- Approval of the BAR – Budget Increase in the amount of $3,500,000 from the Water Enterprise Fund cash balance into the Water CIP fund for FY 2022.

- Forwarding and recommendation of approval of award and contract to the Finance Committee for their consideration and approval to the Governing Body for their final consideration and approval.

Log # *{Finance use only}*:	
Batch # *{Finance use only}*:	

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

DEPARTMENT / DIVISION NAME	DATE
PUD/Water/CIP	8/17/2021

ITEM DESCRIPTION	ORG	OBJECT	PROJECT	INCREASE	DECREASE
EXPENDITURES				*{enter as positive #}*	*{enter as negative #}*
Water CIP WIP Construction	5050395	572970	WTR1950535	3,500,000	
REVENUES				*{enter as negative #}*	*{enter as positive #}*
				$ 3,500,000	$ -

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

Budget Increase from Cash Balance in Water Enterprise Fund for Priority Line Replacement

Price Agreements Award of Bid 21/43/B to A.A.C Construction and Sub Surface for

FY 2022 CIP3058

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

Fund(s) Affected	Fund Balance Increase/(Decrease)
505	(3,500,000)
TOTAL:	**(3,500,000)**

Maya Martinez 8/17/2021
Prepared By *{print name}* Date

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

CITY COUNCIL APPROVAL

City Council Approval Date

Agenda Item #:

Andy Hopkins 8/20/21
Andy Hopkins (Aug 20, 2021 11:52 MDT)
Budget Officer Date

Division Director Signature *{optional}* Date

Finance Director *{≤ $5,000}* Date

Shannon Jones 3/19/2021
Department Director Signature Date

City Manager *{≤ $60,000}* Date

(Rev. 4/20)

City of Santa Fe
Central Purchasing Office

Price Agreement

Awarded Contractor(s):
1) Sub Surface Contracting, Inc.
2) A.A.C. Construction, LLC.

Price Agreement Number:

Payment Terms: Net 30

Ship To:
All City of Santa Fe Departments and Political Subdivisions allowed by Law

F.O.B.: Destination

Invoice To:
City of Santa Fe
Accounts Payable
PO Box 909
Santa Fe, NM 87504-0909

Term: July 1, 2021 to June 30, 2025

Delivery: As requested by Department

Title: FY21/22 - PRIORITY LINE REPLACEMENT CONTRACT, BID '21/43/B, CIP # 3058

This Price Agreement is to be awarded pursuant to the respective Invitation to Bid (1TB) 21/37/B and shall become a part thereof.

This Price Agreement is made subject to the "terms and conditions" as indicated on subsequent price agreement articles and construction contract pages.

Instructions to Supplier:

- By commencing under this Price Agreement (Agreement), the Contractor agrees to all terms and conditions within and attached and agrees that ifthere is a conflict with the Contractors terms, the City of Santa Fe's terms and conditions shall govern. In cases of discrepancy between the work order, purchase order and this Agreement, the terms and conditions of this Agreement shall prevail.
- Do not fill orders for goods/services not listed in this Agreement.
- Orders against this Agreement must be placed with as a separate contract work order with a purchase order.
- Do not fill orders without a valid quote, purchase order work order.
- The purchase order release number must be on all invoices.
- The City of Santa Fe (City) will not be liable for purchases made by unauthorized individuals.

Please forward all original invoice(s) to the Accounts Payable Department at PO Box 909, Santa Fe, NM 87504-0909

Instructions to Requesting Department:

- Do not place orders for goods/services not listed in the Procurement Contract.
- To place an order against this Procurement Contract, issue a Purchase Order Release before placing the order with the Supplier.

This Price Agreement is made subject to the "terms and conditions" as indicated on subsequent pages.

Terms and Conditions

General: When the City or the Requesting Department issues a contract or a purchase order release, a binding contract is created.

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.

Assignment:

a. Neither the order, nor any interest therein, nor any claim thereunder, shall be assigned or transferred by the Contractor, except as set forth in Subparagraph 3b or as expressly authorized in writing by the Chief Procurement Officer or his/her designee. No such assignment or transfer shall relieve the Contractor from the obligations and liabilities under this order.

b. Contractor agrees that any and all claims for overcharge resulting from antitrust violations which are borne by the City as to goods, services, and materials purchased in connection with this agreement are hereby assigned to the City.

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.

Inspection: Final inspection and acceptance will be made at the destination. Supplies rejected at the destination for nonconformance with specifications shall be removed at the Contractor's risk and expense, promptly after notice of rejection.

Inspection of Plant: The Chief Procurement Officer or his/her designee may inspect, at any reasonable time, the part of the Contractor's, or any subcontractor's plant or place of business, which is related to the performance of this contract.

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.**

Taxes: The unit price shall exclude all state taxes.

Default: The City reserves the right to cancel all or any part of this order without cost to the City, if the Contractor fails to meet the provisions of this order 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 subcontractors due to any of the above, unless the City shall determine that the supplies or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit the Contractor to meet the required delivery scheduled. The rights 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 order.

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 Chief Procurement Officer or his/her designee.

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).

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.

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

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

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

Contractor Personnel: Personnel proposed in the Contractor's written bid to the Procuring Agency are considered material to any work performed under this Price Agreement. Once a Purchase Order or contract has been executed, no changes of personnel will be made by the Contractor without prior written consent of the 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.

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

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

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

ARTICLES

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

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

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

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

Article IV - Shipping and Billing Instructions
Delivery shall be as called for by the Requesting Department. Shipment shall be made only against specific orders which the Requesting Department may place with the Contractor during the term. Contractor shall ship in accordance with the following instructions:

a. The Contractor shall enclose a packing list with each shipment listing the City's purchasing document number and the Contractor's name, Requesting Department's contact name and location shall be shown on each packing and delivery ticket, package, bill of lading, the commercial parts number (if any) for each item and other correspondence in connection with the shipments. The Requesting Department's 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 City's **Accounts Payable** and NOT the Central Purchasing Office.

If Contractor is unable to meet stated delivery the City's Chief Procurement Officer or his/her designee must be notified.

Article V - Termination
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. Contractor shall give the 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.

Termination of this Contract, however, shall not affect any outstanding orders. This provision is not exclusive and shall not waive other rights and remedies afforded either party in the event of breach of contract or default.In such instances the contract may be cancelled effective immediately.

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

Article VII - Indemnity Clause
Contractor shall indemnify and hold harmless the City, its officers and employees, against liability, claims, damages, losses or expenses arising out of bodily injury to persons or damage to properties caused by, or resulting from Contractor's, and/or its employees, own negligent act or omission while Contractor, and/or its employees, perform or fails to perform its obligations and duties under the Terms and Conditions of this agreement. This hold harmless and indemnification clause is subject to the immunities, provisions, and limitations of the Tort Claims Act (Section 41-4-1, et seq., N.M.S.A. 1978 comp. and Section 57-7-1 N.M.S.A. 1878 comp. and any amendments thereto.

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

Contractor shall provide all insurance necessary to employees on the work site, including but not limited toWorker's Compensation.

Article VIII - Issuance or Orders
Only written signed orders are valid under this Price Agreement.

Article IX - Packing (if applicable)
Packing shall be in conformance with standard commercial practices.

Article X- Price Schedule

Prices as listed in the item(s) price schedule hereto attached are firm.

Article XI - Wage Rates

Pursuant to the requirements of any Contract entered into that will have a Work Order (WO) in excess of sixty thousand dollars ($60,000) for construction is subject to the minimum wage rate determination issued by the NewMexico Department of Work Force Solutions for this project/WO.

Item# _____
Munis Contract# 3202927

CITY OF SANTA FE

PRIORITY LINE REPLACEMENTPRICE
AGREEMENT

CIP # 3058

THIS AGREEMENT is made and entered into by and between the City of Santa Fe, New Mexico, hereinafter referred to as the "City," and **A.A.C. CONSTRUCTION**., 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 and as described is Exhibit A attached hereto:

1) The Contractor shall perform all the work required by Water Division as required in the Contract Documents for Priority Line Replacement Contract. The work consists of, but is not limited to furnishing all equipment, labor and materials for the construction and repair of water mains, valves, hydrants, metered water service lines and settings, pressure reducing valves, vaults, and other incidental work such as pavement removal and replacement, traffic control all as required to extend, replace or repair water distribution, water storage, and water supply infrastructure, in accordance with the drawings, specifications, and other Contract Documents. All water piping shall be new, poly-wrapped ductile iron, unless otherwise specified.

2) The Contractor shall be responsible for verifications of all measurements and dimensions for bidding on each subsequent Work Order.

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

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

5) The Contractor shall be responsible for all permits, fees, and State andCity inspections associated with the construction.

6) Incorporation by Reference. All exhibits, addenda, schedules of ITB 21/XX/B attached hereto and all certificates, work order documents, drawings, as-built and other

instruments contemplated to be delivered hereunder are hereby expressly made a part of this Agreement as fully as though set forth herein, and all references to this Agreement herein orin any of such writings shall be deemed to refer to and include all of such writings. This Agreement contains the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements and understandings, both written and oral, among the parties with respect to the subject matter hereof. If there is any conflict between such exhibits or addenda and the terms of this Agreement, such exhibits or addenda shall control.

2. Compensation.

A. The City shall pay to the Contractor in full payment for services satisfactorily performed at total amount up to one million one hundred fifty two thousand seven hundred thirty seven dollars and seventy-five cents ($1,152,737.75). The New Mexico gross receipts tax levied on the amounts payable under this Agreement totaling ninety seven thousand two hundred sixty two dollars and twenty five cents ($97,262.25) shall be paid by the City to the Contractor as described in Exhibit A attached hereto. **The total amount payable to the Contractor under this Agreement, including gross receipts tax and expenses, shall not exceed one million two hundred fifty thousand dollars ($1,250,000)). This amount is a maximum and not a guarantee that the work assigned to be performed by Contractor under this Agreement shall equal the amount stated herein. The parties do not intend for the Contractor to continue to provide services without compensation when the total compensation amount is reached. Contractor is responsible for notifying the City when the services provided under this Agreement reach the total compensation amount. In no event will the Contractor be paid for services provided in excess of the total compensation amount without this Agreement being amended in writing prior to those services in excess of the total compensation amount being provided.**

B. Payment is subject to availability of funds pursuant to the Appropriations Paragraph set forth below and to any negotiations between the parties from year to year pursuant to Paragraph 1, Scope of Work, and to approval by the City. All invoices MUST BE received by the City no later than thirty 30) days after the termination of the Fiscal Year in which the services were delivered. Invoices received after such date WILL NOT BE PAID.

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, 2025** 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 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 Contractors receipt 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'sliability 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 dueto misuse of City funds or due to the Appropriations paragraph herein. *THIS PROVISION JS NOT EXCLUSIVE AND DOES NOT WAIVE THE 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 withoutwritten approval of the City; 2) comply with all directives issued by the City in the notice oftermination 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 theCity and records generated under this Agreement. Any non-expendable personal property orequipment 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 asto 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 anyother 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 specifiedin 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 specifiedin 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 becomethe 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, duringthe term of this Agreement, shall not acquire any interest, direct or indirect, which would conflictin 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 13 are material representations of fact upon which the City relied when this Agreement was enteredinto by the parties. Contractor shall provide immediate written notice to the City if, at any timeduring the term of this Agreement, Contractor learns that Contractor's representations and warranties in Paragraphs A and B of this Article 13 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances. If it is laterdetermined that Contractor's representations and warranties in Paragraphs A and B of this Article 13 were erroneous on the effective date of this Agreement or have become erroneous by reason ofnew 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 thissection.

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 imposefelony 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, andSanta 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 Mexicoover 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 toperforming services under this Agreement.

22. Other Insurance

If the Services contemplated under this Agreement will be performed on or in City facilitiesor

property, Contractor shall maintain in force during the entire term of this Agreement, the following insurance coverage(s), naming the City as additional insured,

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

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 tothe 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 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.

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 bi11ings 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, attorney's 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 damageto persons or property during the time when the Contractor or any officer, agent, employee, servantor 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 subjectto 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 anylimitation 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 notwaive 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 unlessexpress 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 andshall 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:
A.AC Construction LLC
18 La Luna Road
Santa Fe, NM 87507

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 bindContractor, and that no further action, resolution, or approval from Contractor is necessary to enterinto a binding contract.

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

CITY OF SANTA FE:

_____
ALAN WEBBER, MAYOR

DATE:_____

CONTRACTOR:

Andrew Sisneros (Aug 19, 2021 16:05 MDT)
_____
NAME
Andrew Sisneros, Managing Member
_____
TITLE
DATE: Aug 19, 2021

CRS# 03-157349-00-5
Registration # 222939

ATTEST:

KRISTINE BUSTOS MIHELCIC, CITY CLERK

CITY ATTORNEY'S OFFICE:

Marcos Martinez
Marcos Martinez (Aug 17, 2021 10:24 MDT)

SENIOR ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

MARY MCCOY, FINANCE DIRECTOR

5050395.572970
Org. Name/Org#

AJH
AJH

				AAC		Sub Surface	
Bid Item	**Approx. QTY.**	**Unit**	**Article and Description**	**Unit Price**	Item Price	**Unit Price**	Item Price
5	35	LF	2" PVC Water Main, cip, all lengths	**$ 32.50**	$ 1,137.50	**$ 30.00**	$ 1,050.00
10	35	LF	4" PVC Water Main, cip, <100'	**$ 38.00**	$ 1,330.00	**$ 36.00**	$ 1,260.00
15	100	LF	4" PVC Water Main, cip, >100'	**$ 36.00**	$ 3,600.00	**$ 34.00**	$ 3,400.00
20	50	LF	6" PVC Water Main, cip, <100'	**$ 43.50**	$ 2,175.00	**$ 42.00**	$ 2,100.00
25	150	LF	6" PVC Water Main, cip, >100'	**$ 40.50**	$ 6,075.00	**$ 39.00**	$ 5,850.00
30	75	LF	8" PVC Water Main, cip, <100'	**$ 49.00**	$ 3,675.00	**$ 48.00**	$ 3,600.00
35	200	LF	8" PVC Water Main, cip, >100'	**$ 46.75**	$ 9,350.00	**$ 45.50**	$ 9,100.00
40	35	LF	10" PVC Water Main, cip, <100'	**$ 56.00**	$ 1,960.00	**$ 52.00**	$ 1,820.00
45	100	LF	10" PVC Water Main, cip, >100'	**$ 52.00**	$ 5,200.00	**$ 49.00**	$ 4,900.00
50	50	LF	12" PVC Water Main, cip, <100'	**$ 69.37**	$ 3,468.50	**$ 66.75**	$ 3,337.50
55	150	LF	12" PVC Water Main, cip, >100'	**$ 66.25**	$ 9,937.50	**$ 64.50**	$ 9,675.00
60	50	LF	14" PVC Water Main, cip	**$ 87.00**	$ 4,350.00	**$ 79.00**	$ 3,950.00
65	50	LF	16" PVC Water Main, cip	**$ 103.50**	$ 5,175.00	**$ 97.00**	$ 4,850.00
70	50	LF	24" PVC Water Main, cip	**$ 167.50**	$ 8,375.00	**$ 100.00**	$ 5,000.00
75	35	LF	2" DI Water Main, cip, all lengths	**$ 42.00**	$ 1,470.00	**$ -**	$ -
80	50	LF	4" DI Water Main, cip, <100'	**$ 63.75**	$ 3,187.50	**$ 57.50**	$ 2,875.00
85	100	LF	4" DI Water Main, cip, >100'	**$ 56.50**	$ 5,650.00	**$ 56.00**	$ 5,600.00
90	75	LF	6" DI Water Main, cip, <100'	**$ 63.50**	$ 4,762.50	**$ 53.00**	$ 3,975.00
95	250	LF	6" DI Water Main, cip, >100'	**$ 56.50**	$ 14,125.00	**$ 51.00**	$ 12,750.00
100	75	LF	8" DI Water Main, cip, <100'	**$ 68.00**	$ 5,100.00	**$ 60.25**	$ 4,518.75
105	250	LF	8" DI Water Main, cip, >100'	**$ 73.00**	$ 18,250.00	**$ 58.00**	$ 14,500.00
110	35	LF	10" DI Water Main, cip, <100'	**$ 77.00**	$ 2,695.00	**$ 65.00**	$ 2,275.00
115	100	LF	10" DI Water Main, cip, >100'	**$ 74.00**	$ 7,400.00	**$ 63.00**	$ 6,300.00
120	50	LF	12" DI Water Main, cip, <100'	**$ 99.00**	$ 4,950.00	**$ 78.00**	$ 3,900.00
125	100	LF	12" DI Water Main, cip, >100'	**$ 89.50**	$ 8,950.00	**$ 74.00**	$ 7,400.00
130	50	LF	14" DI Water Main, cip	**$ 115.50**	$ 5,775.00	**$ 87.00**	$ 4,350.00
135	50	LF	16" DI Water Main, cip	**$ 139.50**	$ 6,975.00	**$ 101.00**	$ 5,050.00
140	50	LF	24" DI Water Main, cip	**$ 207.00**	$ 10,350.00	**$ 159.00**	$ 7,950.00
145	75	LF	Extra Pay for Trench Depth, 6'-8'	**$ 41.00**	$ 3,075.00	**$ 8.00**	$ 600.00
150	50	LF	Extra Pay for Trench Depth, 8'-10'	**$ 98.00**	$ 4,900.00	**$ 12.00**	$ 600.00
155	25	LF	Extra Pay for Trench Depth, 10'-14'	**$ 154.00**	$ 3,850.00	**$ 30.00**	$ 750.00
160	20	CY	Rock Excavation	**$ 325.00**	$ 6,500.00	**$ 220.00**	$ 4,400.00
165	300	CY	Exploratory Excavation (as SDCW Approved)	**$ 50.00**	$ 15,000.00	**$ 65.00**	$ 19,500.00
170	75	CY	Imported Backfill (as SDCW Approved)	**$ 36.00**	$ 2,700.00	**$ 24.00**	$ 1,800.00
175	1,000	LB	Fitting Installation	**$ 4.50**	$ 4,500.00	**$ 4.00**	$ 4,000.00
180	500	LB	Fitting Insertion	**$ 26.00**	$ 13,000.00	**$ 34.00**	$ 17,000.00
185	25	EA	4" Retainer Ring/ Bolt on Flange	**$ 60.00**	$ 1,500.00	**$ 65.00**	$ 1,625.00
190	50	EA	6" Retainer Ring/ Bolt on Flange	**$ 86.50**	$ 4,325.00	**$ 105.00**	$ 5,250.00
195	50	EA	8" Retainer Ring/ Bolt on Flange	**$ 98.50**	$ 4,925.00	**$ 119.00**	$ 5,950.00
200	20	EA	10" Retainer Ring/ Bolt on Flange	**$ 123.00**	$ 2,460.00	**$ 121.00**	$ 2,420.00
205	20	EA	12" Retainer Ring/ Bolt on Flange	**$ 147.50**	$ 2,950.00	**$ 145.00**	$ 2,900.00
210	20	EA	14" Retainer Ring/ Bolt on Flange	**$ 184.50**	$ 3,690.00	**$ 179.00**	$ 3,580.00
215	10	EA	16" Retainer Ring/ Bolt on Flange	**$ 275.00**	$ 2,750.00	**$ 250.00**	$ 2,500.00
220	25	EA	4"Joint Harness	**$ 70.50**	$ 1,762.50	**$ 40.00**	$ 1,000.00
225	50	EA	6" Joint Harness	**$ 95.00**	$ 4,750.00	**$ 110.00**	$ 5,500.00
230	50	EA	8" Joint Harness	**$ 125.00**	$ 6,250.00	**$ 120.00**	$ 6,000.00
235	20	EA	10" Joint Harness	**$ 160.00**	$ 3,200.00	**$ 160.00**	$ 3,200.00
240	20	EA	12" Joint Harness	**$ 192.50**	$ 3,850.00	**$ 180.00**	$ 3,600.00
245	20	EA	14" Joint Harness	**$ 370.00**	$ 7,400.00	**$ 375.00**	$ 7,500.00
250	10	EA	16" Joint Harness	**$ 427.50**	$ 4,275.00	**$ 410.00**	$ 4,100.00
255	10	CY	Concrete Thrust Blocking (as SDCW Approved)	**$ 315.00**	$ 3,150.00	**$ 250.00**	$ 2,500.00
260	2	EA	Tapping Sleeve w/ Tap, 4" X 4"	**$ 1,350.00**	$ 2,700.00	**$ 1,350.00**	$ 2,700.00
265	4	EA	Tapping Sleeve w/ Tap, 6" X 4" - 6"	**$ 1,567.50**	$ 6,270.00	**$ 1,500.00**	$ 6,000.00
270	4	EA	Tapping Sleeve w/ Tap, 8" X 4" - 8"	**$ 1,900.00**	$ 7,600.00	**$ 1,800.00**	$ 7,200.00

				AAC		Sub Surface	
Bid Item	**Approx. QTY.**	**Unit**	**Article and Description**	**Unit Price**	Item Price	**Unit Price**	Item Price
275	2	EA	Tapping Sleeve w/ Tap, 10" X 4" - 10"	**$ 2,250.00**	$ 4,500.00	**$ 2,100.00**	$ 4,200.00
280	4	EA	Tapping Sleeve w/ Tap, 12" X 4" - 12"	**$ 2,650.00**	$ 10,600.00	**$ 2,300.00**	$ 9,200.00
285	1	EA	Tapping Sleeve w/Tap, 20" X 4" - 20"	**$ 4,747.50**	$ 4,747.50	**$ 4,200.00**	$ 4,200.00
290	1	EA	Non-Pressurized Connections, 2" line	**$ 1,650.00**	$ 1,650.00	**$ 1,500.00**	$ 1,500.00
295	1	EA	Non-Pressurized Connections, 4"-10" line	**$ 3,587.50**	$ 3,587.50	**$ 3,100.00**	$ 3,100.00
300	1	EA	Non-Pressurized Connections, 12"-20" line	**$ 6,050.00**	$ 6,050.00	**$ 4,100.00**	$ 4,100.00
305	2	EA	2" CL125 Gate Valves, cip.	**$ 807.50**	$ 1,615.00	**$ 850.00**	$ 1,700.00
310	2	EA	4" CL125 Gate Valves, cip.	**$ 925.00**	$ 1,850.00	**$ 1,200.00**	$ 2,400.00
315	5	EA	6" CL125 Gate Valves, cip.	**$ 1,200.00**	$ 6,000.00	**$ 1,525.00**	$ 7,625.00
320	5	EA	8" CL125 Gate Valves, cip.	**$ 1,650.00**	$ 8,250.00	**$ 1,725.00**	$ 8,625.00
325	1	EA	10" CL125 Gate Valves, cip.	**$ 2,315.00**	$ 2,315.00	**$ 2,325.00**	$ 2,325.00
330	2	EA	12" CL125 Gate Valves, cip.	**$ 2,900.00**	$ 5,800.00	**$ 2,800.00**	$ 5,600.00
335	1	EA	2" CL250 Gate Valves, cip.	**$ 792.50**	$ 792.50	**$ 700.00**	$ 700.00
340	1	EA	4" CL250 Gate Valves, cip.	**$ 1,837.50**	$ 1,837.50	**$ 1,800.00**	$ 1,800.00
345	10	EA	6" CL250 Gate Valves, cip.	**$ 1,950.00**	$ 19,500.00	**$ 1,825.00**	$ 18,250.00
350	3	EA	8" CL250 Gate Valves, cip.	**$ 2,475.00**	$ 7,425.00	**$ 2,000.00**	$ 6,000.00
355	1	EA	10" CL250 Gate Valves, cip.	**$ 4,000.00**	$ 4,000.00	**$ 3,700.00**	$ 3,700.00
360	1	EA	12" CL250 Gate Valves, cip.	**$ 4,552.50**	$ 4,552.50	**$ 4,200.00**	$ 4,200.00
365	1	EA	16" CL250 Gate Valves, cip.	**$ 7,025.00**	$ 7,025.00	**$ 6,500.00**	$ 6,500.00
370	1	EA	20" CL250 Gate Valves, cip.	**$ 16,755.00**	$ 16,755.00	**$ 16,190.00**	$ 16,190.00
375	1	EA	24" CL250 Gate Valves, cip.	**$ 23,750.00**	$ 23,750.00	**$ 23,250.00**	$ 23,250.00
380	1	EA	12" CL250 Butterfly Valves, cip.	**$ 2,800.00**	$ 2,800.00	**$ 2,800.00**	$ 2,800.00
385	1	EA	16" CL250 Butterfly Valves, cip.	**$ 4,975.00**	$ 4,975.00	**$ 4,850.00**	$ 4,850.00
390	1	EA	20" CL250 Butterfly Valves, cip.	**$ 7,680.00**	$ 7,680.00	**$ 6,600.00**	$ 6,600.00
395	1	EA	24" CL250 Butterfly Valves, cip.	**$ 10,042.50**	$ 10,042.50	**$ 9,125.00**	$ 9,125.00
400	5	EA	Fire Hydrant, 5' or less bury, cip.	**$ 2,987.50**	$ 14,937.50	**$ 3,200.00**	$ 16,000.00
405	2	EA	Fire Hydrant Extension, 6" or 12" length	**$ 767.50**	$ 1,535.00	**$ 700.00**	$ 1,400.00
410	1	EA	Fire Hydrant Extension, 18" or 24" length	**$ 1,017.50**	$ 1,017.50	**$ 920.00**	$ 920.00
415	1	EA	Fire Hydrant Remove & Relay	**$ 1,350.00**	$ 1,350.00	**$ 700.00**	$ 700.00
420	1	EA	Fire Hydrant Remove & Return	**$ 887.50**	$ 887.50	**$ 575.00**	$ 575.00
425	1	EA	2 1/4" Flush Hydrant	**$ 1,657.50**	$ 1,657.50	**$ 1,500.00**	$ 1,500.00
430	1	EA	2" Blow-Off Valve Installation	**$ 1,420.00**	$ 1,420.00	**$ 1,300.00**	$ 1,300.00
435	1	EA	2" Pressure Relief Valve, cip.	**$ 6,780.00**	$ 6,780.00	**$ 6,725.00**	$ 6,725.00
440	1	EA	3" Pressure Relief Valve, cip.	**$ 7,065.50**	$ 7,065.50	**$ 6,950.00**	$ 6,950.00
445	1	EA	4" Pressure Relief Valve, cip.	**$ 8,432.50**	$ 8,432.50	**$ 8,195.00**	$ 8,195.00
450	1	EA	6" Pressure Relief Valve, cip.	**$ 11,091.50**	$ 11,091.50	**$ 10,800.00**	$ 10,800.00
455	1	EA	8" Pressure Relief Valve, cip.	**$ 15,362.50**	$ 15,362.50	**$ 14,925.00**	$ 14,925.00
460	1	EA	12" Pressure Relief Valve, cip.	**$ 29,837.50**	$ 29,837.50	**$ 29,500.00**	$ 29,500.00
465	1	EA	Air & Vacuum Release Valve, 1"	**$ 2,970.00**	$ 2,970.00	**$ 2,750.00**	$ 2,750.00
470	1	EA	Air & Vacuum Release Valve, 2"	**$ 4,245.00**	$ 4,245.00	**$ 3,940.00**	$ 3,940.00
475	1	EA	Install City of Santa Fe Furnished Valve/Meter, 2" - 4"	**$ 825.00**	$ 825.00	**$ 450.00**	$ 450.00
480	1	EA	Install City of Santa Fe Furnished Valve/Meter, 6" - 8"	**$ 1,025.00**	$ 1,025.00	**$ 550.00**	$ 550.00
485	1	EA	Install City of Santa Fe Furnished Valve/Meter, 10"-12"	**$ 1,275.00**	$ 1,275.00	**$ 750.00**	$ 750.00
490	1	EA	Metered 2" Bypass – Vault Installation	**$ 4,000.00**	$ 4,000.00	**$ 3,185.00**	$ 3,185.00
495	20	EA	Valve Box, cip.	**$ 575.00**	$ 11,500.00	**$ 625.00**	$ 12,500.00
500	5	EA	Valve Box Replacement	**$ 750.00**	$ 3,750.00	**$ 775.00**	$ 3,875.00
505	5	EA	Valve Box Removal of Existing	**$ 425.00**	$ 2,125.00	**$ 325.00**	$ 1,625.00
510	3	EA	Valve Box Adjustment	**$ 600.00**	$ 1,800.00	**$ 550.00**	$ 1,650.00
515	1	EA	Valve Stem Extension, 0'-4' Depth	**$ 200.00**	$ 200.00	**$ 250.00**	$ 250.00
520	4	VF	Precast 4' Diameter Pit w/ Lid Min. 4' Depth	**$ 925.00**	$ 3,700.00	**$ 825.00**	$ 3,300.00
525	8	VF	Precast 6' Diameter Pit w/ Lid Min. 4' Depth	**$ 1,000.00**	$ 8,000.00	**$ 1,050.00**	$ 8,400.00
530	8	VF	Precast 8' Diameter Pit w/ Lid Min. 4' Depth	**$ 1,500.00**	$ 12,000.00	**$ 1,075.00**	$ 8,600.00
535	7	CY	Cast-In-Place RCP Vault w/ Lid	**$ 1,000.00**	$ 7,000.00	**$ 1,025.00**	$ 7,175.00
540	1	EA	Prefabricated Vault, 4' X 8'	**$ 8,900.00**	$ 8,900.00	**$ 8,995.00**	$ 8,995.00

				AAC		Sub Surface	
Bid Item	**Approx. QTY.**	**Unit**	**Article and Description**	**Unit Price**	Item Price	**Unit Price**	Item Price
545	1	ACRE	Native Seeding	**$ 2,600.00**	$ 2,600.00	**$ 2,275.00**	$ 2,275.00
550	1	EA	Bollards (pair)	**$ 1,180.00**	$ 1,180.00	**$ 975.00**	$ 975.00
555	18	LF	4" Steel Casing	**$ 31.37**	$ 564.66	**$ 95.00**	$ 1,710.00
560	18	LF	4" PVC Casing	**$ 15.40**	$ 277.20	**$ 75.00**	$ 1,350.00
565	18	LF	14" Steel Casing	**$ 107.43**	$ 1,933.74	**$ 175.00**	$ 3,150.00
570	18	LF	16" Steel Casing	**$ 124.02**	$ 2,232.36	**$ 200.00**	$ 3,600.00
575	18	LF	18" Steel Casing	**$ 144.03**	$ 2,592.54	**$ 275.00**	$ 4,950.00
580	18	LF	22" Steel Casing	**$ 234.94**	$ 4,228.92	**$ 300.00**	$ 5,400.00
585	18	LF	26" Steel Casing	**$ 290.67**	$ 5,232.06	**$ 400.00**	$ 7,200.00
590	18	LF	28" Steel Casing	**$ 187.04**	$ 3,366.72	**$ 450.00**	$ 8,100.00
595	18	LF	30" Steel Casing	**$ 187.04**	$ 3,366.72	**$ 450.00**	$ 8,100.00
600	18	LF	36" Steel Casing	**$ 287.03**	$ 5,166.54	**$ 500.00**	$ 9,000.00
605	50	DIA-IN- LF	Bore & Jack Casing Pipe	**$ 575.00**	$ 28,750.00	**$ 40.00**	$ 2,000.00
610	18	LF	Open Cut Casing Pipe Installation, < 6' Deep	**$ 62.00**	$ 1,116.00	**$ 39.00**	$ 702.00
615	25	SY	Asphalt Pavement Removal & Disposal, <2"	**$ 29.50**	$ 737.50	**$ 65.00**	$ 1,625.00
620	200	SY	Asphalt Pavement Removal & Disposal, 2"-6"	**$ 17.70**	$ 3,540.00	**$ 65.00**	$ 13,000.00
625	10	SY	Concrete Pavement Removal & Disposal, <2"	**$ 97.50**	$ 975.00	**$ 90.00**	$ 900.00
630	10	SY	Concrete Pavement Removal & Disposal, 2"-6"	**$ 132.50**	$ 1,325.00	**$ 95.00**	$ 950.00
635	50	LF	Concrete Curb and Gutter Removal & Disposal	**$ 12.00**	$ 600.00	**$ 25.00**	$ 1,250.00
640	10	SY	Concrete Sidewalk Removal & Disposal	**$ 65.00**	$ 650.00	**$ 30.00**	$ 300.00
645	50	SY	Replace City Street Pavement w/o Laydown Machine, Virgin Asphalt	**$ 74.50**	$ 3,725.00	**$ 75.00**	$ 3,750.00
650	50	SY	Replace City Street Pavement w/o Laydown Machine, Recycled Asphalt	**$ 74.50**	$ 3,725.00	**$ 75.00**	$ 3,750.00
655	50	SY	Replace City Street Pavement with Laydown Machine, Virgin Asphalt	**$ 72.00**	$ 3,600.00	**$ 75.00**	$ 3,750.00
660	10	SY	Replace City Street Pavement with Laydown Machine, Recycled Asphalt	**$ 84.96**	$ 849.60	**$ 75.00**	$ 750.00
665	10	SY	Replace City Street Pavement with Temporary Cold Mix	**$ 167.56**	$ 1,675.60	**$ 75.00**	$ 750.00
670	100	SY	Replace Non-City Street Pavement w/o Laydown Machine, Virgin Asphalt	**$ 74.50**	$ 7,450.00	**$ 75.00**	$ 7,500.00
675	10	SY	Replace Non-City Street Pavement w/o Laydown Machine, Recycled Asphalt	**$ 74.50**	$ 745.00	**$ 75.00**	$ 750.00
680	10	SY	Replace Non-City Street Pavement with Laydown Machine, Virgin Asphalt	**$ 92.00**	$ 920.00	**$ 75.00**	$ 750.00
685	10	SY	Replace Non-City Street Pavement with Laydown Machine, Recycled Asphalt	**$ 92.00**	$ 920.00	**$ 75.00**	$ 750.00
690	1	SY	Replace Non-City Street Pavement with Temporary Cold Mix	**$ 167.56**	$ 167.56	**$ 75.00**	$ 75.00
695	10	SY	Replace Concrete Pavement	**$ 261.50**	$ 2,615.00	**$ 275.00**	$ 2,750.00
700	50	LF	Replace Concrete Curb & Gutter	**$ 45.00**	$ 2,250.00	**$ 45.00**	$ 2,250.00
705	10	SY	Replace Concrete Sidewalk	**$ 155.00**	$ 1,550.00	**$ 170.00**	$ 1,700.00
710	10	CY	Replace Gravel Surface, 0"-2"	**$ 56.00**	$ 560.00	**$ 85.00**	$ 850.00
715	10	CY	Replace Gravel Surface, 2"-4"	**$ 66.00**	$ 660.00	**$ 120.00**	$ 1,200.00
720	150	SY	Base course/Gravel (crushed or landscape), 0"-3"	**$ 34.00**	$ 5,100.00	**$ 35.00**	$ 5,250.00
725	50	SY	Base course/Gravel (crushed or landscape), 3"-6"	**$ 45.00**	$ 2,250.00	**$ 45.00**	$ 2,250.00
730	4	EA	Service, 3/4" Single, New Main	**$ 1,262.50**	$ 5,050.00	**$ 1,475.00**	$ 5,900.00
735	2	EA	Service, 3/4" Double, New Main	**$ 1,662.50**	$ 3,325.00	**$ 1,775.00**	$ 3,550.00
740	2	EA	Service, 1", New Main	**$ 1,887.50**	$ 3,775.00	**$ 1,825.00**	$ 3,650.00
745	1	EA	Service, 1 1/2", New Main	**$ 3,670.00**	$ 3,670.00	**$ 3,450.00**	$ 3,450.00
750	1	EA	Service, 2", New Main	**$ 3,985.00**	$ 3,985.00	**$ 3,870.00**	$ 3,870.00
755	5	EA	Service, 3/4" Single, Existing Main	**$ 1,450.00**	$ 7,250.00	**$ 1,475.00**	$ 7,375.00
760	2	EA	Service, 3/4" Double, Existing Main	**$ 1,912.50**	$ 3,825.00	**$ 1,775.00**	$ 3,550.00
765	1	EA	Service, 1", Existing Main	**$ 1,900.00**	$ 1,900.00	**$ 1,825.00**	$ 1,825.00
770	1	EA	Service, 1 1/2", Existing Main	**$ 3,670.00**	$ 3,670.00	**$ 3,450.00**	$ 3,450.00
775	1	EA	Service, 2", Existing Main	**$ 4,300.00**	$ 4,300.00	**$ 3,870.00**	$ 3,870.00
780	5	EA	Service Replacement, 3/4"	**$ 1,602.50**	$ 8,012.50	**$ 1,475.00**	$ 7,375.00
785	2	EA	Service Replacement, Double, 3/4"	**$ 1,950.00**	$ 3,900.00	**$ 1,775.00**	$ 3,550.00
790	1	EA	Service Replacement, 1"	**$ 2,100.00**	$ 2,100.00	**$ 1,825.00**	$ 1,825.00

				AAC		Sub Surface	
Bid Item	**Approx. QTY.**	**Unit**	**Article and Description**	**Unit Price**	Item Price	**Unit Price**	Item Price
795	1	EA	Service Replacement, 1 1/2"	**$ 3,875.00**	$ 3,875.00	**$ 3,450.00**	$ 3,450.00
800	1	EA	Service Replacement, 2"	**$ 4,512.00**	$ 4,512.00	**$ 3,870.00**	$ 3,870.00
805	3	EA	Meter Box Relocation/Replacement, 3/4"	**$ 1,000.00**	$ 3,000.00	**$ 895.00**	$ 2,685.00
810	1	EA	Meter Box Relocation/Replacement, 1"	**$ 1,150.00**	$ 1,150.00	**$ 915.00**	$ 915.00
815	1	EA	Meter Box Relocation/Replacement, 1-1/2"	**$ 1,800.00**	$ 1,800.00	**$ 1,400.00**	$ 1,400.00
820	1	EA	Meter Box Relocation/Replacement, 2"	**$ 1,900.00**	$ 1,900.00	**$ 1,400.00**	$ 1,400.00
825	5	EA	Service Transfer, 3/4"	**$ 812.50**	$ 4,062.50	**$ 725.00**	$ 3,625.00
830	2	EA	Service Transfer, 1"	**$ 912.50**	$ 1,825.00	**$ 825.00**	$ 1,650.00
835	1	EA	Service Transfer, 1 1/2"	**$ 1,112.50**	$ 1,112.50	**$ 925.00**	$ 925.00
840	1	EA	Service Transfer at Main, 2"	**$ 1,325.00**	$ 1,325.00	**$ 975.00**	$ 975.00
845	1	EA	Retire Existing Service at Main, 3/4"- 2"	**$ 962.50**	$ 962.50	**$ 725.00**	$ 725.00
850	1	EA	Retire Existing Meter Box & Setting	**$ 437.50**	$ 437.50	**$ 525.00**	$ 525.00
855	1	EA	Adjust Meter Box To Grade	**$ 412.50**	$ 412.50	**$ 425.00**	$ 425.00
860	11	EA	Service Saddle, 3/4" Tap, 4"-12" Main	**$ 500.00**	$ 5,500.00	**$ 650.00**	$ 7,150.00
865	4	EA	Service Saddle, 1" Tap, 4"-12" Main	**$ 462.50**	$ 1,850.00	**$ 675.00**	$ 2,700.00
870	3	EA	Service Saddle, 1 1/2" Tap, 4"-12" Main	**$ 562.50**	$ 1,687.50	**$ 750.00**	$ 2,250.00
875	3	EA	Service Saddle, 2" Tap, 4"-12" Main	**$ 650.00**	$ 1,950.00	**$ 775.00**	$ 2,325.00
880	100	LF	Service Tubing, 3/4"	**$ 28.75**	$ 2,875.00	**$ 31.50**	$ 3,150.00
885	100	LF	Service Tubing, 1"	**$ 34.12**	$ 3,412.00	**$ 33.75**	$ 3,375.00
890	100	LF	Service Tubing, 1 1/2"	**$ 46.50**	$ 4,650.00	**$ 44.00**	$ 4,400.00
895	25	LF	Service Tubing, 2"	**$ 65.50**	$ 1,637.50	**$ 53.00**	$ 1,325.00
900	1	EA	Air and Vacuum Valve (individual)	**$ 450.00**	$ 450.00	**$ 1,550.00**	$ 1,550.00
905	1	GROUP OF 10	Air and Vacuum Valves	**$ 8,045.00**	$ 8,045.00	**$ 15,500.00**	$ 15,500.00
910	1	EA	Automatic Flushing Valve	**$ 5,867.50**	$ 5,867.50	**$ 4,350.00**	$ 4,350.00
915	$20,000	%	Materials Mark-Up Over Invoice	**$ 3,600.00**	$ 3,600.00	**$ 1,500.00**	$ 1,500.00
920	$8,000	%	Traffic Control Mark-Up Over Invoice	**$ 1,440.00**	$ 1,440.00	**$ 1,200.00**	$ 1,200.00
925	1	Allow.	Street-Cut Permits	**$ 175.00**	$ 175.00	**$ 375.00**	$ 375.00
930	1	EA	Project Signs	**$ 675.00**	$ 675.00	**$ 450.00**	$ 450.00
935	10	HR	Archeological Required Delay (after 2 hrs.)	**$ 250.00**	$ 2,500.00	**$ 185.00**	$ 1,850.00
940	1	LS	Archeological Required Mob/Demob	**$ 725.00**	$ 725.00	**$ 700.00**	$ 700.00
EMERGENCY REPAIR					$ -		$ -
9000	175	HR	Supervisor's Truck with tools	**$ 35.00**	$ 6,125.00	**$ 30.00**	$ 5,250.00
9100	80	HR	Backhoe/Skid Steer	**$ 57.00**	$ 4,560.00	**$ 58.00**	$ 4,640.00
9200	8	HR	Compressor with tools	**$ 54.00**	$ 432.00	**$ 35.00**	$ 280.00
9300	16	HR	Dump Truck	**$ 65.00**	$ 1,040.00	**$ 60.00**	$ 960.00
9400	4	HR	Pump	**$ 25.00**	$ 100.00	**$ 15.00**	$ 60.00
9500	300	HR	Laborer	**$ 42.50**	$ 12,750.00	**$ 43.00**	$ 12,900.00
9600	200	HR	Pipe Fitter	**$ 44.50**	$ 8,900.00	**$ 45.00**	$ 9,000.00
9700	200	HR	Equipment Operator	**$ 57.50**	$ 11,500.00	**$ 58.00**	$ 11,600.00
9800	175	HR	Foreman	**$ 59.50**	$ 10,412.50	**$ 60.00**	$ 10,500.00
9900	$5,000	%	Rental Items Mark-Up Over Invoice (multiply $5,000 x your % for Item Price)	**$ 1,000.00**	$ 1,000.00	**$ 900.00**	$ 900.00
9950	$20,000	%	Materials Mark-Up Over Invoice (multiply $20,000 x your 5 for Item Price)	**$ 3,600.00**	$ 3,600.00	**$ 1,500.00**	$ 1,500.00

City of Santa Fe

Real Estate Summary of Contracts, Agreements, Amendments & Leases

Section to be completed by department

1. Munis Contract # **3202927**

Contractor: **A.A.C Construction**

Description: **CIP# 3058 Priority Line Replacement**

Contract ☐ Agreement ☉ Lease / Rent ☐ Amendment ☐

Term Start Date: **as approved** Term End Date: **6/30/25**

☑ Approved by Council Date: **Pending**

Contract / Lease: **Contract $1,250,000**

Amendment # _____ to the Original Contract / Lease # _____

Increase/(Decrease) Amount $ _____

Extend Termination Date to: _____

☐ Approved by Council Date: _____

Amendment is for:

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

3. **Procurement History:** **21/43/B**

Fran Dawaway (Aug 23, 2021 12:29 MDT) Aug 23, 2021

Purchasing Officer Review: Date:

Comment & Exceptions: Issuance of award from ITB 21/73/B issued. 1st. year.

4. **Funding Source:** **Water Enterprise Fund CIP** **Org / Object:** **5050395.572970**

Andy Hopkins (Aug 23, 2021 11:13 MDT) Aug 23, 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: _____

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 06/14/2021

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).

PRODUCER	CONTACT NAME: Susan Vance	
Downey & Company 6565 AMERICAS PARKWAY NE SUITE 750 ALBUQUERQUE NM 87110	PHONE (A/C, No, Ext): (505) 881-0300	FAX (A/C, No): (505) 881-0908
	E-MAIL ADDRESS: svance@downeyandco.com	
	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A : Donegal Insurance Group	
INSURED A.A.C. Construction, LLC 18 La Luna Rd Santa Fe NM 87507	INSURER B : New Mexico Mutual Casualty Company	
	INSURER C :	
	INSURER D :	
	INSURER E :	
	INSURER F :	

COVERAGES **CERTIFICATE NUMBER:** 2021-2022 **REVISION NUMBER:**

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	[X] COMMERCIAL GENERAL LIABILITY [ ] CLAIMS-MADE [X] OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: [ ] POLICY [X] PRO-JECT [ ] LOC [ ] OTHER:			CPT9030765	01/01/2021	01/01/2022	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG [ ]	$ 1,000,000 $ 100,000 $ 5,000 $ 1,000,000 $ 2,000,000 $ 2,000,000 $
A	AUTOMOBILE LIABILITY [X] ANY AUTO [ ] OWNED AUTOS ONLY [ ] SCHEDULED AUTOS [X] HIRED AUTOS ONLY [X] NON-OWNED AUTOS ONLY			CA9030765	01/01/2021	01/01/2022	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident) [ ]	$ 1,000,000 $ $ $ $
A	[X] UMBRELLA LIAB [X] OCCUR EXCESS LIAB [ ] CLAIMS-MADE [ ] DED [X] RETENTION $ 0			CXL9030765	01/01/2021	01/01/2022	EACH OCCURRENCE AGGREGATE [ ]	$ 3,000,000 $ 3,000,000 $
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y/N: Y (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N / A		93890.105	01/01/2021	01/01/2022	[X] PER STATUTE [ ] OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	 $ 500,000 $ 500,000 $ 500,000

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

CERTIFICATE HOLDER

CITY OF SANTA FE WATER DIVISION
801 W. SAN MATEO ROAD
SANTA FE NM 87505

CANCELLATION

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

AUTHORIZED REPRESENTATIVE

Susan J. Vance

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of the Contractor are in addition to his obligations under Paragraph 4.18.

10.2.6 The Contractor shall designate a responsible member of his organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's Superintendent unless otherwise designated by the Contractor in writing to the City of Santa Fe and the City of Santa Fe's Representative.

10.2.7 The Contractor shall not load or permit any part of the work to be loaded so as to endanger its safety.

10.3 EMERGENCIES

10.3.1 In any emergency affecting the safety of persons or property, the Contractor shall act, at his reasonable discretion, to prevent threatened damage, injury or loss. Any additional compensation or extension of time claimed by the Contractor on account of emergency work shall be determined as provided in Article 12 for changes in the work.

ARTICLE 11

INSURANCE

11.1 CONTRACTOR'S LIABILITY INSURANCE

11.1.1. The Contractor shall carry insurance to protect the City of Santa Fe from and against all claims, demands, actions, judgments, costs, expenses and liabilities which may arise or result directly or indirectly from or by reasons of loss, injury or damage related to the Project. The Contractor shall file with the City of Santa Fe current certificates evidencing public liability insurance with limits as provided in the New Mexico Tort Claims Act, Section 41-4-19 NMSA 1978, and as that section or successors section may be amended from time to time. The contractor shall also carry such insurance as it deems necessary to protect it from all claims under any workmen's compensation law in effect that may be applicable to the Contractor. All insurance required by this Agreement shall be kept and remain in full force and effect for the entire life of this Agreement.

11.1.2. The insurance coverage shall include worker's compensation, employer's liability, comprehensive general liability (Premises-Operations, independent contractors, products and completed operations, broad form property damage, contractual liability, explosion and collapse hazard, underground Hazard, personal injury) comprehensive automobile liability (owned and hired), excess liability (umbrella form), and all-risk builder's risk.

11.1.3. All insurance coverage must be maintained for the entire life of the Project. Products and completed operations coverage shall be maintained for a minimum period of one (1) year after final payment.

11.1.4. A valid certificate of insurance must be submitted to the City of Santa Fe prior to issuance of a Notice-to-Proceed.

Type of Required Coverage	Minimum Limits of Liability
Workman's compensation (including accident and occupational disease coverage)	Statutory
Employer's Liability	$100,000
Comprehensive General Liability (including endorsements providing broad form property damage coverage, personal injury coverage, and contractual assumption of liability coverage for all liability the Contractor has assumed under his Contract).	Bodily injury liability: $500,000 each occurrence; $1,000,000 aggregate. Property damage liability: $500,000 each occurrence; $1,000,000 aggregate.
Auto Liability (including non-owned auto coverage)	Bodily injury liability: $500,000 each person; $1,000,000 each occurrence. Property damage liability: $1,000,000 each occurrence

11.1.5 Certificates of Insurance acceptable to the City of Santa Fe shall be filed with the City of Santa Fe prior to

commencement of the work. These Certificates shall contain a provision that coverage afforded under the policies will not be canceled until at least thirty days' prior written notice has been given to the City of Santa Fe. The Contractor shall furnish one (1) copy of each of the Certificates of insurance herein required for each copy of the Contract.

11.2 CITY OF SANTA FE'S LIABILITY INSURANCE

11.2.1 The City of Santa Fe shall be responsible for purchasing and maintaining his own liability insurance and, at his option, may purchase and maintain such insurance as will protect him against all claims which may arise from operations under the Contract.

11.3 PROPERTY INSURANCE

11.3.1 The Contractor shall maintain traditional course of construction insurance upon the work at the site for at least the actual cash value thereof. The traditional course of construction insurance shall cover the interests of the City of Santa Fe, the Contractor, Subcontractors, and Sub-subcontractors in the work. The insurance shall insure against at least the following perils: fire extended coverage, vandalism, malicious mischief, and flood insurance with a deductible of no more than $25,000. The Contractor shall bear the cost of such insurance and include its cost in the Bid.

11.3.2 Any loss insured under Subparagraph 11.3.1 is to be adjusted with the City of Santa Fe and made payable to the City of Santa Fe as trustee for the insured, as their interests may appear subject to the requirements of any applicable mortgage clause. The City of Santa Fe shall deposit the proceeds in a separate account and shall distribute them in accordance with such agreement as the parties in interest, including the City of Santa Fe, may reach. The Contractor shall pay each Subcontractor a just share of any insurance proceeds which the Contractor receives and shall require by written agreement signed by the Subcontractor that the Subcontractor will make payments to his Sub-subcontractors in a similar manner. If after such loss no other special agreement is made, replacement of damaged work shall be covered by an appropriate order.

11.3.3 To the extent permitted under their respective property insurance policies, the City of Santa Fe and the Contractor hereby waive all rights, each against the other, for damages caused by fire or other perils to the extent covered by Insurance obtained pursuant to this Article 11 or any other property insurance applicable to the work, except such rights as they may have to the proceeds of such Insurance held by the City of Santa Fe as trustee. The City of Santa Fe or the Contractor, as appropriate, shall require the City of Santa Fe's Representative, other Contractors, Subcontractors, and Sub-subcontractors to similarly waive rights of subrogation or property insurers.

11.3.4 If the City of Santa Fe finds it necessary to occupy use of any portion of the work prior to Substantial Completion, such occupancy or use shall not commence prior to the time mutually agreed to by the City of Santa Fe and the Contractor and, if required by the applicable insurance or self-insurance coverage not prior to the time the builder's risk property insurer has consented to such occupancy or use. The Contractor's consent to such occupancy or use shall not be unreasonably withheld.

11.4 LOSS OF USE INSURANCE

11.4.1 The City of Santa Fe, at his option, may purchase and maintain such insurance as will insure him against loss of use of his property due to fire or other hazards, however caused.

City of Santa Fe

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

BUSINESS REGISTRATION

Business Name: A.A.C. CONSTRUCTION LLC
DBA: A.A.C. CONSTRUCTION LLC

Business Location: 18 LA LUNA RD
SANTA FE, NM 87507

Owner: Andrew Sisneros

License Number: 222939

Issued Date: June 07, 2021

Expiration Date: June 07, 2022

CRS Number: 03157349-00-5

License Type: Business License - Renewable

Classification: Out of Jurisdiction Contractor - General

Fees Paid: $10.00

A.A.C. CONSTRUCTION LLC
18 LA LUNA RD LA LUNA
SANTA FE , NM 87507

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

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

TO BE POSTED IN A CONSPICUOUS PLACE

CITY OF SANTA FE PROCUREMENT CHECKLIST

Contractor Name: A.A.C Contractors

Procurement Title: 21/43/B Priority Line Replacement Price Agreement, CIP # 3058

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 Bill Huey Water Division, PUD

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: _____

Public Utilities Dept / Water Division/Bill Huey (Bill Huey)	Engineer	8/17/21
Department Rep Printed Name (attesting that all information included)	Title	Date
Fran Dunaway (Aug 23, 2021 12:29 MDT)	Chief Procurement Officer	Aug 23, 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 any resulting contract.

*

Item#_____
Munis Contract# 3202929

CITY OF SANTA FE

PRIORITY LINE REPLACEMENTPRICE
AGREEMENT

CIP # 3058

THIS AGREEMENT is made and entered into by and between the City of Santa Fe, New Mexico, hereinafter referred to as the "City," and **SUB SURFACE CONTRACTING, 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 and as described is Exhibit "A" attached hereto:

1) The Contractor shall perform all the work required by Water Division as required in the Contract Documents for Priority Line Replacement Contract. The work consists of, but is not limited to furnishing all equipment, labor and materials for the construction and repair of water mains, valves, hydrants, metered water service lines and settings, pressure reducing valves, vaults, and other incidental work such as pavement removal and replacement, traffic control all as required to extend, replace or repair water distribution, water storage, and water supply infrastructure, in accordance with the drawings, specifications, and other Contract Documents. All water piping shall be new, poly-wrapped ductile iron, unless otherwise specified.

2) The Contractor shall be responsible for verifications of all measurements and dimensions for bidding on each subsequent Work Order.

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

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

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

6) Incorporation by Reference. All exhibits, addenda, schedules of ITB 21/XX/B attached hereto and all certificates, work order documents, drawings, as-built and other instruments contemplated to be delivered hereunder are hereby expressly made a part of this Agreement as fully as though set forth herein, and all references to this Agreement herein orin any of such writings shall be deemed to refer to and include all of such writings. This Agreement contains the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements and understandings, both written and oral, among theparties with respect to the subject matter hereof. If there is any conflict between such exhibits or addenda and the terms of this Agreement, such exhibits or addenda shall control.

2. Compensation.

A. The City shall pay to the Contractor in full payment for services satisfactorily performed at total amount up to two million seventy four thousand nine hundred twenty seven and ninety five cents ($2,074,927.95). The New Mexico gross receipts tax levied on the amounts payable under this Agreement totaling one hundred seventy five thousand seventy two dollars and five cents ($175,072.05) shall be paid by the City to the Contractor as described in Exhibit A attached hereto. **The total amount payable to the Contractor under this Agreement, including gross receipts tax and expenses, shall not two million two million two hundred and fifty thousand dollars ($2,250,000). This amount is a maximum and not a guarantee that the work assigned to be performed by Contractor under this Agreement shall equal the amount stated herein. The parties do not intend for the Contractor to continue to provide services without compensation when the total compensation amount is reached. Contractor is responsible for notifying the City when the services provided under this Agreement reach the total compensation amount. In no event will the Contractor be paid for services provided in excess of the total compensation amount without this Agreement being amended in writing prior to those services in excess of the total compensation amount being provided.**

B. Payment is subject to availability of funds pursuant to the Appropriations Paragraph set forth below and to any negotiations between the parties from year to year pursuant to Paragraph 1, Scope of Work, and to approval by the City. All invoices MUST BE received by the City no later than thirty 30) days after the termination of the Fiscal Year in which the services were delivered. Invoices received after such date WILL NOT BE PAID.

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, 2025** 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 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 Contractors receipt 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'sliability 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 dueto misuse of City funds or due to the Appropriations paragraph herein. *THIS PROVISION JS NOT EXCLUSIVE AND DOES NOT WAIVE THE 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 withoutwritten approval of the City; 2) comply with all directives issued by the City in the notice oftermination 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 theCity and records generated under this Agreement. Any non-expendable personal property orequipment 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 asto 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 anyother 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 specifiedin 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 specifiedin 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 becomethe 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, duringthe term of this Agreement, shall not acquire any interest, direct or indirect, which would conflictin 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 13 are material representations of fact upon which the City relied when this Agreement was enteredinto by the parties. Contractor shall provide immediate written notice to the City if, at any timeduring the term of this Agreement, Contractor learns that Contractor's representations and warranties in Paragraphs A and B of this Article 13 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances. If it is laterdetermined that Contractor's representations and warranties in Paragraphs A and B of this Article
13 were erroneous on the effective date of this Agreement or have become erroneous by reason ofnew 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 thissection.

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 imposefelony 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, andSanta 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 Mexicoover 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 proofof insurance of Contractor's compliance with the provisions of this section as a condition prior toperforming services under this Agreement.

22. Other Insurance

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

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

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 tothe 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 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.

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 bi11ings 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, attorney's 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 damageto persons or property during the time when the Contractor or any officer, agent, employee, servantor 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 subjectto 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 anylimitation 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 notwaive 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 unlessexpress 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 andshall 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:
Sub Surface Contracting Inc.
27 A Paseo de River
Santa Fe, NM 87507

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 bindContractor, and that no further action, resolution, or approval from Contractor is necessary to enterinto a binding contract.

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

CITY OF SANTA FE:

ALAN WEBBER, MAYOR

DATE:

CONTRACTOR:

Neal Keiper
Neal Keiper (Aug 19, 2021 13:26 MDT)

NAME

President

TITLE

DATE: Aug 19, 2021

CRS# 02104256000
Registration # 46991

ATTEST:

KRISTINE BUSTOS MIHELCIC, CITY CLERK

CITY ATTORNEY'S OFFICE:

Marcos Martinez
Marcos Martinez (Aug 19, 2021 10:05 MDT)

SENIOR ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

MARY MCCOY, FINANCE DIRECTOR

5050395.572970
Org. Name/Org#

AJH
AJH

				AAC		Sub Surface	
Bid Item	**Approx. QTY.**	**Unit**	**Article and Description**	**Unit Price**	Item Price	**Unit Price**	Item Price
5	35	LF	2" PVC Water Main, cip, all lengths	**$ 32.50**	$ 1,137.50	**$ 30.00**	$ 1,050.00
10	35	LF	4" PVC Water Main, cip, <100'	**$ 38.00**	$ 1,330.00	**$ 36.00**	$ 1,260.00
15	100	LF	4" PVC Water Main, cip, >100'	**$ 36.00**	$ 3,600.00	**$ 34.00**	$ 3,400.00
20	50	LF	6" PVC Water Main, cip, <100'	**$ 43.50**	$ 2,175.00	**$ 42.00**	$ 2,100.00
25	150	LF	6" PVC Water Main, cip, >100'	**$ 40.50**	$ 6,075.00	**$ 39.00**	$ 5,850.00
30	75	LF	8" PVC Water Main, cip, <100'	**$ 49.00**	$ 3,675.00	**$ 48.00**	$ 3,600.00
35	200	LF	8" PVC Water Main, cip, >100'	**$ 46.75**	$ 9,350.00	**$ 45.50**	$ 9,100.00
40	35	LF	10" PVC Water Main, cip, <100'	**$ 56.00**	$ 1,960.00	**$ 52.00**	$ 1,820.00
45	100	LF	10" PVC Water Main, cip, >100'	**$ 52.00**	$ 5,200.00	**$ 49.00**	$ 4,900.00
50	50	LF	12" PVC Water Main, cip, <100'	**$ 69.37**	$ 3,468.50	**$ 66.75**	$ 3,337.50
55	150	LF	12" PVC Water Main, cip, >100'	**$ 66.25**	$ 9,937.50	**$ 64.50**	$ 9,675.00
60	50	LF	14" PVC Water Main, cip	**$ 87.00**	$ 4,350.00	**$ 79.00**	$ 3,950.00
65	50	LF	16" PVC Water Main, cip	**$ 103.50**	$ 5,175.00	**$ 97.00**	$ 4,850.00
70	50	LF	24" PVC Water Main, cip	**$ 167.50**	$ 8,375.00	**$ 100.00**	$ 5,000.00
75	35	LF	2" DI Water Main, cip, all lengths	**$ 42.00**	$ 1,470.00	**$ -**	$ -
80	50	LF	4" DI Water Main, cip, <100'	**$ 63.75**	$ 3,187.50	**$ 57.50**	$ 2,875.00
85	100	LF	4" DI Water Main, cip, >100'	**$ 56.50**	$ 5,650.00	**$ 56.00**	$ 5,600.00
90	75	LF	6" DI Water Main, cip, <100'	**$ 63.50**	$ 4,762.50	**$ 53.00**	$ 3,975.00
95	250	LF	6" DI Water Main, cip, >100'	**$ 56.50**	$ 14,125.00	**$ 51.00**	$ 12,750.00
100	75	LF	8" DI Water Main, cip, <100'	**$ 68.00**	$ 5,100.00	**$ 60.25**	$ 4,518.75
105	250	LF	8" DI Water Main, cip, >100'	**$ 73.00**	$ 18,250.00	**$ 58.00**	$ 14,500.00
110	35	LF	10" DI Water Main, cip, <100'	**$ 77.00**	$ 2,695.00	**$ 65.00**	$ 2,275.00
115	100	LF	10" DI Water Main, cip, >100'	**$ 74.00**	$ 7,400.00	**$ 63.00**	$ 6,300.00
120	50	LF	12" DI Water Main, cip, <100'	**$ 99.00**	$ 4,950.00	**$ 78.00**	$ 3,900.00
125	100	LF	12" DI Water Main, cip, >100'	**$ 89.50**	$ 8,950.00	**$ 74.00**	$ 7,400.00
130	50	LF	14" DI Water Main, cip	**$ 115.50**	$ 5,775.00	**$ 87.00**	$ 4,350.00
135	50	LF	16" DI Water Main, cip	**$ 139.50**	$ 6,975.00	**$ 101.00**	$ 5,050.00
140	50	LF	24" DI Water Main, cip	**$ 207.00**	$ 10,350.00	**$ 159.00**	$ 7,950.00
145	75	LF	Extra Pay for Trench Depth, 6'-8'	**$ 41.00**	$ 3,075.00	**$ 8.00**	$ 600.00
150	50	LF	Extra Pay for Trench Depth, 8'-10'	**$ 98.00**	$ 4,900.00	**$ 12.00**	$ 600.00
155	25	LF	Extra Pay for Trench Depth, 10'-14'	**$ 154.00**	$ 3,850.00	**$ 30.00**	$ 750.00
160	20	CY	Rock Excavation	**$ 325.00**	$ 6,500.00	**$ 220.00**	$ 4,400.00
165	300	CY	Exploratory Excavation (as SDCW Approved)	**$ 50.00**	$ 15,000.00	**$ 65.00**	$ 19,500.00
170	75	CY	Imported Backfill (as SDCW Approved)	**$ 36.00**	$ 2,700.00	**$ 24.00**	$ 1,800.00
175	1,000	LB	Fitting Installation	**$ 4.50**	$ 4,500.00	**$ 4.00**	$ 4,000.00
180	500	LB	Fitting Insertion	**$ 26.00**	$ 13,000.00	**$ 34.00**	$ 17,000.00
185	25	EA	4" Retainer Ring/ Bolt on Flange	**$ 60.00**	$ 1,500.00	**$ 65.00**	$ 1,625.00
190	50	EA	6" Retainer Ring/ Bolt on Flange	**$ 86.50**	$ 4,325.00	**$ 105.00**	$ 5,250.00
195	50	EA	8" Retainer Ring/ Bolt on Flange	**$ 98.50**	$ 4,925.00	**$ 119.00**	$ 5,950.00
200	20	EA	10" Retainer Ring/ Bolt on Flange	**$ 123.00**	$ 2,460.00	**$ 121.00**	$ 2,420.00
205	20	EA	12" Retainer Ring/ Bolt on Flange	**$ 147.50**	$ 2,950.00	**$ 145.00**	$ 2,900.00
210	20	EA	14" Retainer Ring/ Bolt on Flange	**$ 184.50**	$ 3,690.00	**$ 179.00**	$ 3,580.00
215	10	EA	16" Retainer Ring/ Bolt on Flange	**$ 275.00**	$ 2,750.00	**$ 250.00**	$ 2,500.00
220	25	EA	4"Joint Harness	**$ 70.50**	$ 1,762.50	**$ 40.00**	$ 1,000.00
225	50	EA	6" Joint Harness	**$ 95.00**	$ 4,750.00	**$ 110.00**	$ 5,500.00
230	50	EA	8" Joint Harness	**$ 125.00**	$ 6,250.00	**$ 120.00**	$ 6,000.00
235	20	EA	10" Joint Harness	**$ 160.00**	$ 3,200.00	**$ 160.00**	$ 3,200.00
240	20	EA	12" Joint Harness	**$ 192.50**	$ 3,850.00	**$ 180.00**	$ 3,600.00
245	20	EA	14" Joint Harness	**$ 370.00**	$ 7,400.00	**$ 375.00**	$ 7,500.00
250	10	EA	16" Joint Harness	**$ 427.50**	$ 4,275.00	**$ 410.00**	$ 4,100.00
255	10	CY	Concrete Thrust Blocking (as SDCW Approved)	**$ 315.00**	$ 3,150.00	**$ 250.00**	$ 2,500.00
260	2	EA	Tapping Sleeve w/ Tap, 4" X 4"	**$ 1,350.00**	$ 2,700.00	**$ 1,350.00**	$ 2,700.00
265	4	EA	Tapping Sleeve w/ Tap, 6" X 4" - 6"	**$ 1,567.50**	$ 6,270.00	**$ 1,500.00**	$ 6,000.00
270	4	EA	Tapping Sleeve w/ Tap, 8" X 4" - 8"	**$ 1,900.00**	$ 7,600.00	**$ 1,800.00**	$ 7,200.00

				AAC		Sub Surface	
Bid Item	**Approx. QTY.**	**Unit**	**Article and Description**	**Unit Price**	Item Price	**Unit Price**	Item Price
275	2	EA	Tapping Sleeve w/ Tap, 10" X 4" - 10"	**$ 2,250.00**	$ 4,500.00	**$ 2,100.00**	$ 4,200.00
280	4	EA	Tapping Sleeve w/ Tap, 12" X 4" - 12"	**$ 2,650.00**	$ 10,600.00	**$ 2,300.00**	$ 9,200.00
285	1	EA	Tapping Sleeve w/Tap, 20" X 4" - 20"	**$ 4,747.50**	$ 4,747.50	**$ 4,200.00**	$ 4,200.00
290	1	EA	Non-Pressurized Connections, 2" line	**$ 1,650.00**	$ 1,650.00	**$ 1,500.00**	$ 1,500.00
295	1	EA	Non-Pressurized Connections, 4"-10" line	**$ 3,587.50**	$ 3,587.50	**$ 3,100.00**	$ 3,100.00
300	1	EA	Non-Pressurized Connections, 12"-20" line	**$ 6,050.00**	$ 6,050.00	**$ 4,100.00**	$ 4,100.00
305	2	EA	2" CL125 Gate Valves, cip.	**$ 807.50**	$ 1,615.00	**$ 850.00**	$ 1,700.00
310	2	EA	4" CL125 Gate Valves, cip.	**$ 925.00**	$ 1,850.00	**$ 1,200.00**	$ 2,400.00
315	5	EA	6" CL125 Gate Valves, cip.	**$ 1,200.00**	$ 6,000.00	**$ 1,525.00**	$ 7,625.00
320	5	EA	8" CL125 Gate Valves, cip.	**$ 1,650.00**	$ 8,250.00	**$ 1,725.00**	$ 8,625.00
325	1	EA	10" CL125 Gate Valves, cip.	**$ 2,315.00**	$ 2,315.00	**$ 2,325.00**	$ 2,325.00
330	2	EA	12" CL125 Gate Valves, cip.	**$ 2,900.00**	$ 5,800.00	**$ 2,800.00**	$ 5,600.00
335	1	EA	2" CL250 Gate Valves, cip.	**$ 792.50**	$ 792.50	**$ 700.00**	$ 700.00
340	1	EA	4" CL250 Gate Valves, cip.	**$ 1,837.50**	$ 1,837.50	**$ 1,800.00**	$ 1,800.00
345	10	EA	6" CL250 Gate Valves, cip.	**$ 1,950.00**	$ 19,500.00	**$ 1,825.00**	$ 18,250.00
350	3	EA	8" CL250 Gate Valves, cip.	**$ 2,475.00**	$ 7,425.00	**$ 2,000.00**	$ 6,000.00
355	1	EA	10" CL250 Gate Valves, cip.	**$ 4,000.00**	$ 4,000.00	**$ 3,700.00**	$ 3,700.00
360	1	EA	12" CL250 Gate Valves, cip.	**$ 4,552.50**	$ 4,552.50	**$ 4,200.00**	$ 4,200.00
365	1	EA	16" CL250 Gate Valves, cip.	**$ 7,025.00**	$ 7,025.00	**$ 6,500.00**	$ 6,500.00
370	1	EA	20" CL250 Gate Valves, cip.	**$ 16,755.00**	$ 16,755.00	**$ 16,190.00**	$ 16,190.00
375	1	EA	24" CL250 Gate Valves, cip.	**$ 23,750.00**	$ 23,750.00	**$ 23,250.00**	$ 23,250.00
380	1	EA	12" CL250 Butterfly Valves, cip.	**$ 2,800.00**	$ 2,800.00	**$ 2,800.00**	$ 2,800.00
385	1	EA	16" CL250 Butterfly Valves, cip.	**$ 4,975.00**	$ 4,975.00	**$ 4,850.00**	$ 4,850.00
390	1	EA	20" CL250 Butterfly Valves, cip.	**$ 7,680.00**	$ 7,680.00	**$ 6,600.00**	$ 6,600.00
395	1	EA	24" CL250 Butterfly Valves, cip.	**$ 10,042.50**	$ 10,042.50	**$ 9,125.00**	$ 9,125.00
400	5	EA	Fire Hydrant, 5' or less bury, cip.	**$ 2,987.50**	$ 14,937.50	**$ 3,200.00**	$ 16,000.00
405	2	EA	Fire Hydrant Extension, 6" or 12" length	**$ 767.50**	$ 1,535.00	**$ 700.00**	$ 1,400.00
410	1	EA	Fire Hydrant Extension, 18" or 24" length	**$ 1,017.50**	$ 1,017.50	**$ 920.00**	$ 920.00
415	1	EA	Fire Hydrant Remove & Relay	**$ 1,350.00**	$ 1,350.00	**$ 700.00**	$ 700.00
420	1	EA	Fire Hydrant Remove & Return	**$ 887.50**	$ 887.50	**$ 575.00**	$ 575.00
425	1	EA	2 1/4" Flush Hydrant	**$ 1,657.50**	$ 1,657.50	**$ 1,500.00**	$ 1,500.00
430	1	EA	2" Blow-Off Valve Installation	**$ 1,420.00**	$ 1,420.00	**$ 1,300.00**	$ 1,300.00
435	1	EA	2" Pressure Relief Valve, cip.	**$ 6,780.00**	$ 6,780.00	**$ 6,725.00**	$ 6,725.00
440	1	EA	3" Pressure Relief Valve, cip.	**$ 7,065.50**	$ 7,065.50	**$ 6,950.00**	$ 6,950.00
445	1	EA	4" Pressure Relief Valve, cip.	**$ 8,432.50**	$ 8,432.50	**$ 8,195.00**	$ 8,195.00
450	1	EA	6" Pressure Relief Valve, cip.	**$ 11,091.50**	$ 11,091.50	**$ 10,800.00**	$ 10,800.00
455	1	EA	8" Pressure Relief Valve, cip.	**$ 15,362.50**	$ 15,362.50	**$ 14,925.00**	$ 14,925.00
460	1	EA	12" Pressure Relief Valve, cip.	**$ 29,837.50**	$ 29,837.50	**$ 29,500.00**	$ 29,500.00
465	1	EA	Air & Vacuum Release Valve, 1"	**$ 2,970.00**	$ 2,970.00	**$ 2,750.00**	$ 2,750.00
470	1	EA	Air & Vacuum Release Valve, 2"	**$ 4,245.00**	$ 4,245.00	**$ 3,940.00**	$ 3,940.00
475	1	EA	Install City of Santa Fe Furnished Valve/Meter, 2" - 4"	**$ 825.00**	$ 825.00	**$ 450.00**	$ 450.00
480	1	EA	Install City of Santa Fe Furnished Valve/Meter, 6" - 8"	**$ 1,025.00**	$ 1,025.00	**$ 550.00**	$ 550.00
485	1	EA	Install City of Santa Fe Furnished Valve/Meter, 10"-12"	**$ 1,275.00**	$ 1,275.00	**$ 750.00**	$ 750.00
490	1	EA	Metered 2" Bypass – Vault Installation	**$ 4,000.00**	$ 4,000.00	**$ 3,185.00**	$ 3,185.00
495	20	EA	Valve Box, cip.	**$ 575.00**	$ 11,500.00	**$ 625.00**	$ 12,500.00
500	5	EA	Valve Box Replacement	**$ 750.00**	$ 3,750.00	**$ 775.00**	$ 3,875.00
505	5	EA	Valve Box Removal of Existing	**$ 425.00**	$ 2,125.00	**$ 325.00**	$ 1,625.00
510	3	EA	Valve Box Adjustment	**$ 600.00**	$ 1,800.00	**$ 550.00**	$ 1,650.00
515	1	EA	Valve Stem Extension, 0'-4' Depth	**$ 200.00**	$ 200.00	**$ 250.00**	$ 250.00
520	4	VF	Precast 4' Diameter Pit w/ Lid Min. 4' Depth	**$ 925.00**	$ 3,700.00	**$ 825.00**	$ 3,300.00
525	8	VF	Precast 6' Diameter Pit w/ Lid Min. 4' Depth	**$ 1,000.00**	$ 8,000.00	**$ 1,050.00**	$ 8,400.00
530	8	VF	Precast 8' Diameter Pit w/ Lid Min. 4' Depth	**$ 1,500.00**	$ 12,000.00	**$ 1,075.00**	$ 8,600.00
535	7	CY	Cast-In-Place RCP Vault w/ Lid	**$ 1,000.00**	$ 7,000.00	**$ 1,025.00**	$ 7,175.00
540	1	EA	Prefabricated Vault, 4' X 8'	**$ 8,900.00**	$ 8,900.00	**$ 8,995.00**	$ 8,995.00

				AAC		Sub Surface	
Bid Item	**Approx. QTY.**	**Unit**	**Article and Description**	**Unit Price**	Item Price	**Unit Price**	Item Price
545	1	ACRE	Native Seeding	**$ 2,600.00**	$ 2,600.00	**$ 2,275.00**	$ 2,275.00
550	1	EA	Bollards (pair)	**$ 1,180.00**	$ 1,180.00	**$ 975.00**	$ 975.00
555	18	LF	4" Steel Casing	**$ 31.37**	$ 564.66	**$ 95.00**	$ 1,710.00
560	18	LF	4" PVC Casing	**$ 15.40**	$ 277.20	**$ 75.00**	$ 1,350.00
565	18	LF	14" Steel Casing	**$ 107.43**	$ 1,933.74	**$ 175.00**	$ 3,150.00
570	18	LF	16" Steel Casing	**$ 124.02**	$ 2,232.36	**$ 200.00**	$ 3,600.00
575	18	LF	18" Steel Casing	**$ 144.03**	$ 2,592.54	**$ 275.00**	$ 4,950.00
580	18	LF	22" Steel Casing	**$ 234.94**	$ 4,228.92	**$ 300.00**	$ 5,400.00
585	18	LF	26" Steel Casing	**$ 290.67**	$ 5,232.06	**$ 400.00**	$ 7,200.00
590	18	LF	28" Steel Casing	**$ 187.04**	$ 3,366.72	**$ 450.00**	$ 8,100.00
595	18	LF	30" Steel Casing	**$ 187.04**	$ 3,366.72	**$ 450.00**	$ 8,100.00
600	18	LF	36" Steel Casing	**$ 287.03**	$ 5,166.54	**$ 500.00**	$ 9,000.00
605	50	DIA-IN- LF	Bore & Jack Casing Pipe	**$ 575.00**	$ 28,750.00	**$ 40.00**	$ 2,000.00
610	18	LF	Open Cut Casing Pipe Installation, < 6' Deep	**$ 62.00**	$ 1,116.00	**$ 39.00**	$ 702.00
615	25	SY	Asphalt Pavement Removal & Disposal, <2”	**$ 29.50**	$ 737.50	**$ 65.00**	$ 1,625.00
620	200	SY	Asphalt Pavement Removal & Disposal, 2”-6”	**$ 17.70**	$ 3,540.00	**$ 65.00**	$ 13,000.00
625	10	SY	Concrete Pavement Removal & Disposal, <2”	**$ 97.50**	$ 975.00	**$ 90.00**	$ 900.00
630	10	SY	Concrete Pavement Removal & Disposal, 2”-6”	**$ 132.50**	$ 1,325.00	**$ 95.00**	$ 950.00
635	50	LF	Concrete Curb and Gutter Removal & Disposal	**$ 12.00**	$ 600.00	**$ 25.00**	$ 1,250.00
640	10	SY	Concrete Sidewalk Removal & Disposal	**$ 65.00**	$ 650.00	**$ 30.00**	$ 300.00
645	50	SY	Replace City Street Pavement w/o Laydown Machine, Virgin Asphalt	**$ 74.50**	$ 3,725.00	**$ 75.00**	$ 3,750.00
650	50	SY	Replace City Street Pavement w/o Laydown Machine, Recycled Asphalt	**$ 74.50**	$ 3,725.00	**$ 75.00**	$ 3,750.00
655	50	SY	Replace City Street Pavement with Laydown Machine, Virgin Asphalt	**$ 72.00**	$ 3,600.00	**$ 75.00**	$ 3,750.00
660	10	SY	Replace City Street Pavement with Laydown Machine, Recycled Asphalt	**$ 84.96**	$ 849.60	**$ 75.00**	$ 750.00
665	10	SY	Replace City Street Pavement with Temporary Cold Mix	**$ 167.56**	$ 1,675.60	**$ 75.00**	$ 750.00
670	100	SY	Replace Non-City Street Pavement w/o Laydown Machine, Virgin Asphalt	**$ 74.50**	$ 7,450.00	**$ 75.00**	$ 7,500.00
675	10	SY	Replace Non-City Street Pavement w/o Laydown Machine, Recycled Asphalt	**$ 74.50**	$ 745.00	**$ 75.00**	$ 750.00
680	10	SY	Replace Non-City Street Pavement with Laydown Machine, Virgin Asphalt	**$ 92.00**	$ 920.00	**$ 75.00**	$ 750.00
685	10	SY	Replace Non-City Street Pavement with Laydown Machine, Recycled Asphalt	**$ 92.00**	$ 920.00	**$ 75.00**	$ 750.00
690	1	SY	Replace Non-City Street Pavement with Temporary Cold Mix	**$ 167.56**	$ 167.56	**$ 75.00**	$ 75.00
695	10	SY	Replace Concrete Pavement	**$ 261.50**	$ 2,615.00	**$ 275.00**	$ 2,750.00
700	50	LF	Replace Concrete Curb & Gutter	**$ 45.00**	$ 2,250.00	**$ 45.00**	$ 2,250.00
705	10	SY	Replace Concrete Sidewalk	**$ 155.00**	$ 1,550.00	**$ 170.00**	$ 1,700.00
710	10	CY	Replace Gravel Surface, 0”-2”	**$ 56.00**	$ 560.00	**$ 85.00**	$ 850.00
715	10	CY	Replace Gravel Surface, 2”-4”	**$ 66.00**	$ 660.00	**$ 120.00**	$ 1,200.00
720	150	SY	Base course/Gravel (crushed or landscape), 0’-3”	**$ 34.00**	$ 5,100.00	**$ 35.00**	$ 5,250.00
725	50	SY	Base course/Gravel (crushed or landscape), 3”-6”	**$ 45.00**	$ 2,250.00	**$ 45.00**	$ 2,250.00
730	4	EA	Service, 3/4" Single, New Main	**$ 1,262.50**	$ 5,050.00	**$ 1,475.00**	$ 5,900.00
735	2	EA	Service, 3/4" Double, New Main	**$ 1,662.50**	$ 3,325.00	**$ 1,775.00**	$ 3,550.00
740	2	EA	Service, 1", New Main	**$ 1,887.50**	$ 3,775.00	**$ 1,825.00**	$ 3,650.00
745	1	EA	Service, 1 1/2", New Main	**$ 3,670.00**	$ 3,670.00	**$ 3,450.00**	$ 3,450.00
750	1	EA	Service, 2", New Main	**$ 3,985.00**	$ 3,985.00	**$ 3,870.00**	$ 3,870.00
755	5	EA	Service, 3/4" Single, Existing Main	**$ 1,450.00**	$ 7,250.00	**$ 1,475.00**	$ 7,375.00
760	2	EA	Service, 3/4" Double, Existing Main	**$ 1,912.50**	$ 3,825.00	**$ 1,775.00**	$ 3,550.00
765	1	EA	Service, 1", Existing Main	**$ 1,900.00**	$ 1,900.00	**$ 1,825.00**	$ 1,825.00
770	1	EA	Service, 1 1/2", Existing Main	**$ 3,670.00**	$ 3,670.00	**$ 3,450.00**	$ 3,450.00
775	1	EA	Service, 2", Existing Main	**$ 4,300.00**	$ 4,300.00	**$ 3,870.00**	$ 3,870.00
780	5	EA	Service Replacement, 3/4"	**$ 1,602.50**	$ 8,012.50	**$ 1,475.00**	$ 7,375.00
785	2	EA	Service Replacement, Double, 3/4"	**$ 1,950.00**	$ 3,900.00	**$ 1,775.00**	$ 3,550.00
790	1	EA	Service Replacement, 1”	**$ 2,100.00**	$ 2,100.00	**$ 1,825.00**	$ 1,825.00

				AAC		Sub Surface	
Bid Item	**Approx. QTY.**	**Unit**	**Article and Description**	**Unit Price**	Item Price	**Unit Price**	Item Price
795	1	EA	Service Replacement, 1 1/2"	**$ 3,875.00**	$ 3,875.00	**$ 3,450.00**	$ 3,450.00
800	1	EA	Service Replacement, 2"	**$ 4,512.00**	$ 4,512.00	**$ 3,870.00**	$ 3,870.00
805	3	EA	Meter Box Relocation/Replacement, 3/4"	**$ 1,000.00**	$ 3,000.00	**$ 895.00**	$ 2,685.00
810	1	EA	Meter Box Relocation/Replacement, 1"	**$ 1,150.00**	$ 1,150.00	**$ 915.00**	$ 915.00
815	1	EA	Meter Box Relocation/Replacement, 1-1/2"	**$ 1,800.00**	$ 1,800.00	**$ 1,400.00**	$ 1,400.00
820	1	EA	Meter Box Relocation/Replacement, 2"	**$ 1,900.00**	$ 1,900.00	**$ 1,400.00**	$ 1,400.00
825	5	EA	Service Transfer, 3/4"	**$ 812.50**	$ 4,062.50	**$ 725.00**	$ 3,625.00
830	2	EA	Service Transfer, 1"	**$ 912.50**	$ 1,825.00	**$ 825.00**	$ 1,650.00
835	1	EA	Service Transfer, 1 1/2"	**$ 1,112.50**	$ 1,112.50	**$ 925.00**	$ 925.00
840	1	EA	Service Transfer at Main, 2"	**$ 1,325.00**	$ 1,325.00	**$ 975.00**	$ 975.00
845	1	EA	Retire Existing Service at Main, 3/4"- 2"	**$ 962.50**	$ 962.50	**$ 725.00**	$ 725.00
850	1	EA	Retire Existing Meter Box & Setting	**$ 437.50**	$ 437.50	**$ 525.00**	$ 525.00
855	1	EA	Adjust Meter Box To Grade	**$ 412.50**	$ 412.50	**$ 425.00**	$ 425.00
860	11	EA	Service Saddle, 3/4" Tap, 4"-12" Main	**$ 500.00**	$ 5,500.00	**$ 650.00**	$ 7,150.00
865	4	EA	Service Saddle, 1" Tap, 4"-12" Main	**$ 462.50**	$ 1,850.00	**$ 675.00**	$ 2,700.00
870	3	EA	Service Saddle, 1 1/2" Tap, 4"-12" Main	**$ 562.50**	$ 1,687.50	**$ 750.00**	$ 2,250.00
875	3	EA	Service Saddle, 2" Tap, 4"-12" Main	**$ 650.00**	$ 1,950.00	**$ 775.00**	$ 2,325.00
880	100	LF	Service Tubing, 3/4"	**$ 28.75**	$ 2,875.00	**$ 31.50**	$ 3,150.00
885	100	LF	Service Tubing, 1"	**$ 34.12**	$ 3,412.00	**$ 33.75**	$ 3,375.00
890	100	LF	Service Tubing, 1 1/2"	**$ 46.50**	$ 4,650.00	**$ 44.00**	$ 4,400.00
895	25	LF	Service Tubing, 2"	**$ 65.50**	$ 1,637.50	**$ 53.00**	$ 1,325.00
900	1	EA	Air and Vacuum Valve (individual)	**$ 450.00**	$ 450.00	**$ 1,550.00**	$ 1,550.00
905	1	GROUP OF 10	Air and Vacuum Valves	**$ 8,045.00**	$ 8,045.00	**$ 15,500.00**	$ 15,500.00
910	1	EA	Automatic Flushing Valve	**$ 5,867.50**	$ 5,867.50	**$ 4,350.00**	$ 4,350.00
915	$20,000	%	Materials Mark-Up Over Invoice	**$ 3,600.00**	$ 3,600.00	**$ 1,500.00**	$ 1,500.00
920	$8,000	%	Traffic Control Mark-Up Over Invoice	**$ 1,440.00**	$ 1,440.00	**$ 1,200.00**	$ 1,200.00
925	1	Allow.	Street-Cut Permits	**$ 175.00**	$ 175.00	**$ 375.00**	$ 375.00
930	1	EA	Project Signs	**$ 675.00**	$ 675.00	**$ 450.00**	$ 450.00
935	10	HR	Archeological Required Delay (after 2 hrs.)	**$ 250.00**	$ 2,500.00	**$ 185.00**	$ 1,850.00
940	1	LS	Archeological Required Mob/Demob	**$ 725.00**	$ 725.00	**$ 700.00**	$ 700.00
EMERGENCY REPAIR					$ -		$ -
9000	175	HR	Supervisor's Truck with tools	**$ 35.00**	$ 6,125.00	**$ 30.00**	$ 5,250.00
9100	80	HR	Backhoe/Skid Steer	**$ 57.00**	$ 4,560.00	**$ 58.00**	$ 4,640.00
9200	8	HR	Compressor with tools	**$ 54.00**	$ 432.00	**$ 35.00**	$ 280.00
9300	16	HR	Dump Truck	**$ 65.00**	$ 1,040.00	**$ 60.00**	$ 960.00
9400	4	HR	Pump	**$ 25.00**	$ 100.00	**$ 15.00**	$ 60.00
9500	300	HR	Laborer	**$ 42.50**	$ 12,750.00	**$ 43.00**	$ 12,900.00
9600	200	HR	Pipe Fitter	**$ 44.50**	$ 8,900.00	**$ 45.00**	$ 9,000.00
9700	200	HR	Equipment Operator	**$ 57.50**	$ 11,500.00	**$ 58.00**	$ 11,600.00
9800	175	HR	Foreman	**$ 59.50**	$ 10,412.50	**$ 60.00**	$ 10,500.00
9900	$5,000	%	Rental Items Mark-Up Over Invoice (multiply $5,000 x your % for Item Price)	**$ 1,000.00**	$ 1,000.00	**$ 900.00**	$ 900.00
9950	$20,000	%	Materials Mark-Up Over Invoice (multiply $20,000 x your 5 for Item Price)	**$ 3,600.00**	$ 3,600.00	**$ 1,500.00**	$ 1,500.00

Signature: Michael Moya
Michael Moya (Aug 18, 2021 07:37 MDT)

Email: mrmoya@ci.santa-fe.nm.us

City of Santa Fe

Real Estate Summary of Contracts, Agreements, Amendments & Leases

Section to be completed by department

1. Munis Contract # **3202929**

Contractor: **Sub Surface Contracting**

Description: **CIP# 3058 Priority Line Replacement**

Contract ☐ Agreement ☉ Lease / Rent ☐ Amendment ☐

Term Start Date: **as approved** Term End Date: **6/30/25**

☑ Approved by Council Date: **Pending**

Contract / Lease: **Contract $2,250,000**

Amendment # _____ to the Original Contract / Lease # _____

Increase/(Decrease) Amount $ _____

Extend Termination Date to: _____

☐ Approved by Council Date: _____

Amendment is for:

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

3. **Procurement History:** **21/43/B**

Fran Delaway (Aug 23, 2021 12:29 MDT) Aug 23, 2021

Purchasing Officer Review: Date:

Comment & Exceptions: Issuance of award from ITB 21/43/B. 1st. year.

4. **Funding Source:** **Water Enterprise Fund CIP** **Org / Object:** **5050395.572970**

Andy Hopkins Aug 23, 2021

Andy Hopkins (Aug 23, 2021 11:13 MDT)

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: _____

SUBSURF-01 DONISCHUK

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 5/20/2021

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).

PRODUCER License # 0757776 HUB International Insurance Services (SOW) 2905 Rodeo Park Drive East Building 6, Suite 100 Santa Fe, NM 87505	CONTACT NAME: Michelle Vialpando PHONE (A/C, No, Ext): (505) 992-1873 FAX (A/C, No): (866) 621-0427 E-MAIL ADDRESS: michelle.vialpando@hubinternational.com
	INSURER(S) AFFORDING COVERAGE — NAIC #
	INSURER A : ACUITY, A Mutual Insurance Company — 14184
INSURED Sub Surface Contracting Inc 27A Paseo De River St Santa Fe, NM 87507	INSURER B : Builders Trust of New Mexico
	INSURER C :
	INSURER D :
	INSURER E :
	INSURER F :

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

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY [ ] CLAIMS-MADE [X] OCCUR X PD Ded: $500 GEN'L AGGREGATE LIMIT APPLIES PER: [ ] POLICY [X] PRO-JECT [ ] LOC [ ] OTHER:			Z75944	7/1/2020	7/1/2021	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	$ 1,000,000 $ 250,000 $ 10,000 $ 1,000,000 $ 3,000,000 $ 3,000,000
A	AUTOMOBILE LIABILITY X ANY AUTO [ ] OWNED AUTOS ONLY [ ] SCHEDULED AUTOS X HIRED AUTOS ONLY X NON-OWNED AUTOS ONLY			Z75944	7/1/2020	7/1/2021	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ 1,000,000 $ $ $
A	[ ] UMBRELLA LIAB [X] OCCUR X EXCESS LIAB [ ] CLAIMS-MADE [ ] DED X RETENTION $ 0			Z75944	7/1/2020	7/1/2021	EACH OCCURRENCE AGGREGATE	$ 2,000,000 $ 2,000,000
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y/N: Y If yes, describe under DESCRIPTION OF OPERATIONS below	N / A		0692	1/1/2021	1/1/2022	X PER STATUTE [ ] OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	$ 2,000,000 $ 2,000,000 $ 2,000,000
A	Leased/Rented Eqpt			Z75944	7/1/2020	7/1/2021	Ded: $500 / Limit	200,000

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

CERTIFICATE HOLDER

City of Santa Fe
Public Utilities Department
801 West San Mateo
Santa Fe, NM 87505

CANCELLATION

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

AUTHORIZED REPRESENTATIVE

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SUBSURF-01 DONISCHUK

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 5/20/2021

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PRODUCER License # 0757776 HUB International Insurance Services (SOW) 2905 Rodeo Park Drive East Building 6, Suite 100 Santa Fe, NM 87505	CONTACT NAME: Michelle Vialpando PHONE (A/C, No, Ext): (505) 992-1873 FAX (A/C, No): (866) 621-0427 E-MAIL ADDRESS: michelle.vialpando@hubinternational.com
INSURED Sub Surface Contracting Inc 27A Paseo De River St Santa Fe, NM 87507	INSURER(S) AFFORDING COVERAGE — NAIC # INSURER A : ACUITY, A Mutual Insurance Company — 14184 INSURER B : Builders Trust of New Mexico INSURER C : INSURER D : INSURER E : INSURER F :

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

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INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY [ ] CLAIMS-MADE [X] OCCUR X PD Ded: $500 GEN'L AGGREGATE LIMIT APPLIES PER: [ ] POLICY [X] PRO-JECT [ ] LOC [ ] OTHER:			Z75944	7/1/2021	7/1/2022	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	$ 1,000,000 $ 250,000 $ 10,000 $ 1,000,000 $ 3,000,000 $ 3,000,000
A	AUTOMOBILE LIABILITY X ANY AUTO [ ] OWNED AUTOS ONLY [ ] SCHEDULED AUTOS X HIRED AUTOS ONLY [X] NON-OWNED AUTOS ONLY			Z75944	7/1/2021	7/1/2022	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ 1,000,000 $ $ $
A	[ ] UMBRELLA LIAB [X] OCCUR X EXCESS LIAB [ ] CLAIMS-MADE [ ] DED [X] RETENTION $ 0			Z75944	7/1/2021	7/1/2022	EACH OCCURRENCE AGGREGATE	$ 2,000,000 $ 2,000,000 $
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y/N: Y If yes, describe under DESCRIPTION OF OPERATIONS below	N / A		0692	1/1/2021	1/1/2022	X PER STATUTE [ ] OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	$ 2,000,000 $ 2,000,000 $ 2,000,000
A	Leased/Rented Eqpt			Z75944	7/1/2021	7/1/2022	Ded: $500 / Limit	200,000

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

CERTIFICATE HOLDER

City of Santa Fe
Public Utilities Department
801 West San Mateo
Santa Fe, NM 87505

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AUTHORIZED REPRESENTATIVE

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City of Santa Fe

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

BUSINESS REGISTRATION

Business Name: SUB SURFACE CONTRACTING INC.
DBA: SUB SURFACE CONTRACTING INC.

Business Location: 27 PASEO DE RIVER A
SANTA FE , NM 87507

CRS Number: 02104256000

Owner: SUB SURFACE CONTRACTING INC.

License Number: 46991

License Type: Business License - Renewable

Issued Date: April 01, 2021

Classification: Contractor - Specially

Expiration Date: April 01, 2022

Fees Paid: $35.00

SUB SURFACE CONTRACTING INC.
27 A PASEO DE RIVER
SANTA FE, NM 87507

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

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

TO BE POSTED IN A CONSPICUOUS PLACE

CITY OF SANTA FE PROCUREMENT CHECKLIST

Contractor Name: Sub Surface Contracting, Inc.

Procurement Title: 21/43/B Priority Line Replacement Price Agreement, CIP # 3058

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 Bill Huey Water Division, PUD

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: _____

Public Utilities Dept / Water Division/Bill Huey (Bill Huey)	Engineer	8/17/21
Department Rep Printed Name (attesting that all information included)	Title	Date
Fran Dunaway (Aug 23, 2021 12:29 MDT)	Chief Procurement Officer	Aug 23, 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 any resulting contract.

*

City of Santa Fe, New Mexico
Memorandum

DATE: August 12, 2021

TO: Governing Body
Finance Committee
Public Works/Public Utilities Committee

VIA: Shannon Jones, Public Utilities Department Director
Mike Dozier, Waste Water Management Director MD

FROM: Efren Morales, Waste Water Management Plant Superintendent EM

ITEM AND ISSUE:

Request approval for Change Order #2 to CIP #957 Aeration Project, Bid number '20/17/B with RMCI Inc. for an increase in the amount of $750,968.20; Request approval of a Budget Increase BAR from the Waste Water Enterprise Fund in the amount of $750,968.20.

BACKGROUND

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 needed in each of the two basins along with the replacement of the roofing for the aeration blower room that is attached to the Administration building. In 2020 RMCI was awarded the bid for the Aeration Improvement Project and in July of that year the project was started. In Change Order #1 additional sludge hauling, pump, valve changes and pipe supports in the aeration basin created additional costs to the project resulting in an increase to the original amount.

In change order #2 additional piping, sludge removal, PLC revisions, electrical conduit, pump and material testing has created additional costs that were not originaly encapsulated in the contract. When the bypass pumping was first done for the North aeration basin an additional pump was needed to safely accomadate the amount of flow coming into the system. The North basin has been completed and placed online and the south basin has been removed from service. The bypass pumping that was done for the North basin was needed to replace the sluice gate for the South basin as well. The wire size that is required for the mixer in the aeration basins need to be increased by one size. Additional sludge removal costs are included in this change order for excessive foaming issues that the facility was experiencing in March of this year. Additional cost for electrical lines and conduit were assessed for replacement of process analyzers for the aeration basins. A change in location for valves and meters that will be installed in the DAF Building was addressed and additional charges for reworking of the conduits and wireing.

PROCUREMENT METHOD:
Procurement method: Construction Bid: Bid number '20/17/B

FUNDING SOURCE:
Fund Name/Number: WWMD Cash Balance/ 500
WW Engineering/5000375
WIP Construction/572970

RECOMMENDED ACTION

PUD, WWM respectfully requests approval for Change Order #2 to CIP #957 Aeration Project, Bid number '20/17/B with RMCI Inc. for an increase in the amount of $750,968.20; and the Budget Adjustment Increase in same amount.

Log # *{Finance use only}*:	
Batch # *{Finance use only}*:	

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

DEPARTMENT / DIVISION NAME	DATE
PUD/Waste Water	8/12/2021

ITEM DESCRIPTION	ORG	OBJECT	PROJECT	INCREASE	DECREASE
EXPENDITURES				*{enter as positive #}*	*{enter as negative #}*
WWMD Treatement Plant	5000375	572970	WWM2050001	750,968	
REVENUES				*{enter as negative #}*	*{enter as positive #}*
				$ 750,968	$ -

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

Budget Increase from Cash Balance in WWMD Enterprise Fund for the contract change order #2 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	(750,968)
TOTAL:	**(750,968)**

Maya Martinez 8/12/2021
Prepared By *{print name}* Date

Michael Dozier (Aug 16, 2021 07:44 MDT) 8/16/21
Division Director Signature *{optional}* Date

Shannon Jones 8/16/2021
Department Director Signature Date

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

CITY COUNCIL APPROVAL

City Council Approval Date

Agenda Item #:

Andy Hopkins
Andy Hopkins (Aug 16, 2021 09:40 MDT)
Budget Officer Date

Finance Director *{≤ $5,000}* Date

City Manager *{≤ $60,000}* Date

EJCDC
ENGINEERS JOINT CONTRACT DOCUMENTS COMMITTEE

Change Order No. 2

Date of Issuance:	6/8/21	Effective Date:	6/8/21
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:

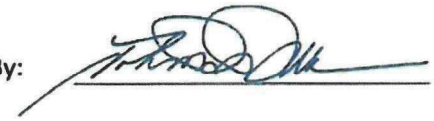
1. COP No. 1 – Blower Outlet Piping Revisions $56,392.43
2. COP No. 13 – Upsizing of Conductors for Mixer 22-01-28 ..... $408.09
3. COP No. 14 - Removal of Sludge from North Aeration Basin – (March 4th Spill)..... $71,250.00
4. COP No. 15 – Removal of Sludge from North Aeration Basin – (March 17th Spill) $3,750.00
5. COP No. 16 – Revisions to Existing Blower Building PLC Panel $8,997.04
6. COP No. 17 – Trench Drain Credit ..... $ (7,176.24)
7. COP No. 18 – Replacement of Aeration Basins Process Analyzers $128,548.30
8. COP No. 19 – VFD Conduit Routing Revisions – WAS Pumps $11,400.69
9. COP No. 20 – DAF Building Actuated Valves and Flow Meter Locations Electrical Work $25,983.24
10. COP No. 21 – DAF Building Actuated Valves and Flow Meter Locations Mechanical Work..... $5,966.15
11. COP No. 22 – Additional Pump Required for By-pass Pumping – South Aeration Basin $10,890.82
12. Additional Sludge Hauling (963 CY) – South Aeration Basin $361,125.00
13. Increase Bid Allowance for Material Testing $15,000.00
14. New Mexico Gross Receipts Tax @ 8.4375% $58,432.68

TOTAL $750,968.20

Attachments: *Change Order No. 2 Justification Summary with RMCI Pricing Attachments.*

CHANGE IN CONTRACT PRICE	CHANGE IN CONTRACT TIMES
Original Contract Price: $ 11,661,233.20 (Inclusive of NMGRT)	Original Contract Times: 481 Calendar Days
Increase from previously approved Change Orders $ 294,446.51 (Inclusive of NMGRT)	Increase from previously approved Change Orders 52 Calendar Days
Contract Price prior to this Change Order: $ 11,955,679.71 (Inclusive of NMGRT)	Contract Times prior to this Change Order: 533 Calendar Days

Increase of this Change Order: $ 750,968.20 (Inclusive of NMGRT)	Increase of this Change Order: 13 Calendar Days
Contract Price incorporating this Change Order: $ 12,706,647.91 (Inclusive of NMGRT)	Contract Times with all approved Change Orders: 546 Calendar Days

RECOMMENDED:	ACCEPTED:	ACCEPTED:
By: 	By:	By:
Carollo Engineers, Inc.	City of Santa Fe, NM	RMCI, Inc.
Title Senior Client Service Manager	Title	Title President/CEO
Date July 1, 2021	Date	Date 7/1/21

CITY OF SANTA FE:

_____
ALAN WEBBER, MAYOR

DATE:_____

ATTEST:

_____
KRISTINE BUSTOS MIHELCIC ,CITY CLERK

CITY ATTORNEY'S OFFICE:

Marcos Martinez
Marcos Martinez (Aug 12, 2021 15:42 MDT)

_____
SENIOR ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

_____
MARY MCCOY, FINANCE DIRECTOR

Project No. 101065

Change Order No. 2
Justification

JUSTIFICATION

COP No. 1: Blower Outlet Piping Revisions	**Amount:** $56,392.43

Description of Change:

This COP involves three revisions to the new blower outlet piping:

1. Change the size of the outlet pipe from 14" to 16": The blower manufacturer recommended 16" stainless-steel outlet piping for optimal performance and to match the output on the combined diffuser cone silencer.
2. Separate the blower piping order from the aeration basin air piping: The aeration basin stainless steel piping was needed on site to complete work in the aeration basins per the schedule and the blower piping revisions/design were ongoing, so the order was separated. For the blower piping, this resulted in additional freight and higher material costs as less material was ordered at one time.
3. Reroute discharge piping to match blower configuration: The location of the air outlet and blow-off flanges on the blowers were in different locations on the blower than as shown on the contract drawings. The piping routing for both the blow-off and the outlet air was revised to accommodate the blower flange locations and existing piping connection points.

COP No. 13: Upsizing of Conductors for Mixer 22-10-28	**Amount:** $ 408.09

Description of Change:

Power conductors for new aeration basin mixer 22-10-28 were shown as "3-#12 phase and 1-#12 ground". The wire size required for the mixer is one size larger, #10. The cost-is the difference between providing #10 versus #12 wire.

COP No. 14: Removal of Sludge from North Aeration Basin – (March 4th Spill)	**Amount:** $ 71,250.00 **Time Extension:** 4-days
Description of Change: On the night of March 4, 2021, the South Aeration Basin had overflowed into the North Aeration Basin. On the morning of March 5, 2021, RMCI notified onsite plant operations of the issue. Carollo issued a Work Change Directive authorizing RMCI to remove the sludge from the North Aeration Basin. RMCI performed the work March 8th - 11th, and again on March 15th. A total of one hundred ninety (190) cubic yards of sludge was removed from the basin. The total cost for removal is based on the unit price of the Sludge Removal Allowance in the contract.	
COP No. 15: Removal of Sludge from North Aeration Basin - (March 17th Spill)	**Amount:** $ 3,750.00 **Time Extension:** 1-day
Description of Change: On the afternoon of March 17, 2021, the South Aeration Basin overflowed into the North Aeration Basin. Carollo issued a Work Change Directive authorizing RMCI to remove the sludge from the North Aeration Basin. RMCI performed the work March 24th. A total of ten (10) cubic yards of sludge was removed from the basin. The total cost for removal is based on the unit price of the Sludge Removal Allowance in the contract.	
COP No. 16: Revisions to Existing Blower Building PLC Panel	**Amount:** $ 8,997.04
Description of Change: The Contract Documents call for the removal of the existing blower alarm panel as part of the demolition and replacement of the Turbulex blower system. It was discovered that the panel contained a PLC (DTC-1) that was a vital part of the existing DH+ network and not associated with the blower system and needed to remain in service. RMCI was issued a Design Clarification to revise the demolition of the alarm panel to preserve and remount PLC DTC-1.	
COP No. 17: Trench Drain Credit	**Amount:** $ (7,176.24)
Description of Change: The Contract Documents state that the contractor shall remove a portion of an existing concrete pad and trench drain in the vicinity of the Administration Building for installation of a new duct bank. The installation of new duct bank did not require the demolition and replacement of the existing concrete pad and trench drain. The COP represents the credit for deleting this portion of work.	

COP No. 18: Replacement of Aeration Basins Process Analyzers	**Amount:** $ 128,548.30

Description of Change:

The existing process analyzers (Dissolved Oxygen and Ammonia) for the aeration basins are manufactured by HACH. The project required replacement of four (4) probes for the Dissolved Oxygen (DO) analyzers. At the beginning of construction, The City requested that all HACH instruments (DO and Ammonia analyzers) for both aeration basins be replaced with equivalent units as manufactured by YSI. The change in manufacturer required revisions to the electrical conduit and wiring schedule (power and instrumentation) to accommodate the additional wiring associated with the YSI analyzers.

COP No. 19: VFD Conduit Routing Revisions – WAS Pumps	**Amount:** $ 11,400.69 **Time Extension**: 4-days

Description of Change:

New conduit and wiring were depicted on the Contract Drawings for four (4) pumps associated with the DAF Facility. These pumps are operated via VFD. The Contract Drawings show the VFD units for each pump to mounted in the MCC bucket. The actual configuration of the system has the VFD in individual remote cabinets from the MCCs. The MCC buckets contain only the breaker for the pumps and VFD. Carollo issued a Design Clarification to revise the conduit and wiring for these pumps to accommodate the remote configuration of the VFDs.

COP No. 20: DAF Building Actuated Valves and Flow Meter Locations Electrical Work	**Amount:** $ 25,983.24 **Time Extension**: 4-days

Description of Change:

The project involves work in the DAF building to change the actuators on various valves and to add a flow meter to TWAS pipeline. The mechanical drawings did not show the location of the flow meter or the pipe fittings required for the installation. Drawing 51M01 Keynotes 1 & 4 show the hand wheel and chain actuators to be replaced with electric actuated valves in the south east corner of the DAF building. Drawing 51E01 shows two valves EAM-51-00-03, EAM-51-00-01 in a different location along the center of the east wall to be added and powered. A Design Clarification was issued to clarify the location of the valves. This resulted in a re-work of the conduits and wire in place with new longer conduit and wiring runs for the new actuators. This COP is for the Electrical work associated with these revisions.

COP No. 21: DAF Building Actuated Valves and Flow Meter Locations Mechanical Work	**Amount:** $ 5,966.15

Description of Change:

The project involves work in the DAF building to change the actuators on various valves and to add a flow meter to TWAS pipeline. The mechanical drawings did not show the location of the flow meter or the pipe fittings required for the installation. Drawing 51M01 Keynotes 1 & 4 show the hand wheel and chain actuators to be replaced with electric actuated valves in the south east corner of the DAF building.

Drawing 51E01 shows two valves EAM-51-00-03, EAM-51-00-01 in a different location along the center of the east wall to be added and powered. A Design Clarification was issued to clarify the location of the valves. This resulted in a re-work of the conduits and wire in place with new longer conduit and wiring runs for the new actuators. This COP is for the Mechanical work associated with these revisions.

COP No. 22: Additional Pump Required for By-pass Pumping – South Aeration Basin	**Amount:** $ 10,890.82

Description of Change:

An additional pump was required for by-pass flows to the South Aeration Basin to allow for the replacement of the inlet gate on the North Aeration Basin. The rationale for the need of this additional pump for the by-pass operation was addressed in Change Order No. 1 where an additional pump was required for performing the same work on the South Aeration Basin. The background for this change was provided in Change Order No. 1 and is provided again below for reference:

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. RMCI was able to keep up with the peak flow with two (2) pumps running simultaneously. 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.

Additional Sludge Hauling (963 CY) – South Aeration Basin	**Amount:** $ 361,125.00

Description of Change:

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 pervious 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 Aeration

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 Aeration Basins. The costs associated with the removal of the additional sludge quantities in the North Aeration Basin were covered in Change Order No. 1. This COP covers the costs for the removal of 963 cubic yards of sludge in the South Aeration Basin compensated at the unit price provided in the bid.

Increase Bid Allowance for Material Testing	**Amount:** $ 15,000.00

Description of Change:

The contract provided an allowance of $20,000 for material testing associated with the project. The amount of material testing performed to date has approached the limit of the allowance amount. It was decided to increase the allowance by an additional $15,000 to cover the anticipated costs for material testing to complete the project.

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: Conctract

Amendment # CO #2 to the Original Contract / Lease # 20-0251

Increase/(Decrease) Amount $ $750,968.20

Extend Termination Date to: Increase contract amount, term and scope

☑ Approved by Council Date: Pending

Amendment is for: term extension add 52 calendar days

2. **HISTORY** of Contract, Amendments & Lease / Rent - Please Elaborate (option: attach spreadsheet if multiple amendments)
Original Contract #20-0251 $11,661,233.20

Change Order#1 #21-0234 $294,446.51

3. **Procurement History:** 20/17/B

Fran Dunaway (Aug 23, 2021 08:59 MDT) Aug 23, 2021

Purchasing Officer Review: Date:

Comment & Exceptions: final year of a 4 year contract.

4. **Funding Source:** WWMD CIP Enterprise Fund **Org / Object:** 5000375.572970

Andy Hopkins (Aug 20, 2021 10:00 MDT) Aug 20, 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: _____

RMCIINC-01 KPATTON

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 1/20/2021

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).

PRODUCER License # 0757776 HUB International Insurance Services (SOW) 6565 Americas Parkway Suite 720 Albuquerque, NM 87110	CONTACT NAME: Kenly Smith PHONE (A/C, No, Ext): (505) 262-9473 FAX (A/C, No): E-MAIL ADDRESS: kenly.smith@hubinternational.com
INSURED RMCI, Inc. P.O. Box 91447 Albuquerque, NM 87199	INSURER(S) AFFORDING COVERAGE — NAIC # INSURER A : The Phoenix Insurance Company — 25623 INSURER B : Charter Oak Fire Insurance Company — 25615 INSURER C : The New Mexico Contractors Comp Trust Self-Insurance Fund INSURER D : Travelers Property Casualty Company of America — 25674 INSURER E : St. Paul Surplus Lines Insurance Company — 30481 INSURER F :

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

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY [ ] CLAIMS-MADE [X] OCCUR X PD Deductible $2500 GEN'L AGGREGATE LIMIT APPLIES PER: [ ] POLICY [X] PRO-JECT [ ] LOC [ ] OTHER:	X	X	DT-CO-6013B636-PHX-21	2/1/2021	2/1/2022	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	$ 1,000,000 $ 300,000 $ 5,000 $ 1,000,000 $ 2,000,000 $ 2,000,000
B	AUTOMOBILE LIABILITY X ANY AUTO [ ] OWNED AUTOS ONLY [ ] SCHEDULED AUTOS X HIRED AUTOS ONLY [X] NON-OWNED AUTOS ONLY	X	X	810-3L405486-21-26-G	2/1/2021	2/1/2022	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ 1,000,000 $ $ $
	[ ] UMBRELLA LIAB [ ] OCCUR [ ] EXCESS LIAB [ ] CLAIMS-MADE [ ] DED [ ] RETENTION $						EACH OCCURRENCE AGGREGATE	$ $
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y/N: N If yes, describe under DESCRIPTION OF OPERATIONS below	N / A	X	0041A	1/1/2021	1/1/2022	X PER STATUTE [ ] OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	$ 1,000,000 $ 1,000,000 $ 1,000,000
D	Builders Risk			QT-660-143D2218-TIL-21	2/1/2021	2/1/2022	Max Per Project	30,000,000
E	Pollution			ZCE-16N73520	2/1/2021	2/1/2022	Ded $25,000	2,000,000

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

.

SEE ATTACHED ACORD 101

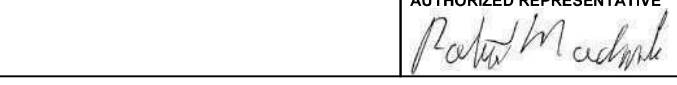
CERTIFICATE HOLDER

City of Santa Fe
200 Lincoln Ave Room 122
Santa Fe, NM 87505

CANCELLATION

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

AUTHORIZED REPRESENTATIVE



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City of Santa Fe

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

CRS Number: 02157665003

Owner: RMCI INC

License Number: 223524

License Type: Business License - Renewable

Issued Date: December 09, 2020

Classification: Out of Jurisdiction Contractor - General

Expiration Date: December 09, 2021

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 TRANSFERRABLE TO OTHER BUSINESSES OR PREMISES.

TO BE POSTED IN A CONSPICUOUS PLACE

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:

Efran Morales, WWMD — Efren Morales (Aug 16, 2021 07:36 MDT) — 8-16-2021

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

Fran Dunaway (Aug 23, 2021 08:59 MDT) — Chief Procurement Officer — Aug 23, 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

ITEM AND ISSUE:

Request for Approval of Change Order #1 to CIP #957 Aeriation 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 Aeriation 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**.**

EJCDC
ENGINEERS JOINT CONTRACT DOCUMENTS COMMITTEE

ITEM # **21-0243**
MUNIS # 3201962

Change Order No. 1

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% $22,910.82

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: $ 11,661,233.20 (Inclusive of NMGRT)	Original Contract Times: 481 Calendar Days
Increase from previously approved Change Orders $ N/A	Increase from previously approved Change Orders N/A
Contract Price prior to this Change Order: $ 11,661,233.20 (Inclusive of NMGRT)	Contract Times prior to this Change Order: 481 Calendar Days

Increase of this Change Order: $ 294,446.51 (Inclusive of NMGRT)	Increase of this Change Order: 52 Calendar Days
Contract Price incorporating this Change Order: $ 11,955,679.71 (Inclusive of NMGRT)	Contract Times with all approved Change Orders: 533 Calendar Days

RECOMMENDED:	ACCEPTED:	ACCEPTED:
By:	By:	By:
Carollo Engineers, Inc.	City of Santa Fe, NM	RMCI, Inc.
Title: Senior Client Service Manager	Title: MAYOR	Title: President/CEO
Date: April 31, 2021	Date: May 28, 2021	Date: 3-31-21

ATTEST:

KRISTINE BUSTOS MIHELCIC, CITY CLERK GB MTG 05/26/2021

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

Modifications to Specification Section 01140 – Work Restrictions	**Amount:** $ No Cost

Description of Change:

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.

Additional Sludge Hauling – North Aeration Basin	**Amount:** $ 80,625.00

Description of Change:

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 pervious 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.

COP No. 2: Revise Model of Centrate Pumps to Match Digester Pumps	**Amount:** $ 11,994.77

Description of Change:

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.

COP No. 3: Revisions to Electrically Actuated Valve Schedule	**Amount:** $ 6,186.07

Description of Change:

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.

COP No. 4: Revise EQ Tank Sump Pump from Duplex to Simplex	**Amount:** $ (27,450.80)

Description of Change:

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.

COP No. 5: Provide Remote Transmitters for Thermal Mass Flow Meters	**Amount:** $ 34,445.90

Description of Change:

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.

COP No. 6: Upsize Misc. Electrical Conduits in Ductbanks	**Amount:** $ 11,538.16

Description of Change:

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”.

COP No. 8: Additional Pumps Required for By-pass Pumping – North Aeration Basin	**Amount:** $ 60,900.98 **Time Extension**: 20-days

Description of Change:

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.

COP No. 9: Modifications to Scum Trough Discharge Piping	**Amount:** $ 477.14

Description of Change:

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:

1. Location of the scum trough moved approximately 10'-4" from the centerline of the scum manhole.
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.
3. Addition of a 12" gate valve to the discharge piping.
4. Scum pipe material changed from SST to PVC – SDR 35 with push on joints.

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.

COP No. 10: Concrete Equipment Pad for LCP-220	**Amount:** $ 2,583.79

Description of Change:

LCP-220 requires and 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.

COP No. 11: Replacement of Existing Aeration Basins Air Piping Supports	**Amount:** $ 84,901.97 **Time Extension**: 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.

COP No. 12: Clean Existing Diffuser Grid Piping, North Basin, Pass A-2	**Amount:** $ 5,332.71 **Time Extension**: 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 0-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: **Conctract**

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**

Fran Delaway (May 3, 2021 8:20 MDT) May 3, 2021

Purchasing Officer Review: Date:

Comment & Exceptions: Amend-C/O to increase comp and scope

4. **Funding Source:** **WWMD CIP Enterprise Fund** **Org / Object:** **5000375.572970**

Andy Hopkins (Apr 29, 2021 14:07 MDT) Apr 29, 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 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
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☐	☑	Purchasing Officers approval for exempt procurement
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☑	☐	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

Fran Delaway (May 3, 2021 8:20 MDT) — 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

ITEM AND ISSUE:

Request for Approval of a BAR to fund Change Order #1 to CIP #957 Aeriation Project Bid number '20/17/B with RMCI 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 Aeriation 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 only}*:

Batch # *{Finance use only}*:

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

DEPARTMENT / DIVISION NAME	DATE
PUD/Waste Water	4/19/2021

EXPENDITURES

	OBJECT	PROJECT	INCREASE *{enter as positive #}*	DECREASE *{enter as negative #}*
5000375	57	WWM2050001	294,447	

REVENUES

			{enter as negative #}	*{enter as positive #}*

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

Budget Increase from Cash Balance in WWMD Enterprise Fund for the contract change order #1 with the RMCI Inc for Aeration Project

$ 294,447	$ -

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

Fund(s) Affected	Fund Balance Increase/(Decrease)
500	(294,447)

TOTAL: **(294,447)**

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

Maya Martinez — Prepared By *{print name}* — 4/19/2021 Date

Budget Officer — Date

CITY COUNCIL APPROVAL

City Council

Division Director Signature *{optional}* — Date — *Approval Date*

Finance Director *{≤ $5,000}* — Date

Agenda Item #:

Department Director Signature — Date

City Manager *{≤ $60,000}* — Date

City of Santa Fe, New Mexico

Santa Fe Regional Airport

MEMO

DATE: August 16, 2021

TO: Public Works/Utilities Committee, Finance Committee, and City Council

Regina Wheeler

VIA: Regina Wheeler, Public Works Department Director

FROM: Mark Baca, C.M., Airport Manager

ISSUE: Award ITB #21/38/B to low bidder EMCO of Santa Fe, LLC. Work for Runway 2- Runway Safety Area (RSA) grading in a total amount of $396,886.41, inclusive of New Mexico gross receipt tax.

SUMMARY:
In March 2020, the Airport received a letter from the FAA indicating that during a safety inspection the FAA found runway 2 RSA approach was out of compliance causing unsafe over run conditions and required action.

The Airport has two options to address this condition. One would be to shorten the runway and other would be to repair the RSA. Shorting the runway would result in shutting down navigational aids such as the Instrument Landing System (ILS) and Visual Approach Slope Indicator (VASI). This is not a viable option due to commercial aircraft not being able to operate during inclement weather. With a shorter runway commercial aircraft would have to limit the number of passengers to reduce the aircraft weight, in order to safely increase its aircraft performance at our high altitude.

Completing repairs on the RSA and maintaining the length of the runway will benefit the airport, city, and region not only by maintaining safe performance for commercial flights, but also by demonstrating to the FAA that the City is committed to continue having a high performing commercial airport. The City's completion of this project will positively influence future funding requests to the FAA, and support the vision for expansion of the Santa Fe Regional Airport.

Further detailed construction information of the work to be done for this project can be found on exhibit "B", as attached.

BUDGET:
This project is funded 100% by FAA AIP Grant 3-35-0037-54-2021.

From ITB #21/38/B that was issued, we received 3 bids; low bid in the amount of $396,886.41 was received. The Engineer's original opinion of probable construction cost was $789,836.80, and the received bid from EMCO of Santa Fe, LLC is $392,950.39 below the projected cost amount from the Engineer.

Secured funding is available for this project in Org/Object 5450407.572970, Project String AIR22545OA.

Services were procured using City of Santa Fe Invitation to Bid #21/38/B; City of Santa Fe Munis contract #3202907 has been issued for this procurement.

SCHEDULE:
Finance Committee: 08/30/2021
Public Works/Utilities Committee: 09/07/2021
City Council: 09/08/2021

The project is scheduled for completion within 120 days, depending on the weather and temperature after the Notice to Proceed (NTP) is received by the contractor. Taking into account the time needed for all required City approvals, the anticipated NTP date is 09/13/2021 with substantial completion set as 01/11/2022.

REQUESTED ACTION:
Approve award of ITB #21/38/B to low bidder EMCO of Santa Fe, LLC, for $396,886.41, inclusive of New Mexico gross receipt tax for Runway 2 RSA grading.

ATTACHMENTS:

Construction Agreement
Exhibit A – Bid Proposal
Exhibit B – Bid Documents from Engineer
Exhibit C – Contractor's Certificate of Insurance(s)
Exhibit D – City of Santa Fe Business License
Summary of Contract Form
Other Procurement Method Form

Signature:

Email: rawheeler@ci.santa-fe.nm.us

B.1 CONSTRUCTION AGREEMENT

CITY OF SANTA FE

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 **EMCO of Santa Fe, LLC**, 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: Runway 02 RSA Grading.

   B. *Performance Measures.*
   Contractor shall substantially perform the following Performance Measures:
   1) Specifications dictate minimum requirements for project acceptance.

   The receipt of the deliverables contemplated under this Agreement shall assist the City in obtaining its goal(s) as set forth in Attachment 1, see below.

2. **Compensation.**
   A. The City shall pay to the Contractor in full payment for services satisfactorily performed, such compensation not to exceed ($396,886.41), including gross receipts tax. **The total amount payable to the Contractor under this Agreement, including gross receipts tax and expenses, shall not exceed ($396,886.41). 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, 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.

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

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

C. **Broader Coverage and Limits.** The insurance requirements under this Agreement shall be the greater of (1) the minimum coverage and limits specified in this Agreement, or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the Named Insured. It is agreed that

these insurance requirements shall not in any way act to reduce coverage that is broader or that includes higher limits than the minimums required herein. No representation is made that the minimum insurance requirements of this Agreement are sufficient to cover the obligations of Contractor hereunder.

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

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:

To the City: City of Santa Fe

Name: Mark Baca

Address: P.O. Box 909, Santa Fe, NM 87504

Email: mdbaca@santafenm.gov

To the Contractor: EMCO of Santa Fe LLC

Name: Katharine C. Fishman, Managing Member

Address: 3810 Oliver Drive, Santa Fe, New Mexico 87507

Email: info@emcoofsantafe.com

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: _____

CONTRACTOR:
EMCO OF SANTA FE, LLC.

_____
NAME

Manager
TITLE

DATE: 8/23/2021
CRS#: 03245374004
Registration #: 225893

ATTEST:

_____
KRISTINE BUSTOS MIHELCIC
CITY CLERK

CITY ATTORNEY'S OFFICE:

Marcos Martinez
Marcos Martinez (Aug 12, 2021 13:01 MDT)
SENIOR ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

_____
MARY MCCOY
FINANCE DIRECTOR

5450407.572970 AIR22545OA
Org. Name / Org#

AJH
AJH

Attachment 1

Scope of Work

Performance Measures

Performance Measures in Scope of Work shall contain measurable goals and objectives that are linked to the performance measures of the Contractor's Strategic Plan:

Goal: To modify the surface slopes on Runway 02 RSA grading and reconfigure the alignment to meet current FAA standards.

Objective: To grade the runway safety area to meet FAA criteria of ≤5% grade.

Activities: Earthwork cut and fill, construction testing to meet specifications.

A contract time will be established to control project schedule and quality assurance tests will be performed to ensure acceptability of work performed and materials furnished. Minimum performance standards are provided in specifications.

MOLZENCORBIN

June 30, 2021

Mr. Mark Baca
Airport Manager
City of Santa Fe
PO Box 909
Santa Fe, New Mexico 87504

RE: Santa Fe Municipal Airport – Runway 02 Runway Safety Area (RSA) Grading SAF182-19
City of Santa Fe Bid # 21/38/B; AIP 3-35-0037-54-2021; NMDOT AD Grant SAF-21-02

Dear Mr. Baca:

A total of three (3) Bids were received for the above-referenced project at 3:00 p.m. on June 24, 2021. A summary of the Bids received and the Engineer's Estimate is provided on the enclosed Bid Tabulation and Bid Evaluation Summary (with corrections noted) and are summarized as follows:

EMCO of Santa Fe, LLC (EMCO)	$396,886.41*
Sparling Construction	$536,299.08*
Meridian Contracting	$974,101.38*
Engineer's Opinion of Probable Construction Cost	$789,836.80*

*All of these amounts include the PNM Allowance and New Mexico Gross Receipts Tax at the rate of 8.4375%.

- EMCO is a registered Contractor in the State of New Mexico, License No. 374873, with active License Classifications GA98, GB98, and GF98. We have verified this information with Contractor Licensing Services, Inc. (www.contractorsnm.com).
- EMCO has a current and valid New Mexico Department of Workforce Solutions Contractor Registration Number, No. 002198720110315.

This project would normally be funded at 93.75% by the Federal Aviation Administration (FAA), 3.125% by the New Mexico Department of Transportation (NMDOT) - Aviation Division (AD), and 3.125% by the City of Santa Fe. This is how the Grant Application was prepared, in accordance with FAA instructions. However, it is our understanding that 2021 grants will be funded by the FAA at 100%.

Based on the information before us, EMCO has submitted the lowest apparent responsive Bid. Therefore, we recommend that the Bid for the above-referenced project be awarded to EMCO of Santa Fe, LLC in the amount of $396,886.41 contingent upon FAA approval. We understand that the Owner reserves the right to award or reject any Bid, as well as waive any technical irregularities in the Bids. If the City decides to award this project, please sign the enclosed Notice of Award and return an executed copy for your records and we will assist with preparing Award Documents.

If you have any questions regarding this matter, please feel free to call at (505) 242-5700.

Sincerely,

MOLZEN CORBIN

Kent S. Freier, P.E., CFM
Vice President

KF:scc
Enclosures

cc: Mr. Dan Moran, Finance & Administration Manager, NMDOT-AD
Ms. Marilu Melendez, Airport Development Administrator, NMDOT-AD
Ms. Noemi Cuevas, Project Manager / Civil Engineer, FAA

Exhibit A

City of Santa Fe
Santa Fe Regional Airport
Runway 20 RSA Grading
AIP 3-35-0037-054-2021 NMDOT SAF-21-02 City of Santa Fe ITB No. 21/38/B
Bid Date: June 24, 2021 @ 3:00 p.m.

Item	Spec No.	Description	Unit	Quantity	Engineer's Estimate		EMCO of Santa Fe		Sparling Construction		Meridian Contracting	
					Unit Price	Total	Unit Price	Total	Unit Price	Total	Unit Price	Total
Bid Lot 1 - Runway 20 RSA Improvements												
1	C-105	Mobilization, Complete	LS	1	$ 50,000.00	$ 50,000.00	$ 16,000.00	$ 16,000.00	$ 24,000.00	$ 24,000.00	$ 70,000.00	$ 70,000.00
2	CSPP	Airport Safety and Security, Construction Traffic Control and Barricading, Complete	LS	1	$ 35,000.00	$ 35,000.00	$ 31,000.00	$ 31,000.00	$ 19,490.00	$ 19,490.00	$ 55,252.00	$ 55,252.00
3	C-102	Temporary Air and Water Pollution, Soil Erosion and Siltation Control	LS	1	$ 25,000.00	$ 25,000.00	$ 6,750.00	$ 6,750.00	$ 7,365.00	$ 7,365.00	$ 31,100.00	$ 31,100.00
4	P-151	Clearing and Grubbing, Complete	LF	25	$ 3,500.00	$ 87,500.00	$ 800.00	$ 20,000.00	$ 1,065.00	$ 26,625.00	$ 1,200.00	$ 30,000.00
5	P-152	Unclassified Excavation, Complete	SY	35,000	$ 10.00	$ 350,000.00	$ 3.30	$ 115,500.00	$ 6.40	$ 224,000.00	$ 14.15	$ 495,250.00
6	P-152	Borrow, Complete	AC	1000	$ 6.00	$ 6,000.00	$ 5.50	$ 5,500.00	$ 6.20	$ 6,200.00	$ 14.15	$ 14,150.00
7	T-901	Seeding with Hydromulch	CY	25	$ 2,500.00	$ 62,500.00	$ 1,800.00	$ 45,000.00	$ 2,362.00	$ 59,050.00	$ 2,000.00	$ 50,000.00
8		36" Culvert Pipe, Complete in Place)CIP_	LF	75	$ 175.00	$ 13,125.00	$ 100.00	$ 7,500.00	$ 128.00	$ 9,600.00	$ 180.00	$ 13,500.00
9		36" Culvert End Section, CIP.	EA	2	$ 600.00	$ 1,200.00	$ 850.00	$ 1,700.00	$ 1,930.00	$ 3,860.00	$ 1,500.00	$ 3,000.00
10		Power Supply Cable, Cut, Splice and Relocate Pullbox, CIP.	LS	1	$ 25,000.00	$ 25,000.00	$ 45,000.00	$ 45,000.00	$ 52,500.00	$ 52,500.00	$ 45,000.00	$ 45,000.00
11	GP's	Construction Staking, Complete	SY	1	$ 35,000.00	$ 35,000.00	$ 19,000.00	$ 19,000.00	$ 24,100.00	$ 24,100.00	$ 33,000.00	$ 33,000.00
12	C-100	Contractor Quality Control Testing, Complete	SY	1	$ 15,000.00	$ 15,000.00	$ 30,000.00	$ 30,000.00	$ 14,725.00	$ 14,725.00	$ 35,000.00	$ 35,000.00
				Subtotal Bid Items for Base Bid		$ 705,325.00		$ 342,950.00		$ 471,515.00		$ 875,252.00
				NMGRT @ 8.4375%		$ 59,511.80		$ 28,936.41		$ 39,784.08		$ 73,849.38
				PNM Allowance $25,000.00		$ 25,000.00		$ 25,000.00		$ 25,000.00		$ 25,000.00
				Total Base Bid including NMGRT		$ 789,836.80		$ 396,886.41		$ 536,299.08		$ 974,101.38

I hereby certify that the above figures are the same as those submitted in the Bid Proposals except for corrected items marked with an asterisk (*).

Kent S. Freier, P.E.

BID EVALUATION SUMMARY

PROJECT: Santa Fe Regional Airport R/W 02 RSA
BID DATE: July 24, 2021

OWNER: City of Santa Fe
ENGINEER: Molzen-Corbin & Associates

	EMCO of Santa Fe	Sparling Construction	Meridian Contracting
Bid Signed?	No	Yes	Yes
Bid bond provided?	Yes	Yes	Yes
Addendum #1, 2 & 3 acknowledged?	Yes	Yes	Yes
Contractor's License No noted in Bid	374873	26899	365469
NMDWFS Registration No.	002198720110315	0190022011617	002200820110314
SAM.gov	No Exclusions	No Exclusions	No Exclusions
Verification of Contractor's License and Classifications per NM Construction Industries	GA98, GB98, GF98	GA98, GF98, GS05, GS08	GA98, GB98, GF98, MM98
Subcontractors listed in Bid	San Bar Construction Company, Bixby Electric, BSN Santa Fe, Inspections Plus, CA2 Testing, Caldon Seeding	Horizon Environmental Services, Bixby Electric,	Horizon Environmental Services, Bixby Electric,CA2 Testing, BSN Santa Fe
Are subcontractors registered with NMDWFS	Yes	Yes	Yes
Does Bidder have required license classifications as determined by NM Construction Industries Division	Yes	Yes	Yes
Verification of Bid Bond http://www.fms.treas.gov/c570/	Harco National Insurance Company	Western Surety	Travelers Casualty and Surety Company of America
Campaign Contribution Disclosure Form	No	Yes	Yes
Buy America Compliance	Yes	Yes	Yes
City of SF Non-Disclosure and Conflict of Interest Statement	No	Yes	Yes
Non-Collusion Affidavit of Contractor and Sub Contractor	No- prime only	Yes	Yes
Certification regarding EEO (prime & subs)	No- prime only	Yes	Yes
Certification of Nonsegregated Facilities	No-prime only	Yes	Yes
DBE List of Quoters, DBE-1	Yes	Yes	Yes
Letter of Intent	Yes	Yes	Yes
Total Base Bid excluding NMGRT	Did not fill out the bid form properly- $342,950.00	$471,515.00	$875,252.00

Bid Amount Correct?	Yes	Yes	Yes

NOTE: Verification with New Mexico Construction Industries and the New Mexico Department of Workforce Solutions website

CITY OF SANTA FE

Public Works / Airport Division

"INVITATION TO BID"

Runway 2 Runway Safety Area Grading

BID# 21/38/B
FAA AIP 3-35-0037-054-2021

BIDS DUE:

Thursday, June 24, 2021
3:00 P.M.
PURCHASING DIVISION
CITY OF SANTA FE
By Electronic Submittal Only To:
https://www.purchasing@santafenm.gov

Exhibit B

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PRE-BID INFORMATION
(00 0100)

(00 0101) DEBARRED OR SUSPENDED CONTRACTORS

A business (Contractor, Subcontractor, or supplier) that has either been debarred or suspended pursuant to the requirements of City Purchasing Manual or Section 13-1-177 through 13-1-180, and 13-4-17 NMSA 1978 as amended or City Purchasing provisions, shall not be permitted to do business with the City and shall not be considered for award of Contract during the period for which it is debarred or suspended.

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INVITATION TO BID (00 1100)

Solicitation No. 21/38/B

BIDS FOR:	City of Santa Fe Project – Runway 02 RSA Grading
PRE-BID CONFERENCE (***MANDATORY***):	Tuesday, June 15, 2021, 2:00 – 3:00 p.m. local prevailing time Location: Virtual ***Note: During the Pre-Bid Conference attendees shall observe all Federal, State, and local health and safety protocols and mandates with regard to the COVID-19 pandemic. Pre-Bid Conference will be virtual. Contractor shall send their e-mail address to the Airport Manager, Mark Baca at mdbaca@santafenm.gov for a link.*** ***All questions shall be submitted in writing, either at the time of the Pre-Bid Conference or by e-mail as stipulated in the Instructions to Bidders (ITB). Responses to questions will be issued by Addenda.*** ***Attendance at the Pre-Bid Conference is required, and a pre-requisite for submission of a Bid.***
BIDS DUE:	**TIME: 3:00 p.m. local prevailing time** **DATE: Thursday, June 24, 2021**
ELECTRONIC SUBMITTAL ONLY:	Purchasing Division, City of Santa Fe https://www.purchasing@santafenm.gov

BID SUBMISSION:
Complete Bid documents, as required, by this ITB. **ALL** Specifications, submittal required documentation, supporting materials, certificates, etc. in addition to the Bid documents must be attached to form a complete responsive Bid. (NMSA 1978 13-1-82-85; NMSA 1978 13-1-133)

- Electronic Bid submissions through the following City of Santa Fe e-mail: purchasing@santafenm.gov

- It is the Bidder's responsibility to ensure all documents are completely uploaded and submitted electronically via the e-mail submission system by the deadline set forth in this ITB. Such electronic submissions will be considered sealed Bids in accordance with statute. **Note:** It is the responsibility of the Bidder to ensure Bids are correct and accurate before submission. By

Bidding electronically, you acknowledge any and all amendments and it is your responsibility to ensure your Bid corresponds with any amendments.

- If an amendment is processed after Bid is submitted, Bidders must resubmit their Bid in order for it to be considered fully submitted.

- Please ensure that you, as the Bidder, allow adequate time for large uploads and to fully complete your submittal by the deadline. A submission that is not both: (1) fully complete; and (2) received, via e-mail by the deadline, will be deemed late. Further, a submission that is not fully complete by the deadline because the response was captured, blocked, filtered, quarantined or otherwise prevented from reaching the proper destination server by any anti-virus or other security software will be deemed late.

- It is the Bidder's responsibility to ensure that both a 'Read' receipt and 'Delivery' receipt is remitted and conveyed in their own e-mail for their own records. The City of Santa Fe will not guarantee that a response e-mail will be sent to the Bidder upon submission, however, every effort to acknowledge that the Bid was received timely will be made.

BID OPENING: ***Due to the COVID-19 Pandemic, there will be no public Bid Opening. The Bid results will be posted to the City of Santa Fe website at the following link:*** https://www.santafenm.gov/Bid_tabulations

BIDS RECEIVED AFTER THE ABOVE BIDS DUE DATE AND TIME WILL NOT ACCEPTED.

BIDDING DOCUMENTS MAY BE REVIEWED AND/OR OBTAINED AT THE FOLLOWING LOCATIONS:

- City of Santa Fe web site www.santafenm.gov/Bids_rfps
- Construction Reporter: (505) 243-9793, 4901 McLeod Road NE, Albuquerque, NM 87109, www.constructionreporter.com
- Dodge Reports: www.construction.com
- Albuquerque Reprographics: www.arigraphix.com

QUESTIONS CONCERNING THIS SOLICITATION SHALL BE SUBMITTED BY E-MAIL TO THE EACH OF THE FOLLOWING:

- Chief Procurement Officer, Fran Dunaway, fadunaway@santafenm.gov
- Project Engineer, Kent Freier, P.E. kfreier@molzencorbin.com
- Airport Manager, Mark Baca, mdbaca@santafenm.gov

Bids for the Contract will be presented in the form of a Unit Price Bid multiplied by each Approximate Quantity, placed in the column Item Price. Award will be made to the Bidder providing the lowest total Item Price Bid, entered at the end of that form. Bidder shall Bid all items included in the Price Schedule. Bidder shall include in the signed documents their New Mexico License Number and Classification Pursuant to NMAC 14.6.6, a validly licensed person may Bid and contract as the Prime Contractor of a project only if the major portion of the

Work, based on dollar amount, is authorized by the classification of the Prime Contractor's license. Any work outside the Scope of the Prime Contractor's license classification(s) must be subcontracted. This provision is subject to the exception set forth in Subsection A of 14.6.6.9 NMAC. Contract award will be made to the responsible Bidder submitting the lowest total of all Item Prices.

Bid security, made payable to the City of Santa Fe, the "City of Santa Fe" in the amount of 5% of the total of all Item Prices shall be submitted with the Bid. Bid security shall be in the form of a Bid Bond issued by Surety licensed to conduct business in the State of New Mexico, or by certified check. Failure or refusal by the successful Bidder to enter into Contract with the City of Santa Fe will constitute Liquidated Damages in favor of the City of Santa Fe. The Bid shall also include a signed "Non-Collusion Affidavit of Prime Bidder", signed "Certificate of Non-Segregated Facilities", a signed "Certificate of Bidder Regarding Equal Employment Opportunity", a Subcontractor's Listing and; if applicable, a Local Preference Certificate. Bidders shall also reference the Bid Form for a listing of forms and attachments that are also required to be submitted with the Bid. The project may be subject to the New Mexico Department of Workforce Solutions, Minimum Wage Rates for the State of New Mexico if a Work Order for $60,000.00 or more is executed. Such wage rates are bound into the Contract Documents. The successful Bidder shall, upon notice of award of contract, secure from each of the Bidder's Subcontractors a signed "Non-Collusion Affidavit of Subcontractors".

Any revisions to be incorporated into this Bid document arising from discussion before, during and subsequent to the Pre-Bid Conference will be established in writing by addendum(s) prior to the Bid due date. No oral interpretations of the Bid document will be binding.

Bids must be submitted on the Bid Form provided herewith. Bidder shall Bid all items on the Bid Form. Each Bidder shall conform to the conditions specified in the section entitled Instructions to Bidders. Bids may be held for ninety (90) days subject to action by the City of Santa Fe.

The City of Santa Fe reserves the right to reject any and all Bids, to waive any and all non-substantial irregularity in Bids received, whenever such waiver or rejection is in the best interest of the City of Santa Fe.

The Bidding Documents and subsequent Work Orders contain a time for completion of the Work by the successful Bidder, and further imposes liquidated damages for failure to comply with that time.

The Work is designated as **the Runway 02 Runway Safety Area (RSA) Grading Improvements** and consists of, but is not limited to: furnishing all equipment, labor and materials for the excavation, embankment, earthwork grading and removal and replacement of an electrical power service to the Glide Slope Antenna, all as required to replace water distribution, water storage, and water supply infrastructure, in accordance with the Drawings, Specifications, and other Contract Documents.

Contractor shall be responsible for adherence to the Contract Documents, Construction Documents, Specifications and approved directives.

Contractor shall be responsible for State CID requirements and permit.

Contractor shall be responsible for verifications of all existing conditions, measurements and dimensions for each executed Work Order.

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

Contractor shall be responsible for removal and securing of any existing infrastructure elements, equipment, signage, fencing, etc. necessary to provide for the new work in accordance with the contract documents and to re-install these items in proper working condition.

The City of Santa Fe is an Equal Opportunity Employer and all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation or national origin. The successful Bidder will be required to conform to the Equal Opportunity Employment Regulations.

The Bidder's attention is called to the Wage, Labor, EEO, and Safety Requirements bound within these documents.

U.S. Department of Transportation Policy. It is the policy of the Department of Transportation (DOT) that disadvantaged business enterprises as defined in 49 CFR Part 23 shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds.

The Contract is subject to the Buy American Provision under Section 9129 of the Aviation Safety and Capacity Expansion Act of 1990. Details of such requirements are contained in the Special Provisions.

All Bidders shall make good faith efforts, as defined in Appendix A of 49 CFR Part 23, Regulations of the Office of the Secretary of Transportation, to subcontract 7.29 percent of the dollar value of the prime contract to small business concerns owned and controlled by socially and economically disadvantaged individuals (DBE). In the event that the Bidder for this solicitation qualifies as a DBE, the Contract goal shall be deemed to have been met. Individuals who are reputably presumed to be socially and economically disadvantaged include women, Blacks, Hispanics, Native Americans, Asian-Pacific Americans and Asian-Indian Americans. The apparent successful Bidder will be required to submit information concerning the DBEs that will participate in this Contract. The information will include the name and address for each DBE, a description of the Work to be performed by each named firm, and the dollar value of the contract (subcontract). If the Bidder fails to achieve the Contract goal as stated herein, it will be required to provide documentation demonstrating that it made good faith efforts in attempting to do so. A Bid that fails to meet these requirements will be considered non-responsive.

Special Notice Regarding EEO. The Contract is under and subject to Executive Order 11246 of September 24, 1965, and to the Equal Opportunity Clause. The Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Opportunity

Construction Contract Specifications" set forth in the Special Provisions.

The Bidder must supply all of the information required by the Bid Form.

The successful Bidder will be required to submit a Certification of Non-segregated Facilities prior to award of the Contract, and to notify prospective subcontractors of the requirement for such a Certification where the amount of the Subcontract exceeds $10,000. Samples of the Certification and Notice to Subcontractors appear in the specifications.

Women will be afforded equal opportunity in all areas of employment. However, the employment of women shall not diminish the standards or requirements for the employment of minorities.

For contracts of $50,000 or more, a Contractor having 50 or more employees, and his subcontractors having 50 or more employees and who may be awarded a Subcontract of $50,000 or more, will be required to maintain an affirmative action program within one hundred and twenty (120) days of the commencement of the Contract.

Pre-Award Equal Opportunity Compliance Reviews. Where the Bid of the apparent low responsible Bidder is in the amount of $1 million or more, the Bidder and his known all-tier subcontractors which will be awarded subcontracts of $1 million or more will be subject to full on-site, pre-award equal opportunity compliance reviews before the award of the Contract for the purpose of determining whether the Bidder and his subcontractors are able to comply with the provisions of the equal opportunity clause.

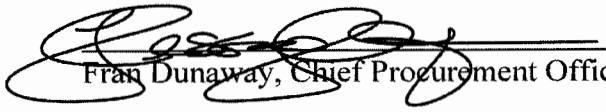
Compliance Reports. Within thirty (30) days after award of this Contract, the Contractor shall file a compliance report (Standard Form 100) if:

(a) The Contractor has not submitted a complete compliance report within 12 months preceding the date of award; and

(b) The Contractor is within the definition of "employer" in Paragraphs 2e(3) of the instructions included in Standard Form 100.

The Contractor shall require the subcontractor on all-tier subcontracts, irrespective of dollar amount, to file Standard Form 100 within thirty (30) days after award of the Subcontract if the above two conditions apply. Standard Form 100 will be furnished upon request.

ATTEST:



05/27/2021

Fran Dunaway, Chief Procurement Officer

Received by the Santa Fe New Mexican on 05/27/2021

To be published on 05/31/2021

Received by the Albuquerque Journal on 05/27/2021

To be published on 05/31/2021

BID SCHEDULE (00 1154)

1)	ISSUANCE OF INVITATION TO BID:	**Sunday, May 31, 2021**
2)	ISSUANCE OF BID PACKET:	**Tuesday, June 1 2021**
3)	PRE-BID CONFERENCE (***MANDATORY***):	**Tuesday, June 15, 2021 2:00 – 3:00 p.m. local prevailing time. Location: Virtual**

Note: During the Pre-Bid Conference attendees shall observe all federal, state and local health and safety protocols and mandates with regard to the COVID-19 pandemic.

Pre-Bid Conference will be virtual. Contractor shall send their e-mail address to the Airport Manager, Mark Baca, at mdbaca@santafenm.gov for a link.

All questions shall be submitted in writing, either at the time of the Pre-Bid Conference or by e-mail as stipulated in the Instructions to Bidders. Responses to questions will be issued by addendum.

4)	DEADLINE FOR PRE-BID RFI:	**Friday, June 4, 2021**
4)	**ELECTRONIC** BID SUBMITTAL DEADLINE:	**Thursday, June 9, 2021 3:00 p.m. local prevailing time**
5)	OPENING OF BIDS RECEIVED:	***Due to the COVID-19 Pandemic, there will be no public Bid opening. The Bids will be posted to the City of Santa Fe website at the following link:*** https://www.santafenm.gov/Bid_tabulations

DATES OF CONSIDERATION BY COMMITTEES AND CITY COUNCIL ARE TENTATIVE AND SUBJECT TO CHANGE WITHOUT NOTICE. PLEASE NOTE THAT THE CONTRACTOR BEING RECOMMENDED FOR SELECTION MAY ATTEND, BUT WILL NOT BE REQUIRED TO ATTEND COMMITTEE OR CITY COUNCIL MEETINGS.

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INSTRUCTIONS TO BIDDERS
(00 2100)

1.0 DEFINITIONS AND TERMS

1.1 Terms used in these Bidding Documents which are defined in the Conditions of the Contract for Construction (General, Supplementary, and other conditions) have the meanings assigned to them in those Conditions.

2.0 EXAMINATION OF BIDDING DOCUMENTS AND SITE

2.1 Before submitting a Bid, each Bidder must (a) examine the Bidding Documents thoroughly, (b) become familiar with Federal, State, and local laws, ordinances, rules, and regulations that may in any manner effect cost, progress, or performance of the Work, and (c) study and carefully correlate the Bidder's observations with the Bidding Documents.

2.2 A **mandatory virtual** Pre-Bid Conference will be held for this project. Due to the COVID-19 pandemic there will be no site visit. Bidders should e-mail Kent Freier kfreier@molzencorbin.com at least two (2) business days before the virtual Pre-Bid Conference with a valid e-mail address to receive an invitation.

2.3 The lands upon which the Work is to be performed, rights-of-way for access thereto, and other lands designated for use by the Contractor in performing the Work are primarily inside the City Limits of Santa Fe and on airport property.

2.4 The submission of a Bid will constitute an incontrovertible representation by the Bidder that they have complied with every requirement of this Section and that the Bidding Documents are sufficient in Scope and detail to indicate and convey understanding of all terms and conditions for performance of the Work.

3.0 BIDDING DOCUMENTS

3.1 COPIES OF BIDDING DOCUMENTS

3.1.1 Complete sets of the Bidding Documents in the number and for the deposit sum, if any, stated in the Invitation to Bid may be obtained as indicated therein. Any required deposit(s) for Bidding Documents will be refunded to Bidders who submit a bona fide Bid and return the Bidding Documents in good and complete condition within fifteen (15) calendar days after opening of Bids.

3.1.2 Complete sets of Bidding Documents shall be used in preparing Bids; the City of Santa Fe does not assume responsibility for errors or misinterpretations resulting from the use of incomplete sets of Bidding Documents.

3.1.3 The City of Santa Fe, in providing for copies of Bidding Documents available on the above terms, does so only for the purpose of obtaining Bids on the Work and does not confer a license or grant for any other use.

3.2 INTERPRETATIONS

3.2.1 All questions concerning this solicitation shall be submitted by e-mail to EACH of the following:

- Chief Procurement Officer, Fran Dunaway, fadunaway@santafenm.gov
- Project Engineer, Kent Freier, P.E., kfreier@molzencorbin.com
- Airport Manager, Mark Baca, mdbaca@santafenm.gov

Replies will be issued by Addenda e-mailed or delivered to all parties recorded by the City of Santa Fe as having received the Bidding Documents. Questions and requests for interpretation received less than ten (10) calendar days prior to the Bid opening date will not be answered. Only questions answered by formal written Addenda will be binding. Oral and other interpretations or clarifications will be without legal effect.

3.3 SUBSTITUTE MATERIAL AND EQUIPMENT

The Contract, if awarded, will be on the basis of materials, labor and equipment described in the Specifications without consideration of possible substitute ("of equal" or "or equal") items. Whenever it is indicated in the Specifications that substitute ("of equal" or "or equal") items of material or equipment may be furnished or used by the Contractor if acceptable to the City of Santa Fe, application of such acceptance will not be considered by the City of Santa Fe until after the "effective date of the Contract." The procedure for submittal of any such application by the Contractor and consideration by the City of Santa Fe is set forth in the Contract Documents.

3.4 ADDENDA

3.4.1 No oral interpretations of the meaning of the specifications or other pre-Bid documents will be binding. Oral communications are permitted in order to make assessment for an addendum. **ANY QUESTIONS CONCERNING THE BID SHOULD BE ADDRESSED PRIOR TO BID OPENING DATE.** Every request for such interpretations shall be submitted by e-mail to EACH of the following:

- Chief Procurement Officer, Fran Dunaway, fadunaway@santafenm.gov
- Project Engineer, Kent Freier, P.E., kfreier@molzencorbin.com
- Airport Manager, Mark Baca, mdbaca@santafenm.com

To be given consideration requests must be received at least five (5) days prior to the date fixed for the opening of the Bids.

3.4.2 Any and all such interpretations and any supplemental instructions will be in the form of written addenda to the specifications which, if issued, will be delivered electronically to all prospective Bidders not later than three (3) days prior to the date fixed for the opening of the Bids. Failure of any Bidder to receive any such addendum or interpretations shall not relieve such Bidder from any obligation under a Bid as submitted. All addenda so issued shall become part of the contract documents.

3.4.3 The City reserves the right to not comply with these time frames if a critical addendum is required or if the Bid deadline needs to be extended due to a critical reason in the best interest of the City of Santa Fe.

4.0 BIDDING PROCEDURES

4.01 The person or persons opening the Bids will adhere to the following procedure:

4.02 Bid – Shall include the Name the Bidder and the Number of Bidder's New Mexico Contractor's License with proper signatures.

4.03 Bid Bond or certified "check" in the amount of 5% of the total of all Item Prices.

4.04 Non-Collusion Affidavit of Prime Bidder.

4.05 Submittal, acknowledgement of Addenda, if any.

4.06 Properly executed Bid Form.

4.07 Equal Employment Opportunity

4.08 Certification of Non-segregated Facilities.

4.09 The City shall not accept a Bid on a contract from a Prime Contractor that does not provide proof of required licensure and registrations. After selection, the City will verify licensure and registration.

4.10 Inclusion of all required attachments, forms, etc. as identified on the Bid Form.

If any of the other requirements have not been met, the Bid shall be disqualified and considered a non-responsive Bid.

4.1 FORM AND STYLE OF BIDS

4.1.1 Bids shall be submitted on forms identical to the form included with the Bidding Documents.

4.1.2 All blanks on the Bid Form shall be filled in by typewriter or manually in ink.

4.1.3 Where so indicated by the makeup of the Bid Form, sums shall be expressed in both words and figures, and, in case of discrepancy between the two, the amount written in words shall govern.

4.1.4 Any interlineation, alteration, or erasure must be initialed by the signer of the Bid.

4.1.7 Each copy of the Bid shall include the complete name of the Bidder and a statement that the Bidder is a sole proprietor, a partnership, or corporation by the person or persons legally authorized to bind the Bidder to a contract. A Bid by a corporation shall bind the Bidder to a contract. A Bid by a corporation shall further give the state of incorporation and have the applicable New Mexico Certificate of Incorporation number or Certificate of Authority number. The Bid shall include the current Contractor's license number and type, and a copy of the State of New Mexico Preference, if applicable. A Bid submitted by an agent shall have a current Power of Attorney attached certifying the agent's authority to bind the Bidder.

4.1.8 The Bid shall contain an acknowledgment of receipt of all Addenda (the numbers of which shall be filled in on the Bid Form).

4.1.9 The address, to which communications regarding the Bid are to be directed, must be shown.

4.2 BID SECURITY

4.2.1 Bid security, made payable to the City of Santa Fe, the "City of Santa Fe" in the amount of 5% of the total of all Item Prices shall be submitted with the Bid. Bid security shall be in the form of a Bid Bond issued by Surety licensed to conduct business in the State of New Mexico, or by certified check.

4.2.2 The Bid security shall be in the amount of five percent (5%) of the total of all Item Prices amount submitted, pledging that the Bidder will enter into a Contract with the City of Santa Fe in the terms stated herein and will furnish bonds covering the faithful performance of the Contract and payment of all obligations arising there under. Should the Bidder refuse to enter into such Contract or fail to furnish such bonds, the amount of the Bid security shall be forfeited to the City of Santa Fe as liquidated damages, not as a penalty.

4.2.3 The City of Santa Fe will have the right to retain the Bid security of Bidders to whom an award is being considered until either (a) the Contract has been executed and bonds have been furnished, or (b) the specified time has elapsed so that Bids may be withdrawn, or (c) all Bids have been rejected.

4.2.4 When the Bidding Documents require Bid security, noncompliance by the Bidder requires that the Bid be rejected.

4.2.5 If a Bidder is permitted to withdraw a Bid before award, no action shall take place against the Bidder or the Bid Security.

4.3 PRE-BID CONFERENCE

4.3.1 The City of Santa Fe shall conduct a **mandatory, virtual** Pre-Bid Conference prior to the Bid opening date stated in the Invitation for Bid.

4.3.2 The City of Santa Fe and consultants, as applicable, shall be represented. Prospective Bidders and Prospective Subcontractors should ask questions regarding clarification of the Bidding Documents either during the Pre-Bid Conference or by submitting a question as outlined in section 4.3.3 below. The failure of a Bidder, Subcontractor, or Vendor to make inquiries shall be interpreted to mean that the Bid Documents are clear and acceptable. Such clarity and acceptability shall be presumed with respect to all Bidders.

4.3.3 Questions and requests for clarification are to be presented in written form (Pre-Bid RFI) and e-mailed to each of the following:

Fran Dunaway, Chief Procurement Officer, fadunaway@santafenm.gov
Kent Freier, P.E., Project Engineer, kfreier@molzencorbin.com
Mark Baca, Airport Manager, mdbaca@santafenm.gov

Responses will be written and issued electronically as Addenda. No verbal response shall be binding.

4.4 RESIDENT PREFERENCE & LOCAL PREFERENCE

NOT APLICABLE FOR THIS PROJECT

4.5 SUBCONTRACTORS

4.5.1 The listing threshold amount for this project shall be five thousand dollars ($5,000) or one-half of one percent of the Architect's or Engineer's Estimate of the total project cost, not including alternates, whichever is greater. The General Contractor must list all Subcontractors who will perform work in excess of this threshold. Only one Subcontractor may be listed for each category as defined by the Contractor. The Subcontractor Fair Practice Act (13-4-31 through 13-4-43 NMSA 1978) shall apply.

The Bidder shall list on the Subcontractor Listing Form attached to the Bidding Document, all proposed Subcontractors or material suppliers for all trades or items. If the Bidder is awarded the contract, the listed Subcontractors and suppliers shall perform their trade Scope of Services as indicated unless a request for a change or substitution is approved by the City of Santa Fe for any reason as outlined herein.

If the Work is self-performed, the Prime Contractor shall list themselves on the form.

4.5.2 The City of Santa Fe shall consider any request for a change in the listed Subcontractors if the Bidder can furnish evidence of being able to perform the Work in a manner more satisfactory and beneficial to both the City of Santa Fe and the Bidder by using a different Subcontractor or self-performing said work. Satisfactory reasons for a substitution may include the inability to bond or lack of evidence of being able to furnish acceptable materials on schedule. Also, if the Bidder has made a legitimate error in listing a low Subcontractor, a request for substitution, made after the Bid Opening with the City of Santa Fe's approval, will be considered. The proof of error must be conclusive, based upon the approval of said evidence by the listed Subcontractor or material suppler and/or any other confirmation satisfactory to the City of Santa Fe.

4.5.3 The Bidder shall not be listed as the supplier or as the Subcontractor for any trade unless having previously performed work of this type and shall have all required licenses and certifications to perform the Work.

4.5.4 Non-compliance with the intent of the Subcontractor Listing will be grounds for considering a Bid as non-responsive.

4.5.5 Prior to the award of the Contract, the City of Santa Fe will notify the Bidder in writing if, after due investigation and written findings of fact, has reasonable and substantial objection to any person or organization on such list and refuses, in writing, to accept such person or organization. The Bidder may then optionally, (1) withdraw the Bid, or (2) submit an acceptable substitute Subcontractor with no increase in the Bid Price. In the event of withdrawal under this paragraph, Bid security will not be forfeited.

4.5.6 The successful Bidder shall, within ten (10) calendar days of notification of selection for the award of Contract for the Work, submit the following information to the City of Santa Fe:

(A) A signed list of the proprietary names and the suppliers of principal items or systems of materials and equipment proposed for the Work; and

(B) A list signed by all Subcontractors proposed for the principal portions of the Work in accordance with the Subcontractors Listing Form submitted with the Bid.

4.5.7 The successful Bidder will be required to establish, to the satisfaction of the City of Santa Fe, the reliability and responsibility of the persons or entities proposed to furnish and perform the Work described in the Bidding Documents.

4.5.8 Persons and organizations proposed by the Bidder and to whom the City of Santa Fe has made no reasonable objection under the provisions of Paragraph 4.5.7 shall perform the Work as indicated on the Subcontractor Listing Form and shall not be changed except with the written consent of the City of Santa Fe.

4.5.9 No successful Bidder shall be required to employ any Subcontractor, other person, or organization against whom the Bidder has reasonable objection.

4.6 SUBMISSION OF BIDS

4.6.1 E-mailed Bids shall be submitted by the time indicated in the Invitation to Bid and shall be submitted with the following in the e-mail subject line: Invitation for Bid# **21/38/B**, date and time of Bid opening, the name of the Bidder and their New Mexico License number and shall be accompanied by attachments for the Bid Security, Subcontractors Listing, and other required documents listed in the Bid Documents and on the Bid Form.

4.6.2 The e-mail shall be addressed to the following e-mail address:

Purchasing Division
City of Santa Fe
https://www.purchasing@santafenm.gov

NOTE: The following information shall be provided in the subject line of the e-mail: **"RESPONSE", Invitation to Bid# (21/38/B), date and time of Bid opening, the name of the Bidder and their New Mexico License number.**

4.6.3 Bids received after the date and time for receipt of Bids will be returned unopened.

4.6.4 The Bidder shall assume full responsibility for timely electronic delivery of Bids to the City's Purchasing Division. The Bidder shall assume full responsibility for receiving a delivery receipt / read receipt.

4.6.5 Oral telephonic, or telegraphic Bids are invalid and will not receive consideration.

4.7 CORRECTION OR WITHDRAWAL OF BIDS

4.7.1 A Bid containing a mistake discovered before Bid Opening may be modified or withdrawn by a Bidder prior to the time set for Bid Opening by delivering electronic written or telegraphic notice to the location designated in the Invitation for Bid as the place where Bids are to be received.

4.7.2 Bid security, if required, shall be in an amount sufficient for the Bid as modified or resubmitted in conformance with Section 4.2.

4.7.3 Withdrawn Bids may be resubmitted up to the time and date designated for the receipt of Bids, provided they are then fully in conformance with the Bid Documents.

4.7.4 After Bid Opening, no modifications in Bid Prices or other provisions of Bids shall be permitted. A low Bidder alleging a material mistake of fact which makes said Bid non-responsive may be permitted to withdraw the Bid if:

(A) The mistake is clearly evident on the face of the Bid document; or

(B) The Bidder submits evidence which clearly and convincingly demonstrates that a mistake was made.

Any decision by the City of Santa Fe to permit or deny the withdrawal of a Bid on the basis of a mistake contained therein shall be supported by a determination setting forth the grounds for the decision. If withdrawal is permitted, Bid security will not be forfeited.

4.8 BRIBES, GRATUITIES, AND KICK-BACKS

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

4.8.2 Pursuant to Section 13-1-191, NMSA 1978, reference is hereby made to the Criminal Laws of New Mexico (including 30-24-1, 30-23-2, and 30-41-1 through 3-41-3, NMSA 1978), which prohibit bribes, kick-backs, and gratuities and violation of which constitutes a felon. Further, the Procurement Code (13-1-28 through 13-1-199, NMSA 1978), imposes civil and criminal penalties for its violation

4.9 NOTICE OF CONTRACT REQUIREMENTS BINDING ON BIDDER

4.9.1.1 By submitting a Bid, the Bidder represents familiarity with the nature and extent of the following requirements of the Conditions of the Construction Contract (General, Supplementary, and Other Conditions).

(A) Definitions - Sections 1.0 to 1.1;
(B) Contract Bond Requirements - Section 4.2;
(C) Bribes, Gratuities, and Kickbacks - Section 4.8;
(D) Equal Employment Opportunity - Labor Standards Provisions and other listed within the Contract Documents.

4.10 REJECTION OR CANCELLATION OF BIDS

4.10.1 An Invitation for Bid may be canceled, or any or all Bids may be rejected in whole or in part, when it is in the best interest of the City of Santa Fe. A determination containing the reasons shall be made part of the Project file. Bid security for rejected Bids shall be returned to the Bidder.

4.11 PROTESTS

4.11.1 Any Bidder, Offeror, or Contractor who is aggrieved in connection with this procurement (Bid) may protest to the City Purchasing Agent and the City of Santa Fe in accordance with the requirements. The protest should be made in a timely after the facts or occurrences giving rise thereto, but in no case more than within fifteen (15) calendar days after knowledge of the facts or occurrences giving rise thereto.

4.11.2 The complete procedures and requirements regarding protest are available from the Purchasing Office upon request.

4.12 COMPETITIVE SEALED BIDS

4.12.1 Contracts solicited by competitive sealed Bids shall require that the base Bid amount exclude the applicable state gross receipts taxes or applicable local option taxes, but that the contracting agency shall be required to pay the applicable taxes including any increase in the applicable tax which becomes effective after the date the Contract is entered into. The applicable gross receipts taxes or local option taxes shall be shown as a separate amount on each billing or request for payment made under the contract.

5.0 CONSIDERATION OF BIDS

5.1 RECEIPT, OPENING, AND RECORDING

5.1.1.1 Due to the COVID-19 Pandemic, there will be no public Bid opening. However, all Bid results, including an abstract of the amounts of the total amounts of Item Prices for public information and inspection, to the City of Santa Fe website at the following link no later than 5 p.m. on the day the Bid is due:

https://www.santafenm.gov/Bid_tabulations

The City of Santa Fe shall have the right to waive any informalities or irregularities in any Bid or Bids received and to accept the Bid or Bids which are in the City of Santa Fe's best interest.

5.2 BID EVALUATION AND AWARD

5.2.1 It is the intent of the City of Santa Fe to award a Contract to the responsible Bidder submitting the lowest option base Bid provided the Bid has been submitted in accordance with the requirements of the Bidding Documents and does not exceed the funds available and is in the best interest of the City. The unreasonable failure of a Bidder to promptly supply information in connection with an inquiry with respect to responsibility is grounds for a determination that the Bidder is not a responsible Bidder.

5.2.2 This Agreement is established as a source and convenience of the City. Multiple awards may be made in the best interest of the City. It is the responsibility of the Requesting Department to utilize this Agreement to the best interests of the City.

5.2.3 Discrepancies in the Bid Form between words and figures will be resolved in favor of words. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum.

5.3 NOTICE OF AWARD

A written Notice of Award shall be issued by the City of Santa Fe after review and approval of the Bid and related documents by the City of Santa Fe Governing Body.

5.4 IDENTICAL BIDS

5.4.1 When two or more of the Bids submitted are identical in price and are the low Bid, the City Purchasing Agent or the City of Santa Fe may:

(A) Award pursuant to the identical low Bid provisions of the City Purchasing Manual;

(B) Not applicable to this project.

(C) Not applicable to this project.

(D) Award by lottery to one of the identical low Bidders;

(E) Make multiple awards if it is in the best interest of the City, or

(F) Reject all Bids and re-solicit Bids or proposals for the required services, construction, or items of tangible personal property.

5.5 CANCELLATION OF AWARD

5.5.1 When in the best interest of the public, the City of Santa Fe may cancel the award of any Contract at any time before the execution of said contracts by all parties without any liability against the City of Santa Fe.

6.0 POST-BID INFORMATION

6.1 RETURN OF BID SECURITY

All Bid security in the form of checks, except those of the two lowest Bidders, will be returned immediately following the opening and checking of the Bids. The retained Bid security of the unsuccessful of the two lowest Bidders, if in the form of a check, will be returned within fifteen (15) days following the award of contract. The retained Bid security of the successful Bidder, if in the form of a check, will be returned after a satisfactory Contract bond has been furnished and the Contract has been executed

6.2 NOTICE TO PROCEED

The City of Santa Fe will issue a written Notice to Proceed to the Contractor stipulating the Contract Time start date Substantial Completion date (Contract Time, finish date), subject to valid modifications of the Contract authorized by Change Order.

6.3 FAILURE TO EXECUTE CONTRACT

Failure to return the signed Contract with acceptable Contract Bonds and Certificate of Insurance within ten (10) calendar days after the date of the Notice of Award shall be just cause for the cancellation of the award and the forfeiture of the Bid security, which shall become damages sustained. Award may then be made to the next lowest responsible Bidder, or the Work may be re-advertised and constructed under Contract.

6.4 CONTRACTOR'S QUALIFICATION STATEMENT

Bidders to whom award of a Contract is under consideration shall submit information and data to prove that their financial resources, production or service facilities, personnel and service reputation and experience are adequate to make satisfactory delivery of the services, construction, or items of personal property described in the Bid Documents and form of Statement of Bidder's Qualifications.

6.5 CONTRACT BONDS REQUIREMENTS

6.5.1 The successful Bidder, where the Contract Price exceeds twenty five thousand dollars ($25,000), shall post a one hundred percent (100%) Performance Bond and one hundred percent (100%) Labor and Material Payment Bond. Bonds shall be executed on Performance Bond and Labor and Material Bond forms attached hereto, with amount payable conforming to the terms of the Contract. Surety shall

be a company licensed to do business in the State of New Mexico and acceptable to the City of Santa Fe.

6.6 INSURANCE REQUIREMENTS

6.6.1 The selected Bidder shall purchase and maintain, with a company or companies licensed to do business in the State of New Mexico, Liability and Property Insurance as required by law.

6.6.2 The insurance shall be in limits not less than those stated in the enclosed Agreement Forms. The insurance limits may be greater if required by law.

6.6.3 The insurance coverage shall include workers' compensation, employers liability, comprehensive general liability (Premises Operations, independent contractual liability, explosion and collapse hazard, underground hazard, personal injury), Comprehensive automobile liability (owned and hired), excess liability (umbrella form), and all-risk builder's risk. For more specific insurance requirements refer to the enclosed Agreement Forms.

6.6.4 All insurance coverage must be maintained for the entire life of the project. Products and completed operations coverage shall be maintained for a minimum period of one (1) year after Work Order/project Substantial Completion.

6.6.5 A valid certificate of insurance must be submitted to the City of Santa Fe prior to routing the final Agreement Between City of Santa Fe and Contractor for City approval.

7.0 MINIMUM WAGE RATES

7.1 Pursuant to the requirements of any Contract entered into that will have a Work Order (WO) in excess of sixty thousand dollars ($60,000) for construction is subject to the minimum wage rate determination issued by the New Mexico Department of Work Force Solutions for this project / WO.

7.2 The Bidder shall ensure that, in submitting a Bid for any WO in excess of $60,000, the minimum wage rate determination, include herein, has been utilized in preparation of the Bid.

7.3 A summary of the City of Santa Fe Ordinance No. 2002-13, § 1 (Living Wage) was passed by the Santa Fe City Council in 2002 is attached. The proponent or Bidder will be required to submit the proposal or Bid such that it complies with the ordinance to the extent applicable. The recommended Contractor will be required to comply with the ordinance to the extent applicable, as well as any subsequent changes to the Ordinance throughout the term of this contract.

8.0 OTHER INSTRUCTIONS TO BIDDERS

8.1 Before submitting a Bid, each Bidder shall, at their own expense, make such additional investigations and tests as the Bidder may deem necessary to determine a Bid for performance of the Work in accordance with the time, price, and other terms and conditions of the Bidding Documents.

8.2 It shall be the responsibility of the successful Bidder to secure from the New Mexico Regulations & Licensing Department, Construction Industries Division (CID) such permits or licenses required to carry out the construction.

9.0 NEW MEXICO DEPARTMENT OF WORKFORCE SOLUTIONS CONTRACTOR AND SUBCONTRACTOR REGISTRATION

9.1 A contractor or subcontractor that submits a Bid valued at more than sixty thousand dollars ($60,000) for a city project that is subject to the Public Works Minimum Wage Act (13-4-10 NMSA 1978) shall be registered with the New Mexico Department of Workforce Solutions. The registration number shall be provided in the Bid submitted for the contractor in the space provided and for subcontractors with work proposed over $60,000 on the subcontractor form. After the Bid opening, the registration number(s) will be verified by the City and the Bid will be determined to be non-responsive and disqualified if the registration number(s) appear to be not valid and the contractor does not provide proof of the required registration for itself or its subcontractors with work proposed over sixty thousand dollars ($60,000). It is the responsibility of the contractor and the subcontractors to ensure the registration is completed prior to the Bid opening.

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PROCUREMENT SCOPE
(00 2400)

(00 2413) SCOPE OF BIDS

The City of Santa Fe wishes to establish a price agreement contract for the Santa Fe Municipal Airport Runway 02 Runway Safety Area (RSA) Grading Improvements. This procurement will be based on unit price basis.

The Scope of Bids further defined in the unit price Bid schedule and the Construction Drawings.

The Contractor shall be responsible for adherence to the Contract Documents Specifications, and approved directives and Change Orders.

- The Contractor shall be responsible for State CID requirements and permit.
- The Contractor shall be responsible for verifications of all existing conditions, measurements and dimensions submitting a Bid.
- The Contractor shall be responsible for all permits, fees, and State and/or City inspections associated with the construction.

The City of Santa Fe is an Equal Opportunity Employer and all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation or national origin. The successful Bidder will be required to conform to the Equal Opportunity Employment Regulations.

(00 2414) TERM

Construction shall be completed one hundred twenty (120) calendar days following the notice to proceed.

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SPECIAL PROVISIONS

The following provisions are hereby made a part of the Contract Documents:

1. SCOPE: The construction to be accomplished under this Contract shall consist of furnishing all labor, materials, equipment, tools, appliances, and appurtenances necessary for the construction work as shown on the accompanying set of Plans and as specified in the Contract Documents and Technical Specifications.

2. SCHEDULE: The Contractor shall schedule his work in such a manner as to allow the airport to operate with minimal closures of runways and taxiways. A construction phasing plan has been presented in the construction drawings and this plan shall be followed by the Contractor. The Contractor may submit an alternative phasing plan for approval, so long as the proposed phasing plan complies with the general intent of the original plan.

3. LOCATION: All of the proposed improvements are located at the Santa Fe Regional Airport .

4. TEMPORARY UTILITIES: The Contractor shall make his own arrangements for sanitary facilities, water, electric power, etc., as may be required for the construction activities or to comply with applicable safety laws and regulations.

   No separate payment will be made for the work required by this section of the Specifications. All costs in connection thereof shall be considered as included in other items of work for which bids are entered.

5. REMOVAL AND DISPOSAL OF SURPLUS MATERIALS: Surplus earth and organic matter shall be disposed of as indicated in the Plans or as directed by the Engineer and smoothly graded out to conform with the existing adjacent ground.

   Rubbish and waste shall be disposed of off the project site by the Contractor in accordance with the local ordinances and regulations covering solid waste disposal.

   No separate payment will be made for the work required by this section of the Specifications. All costs in connection thereof shall be considered as included in other items of work for which bids are entered. All millings and other salvageable materials are the property of the Santa Fe Regional Airport and shall not be removed from Airport property without permission of the Airport Manager.

6. ACCESS ROUTES AND CONSTRUCTION TRAFFIC REGULATIONS:

   a. Permissible access routes for construction of traffic of any sort shall be designated by the Engineer. All construction traffic shall be confined to the designated routes when outside the immediate limits of construction. No construction traffic will be permitted on or across any operational runway, taxiway, or parking apron except as specifically provided.

   b. Before beginning any work or scheduling work involving men or equipment crossing active runways or taxiways, the Contractor shall clear with the Airport Manager. The Contractor shall have a radio equipped vehicle on the site capable of receiving and transmitting on the airport ground control frequency (121.7 MHZ) and tower control frequency (119.500 MHz). When any vehicles are to cross any active taxiway or runway, the Contractor shall have flagmen stationed to stop all traffic as required to permit uninterrupted passage of aircraft. The Contractor shall make arrangements for traffic control communication with the flagmen at each active taxiway or runway crossing. The Contractor shall keep on hand at each crossing suitable powered sweeping equipment and shall keep the entire paved area of such crossings completely free of all construction litter and debris.

   c. No separate payment will be made for the work required by this section of the Specifications. All costs in connection thereof shall be considered as included in other items of work for which bids are entered.

7. AIRPORT OPERATION DURING CONSTRUCTION: All operations shall be conducted in full conformity with Federal Aviation Administration traffic and safety regulations within the airport property and in conformity with applicable laws and regulations outside the airport boundaries. Safety infractions regarding air traffic will result in immediate shutdown of the work until remedied.

   FAA Advisory Circular No. 150/5370-2G, Operational Safety on Airports with Emphasis on Safety During Construction (bound herein immediately following the Special Provisions) are hereby made a part of the Contract Documents.

   No separate payment will be made for the work required by this section of the Specifications. All costs in connection thereof shall be considered as included in other items of work for which bids are entered.

INFORMATION AVAILABLE TO BIDDERS
(00 3000)

EXISTING CONDITIONS (00 3100)

It is the Contractor's responsibility to verify existing conditions prior to Bidding.

Accessing existing utility infrastructure may require special coordination. The Contractor shall verify accessibility and take into consideration the access strategy as part of the offer. Contractor shall notify 811 before beginning any work.

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BID FORMS
(00 4100)

BID FORM - STIPULATED SUM (Single-Prime Contract) (00 4113)

Invitation No:	BID 21/38/B
Project:	Santa Fe Regional Airport – Runway 02 Runway Safety Area Grading
Date of Issuance of Invitation to Bid:	May 31, 2021
This Bid is submitted **electronically** to:	PURCHASING DIVISION CITY OF SANTA FE https://www.purchasing@santafenm.gov

1. The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an agreement with the City of Santa Fe in the form included in the Bidding Documents to perform and furnish all work as specified or indicated in the Bidding Documents for the Contract Price and within the Contract Time indicated in this Bid and in accordance with the other terms and conditions of the Contract Documents.

2. The Bidder accepts all of the terms and conditions of the Invitation for Bid and Instructions to Bidders, including, without limitation, those dealing with the disposition of Bid security and other Bidding Documents. This Bid will remain subject to acceptance for sixty (60) days after the day of Bid opening. The Bidder shall sign and submit the Agreement between City of Santa Fe and Contractor (hereinafter called Agreement) with the bonds and other documents required by the Bidding Requirements within fifteen (15) calendar days after the date of the City of Santa Fe's Notice to Award.

3. In submitting this Bid, the Bidder represents, as more fully set forth in the Agreement, that:

   A. The Bidder has examined copies of all the Bidding Documents and of the following Addenda (receipt of all of which is hereby acknowledged):

No. _____	Date _____	No. _____	Date _____
No. _____	Date _____	No. _____	Date _____
No. _____	Date _____	No. _____	Date _____
No. _____	Date _____	No. _____	Date _____

   B. The Bidder has become familiar with the nature and extent of the Bidding Documents, work, site, locality, and all local condition, laws, and regulations that in any manner may affect cost, progress, performance, or furnishing of the Work.

C. The Bidder has carefully studied all reports and Drawings of subsurface conditions which are identified in the Information Available to Bidders and accepts the determination set forth in the Information Available to Bidders of the extent of the technical data contained in such reports and Drawings upon which the Bidder is entitled to rely.

D. The Bidder has correlated the results of all such observations, examinations, investigations, explorations, tests, reports, and studies with the terms and conditions of the Bidding Documents.

E. The Bidder has given the City of Santa Fe's Representative written notice of all conflicts, errors, or discrepancies that have been discovered in the Bidding Documents, and the written resolution thereof by the City of Santa Fe's Representative is acceptable to the Bidder. All of this must be accomplished prior to the Bid Date.

F. This Bid is genuine and not made in the interest of or on behalf of any undisclosed person, firm, or corporation and is not submitted inconformity with any agreement or rules of any group, association, organization, or corporations, the Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid; the Bidder has not solicited or induced any person, firm or corporation to refrain from Bidding; and the Bidder has not sought by collusion to obtain any advantage over any other Bidder or over the City of Santa Fe. It is understood that the City of Santa Fe reserves the right to reject any or all Bids and to waive any technical irregularities in the Bidding.

G. It is the intent of the City to award a Contract to the responsible Bidder submitting the lowest total option, provided the Bid has been submitted in accordance with the requirements of the Bidding Documents and is in the best interest of the City.

The Scope of Work together with all related work required for comprehensive, fully functioning, warrantied systems and finishing includes but is not limited to the Work listed in the SCOPE OF BIDS.

Contractor shall be responsible for adherence to the Contract Documents, Construction Documents, Specifications and approved directives.

Contractor shall be responsible for State CID requirements and permit.

ITEM NO.	SPEC NO.	DESCRIPTION	UNIT	EST. QTY.	UNIT PRICE IN FIGURES	TOTAL
1	C-105	Mobilization, Complete.	LS	1	$	$
UNIT PRICE IN WRITING:						
2	CSPP	Airport Safety and Security, Construction Traffic Control and Barricading, Complete.	LS	1	$	$
UNIT PRICE IN WRITING:						
3	C-102	Temporary Air and Water Pollution, Soil Erosion, and Siltation Control.	LS	1	$	$
UNIT PRICE IN WRITING:						
4	P-151	Clearing and Grubbing.	AC	25	$	$
UNIT PRICE IN WRITING:						
5	P-152	Unclassified Excavation.	CY	35,000	$	$
UNIT PRICE IN WRITING:						
6	P-152	Borrow.	CY	1,000	$	$
UNIT PRICE IN WRITING:						
7	T-901	Seeding with Hydromulch.	AC	25	$	$
UNIT PRICE IN WRITING:						
8		36″ Culvert Pipe, Complete in Place (CIP).	LF	75	$	$
UNIT PRICE IN WRITING:						
9		36″ Culvert End Section, CIP.	EA	2	$	$
UNIT PRICE IN WRITING:						
10		Power Supply Cable, Cut, Splice and Relocate Pullbox, CIP.	LS	1	$	$
UNIT PRICE IN WRITING:						
11	GP's	Construction Staking, Complete.	LS	1	$	$
UNIT PRICE IN WRITING:						
12	C-100	Contractor Quality Control Testing, Complete.	LS	1	$	$
UNIT PRICE IN WRITING:						

Subtotal:	$_____
Subtotal:	$_____
New Mexico Gross Receipts Tax (NMGRT) @ 8.4375%:	$_____
Total Base Bid:	$_____
PNM Allowance:	$ 25,000.00
Total Base Bid, including NMGRT and Allowances	$_____

Base Bid – Contractor shall be chosen based on the total of all Bid Items Item Price, as Bid, exclusive of Gross Receipts Tax**:**

_____ ($_____)
(use words)

4. The Bidder agrees that:

   A. All work to be performed under this contract shall commence not later than ten (10) consecutive calendar days after the date of written Notice to Proceed. All work shall be completed within one hundred twenty (120) calendars following the notice to proceed.

   B. Should the Contractor neglect, refuse, or otherwise fail to complete the Work within the time specified, the Contractor agrees, in partial consideration for the award of this Contract, to pay the City of Santa Fe the amount of Two Hundred Fifty Dollars ($250) per consecutive calendar days, not as a penalty, but as liquidated damages for such breach of the Contract.

   C. The above process shall include all labor, profit, insurance, taxes, etc., to cover the finished work of the several kinds called for. Changes shall be processed in accordance with the Contract Documents.

   D. It is understood that the City of Santa Fe reserves the right to reject any or all Bids and to waive any technical irregularities in the Bidding.

5. The following forms and sample forms are attached to and/or required for this ITB and their completion and submittal (as required) is a condition of a responsible and responsive Bid:

   A. Bid Bond (only for the highest Bid option) **(AIA Document A310 must accompany the Bid.)**
   B. Agent's Affidavit **(This form must accompany Bid Bond.)**
   C. Subcontractor Listing Form **(This form must accompany the Bid.)**
   D. Non-Collusion Affidavit of Prime Bidder **(This form must accompany the Bid.)**
   E. Non-Collusion Affidavit of Subcontractor (This form must be submitted upon Award of Contract.)
   F. Certificate of Non-Segregated Facilities **(This form must accompany the Bid.)**

G. Certificate of Bidder Regarding Equal Employment Opportunity **(This form must accompany the Bid.)**
H. Statement of Intent to pay prevailing wages (This form must be provided within ten (10) days after NMDWS NOA.)
I. Affidavit of Wages Paid (This form must be provided with Construction Close-Out.)
J. Weekly Payroll Form (This form must be provided during Construction.)
K. Payroll Statement of Compliance (This form must be provided during Construction.)
L. Certificate of current registration with the NMDWS **(This form must accompany the Bid.)**
M. Certificate of City of Santa Fe Business Registration **(This form must accompany the Bid.)**
N. Certificate of licensure with the New Mexico Regulation and Licensing Department, CID **(This form must accompany the Bid.)**
O. Performance Bond (AIA Form A312-Performance Bond-2010) (Sealed original must be provided within ten (10) days after City NOA.)
P. Payment Bond (AIA Form A312-Payment Bond-2010) (Sealed original must be provided within ten (10) days after City NOA.)
Q. Project-specific Certificate of General Liability Insurance (Current COI must be provided for inclusion with recommendation for Award of Contract.)
R. Project-specific Workers' Compensation Insurance (Current COI must be provided for inclusion with recommendation for Award of Contract.)
S. Buy American Certificate (This form must accompany the Bid.)

If any of the above documents, listed as required to accompany the Bid, are not included, current and completed in good order, the Bid shall be deemed non-responsive.

6. The Bidder shall complete the following statement by checking the appropriate boxes:

The Bidder has _____ has not _____participated in a previous contract subject to the equal opportunity clause prescribed by Executive Order 10925 or Executive Order 11114 or Executive Order 11246.

The Bidder has _____ has not _____ submitted all compliance reports in connection with any such contract due under the applicable filing requirement; and that representations indicating submission of required compliance reports signed by proposed subcontractors will be obtained prior to award of subcontracts.

7. The terms used in this Bid and the Bidding and Contract Documents which are defined in the Conditions of the Construction Contract (General, Supplementary, and Other Conditions)

8. If the Bidder is:

A. AN INDIVIDUAL:

By: _____
(Individual's Name)

doing business as: _____
_____

Business address: _____
_____

Telephone: _____

(SEAL)

B. A PARTNERSHIP:

By: _____
(Firm Name)

_____
(General Partner)

Business Address: _____
_____

Telephone: _____

(SEAL)

C. A CORPORATION

By: _____
(Corporation Name)

_____
(State of Incorporation)

By: _____
(Name of person authorized to sign)

_____
(Title)

If a New Mexico Corporation: _____
Certificate of Incorporation No.

If a Foreign Corporation: _____
Certificate of Authority No.

Attest: _____
(Secretary)

Business address: _____
_____

Telephone: _____

D. A JOINT VENTURE

By: _____
(Name)

Address: _____
_____

By: _____
(Name)

Address: _____
_____

Each joint venture must sign. The manner of signing for each individual, partnership, and corporation that is a party to the joint venture should be in the manner indicated in the appropriate category.

Bidder must fill in the following: (If none, write none)
NM License No.: _____ Classification: _____
NM Taxation and Revenue CRS No.: _____
City of Santa Fe Business Registration No.: _____
NM Resident Preference Number (if applicable): N/A

Bid Submittal shall be electronic as indicated by the Instructions to Bidders (00 2100).

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SUPPLEMENT TO BID FORMS

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Insert Bid Bond Form Page 1 of 2

Insert Bid Bond Form Page 2 of 2

00 4400

THIS FORM MUST BE
USED BY SURETY

AGENT'S AFFIDAVIT

BID SECURITY FORM

(To be filled in by Agent)

STATE OF)
) ss.
COUNTY OF)

_____ being first duly sworn deposes and says:
that he is the duly appointed agent _____
for _____
and licensed in the State of New Mexico. Deponent further states that a certain bond given to indemnify the City of Santa Fe in connection with the construction of _____ dated _____ day of _____, 20___, executed by _____ Contractor, as principal and _____, as surety, signed by this deponent; and deponent further states that said bond was written, signed, and delivered by him; that the premium on the same has been or will be collected by him; and that the full commission thereon has been or will be retained by him.

_____

Subscribed and sworn to before me, a notary public in and for the County of _____, this _____ day of _____, 20___.

My Commission expires: _____

Agent's Address: _____
_____
_____

Telephone: _____

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INSTRUCTIONS RELATING TO LOCAL PREFERENCE CERTIFICATION FORM

1. **All information must be provided.** A 10% local preference may be available for this procurement. To qualify for this preference, an Offeror **must** complete and submit **the local preference certification form with its offer.** If an offer is received without the form attached, completed, notarized, and signed or if the form is received without the required information, the preference will not be applied. **The local preference form or a corrected form will not be accepted after the deadline for receipt of Bids or proposals.**

2. **Local Preference precedence over State Preference:** The Local Preference takes precedence over the State Resident Preference and only one such preference will be applied to any one Bid or proposal. If it is determined that the local preference applies to one or more Offerors in any solicitation, the State Resident Preference will not be applied to any offers.

3. **Principal Office and location must be stated: To qualify for the local preference, the principal place of business of the enterprise must be physically located within the Santa Fe County Geographic Boundaries. The business location inserted on the Form must be a physical location, street address or such. DO NOT use a post office box or other postal address. Principal place of business must have been established no less than six months preceding application for certification.**

4. **Subcontractors do not qualify:** Only the business, or if joint venture, one of the parties of the joint venture, which will actually be performing the services or providing the goods solicited by this request and will be responsible under any resulting contract will qualify for this preference. A subcontractor may not qualify on behalf of a Prime Contractor.

5. **Definition:** The following definition applies to this preference.

   A local business is an entity with its Principal office and place of business located in Santa Fe County.

   A Principal office is defined as: The main or home office of the business as identified in tax returns, business licenses and other official business documents. A Principal office is the primary location where the business conducts its daily operations, for the general public, if applicable. A temporary location or movable property, or one that is established to oversee a City of Santa Fe project does not qualify as a Principal office.

   Additional Documentation: If requested a business will be required to provide, within three (3) working days of the request, documentation to substantiate the information provided on the form. Any business which must be registered under state law must be able to show that it is a business entity in good standing if so requested.

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LOCAL PREFERENCE CERTIFICATION FORM

ITB NO: _____

Business Name: _____

Principal Office: _____
Street Address City State Zip Code

City of Santa Fe Business License #: _____ (Attach Copy to this Form)

Date Principal Office was established: _____ (Established date must be six (6) months before date of Publication of this RFP or RFB).

CERTIFICATION

I hereby certify that the business set out above is the principal Offeror submitting this offer or is one of the principal Offerors jointly submitting this offer (e.g., as a partnership, joint venture). I hereby certify that the information which I have provided on this Form is true and correct, that I am authorized to sign on behalf of the business set out above and, if requested by the City of Santa Fe, will provide within three (3) working days of receipt of notice, the necessary documents to substantiate the information provided on this Form.

Signature of Authorized Individual: _____

Printed Name: _____

Title: _____ Date: _____

Subscribed and sworn before me by _____this __, day of _____

My commission expires _____ _____
Notary Public

SEAL

THIS SECTION NOT APPLICABLE TO THIS PROJECT

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RESIDENT VETERANS PREFERENCE CERTIFICATION

_____ (NAME OF CONTRACTOR) hereby certifies the following in regard to application of the resident veterans' preference to this procurement.

Please check one box only:

☐ I declare under penalty of perjury that my business prior year revenue starting January 1 ending December 31 is less than $1M allowing me the 10% preference discount on this solicitation. I understand that knowingly giving false or misleading information about this fact constitutes a crime.

☐ I declare under penalty of perjury that my business prior year revenue starting January 1 ending December 31 is more than $1M but less than $5M allowing me the 8% preference discount on this solicitation. I understand that knowingly giving false or misleading information about this fact constitutes a crime.

☐ I declare under penalty of perjury that my business prior year revenue starting January 1 ending December 31 is more than $5M allowing me the 7% preference discount on this solicitation. I understand that knowingly giving false or misleading information about this fact constitutes a crime.

I agree to submit a report or reports to the State Purchasing Division of the General Services Department declaring under penalty of perjury that during the last calendar year starting January 1 and ending on December 31, the following to be true and accurate:

In conjunction with this procurement and the requirements of this business application for a Resident Veteran Business Preference / Resident Veteran Contractor Preference under Sections 13-1-21 or 13-1-22 NMSA 1978, which awarded a contract which was on the basis of having such veterans preference, I agree to report to the State Purchasing Division of the General Services Department the awarded amount involved. I will indicate in the report the award amount as a purchase from a public body or as a public works contract from a public body as the case may be.

I understand that knowingly giving false or misleading information on this report constitutes a crime.

I declare under penalty of perjury that this statement is true to the best of my knowledge. I understand that giving false or misleading statements about material fact regarding this matter constitutes a crime.

_____ _____

(Signature of Business Representative)* (Date)

*Must be an authorized signatory of the Business.

The representation made by checking the above boxes constitutes a material representation by the business. If the statements are proven to be incorrect, this may result in denial of an award or un-award of the procurement.

SIGNED AND SEALED THIS _____ DAY OF _____, 2021.

_____

NOTARY PUBLIC

My Commission Expires:

_____

THIS FORM MUST BE
ATTACHED TO BOND

Section 00 4200

Review and Approval: This Bond has been executed by a Surety named in the current list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies," as published in Circular 570 (amended) by the Audit Staff Bureau of Accounts, United States Treasury Department.

Approved:

City of Santa Fe's Representative or Governing Body	(Date)

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SUBCONTRACTOR LISTING

NOTE: A subcontractor that submits a Bid valued at more than fifty thousand dollars ($50,000) for a city project that is subject to the Public Works Minimum Wage Act 13-4-10 NMSA 1978 shall be registered with the State of New Mexico, Department of Workforce Solutions, Labor Relations, Public Works Bureau.

Section 00 4300

Trade:	Name of Subcontractor:
Address:	
Telephone No.:	License No.: NM Dept. of Labor Registration No.:
Signature of Subcontractor (to be obtained after award of contract):	

Trade:	Name of Subcontractor:
Address:	
Telephone No.:	License No.: NM Dept. of Labor Registration No.:
Signature of Subcontractor (to be obtained after award of contract):	

Trade:	Name of Subcontractor:
Address:	
Telephone No.:	License No.: NM Dept. of Labor Registration No.:
Signature of Subcontractor (to be obtained after award of contract):	

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NON-COLLUSION AFFIDAVIT OF PRIME BIDDER
Section 00 4500

STATE OF)
)ss.
COUNTY OF)

_____, being first duly sworn, deposes and says that:

1) He is the _____ of _____, the Bidder that has submitted and attached Bid;

2) He is fully informed respecting the preparation and contents of the attached Bid and of all pertinent circumstances respecting such Bid;

3) Such Bid is genuine and is not a collusive or sham Bid;

4) Neither the said Bidder nor any of its officers, partners, City of Santa Fe's, agents, representatives, employees, or parties in interest, including this affiant, has in any way colluded, conspired, connived or agreed, directly or indirectly with the Bidder, firm or person to submit a collusive or sham Bid in connection with the Contract for which the attached Bid has been submitted or to refrain from Bidding in connection with such Contract or has in any manner directly or indirectly, sought by agreement or collusion or communications or conference with any other Bidder, firm or person to fix the price or prices in the attached Bid or of any other Bidder, or to fix any overhead, profit or cost element of the Bid Price or the Bid Price of any other Bidder, or to secure through any collusion, conspiracy, connivance or unlawful agreement any advantage against the City of Santa Fe, or any person interested in the proposed Contract; and

5) The price or prices quoted in the attached Bid are fair and proper and are not tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the Bidder or any of its agents, representatives, City of Santa Fe's, employees, or parties in interest, including this affront.

By: _____

Title: _____

Subscribed and sworn to before me this _____ day of _____, 20___.

_____
Notary Public

My Commission expires: _____

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NON-COLLUSION AFFIDAVIT OF SUBCONTRACTOR

STATE OF NEW MEXICO

COUNTY OF _____, _____being first duly sworn, deposes and says that:

(1) He / She is the _____ of _____ hereinafter referred to as the "Subcontractor";

(2) He / She is fully informed respecting the preparation and contents of the Subcontractor's Bid submitted by the Subcontractor to _____, the Contractor, for certain Work in connection with the _____ Contract pertaining to the _____ project in _____;

(3) Such Subcontractors Bid Submittal is genuine and is not a collusive or sham Bid Submittal;

(4) Neither the Subcontractor nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, has in any way colluded, conspired, connived or agreed, directly or indirectly with any other Bidder, firm or person to submit a collusive or sham bid in connection with the Contract for which the attached bid has been submitted or to refrain from Bidding in connection with such Contract, or has in any manner, directly or indirectly, sought by agreement or collusion or communications or conference with any other Bidder, or to secure through any collusion, conspiracy, connivance or unlawful agreement any advantage against the Contracting Agency or any person interested in the proposed Contract; and

(5) The price or prices quoted in the Subcontractor's Bid are fair and proper and are not tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the Bidder or any of its agents, representatives, owners, employees, or parties in interest, including this affiant.

(SIGNED): _____

TITLE: _____

SUBSCRIBED AND SWORN to before me this _____day of_____, 2021.

_____

NOTARY PUBLIC

My Commission Expires:

_____

A. No proposed Subcontractor shall be disapproved by the City of Santa Fe except for cause.

B. The Contractor shall be as fully responsible to the City of Santa Fe for the acts and omissions of his / her Subcontractors and of persons either directly or indirectly employed by them, as he / she is for the acts and omissions of persons directly employed by him / her.

C. The Contractor shall cause appropriate provision to be inserted in all subcontracts relative to the work to require compliance by each Subcontractor with the applicable provisions of the Contract for the improvements embraced.

D. Nothing contained in the Contract shall create any contractual relation between any Subcontractor and the City of Santa Fe.

CERTIFICATION OF NONSEGREGATED FACILITIES
Section 00 4600

(Applicable to construction contracts and related subcontracts exceeding $10,000 which are not exempt from the Equal Opportunity Clause.)

The Construction Contractor certifies that he does not maintain or provide for his employees any segregated facilities at any of his establishments and that he does not permit his employees to perform their services at any location, under his control, where segregated facilities are maintained. The Construction Contractor certifies further that he will not maintain or provide for his employees any segregated facilities at any of his establishments, and that he will not permit his employees to perform their services at any location, under his control, where segregated facilities are maintained. The Construction Contractor agrees that a breach of this certification is a violation of the Equal Opportunity Clause in this contract. As used in this certification, the term "segregated facilities" means: any waiting room, work areas, rest rooms and wash rooms, restaurants and other eating areas; time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, creed, color, or national origin because of habit, local custom, or otherwise. The Construction Contractor agrees that (except where he has obtained identical certifications from proposed Subcontractors for specific time periods) he will obtain identical certifications from proposed SUBCONTRACTORS prior to the award of subcontracts exceeding $10,000 which are not exempt from the provision of the Equal Opportunity Clause and that he will retain such certifications in his files.

By: _____

Title: _____

Subscribed and sworn to before me this _____ day of _____, 20___.

_____
Notary Public

My Commission expires: _____

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CERTIFICATION OF BIDDER REGARDING EQUAL EMPLOYMENT OPPORTUNITY

Section 00 4700

INSTRUCTIONS

This certification is required pursuant to Executive Order 11246 (30 F.R. 12319-25). The implementing rules and regulations provide that any Bidder or perspective Contractor, or any of their proposed Subcontractors, shall state as an initial part of the Bid or negotiations of the Contract whether he has participated in any previous Contract or Subcontract subject to the equal opportunity clause; and, if so, whether he has filed all compliance reports due under applicable instructions.

Where the certification indicates that the Bidder has not filed a compliance report due under applicable instructions, such Bidder shall be required to submit a compliance report within seven (7) calendar days after Bid opening. No Contract shall be awarded unless such report is submitted.

CERTIFICATION BY BIDDER

Bidder's Name: _____

Address: _____
_____
_____

_____

1. Bidder has participated in a previous Contract or Subcontract subject to the Equal Opportunity Clause. _____ Yes _____No
2. Compliance reports were required to be filed in connection with such Contract or Subcontract. _____ Yes _____No

---

Certification - The information above is true and complete to the best of my knowledge and belief.

_____
Name and Title of Signer (please type)

_____ _____
Signature Date

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Form A-585
DB A-1
Rev. 4/88

New Mexico
State Highway and Transportation Department

CONTRACT GOAL FOR DISADVANTAGED BUSINESS
IN HIGHWAY CONSTRUCTION

For the purpose of this contract, a goal of 7.41 percent has been established for Disadvantaged Business (DB'S) Participation.

Type or print legibly.

Item No.(s) of Work Description	Name of Subcontractor/Supplier	Proposed Subcontract Amount

1. Project No._____

2. Contractor's DB Liaison Officer_____

3. Total Amount Bid $_____

4. Contractors DB Participation
   Dollar Estimate and Participation: $_____ or ____% of line 3.

*Must equal or exceed established goal indicated above or bid may be rendered non-responsive.

I will abide by the Disadvantaged Business (DB) goal set forth for this project and hereby submit the names of the DB firms that will participate in the project. Substitution(s) will not be allowed without prior submission of written justification to the Project Manager for approval. I understand that failure to meet the goal may result in Liquidated Damages for the difference between the DB goal ant the actual DB participation achieved.

This statement is my assurance that _____ agrees to comply with the requirements of
(name of firm)
49 CFR Part 23, and the City of Santa Fe, New Mexico Disadvantaged Business Assistance Program, and all the requirements contained therein.

_____ Date

_____ Signature of Company Official

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FAA Policy on Contract Clauses under 49 CFR Part 26

A. Required Contract Clauses.

1. Contract Assurance.

The Contractor or Subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT assisted Contracts. Failure by the Contractor to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy as the recipient deems appropriate.

2. Prompt Payment.

The Prime Contractor agrees to pay each Subcontractor under this Prime Contract for satisfactory performance of its Contract no later than 30 days from the receipt of each payment the Prime Contractor receives from the Owner. The Prime Contractor agrees further to return retainage payments to each Subcontractor within 30 days after the Subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the Owner. This clause applies to both DBE and non-DBE Subcontractors.

B. Other Contract Provisions.

1. Bidders List.

If the recipient's DBE program provides for collecting information for a Bidders list by using a Contract clause, the recipient should devise an appropriate clause and include it in each DOT-assisted Contract. DOT's "Sample DBE Program" interpreting 49 CFR Section 26.11 lists various methods by which a recipient can collect information for a Bidders list. Use of a Contract clause is one such method. Recipients that choose to use another method would not include such a clause in their DOT-assisted contracts.

2. Good Faith Efforts.

The requirements of 49 CFR Part 26, Regulations of the U.S. Department of Transportation, apply to this contract. It is the policy of the Owner to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of this Contract. All firms qualifying under this solicitation are encouraged to submit Bids / Proposals. Award of this contract will be conditioned upon satisfying the requirements of this bid specification. These requirements apply to all Bidders / Offerors, including those who qualify as a DBE. A DBE contract goal of 7.41 percent has been established for this Contract. The Bidder / Offeror shall make good faith efforts, as defined in Appendix A, 49 CFR Part 26 (Attachment 1), to meet the Contract goal for DBE participation in the performance of this Contract.

The Bidder / Offeror will be required to submit the following information: (1) the names and addresses of DBE firms that will participate in the Contract; (2) a description of the Work that each DBE firm will perform; (3) the dollar amount of the participation of each DBE firm participating; (4) written documentation of the Bidder / Offeror's commitment to use a DBE Subcontractor whose participation it submits to meet the Contract goal; (5) written confirmation from the DBE that it is participating in the Contract as provided in the commitment made under (4); and (6) if the Contract goal is not met, evidence of good faith efforts.

Items 1 through 3 above shall be submitted with the Bid. Items 4 through 6 may be required prior to a notice of award.

DBE participation in this contract may be in form of a Prime Contract, Subcontract, joint venture, or another arrangement that qualifies under 49 CFR Sections 26.55, "How is DBE participation counted toward goals?" or 26.53(g), both of which are included as Attachment 2.

Attachment 1

DISADVANTAGED BUSINESS ENTERPRISE (DBE) UTILIZATION

The undersigned Bidder / Offeror has satisfied the requirements of the Bid Specification in the following manner (please check the appropriate space):

_____ The Bidder / Offeror is committed to a minimum of % DBE utilization on this Contract.

_____ The Bidder / Offeror (if unable to meet the DBE goal of _____%) is committed to a minimum of _% DBE utilization on this Contract and submits documentation demonstrating good faith efforts.

Name of Bidder / Offeror's firm: _____

State Registration No.: _____

By: _____
(Signature) Title

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Attachment 2

Letter of Intent

Name of Bidder / Offeror's firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Name of DBE firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____

Description of Work to be performed by DBE firm: _____

_____

_____

_____

The Bidder / Offeror is committed to utilizing the above-named DBE firm for the Work described above. The estimated dollar value of this Work is $ _____.

Affirmation

The above-named DBE firm affirms that it will perform the portion of the contract for the estimated dollar value as stated above.

By: _____
(Signature) (Title)

If the Bidder / Offeror does not receive award of the Prime Contract, any and all representations in this Letter of Intent and Affirmation shall be null and void.

(Submit this page for each DBE subcontractor.)
FAA Policy on Contract Clauses-1

Letter of Intent

Name of Bidder / Offeror's firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Name of DBE firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____

Description of Work to be performed by DBE firm: _____

_____

_____

_____

The Bidder / Offeror is committed to utilizing the above-named DBE firm for the Work described above. The estimated dollar value of this Work is $ _____.

Affirmation

The above-named DBE firm affirms that it will perform the portion of the contract for the estimated dollar value as stated above.

By: _____
(Signature) (Title)

If the Bidder / Offeror does not receive award of the Prime Contract, any and all representations in this Letter of Intent and Affirmation shall be null and void.

(Submit this page for each DBE subcontractor.)
FAA Policy on Contract Clauses-1

Letter of Intent

Name of Bidder / Offeror's firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Name of DBE firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____

Description of Work to be performed by DBE firm: _____

_____

_____

_____

The Bidder / Offeror is committed to utilizing the above-named DBE firm for the Work described above. The estimated dollar value of this Work is $ _____.

Affirmation

The above-named DBE firm affirms that it will perform the portion of the contract for the estimated dollar value as stated above.

By: _____
(Signature) (Title)

If the Bidder / Offeror does not receive award of the Prime Contract, any and all representations in this Letter of Intent and Affirmation shall be null and void.

(Submit this page for each DBE subcontractor.)
FAA Policy on Contract Clauses-1

Letter of Intent

Name of Bidder / Offeror's firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Name of DBE firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____

Description of Work to be performed by DBE firm: _____

_____

_____

_____

The Bidder / Offeror is committed to utilizing the above-named DBE firm for the Work described above. The estimated dollar value of this Work is $ _____.

Affirmation

The above-named DBE firm affirms that it will perform the portion of the contract for the estimated dollar value as stated above.

By: _____
(Signature) (Title)

If the Bidder / Offeror does not receive award of the Prime Contract, any and all representations in this Letter of Intent and Affirmation shall be null and void.

(Submit this page for each DBE subcontractor.)
FAA Policy on Contract Clauses-1

Letter of Intent

Name of Bidder / Offeror's firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Name of DBE firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____

Description of Work to be performed by DBE firm: _____

_____

_____

_____

The Bidder / Offeror is committed to utilizing the above-named DBE firm for the Work described above. The estimated dollar value of this Work is $ _____.

Affirmation

The above-named DBE firm affirms that it will perform the portion of the contract for the estimated dollar value as stated above.

By: _____
(Signature) (Title)

If the Bidder / Offeror does not receive award of the Prime Contract, any and all representations in this Letter of Intent and Affirmation shall be null and void.

(Submit this page for each DBE subcontractor.)
FAA Policy on Contract Clauses-1

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REQUIRED CONTRACT PROVISION REGARDING BUY AMERICAN

The following contract provision shall be included in **all** construction contracts, unless an exception, as provided in the Act, had been granted:

BUY AMERICAN - STEEL AND MANUFACTURED
PRODUCTS FOR CONSTRUCTION CONTRACTS

(a) The Contractor agrees that only domestic steel and manufactured products will be used by the Contractor, subcontractors, materialmen, and suppliers in the performance of this contract, as defined in (b) below.

(b) The following terms apply to this clause:

1. Steel and manufactured products. As used in this clause, steel and manufactured products include (1) those produced in the United States, or (2) a manufactured product produced in the United States, if the cost of its components mined, produced or manufactured in the United States exceeds 60 percent of the cost of all its components and final assembly has taken place in the United States.

2. Components. As used in this clause, components means those articles, materials, and supplies incorporated directly into steel and manufactured products.

3. Cost of Components. This means the cost for production of the components, exclusive of final assembly labor costs.

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CERTIFICATION OF BIDDER REGARDING BUY AMERICAN REQUIREMENTS

The Contractor agrees to comply with 49 USC § 50101, which provides that Federal funds may not be obligated unless all steel and manufactured goods used in AIP-funded projects are produced in the United States, unless the FAA has issued a waiver for the product; the product is listed as an Excepted Article, Material Or Supply in Federal Acquisition Regulation subpart 25.108; or is included in the FAA Nationwide Buy American Waivers Issued list.

A Bidder or offeror must submit the appropriate Buy America certification (below) with all Bids or offers on AIP funded projects. Bids or offers that are not accompanied by a completed Buy America certification must be rejected as nonresponsive.

Type of Certification is based on Type of Project:

There are two types of Buy American certifications.

- For projects for a facility, the Certificate of Compliance Based on Total Facility (Terminal or Building Project) must be submitted.
- For all other projects, the Certificate of Compliance Based on Equipment and Materials Used on the Project (Non-building construction projects such as runway or roadway construction; or equipment acquisition projects) must be submitted.

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Certificate of Buy American Compliance for Total Facility

(Buildings such as Terminal, SRE, ARFF, etc.)

As a matter of bid responsiveness, the bidder or offeror must complete, sign, date, and submit this certification statement with their proposal. The bidder or offeror must indicate how they intend to comply with 49 USC § 50101 by selecting one of the following certification statements. These statements are mutually exclusive. Bidder must select one or the other (i.e. not both) by inserting a checkmark (✓) or the letter "X".

☐ Bidder or offeror hereby certifies that it will comply with 49 USC. 50101 by:

a) Only installing steel and manufactured products produced in the United States; or
b) Installing manufactured products for which the FAA has issued a waiver as indicated by inclusion on the current FAA Nationwide Buy American Waivers Issued listing; or
c) Installing products listed as an Excepted Article, Material or Supply in Federal Acquisition Regulation Subpart 25.108.

By selecting this certification statement, the bidder or offeror agrees:

1. To provide to the Owner evidence that documents the source and origin of the steel and manufactured product.
2. To faithfully comply with providing US domestic products
3. To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.

☐ The Bidder or Offeror hereby certifies it cannot comply with the 100% Buy American Preferences of 49 USC § 50101(a) but may qualify for either a Type 3 or Type 4 waiver under 49 USC § 50101(b). By selecting this certification statement, the apparent Bidder or offeror with the apparent low bid agrees:

1. To the submit to the Owner within 15 calendar days of the bid opening, a formal waiver request and required documentation that support the type of waiver being requested.
2. That failure to submit the required documentation within the specified timeframe is cause for a non-responsive determination may results in rejection of the proposal.
3. To faithfully comply with providing US domestic products at or above the approved US domestic content percentage as approved by the FAA.
4. To furnish US domestic product for any waiver request that the FAA rejects.
5. To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.

Required Documentation

Type 3 Waiver - The cost of components and subcomponents produced in the United States is more that 60% of the cost of all components and subcomponents of the "facility". The required documentation for a type 3 waiver is:

a) Listing of all manufactured products that are not comprised of 100% US domestic content (Excludes products listed on the FAA Nationwide Buy American Waivers Issued listing and products excluded by Federal Acquisition Regulation Subpart 25.108; products of unknown origin must be considered as non-domestic products in their entirety)
b) Cost of non-domestic components and subcomponents, excluding labor costs associated with final assembly and installation at project location.
c) Percentage of non-domestic component and subcomponent cost as compared to total "facility" component and subcomponent costs, excluding labor costs associated with final assembly and installation at project location.

Type 4 Waiver – Total cost of project using US domestic source product exceeds the total project cost using non-domestic product by 25%. The required documentation for a type 4 of waiver is:

a) Detailed cost information for total project using US domestic product
b) Detailed cost information for total project using non-domestic product

False Statements: Per 49 USC § 47126, this certification concerns a matter within the jurisdiction of the Federal Aviation Administration and the making of a false, fictitious or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code.

_____ _____

Signature Date

_____

Title

_____

Company Name

Certificate of Buy American Compliance for Manufactured Products

(Non-building construction projects, equipment acquisition projects)

As a matter of bid responsiveness, the bidder or offeror must complete, sign, date, and submit this certification statement with their proposal. The bidder or offeror must indicate how they intend to comply with 49 USC § 50101 by selecting one on the following certification statements. These statements are mutually exclusive. Bidder must select one or the other (not both) by inserting a checkmark (✓) or the letter "X".

☐ Bidder or offeror hereby certifies that it will comply with 49 USC § 50101 by:

a) Only installing steel and manufactured products produced in the United States, or;
b) Installing manufactured products for which the FAA has issued a waiver as indicated by inclusion on the current FAA Nationwide Buy American Waivers Issued listing, or;
c) Installing products listed as an Excepted Article, Material or Supply in Federal Acquisition Regulation Subpart 25.108.

By selecting this certification statement, the bidder or offeror agrees:

1. To provide to the Owner evidence that documents the source and origin of the steel and manufactured product.
2. To faithfully comply with providing US domestic product
3. To furnish US domestic product for any waiver request that the FAA rejects
4. To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.

☐ The bidder or offeror hereby certifies it cannot comply with the 100% Buy American Preferences of 49 USC § 50101(a) but may qualify for either a Type 3 or Type 4 waiver under 49 USC § 50101(b). By selecting this certification statement, the apparent bidder or offeror with the apparent low bid agrees:

1. To the submit to the Owner within 15 calendar days of the bid opening, a formal waiver request and required documentation that support the type of waiver being requested.
2. That failure to submit the required documentation within the specified timeframe is cause for a non-responsive determination may result in rejection of the proposal.
3. To faithfully comply with providing US domestic products at or above the approved US domestic content percentage as approved by the FAA.
4. To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.

Required Documentation

Type 3 Waiver - The cost of the item components and subcomponents produced in the United States is more that 60% of the cost of all components and subcomponents of the "item". The required documentation for a type 3 waiver is:

a) Listing of all product components and subcomponents that are not comprised of 100% US domestic content (Excludes products listed on the FAA Nationwide Buy American Waivers Issued listing and products excluded by Federal Acquisition Regulation Subpart 25.108; products of unknown origin must be considered as non-domestic products in their entirety)
b) Cost of non-domestic components and subcomponents, excluding labor costs associated with final assembly at place of manufacture.
c) Percentage of non-domestic component and subcomponent cost as compared to total "item" component and subcomponent costs, excluding labor costs associated with final assembly at place of manufacture.

Type 4 Waiver – Total cost of project using US domestic source product exceeds the total project cost using non-domestic product by 25%. The required documentation for a type 4 of waiver is:

a) Detailed cost information for total project using US domestic product
b) Detailed cost information for total project using non-domestic product

False Statements: Per 49 USC § 47126, this certification concerns a matter within the jurisdiction of the Federal Aviation Administration and the making of a false, fictitious or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code.

_____ _____

Signature Date

_____

Title

_____

Company Name

STATEMENT OF INTENT TO PAY PREVAILING WAGES (00 4545)

To Be Completed Before Construction Starts

ALL FIELDS ARE REQUIRED
FORM MUST BE SENT TO THE CONTRACTING AGENCY WITHIN THREE (3) DAYS OF THE AWARD

General Contractor Information		
Company Name:		
Address:		
City:	State:	Zip:
Phone:	Fax:	E-Mail
FEIN #		
Estimated Start Date:	State Wage Decision Number:	
Project Title:	Project Physical Address:	
Total Contract Amount:	Estimated Completion Date:	
Print Name:	General Contractor Signature:	
Subcontractor Information		
Company Name:		
Address:		
City:	State:	Zip:
Phone:	Fax:	E-Mail
FEIN #		
Subcontract Amount:	Start Date on this Project:	
Print Name:	Subcontractor Signature:	
2nd, 3rd, etc. Tier Subcontractor Information		
Company Name:		
Address:		
City:	State:	Zip:
Phone:	Fax:	E-Mail
FEIN #:		
Subcontract Amount:	Start date on this project:	
Print Name:	Tier Signature:	

I hereby certify that the above information is correct and that all workers I employ on this public works project will be paid no less than the Prevailing Wage Rate(s) as determined by the Department of Workforce Solutions, Labor Relations Division for this project as identified by the State Wage Decision Number. I understand that Contractors who violate Prevailing Wage Laws (i.e., incorrect job classification, improper payment of prevailing wages, and/or overtime, etc.), are subject to debarment procedures and shall be required to pay any back wages due to workers. (Ref. Labor Relations Division, Public Works Minimum Wage Act Policy Manual (11.1.2 NMAC) and Public Works Minimum Wage Act (13-4-11 through 13-4-18, NMSA 1978).

_____ _____

Contractor's Signature Date

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INSTRUCTIONS FOR COMPLETING STATEMENT OF INTENT TO PAY PREVAILING WAGES (00 4545.1)

GENERAL CONTRACTOR

1. Enter General Contractor information and provide signature.
2. Enter State Wage Decision Number as listed in Bid Documents. (Example: BE-13-0123B)
3. Enter project title as listed in Bid Documents.
4. Enter project physical address - exact location of project (job site).
5. Enter estimated start and completion dates of project.
6. Enter General Contractor's Contract Amount.
7. All statements must be sent to the Contracting Agency.

SUBCONTRACTOR

1. Enter General Contractor information, but General Contractor signature not needed.
2. Enter Subcontractor information as indicated and provide signature.
3. Enter Subcontractor's Contract Amount.

Note: A separate signed form is needed for each Contractor.

2ND TIER SUBCONTRACTOR

1. Enter General Contractor information, but General Contractor signature not needed.
2. Enter Subcontractor information, but Subcontractor signature not needed.
3. Enter 2nd Tier Subcontractor information and provide signature.
4. Enter 2nd Tier Subcontractor's Contract Amount.

3rd TIER SUBCONTRACTOR

1. Attached a copy of this completed form and list the 3rd Tier Subcontractor information under the 2nd Tier Subcontractor.

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NMDWS WAGE DECISION, PUBLIC WORKS PROJECT REQUIREMENTS & MINIMUM WAGE RATES SCHEDULE(S) (00 4545.2)

1.0 WAGE RATES

This project will be subject to the Minimum Wage Rates as determined by the New Mexico State Labor & Industrial Commission pursuant to Chapter 13, Section 13-14-11, NMSA 1978; unless a project will be put under Work Order for a value of $59,999.99 or less and a Bid Bond would not be required for that project. Most projects will be submitted to the State for Wage Rates. The Wage Rates will follow the current "Type "A" – Street, Highway & Light Engineering" schedule.

A copy of a recent Type "A" – Street, Highway & Light Engineering decision is attached on the next page only as information for Contractor information.

This project is subject to the City of Santa Fe Minimum Wage Rate Ordinance Compliance: under Ordinance No. 2003-8, passed by the Santa Fe City Council on February 26, 2003 as well as any subsequent changes to the ordinance throughout the term of this contract.

(New Mexico State Labor & Industrial Commission Wage Rate Decision WGD & the current City of Santa Fe Minimum Wage Ordinance Following This Sheet)

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Insert State Wage Rates Page 1 of 5

Insert State Wage Rates Page 2 of 5

Insert State Wage Rates Page 3 of 5

Insert State Wage Rates Page 4 of 5

Insert State Wage Rates Page 5 of 5

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Insert Federal Wage Rates Page 1 of 5

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Insert Federal Wage Rates Page 3 of 5

Insert Federal Wage Rates Page 4 of 5

Insert Federal Wage Rates Page 5 of 5

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CITY LIVING WAGE ORDINANCE AND POSTERS (00 4545.3)

28-1 LIVING WAGE.

28-1.1 Short Title.

This section may be cited as the "Living Wage Ordinance". (Ord. #2002-13, §1)

28-1.2 Legislative Findings.

The governing body of the city has determined that:

A. The public welfare, health, safety and prosperity of Santa Fe require wages and benefits sufficient to ensure a decent and healthy life for workers and their families;

B. Many Santa Fe workers earn wages insufficient to support themselves and their families;

C. Many Santa Fe workers cannot participate in civic life or pursue educational, cultural, and recreational opportunities because they must work such long hours to meet their households' most basic needs;

D. Minimum wage laws promote the general welfare, health, safety and prosperity of Santa Fe by ensuring that workers can better support and care for their families through their own efforts and without financial governmental assistance;

E. The average earnings per job in Santa Fe County is twenty-three percent (23%) below the national average and the cost of living is eighteen percent (18%) higher than the national average;

F. Housing costs in Santa Fe are much higher than in most other parts of New Mexico, and low income workers must therefore spend a disproportionate percentage of their income sheltering themselves and their families;

G. Livable wages also benefit employers and the economy as a whole by improving employee performance, reducing employee turnover, lowering absenteeism, and thereby improving productivity and the quality of the services provided by employees;

H. When businesses do not pay a livable wage, the community bears the cost in the form of increased demand for taxpayer-funded social services including homeless shelters, soup kitchens and healthcare for the uninsured. Coupled with high real estate values, low wages reduce the ability of low- and moderate-income residents to access affordable housing. As a result, the city has had to invest significant tax dollars to support affordable housing including funding to nonprofit organizations, purchasing land, building infrastructure and waiving fees. In addition, the city has allocated significant tax dollars to operate after school and summer recreation programs and to support nonprofit organizations offering an array of human services and children and youth services, all of which are needed by very low-income residents and their families;

I. It is in the public interest to require certain employers benefiting from city actions and funding, and from the opportunity to do business in the city, to pay employees a minimum wage, a "living wage", adequate to meet the basic needs of living in Santa Fe;

J. According to the 2000 Census, approximately twelve and three-tenths percent (12.3%) of the Santa Fe community lives below the poverty level; and

K. According to the New Mexico department of labor, twenty-three and one-half percent (23.5%) of Santa Feans who are employed in the nongovernmental sector earn hourly wages of ten dollars and fifty cents ($10.50) per hour or less.

L. The governing body has reviewed the impact of previous minimum wage increases, relevant studies and other appropriate data, and finds that the city's minimum wage should be upwardly adjusted each year to keep pace with increases in the cost of living.

M. The governing body has found that limiting coverage of the minimum wage just to businesses with twenty-five (25) or more employees has hindered compliance and has created an uneven playing field among local businesses. (Ord. #2002-13, §2; Ord. #2003-8, §1; Ord. #2007-43, §1)

28-1.3 Authority of the City of Santa Fe.

This Living Wage Ordinance is adopted pursuant to the general welfare and police powers conferred upon the city of Santa Fe by §3-17-1 et seq. and §3-18-1 et seq. NMSA 1978, pursuant to the powers conferred upon the city of Santa Fe by New Mexico Constitution, Article X §§6(D) and 6 (E) and the Municipal Charter Act §3-15-1 et seq. NMSA 1978, which have been exercised by the city's adoption of its "Santa Fe Municipal Charter". (Ord. #2002-13, §3; Ord. #2003-8, §2)

28-1.4 Purpose.

The purposes of this section are:

A. To have the city of Santa Fe set an example for the public and private sectors by paying its employees a minimum wage adequate to meet the basic needs of living in Santa Fe.

B. To raise the income of low-income employees of employers who contract with the city, receive grants, subsidies or other benefits from the city or benefit from the opportunity to do business in Santa Fe. (Ord. #2002-13, §4; Ord. #2003-8, §3)

28-1.5 Minimum Wage Payment Requirements.

A. The following shall pay the minimum wage:

(1) The city of Santa Fe to all full-time permanent workers employed by the city. However, the provisions of this section are expressly limited by and subject to future union negotiations in compliance with the Fair Labor Standards Act and subsequent appropriations by the governing body in compliance with the Bateman Act;

(2) Contractors for the city, that have a contract requiring the performance of a service including construction services but excluding purchases of goods, shall pay the minimum wage to their workers and subcontractors performing work under the contract if the total contract amount with the city is, or by way of amendment becomes, equal to or greater than thirty thousand dollars ($30,000.); and

(3) Businesses receiving assistance relating to economic development in the form of grants, subsidies, loan guarantees or industrial revenue bonds in excess of twenty-five thousand dollars ($25,000.) to those employed by such entity for the duration of the city grant or subsidy; and

(4) Businesses required to have a business license or business registration from the City of Santa Fe and nonprofit organizations shall pay the minimum wage to their workers for all hours worked within the city of Santa Fe that month. For purposes of this paragraph,worker shall not include any person who is related by blood or by marriage to any person who may have or possess any ownership interest in the business that employs them. For purposes of identifying persons entitled to be paid the minimum wage, all individuals employed by or providing work to the business for compensation, whether on a part-time, full-time or temporary basis, during a given month shall be counted as a worker. This definition shall include contingent or contracted workers, and persons made available to work through the services of a temporary service, staffing or employment agency or similar entity. However, interns working for a business for academic credit in connection with a course of study at an accredited school, college or university or persons working for an accredited school, college or university while also attending that school, college or university, or persons working for a business in connection with a court-ordered community service program such as teen court or workers who are in an apprenticeship program in a 501C(3) organization (such as the Santa Fe Opera) shall not be counted as a worker for such purposes.

B. Beginning January 1, 2004, the minimum wage shall be an hourly rate of eight dollars and fifty cents ($8.50). In computing the wage paid for purposes of determining compliance with the minimum wage, the value of health benefits and childcare shall be considered as an element of wages. On January 1, 2006, the minimum wage shall be increased to an hourly rate of nine dollars and fifty cents ($9.50). Beginning January 1, 2009, and each year thereafter, the minimum wage shall be adjusted upward by an amount corresponding to the previous year's increase, if any, in the consumer price index for the western region for urban wage earners and clerical workers.

C. For workers who customarily receive more than one hundred dollars ($100.) per month in tips or commissions, any tips or commissions received and retained by a worker shall be counted as wages and credited towards satisfaction of the minimum wage provided that, for tipped workers, all tips received by such workers are retained by the workers, except that the pooling of tips among workers shall be permitted

D. Nonprofit organizations whose primary source of funds is from Medicaid waivers are exempt.

E. Staff shall contract for a study or studies to review the impact of changes made to the Living Wage Ordinance approved as Ordinance No. 2007-43 on businesses of less than ten employees and on the student drop-out rate. The study shall be presented to the governing body no later than July 1, 2009. (Ord. No. 2002-13, §5; Ord. #2003-8, §4; Ord. #2005-40; Ord. #2007-43, §2)

28-1.6 Prohibitions Against Retaliation and Circumvention.

A. It shall be unlawful for any employer or employer's agent or representative to take any action against an individual in retaliation for the exercise of or communication of information regarding rights under this section. This section shall also apply to any individual that mistakenly, but in good faith, alleges noncompliance with this section.

B. Taking adverse action against an individual within sixty (60) days of the individual's assertion of or communication of information regarding rights shall raise a rebuttable presumption of having done so in retaliation for the assertion of rights.

C. It shall be unlawful for any business or employer to intentionally circumvent the requirements of this section by contracting portions of its operation or leasing portions of its property. (Ord. #2002-13, §6; Ord. #2003-8, §5)

28-1.7 Reserved.

Editor's Note: Former subsection 28-1.7, Compliance Through Collective Bargaining Process, previously codified herein and containing portions of Ordinance No. 2002-13, was repealed in its entirety by Ordinance No. 2004-38.

28-1.8 Enforcement; Remedies.

A. *Administrative Enforcement.* The city manager, or his / her designee, is authorized, as appropriate and as resources permit, to enforce this section. The city manager is authorized to investigate possible violations of this section. Where the city manager, after a proceeding that affords a suspected violator due process, concludes that a violation has occurred, the city manager may issue orders to the employer appropriate to effectuate the complaining person's rights, including but not limited to back pay and reinstatement. The city manager also has the power to order termination of any and all economic benefit derived by any offending party from the city and has the power to revoke the employer's business license or registration.

B. *Criminal Penalty.* A person violating this section shall be guilty of a misdemeanor and, upon conviction, for each offense may be subject to fines and imprisonment as set forth in Section 1-3 SFCC 1987. A person violating any of the requirements of this section shall be guilty of a separate offense for each day or portion thereof and for each worker or person as to which any such violation has occurred.

C. *Other Remedies.* The city, any individual aggrieved by a violation of this section, or any entity the members of which have been aggrieved by a violation of this section, may bring a civil action in a court of competent jurisdiction to restrain, correct, abate or remedy any violation of this section and, upon prevailing, shall be entitled to such legal or equitable relief as may be appropriate to remedy the violation including, without limitation, reinstatement, the payment of any wages due and an additional amount as liquidated damages equal to twice the amount of any wages due, injunctive relief, and reasonable attorney's fees and costs.

D. *Nonexclusive Remedies and Penalties.* The remedies provided in this section are not exclusive, and nothing in this section shall preclude any person from seeking any other remedies, penalties, or relief provided by law. (Ord. #2002-13, §8; Ord. #2003-8, §6)

28-1.9 Effect.

Nothing in this Living Wage Ordinance shall be deemed to nor shall be applied in such a manner so as to have a constitutionally prohibited effect as an ex post facto law or impairment of an existing contract within the meaning of New Mexico Constitution, Article II, §19. (Ord. #2002-13, §9)

28-1.10 Severability.

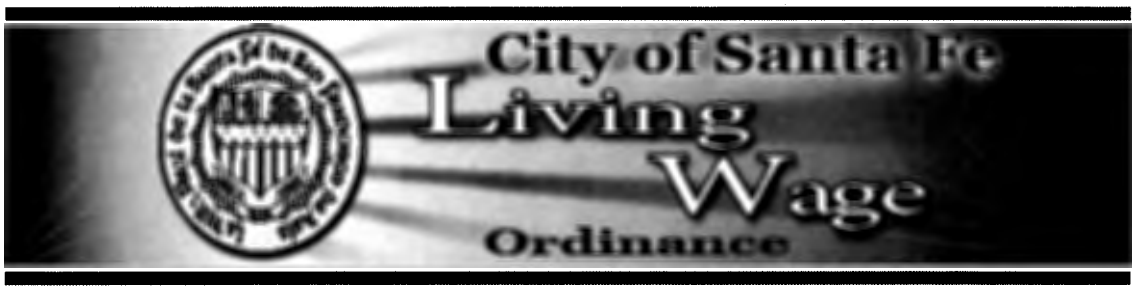
The requirements and provisions of this section and their parts, subparts and clauses are severable. In the event that any requirement, provision, part, subpart or clause of this section, or the application thereof to any person or circumstance, is held by a court of competent jurisdiction to be invalid or unenforceable, it is the intent of the governing body that the remainder of the section be enforced to the maximum extent possible consistent with the governing body's purpose of ensuring a living wage for persons covered by the section. (Ord. #2002-13, §10; Ord. #2003-8, §7)

28-1.11 Notice; Posting; and Publication.

Any business subject to the provisions of this section shall as a condition to obtaining and holding a city of Santa Fe business license or registration, post and display in a prominent location next to its business license or registration on the business premises a notice, in English and Spanish, that the business is in compliance with the provisions of this section and in particular post the text of subsections 28-1.5, 28-1.6 and 28-1.8 SFCC 1987. Failure to comply with this subsection shall be construed a violation of this section and, in addition, shall be considered grounds for suspension, revocation, or termination of the business license or registration. (Ord. #2003-8, §8)

28-1.12 Living Wage Review.

The city shall conduct a review of this section on or before July 1, 2005. In conducting said review the governing body may, at its discretion and pursuant to a duly-adopted resolution, appoint an ad hoc committee to advise and assist in making recommendations regarding this section and to investigate the economic and social effects of this section on Santa Fe. The city will contract with an independent third party to develop an evaluation that will generate objective measures on the effect of the Living Wage Ordinance on the health, security, and livelihood of Santa Feans by March 31, 2003. Data necessary for such an evaluation on Santa Fe city businesses will be compiled and presented to the governing body for their review on or before July 1, 2003. In compiling the data, consideration should be given to potential impacts on youth employment and possible recommendations that might prevent unforeseen consequences hurting children in the community. (Ord. #2003-8, §9)



PURSUANT TO THE CITY OF SANTA FE LIVING WAGE ORDINANCE, SECTION 28-1 SFCC 1987 EFFECTIVE MARCH 1, 2021 ALL WORKERS WITHIN THE CITY OF SANTA FE SHALL BE PAID A LIVING WAGE OF

$12.32 PER HOUR

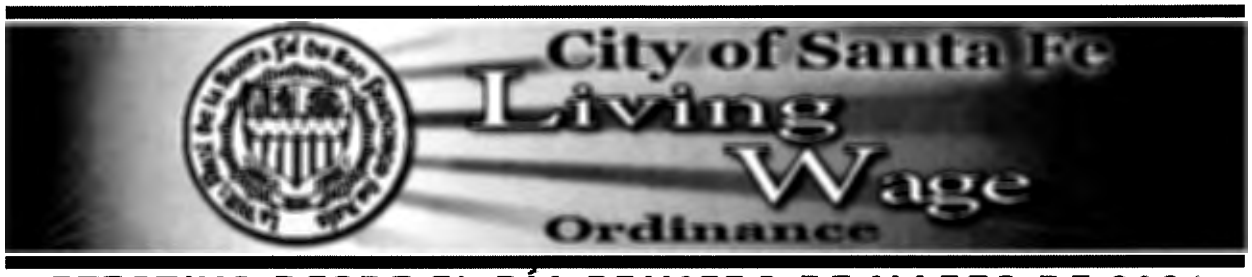
Santa Fe's Living Wage

- The Santa Fe Living Wage Ordinance establishes minimum hourly wages.
- The March Living Wage increase corresponds to the increase in the Consumer Price Index (CPI).
- All employers required to have a business license or registration from the City of Santa Fe ("City") must pay at least the adjusted Living Wage to employees for all hours worked within the Santa Fe city limits.

Who is Required to Pay the Living Wage?

- The City to all full-time permanent workers employed by the City;
- Contractors for the City, that have a contract requiring the performance of a service but excluding purchases of goods;
- Businesses receiving assistance relating to economic development in the form of grants, subsidies, loan guarantees or industrial revenue bonds in excess of □ □ □ □ □ □ thousand dollars ($25,000) for the duration of the City grant or subsidy;
- Businesses required to have a business license or registration from the City; and
- □ □ □ □ □organizations, except for those whose primary source of funds is from Medicaid waivers.
- For workers who customarily receive more than one hundred dollars ($100) per month in tips or commissions, any tips or commissions received and retained by a worker shall be counted as wages and credited towards satisfaction of the Living Wage provided that, for tipped workers, all tips received by such workers are retained by the workers, except that the pooling of tips among workers shall be permitted.

More Information, including the Living Wage Ordinance, is available at
http://www.santafenm.gov
(Click on Hot Topics/Living Wage)



EFECTIVO DESDE EL DÍA PRIMERO DE MARZO DE 2021 PARA TODOS LOS TRABAJADORES QUE LABOREN DENTRO DE LOS LÍMITES DE LA CIUDAD DE SANTA FE EL SALARIO MÍNIMO ESTABLECIDO QUE DEBERÁ SER PAGADO ES DE

$12.32
POR HORA

Salario Mínimo para la ciudad de Santa Fe

- La ciudad de Santa Fe establece salario mínimo por hora.
- Desde el Marzo el incremento de salario, corresponde con el aumento en el índice de precios al consumidor (IPC).
- Todos los empleadores requieren, por ley, tener una licencia o registro de la ciudad de Santa Fe, deben pagar al menos el salario ajustado a los empleados de todas las horas trabajadas dentro de los límites de la ciudad de Santa Fe.

¿Quién está obligado a pagar el salario?

- La ciudad a todos los trabajadores a tiempo completo permanentes contratados por la ciudad;
- Contratistas para la ciudad, tiene un contrato que requiere la prestación de un servicio, pero excluyendo las compras de mercancías;
- Empresas reciben asistencia en relación con el desarrollo económico en forma de becas, subsidios, garantías de préstamos o bonos industriales de ingresos superiores a 25 mil dólares ($25,000) para la duración de la beca de ciudad o de subvención;
- Empresasrequieren contar con la licencia o el registro de la ciudad; y
- Organizaciones sin □ □ □de lucro, con excepción de aquellos cuya principal fuente de fondos es de exenciones de Medicaid.
- Para los trabajadores que habitualmente reciben más de cien dólares ($100) por mes en consejos o comisiones, consejos o comisiones recibidas y retenida por un trabajador serán contados como salarios y acreditados hacia la satisfacción de los salario siempre que, para los trabajadores reciben propinas, todos los consejos recibidos por estos trabajadores son retenidos por los trabajadores, salvo que se permitirá la puesta en común de consejos entre los trabajadores.

Más información, incluyendo la ordenanza del salario, está disponible en
http://www.santafenm.gov
(haga clic en Hot Topics/Living Wage)

AFFIDAVIT OF WAGES PAID (00 4545.4)

AFFIDAVIT OF WAGES PAID
To Be Completed After Construction Is Complete
All FIELDS ARE REQUIRED
FORM MUST BE SENT TO THE CONTRACTING AGENCY

General Contractor Information		
Company Name:		
Address:		
City:	State:	Zip:
Phone:	Fax:	E-Mail
FEIN #		
Estimated Start Date:	State Wage Decision Number:	
Project Title:	Project Physical Address:	
Total Contract Amount:	Estimated Completion Date:	
Print Name:	General Contractor Signature:	
Subcontractor Information		
Company Name:		
Address:		
City:	State:	Zip:
Phone:	Fax:	E-Mail
FEIN #		
Subcontract Amount:	Start Date on this Project:	
Print Name:	Subcontractor Signature:	
2nd, 3rd, etc. Tier Subcontractor Information		
Company Name:		
Address:		
City:	State:	Zip:
Phone:	Fax:	E-Mail
FEIN #:		
Subcontract Amount:	Start date on this project:	
Print Name:	Tier Signature:	

I hereby certify that the above information is correct and that all workers I employ on this public works project will be paid no less than the Prevailing Wage Rate(s) as determined by the Department of Workforce Solutions, Labor Relations Division for this project as identified by the State Wage Decision Number. I understand that Contractors who violate Prevailing Wage Laws (i.e., incorrect job classification, improper payment of prevailing wages, and/or overtime, etc.). (Ref. Labor Relations Division, Public Works Minimum Wage Act Policy Manual (11.1.2 NMAC) and Public Works Minimum Wage Act (13-4-11 through 13-4-18, NMSA 1978).

_____ _____

Contractor's Signature Date

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INSTRUCTIONS FOR COMPLETING AFFIDAVIT OF WAGES PAID

GENERAL CONTRACTOR

1. Enter General Contractor information and provide signature.
2. Enter State Wage Decision Number as listed in Bid Documents. (Example: SF-21-0620-A)
3. Enter project title as listed in Bid Documents.
4. Enter project physical address - exact location of project (job site).
5. Enter completion dates of project.
6. All Affidavits' must be sent to the Contracting Agency.

SUBCONTRACTOR

1. Enter General Contractor information, but General Contractor signature not needed.
2. Enter Subcontractor information as indicated and provide signature.
3. Enter Subcontractor's completion date.

Note: A separate signed form is needed for each Contractor.

2nd, 3rd, etc. TIER SUBCONTRACTOR

1. Enter General Contractor information, but General Contractor signature not needed.
2. Enter Subcontractor information, but Subcontractor signature not needed.
3. Enter 2nd Tier Subcontractor information and provide signature.
4. Enter 2nd Tier Subcontractor's completion date.

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WEEKLY PAYROLL FORM (00 4545.5)

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WEEKLY PAYROLL

Revised Feb/2014

General Contractor Name:			Subcontractor Name:	
Address:	Phone:		Address:	Phone:
Payroll No.	Week Ending	Payroll Pmt. Date	Project Name	Project Location:	Wage Decision No.
		DAY AND DATE			

Employee Name & Address	Work Classification		HOURS WORKED	TOTAL FOR PERIOD	Hourly Rate	Hrly. Rate Pd. In Fringe Benefits	Subsistence Pay	Gross Amt. Earned this Payroll	Gross Amt. All Projects	Deductions			
										With - holding	State Tax	Other: Union Dues	Net Amt. Pd.
		OT											
		S											
		OT											
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PAYROLL STATEMENT OF COMPLIANCE (00 4545.6)

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PAYROLL STATEMENT OF COMPLIANCE

Wage Decision No.: _____

I, _____, _____ do hereby state:
(Name of Signatory Party) (Title)

(1) that I pay or supervise the payment of the persons employed by: _____
(Contractor or Subcontractor)

on the _____
(Name of Project)

that during the payroll period commencing on the _____day of _____, 20__and ending the _____day of _____, 20__, all persons employed on said project have been paid the full weekly wages earned, that no deductions have been or will be made either directly or indirectly to or on behalf of said _____ from the full weekly wages earned by any
(Contractor or Subcontractor)

person, other than deductions permitted by law. Anyone found in violation of the NM Public Works Minimum Wage Act [13-4-11 to 13-4-17 NMSA 1978] could be subject to penalties and debarment.

(2) That any payrolls otherwise under this contract required to be submitted for the above period are correct and complete; that the wage rates for laborer or mechanic conform with the work he performed.

(3) That any apprentice(s) employed in the above period are duly registered in a bona fide apprenticeship program registered with the State Apprenticeship agency recognized by the Bureau of Apprenticeship & Trng., US Dept. of Labor, or properly enrolled in a bona fide training program approved for application on public works construction projects by the appropriate state (SAC) and/or federal agency(ies) (BAT) if and as required by law & applicable federal regulation.

(4) **FRINGE BENEFITS:** ***(Please Spell Out Any/All Acronyms)***

__(a) ARE PAID TO APPROVED PLAN, FUND, OR PROGRAM in addition to the basic hourly wage rates paid to each laborer or mechanic listed in the above-referenced payroll, payments of fringe benefits as listed in the contract have been or will be made to appropriate program for the benefit of such employees.

If paid to an approved plan, fund, or program, please fill out name of program w/fringe breakdown per hour below:

Name of Program Used for Fringe Benefits:				
Pension =	Health/Welfare =	Holiday/Vac. =	Life Ins. =	Training* =
(If additional space is needed for more programs/fringe breakdowns, please attach a separate page.)				

FRINGE BENEFITS:

1. *Pension*
2. *Health/Welfare*
3. *Holiday/Vacation*
4. *Life Insurance*
5. *Training (not Apprenticeship) **

FRINGE BREAKDOWN SAMPLE:

Fringe Benefit:	Amount:
401(K) Plan	$8.98/hr.
Vacation	$2.23/hr.

__(b) **Paid to Union Program** - If paid to a Union and fringe benefits differ from employee to employee, and/ or job contract, please provide fringe breakdown for each employee and attach copy of Union contract.

__(c) ARE PAID IN CASH, each laborer or mechanic listed in the above-referenced payroll has been paid as indicated on the payroll, an amount not less than the sum of the applicable basic hourly wage rate plus the amount of the required fringe benefits as listed in the contract.

Section 13-1D-1 to Section 13-1D-8, NMSA 1978 provides for employers to agree to make contributions to approved apprentice & training programs in New Mexico in which the employer is a participant to the public works apprentice and training fund administered by the Public Works Bureau of the Labor & Industrial Division of the New Mexico State Department of Labor. Contributions shall be made in the same manner and in the same amount as apprentice and training contributions required pursuant to wage rate determinations made by the Labor & Industrial Division Director.

APPRENTICESHIP CONTRIBUTIONS: (Please check applicable blank)

__Check paid to: NM Public Works Apprenticeship & Training Fund - Public Works Bureau, Labor & Industrial Div.

__Check paid to: _____ _____
(Name & address of approved Apprenticeship & Training Program) (Program No.)

Print Name of Certifying Official:	Signature of Certifying Official:	Title & Phone No.:	Date:

The willful falsification of any of the above statements may subject the contractor or subcontractor to civil or criminal prosecution. See Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

Revised April/2006

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AGREEMENT FORMS
(00 5200)

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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 **NAME OF CONTRACTOR**, 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:
Runway 02 Runway Safety Area (RSA) Grading Improvements to include approximately 50,000 cubic yards of excavation and embankment and cable cut / splice of a primary power feed to the Glide Slope Antenna.

B. *Performance Measures.*
Contractor shall substantially perform the following Performance Measures:
1. Specifications dictate minimum requirements for project acceptance.

The receipt of the deliverables contemplated under this Agreement shall assist the City in obtaining its goal(s) as set forth in its Strategic Plan on page 295.

2. **Compensation.**

A. The City shall pay to the Contractor in full payment for services satisfactorily Performed. Compensation not to exceed (AMOUNT), excluding gross receipts tax. The New Mexico gross receipts tax levied on the amounts payable under this Agreement totaling (AMOUNT) 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 (AMOUNT). 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 (30) 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 (30) 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 **DATE** 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 (4) 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. **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 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. Workers Compensation (including accident and disease coverage) at the statutory limit. Employer's 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.

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:

To the City: _____

Name: _____

Address: _____

E-mail: _____

To the Contractor: _____

Name: _____

Address: _____

E-mail: _____

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
CITY MAYOR

DATE: _____

CONTRACTOR:

_____
NAME

_____
TITLE

DATE: _____

CRS#: _____

Registration #: _____

ATTEST:

_____
Yolanda Y. Vigil
CITY CLERK

APPROVED AS TO FORM FOR REQUEST FOR PROPOSALS ONLY:

_____
Marcos Martinez
SENIOR ASSISTANT CITY ATTORNEY

APPROVED:

_____
Mary McCoy
FINANCE DIRECTOR

_____
Business Unit Line Item

CONSTRUCTION BONDS, CERTIFICATES AND NOTICES (00 6100 – 00 6200)

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PERFORMANCE BOND

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Insert Performance Bond Form Page 1 of 4

Insert Performance Bond Form Page 2 of 4

Insert Performance Bond Form Page 3 of 4

Insert Performance Bond Form Page 4 of 4

PAYMENT BOND

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Insert Payment Bond Form Page 1 of 4

Insert Payment Bond Form Page 2 of 4

Insert Payment Bond Form Page 3 of 4

CERTIFICATE OF LIABILITY INSURANCE (00 6216)

(Project-specific Certificate of General Liability Insurance: Provide for inclusion with Recommendation for Award.)

WORKERS' COMPENSATION INSURANCE (00 6217)

(Provide project-specific Workers' Compensation Insurance Provide for inclusion with Recommendation for Award.)

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City of Santa Fe

OFFICIAL NOTICE-OF-AWARD

Month Day, Year

Mr./Mrs./Ms. Name of Contract Signatory
Contractor Address
City, State ZIP Code
Telephone Number

CIP Project #TBDProject Title

Dear Mr. Contract Signatory,

This letter shall serve as Notice of Award for the scope of services authorized under the pending Agreement Between City of Santa Fe and Contactor for the above referenced project. Once fully executed by theCity of Santa Fe and recorded, a copy of the contract will be sent to you via e-mail along with a PurchaseOrder.

The City of Santa Fe Governing Body, at their meeting of Month Day, Year, approved the Contract with Contractor Name in the amount of TBD dollars and TBD cents ($TBD), inclusive of New Mexico Gross Receipts Tax, for the above referenced project.

The "Contract" sum is determined as follows:

Base Bid:	$TBD
Alternate (TBD):	$TBD
Surety:	$TBD
NMGRT:	$TBD
Contract Amount:	$TBD

Please submit the following required documents and information within ten (10) days of the receipt of thisnotice:

1. The required Bonds including:

a) Sealed original "Performance Bond" equal to one hundred percent (100%) of the "Contract" amount.

b) Sealed original "Labor and Materials Bond" or "Payment Bond" equal to one-hundredpercent (100%) of the "Contract" amount.

..

SAMPLE

2. A signed list of the proprietary names and the suppliers of principal items or systems of materials and equipment proposed for the work.

3. A list signed by all Subcontractors proposed for the principal portions of the work. (SeeNMDWS requirements.)

4. Completed NMDWS Statement of Intent to Pay Prevailing Wages form(s) (within 10 days afterreceiving the NMDWS NOA).

5. Comprehensive Project Schedule based on the TBD calendar day Substantial Completion deadline. This Schedule will subject to review and modification by the City dependent upon the contract administrative approvals and recording timeline and the Purchase Order approvaltimeline after City Council approval.

6. A list and justifications for any items that cannot be provided within the "Contract" time. Ifaccepted by the City of Santa Fe, these items will not be required to achieve substantial completion,but must be completed within an extended deadline established by the Contractor at this time.

Failure to comply with these conditions within the specified time, will entitle the City to consider the Agreement abandoned, and to annul this "Notice of Award".

A Purchase Order will be issued to you with the Official Notice-to-Proceed to follow as soon as possible.Please reference this PO number on future correspondence and invoices.

Congratulations! We look forward to working with your company on this essential project!

Project Administrator Name
City of Santa Fe, Public Utilities Dept.
Water Division Project Administrator
(505) 955-TBD
TBD@santafenm.gov

xc: Public Utilities Department
DirectorWater Division Director
Chief Procurement Officer
TBD Project Sponsor Department DirectorsTBD Stakeholders

SAMPLE

City of Santa Fe

OFFICIAL NOTICE-OF-PROCEED

Month Day, Year

Mr./Mrs./Ms. Name of Contract Signatory
Contractor Address
City, State ZIP
CodeTelephone
Number

CIP Project #TBDProject Title

Dear Mr. Contract Signatory,

On ??/??/20?? the City Council approved the scope of services authorized under the Agreement Between City of Santa Fe and Contactor for the above referenced project. This letter shall serve as official Notice-to-Proceed with the scope of services described in the contract. The contract sum of TBD dollars and TBD cents ($TBD) inclusive of New Mexico Gross Receipts Tax is based on the Contractor's Bid dated ??/??/20??. A purchase order in that amount is attached along with the recorded contract.

Based on the date of issuance of this Notice, the services start date of ??/??/20??, and the (TBD) calendar day time limit, the entire work under this Contract shall be Substantially Completed by ??/??/20??, after which time liquidated damages as outlined in the contract will apply, unless time extensions are approved by change order.

Please acknowledge receipt of this notice on the next page and return a signed copy to the Owner, City of Santa Fe, Water Division, 801 W. San Mateo Rd, Santa Fe, NM 87505, Attention: Project Administrator Name or e- mail to TBD@santafenm.gov.

We look forward to working with your company on this vital project!

Sincerely,

_____ Project Administrator

_____ Facilities Division Director

SAMPLE

Attachments: Recorded ABOC, Purchase Order

RECEIPT ACKNOWLEDGED:

By: _____
Date: _____

xc: Public Utilities
Department DirectorWater
Division Director
Chief Procurement Officer
TBD Project Sponsor Department DirectorsTBD
Stakeholders

SAMPLE

GENERAL CONDITIONS OF THE CONTRACT

(SECTION 00700)

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NOTICE

This document has been prepared by the Capital Improvements Program (CIP) and Contract Compliance staff of the City of Santa Fe for use in construction projects.

DOCUMENT - SECTION 00710

GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION

(THIS DOCUMENT HAS IMPORTANT LEGAL CONSEQUENCES; CONSULTATION WITH AN ATTORNEY IS ENCOURAGED WITH RESPECT TO ITS COMPLETION OR MODIFICATION.)

TABLE OF ARTICLES

1. CONTRACT DOCUMENTS	9. PAYMENTS AND COMPLETION
2. ADMINISTRATION – PUBLIC UTILITIES DEPARTMENT WATER DIVISION	10. PROTECTION OF PERSONS AND PROPERTY
3. CITY OF SANTA FE	11. INSURANCE
4. CONTRACTOR	12. CHANGES IN THE WORK
5. SUBCONTRACTORS	13. UNCOVERING AND CORRECTION OF WORK
6. WORK BY CITY OF SANTA FE OR BY SEPARATE CONTRACTORS	14. TERMINATION OF THE CONTRACT
7. MISCELLANEOUS PROVISIONS	15. EQUAL OPPORTUNITY
8. TIME	16. MINIMUM WAGE RATES

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ARTICLE 1

CONTRACT DOCUMENTS

1.1 DEFINITIONS

1.1.1 THE CONTRACT DOCUMENTS

The Contract Documents consist of the City of Santa Fe-Contractor Agreement, the Conditions of the Contract (General, Supplementary, and Other Conditions), the Drawings, the Specifications, and all Addenda issued prior to and all Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a written interpretation issued by the City of Santa Fe's Representative, or (4) a written order for a minor change in the Work issued by the City of Santa Fe's Representative. The Contract Documents do not include Bidding Documents such as the Advertisement or Invitation to Bid, the Instructions to Bidders, sample forms, the Contractor's Bid, or portions of Addenda relating to any of these, or any other documents, unless specifically enumerated in the City of Santa Fe-Contractor Agreement.

1.1.2 THE CONTRACT

The Contract Documents form the Contract for Construction. This Contract represents the entire and integrated agreement between the parties hereto and supersedes all prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a Modification as defined in Subparagraph 1.1.1. The Contract Documents shall not be construed to create any contractual relationship of any kind between the City of Santa Fe's Representative and the Contractor, but the City of Santa Fe's Representative shall be entitled to performance of obligations intended for his benefit, and to enforcement thereof. Nothing contained in the Contract Documents shall create any contractual relationship between the City of Santa Fe or the City of Santa Fe's Representative and any Subcontractor or Sub-Subcontractor.

1.1.3 THE WORK

The Work comprises the Design and completed construction required by the Contract Documents, and includes Design Specifications, and all labor necessary to produce such construction, and all materials and equipment incorporated or to be incorporated in such construction.

1.1.4 THE PROJECT

The Project is the total design and construction of which the Work performed under the Contract Documents may be the whole or a part.

1.2 EXECUTION, CORRELATION AND INTENT

1.2.1 No fewer than five (5) copies of the Contract Documents shall be signed by the City of Santa Fe and the Contractor. If either the City of Santa Fe or the Contractor or both do not sign the Conditions of the Contract, Drawings, Specifications, or any of the other Contract Documents, the City of Santa Fe's Representative shall identify such Documents.

1.2.2 By executing the Contract, the Contractor represents that he has visited the site, familiarized himself with the local conditions under which the Work is to be performed, and correlated his observations with the requirements of the Contract Documents.

1.2.3 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work. The Contract Documents are complementary, and what is required by any one shall be as binding as if required by all. Work not covered in the Contract Documents will not be required unless it is consistent therewith and is reasonably inferable therefrom as being necessary to produce the intended results. Words and abbreviations which have well-known technical or trade meanings are used in the Contract Documents in accordance with such recognized meanings. In the event of a conflict between the Contract Documents, the more stringent requirements shall govern.

1.2.4 The organization of the Specifications into divisions, sections and articles, and the arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of work to be performed by any trade.

ARTICLE 2

ENGINEER

2.1 DEFINITION

2.1.1 The Engineer is the person lawfully license to practice Engineering, or an entity lawfully practicing Engineering identified as such in the City of Santa Fe-Contractor Agreement, and is referred to throughout the Contract Documents as if singular in number and masculine in gender. The term "Engineer" means the Engineer or his authorized representative.

2.2 ADMINISTRATION OF CONTRACT – SANTA FE WATER DIVISION

2.2.1 The Engineer will provide administration of the Contract as hereinafter described.

2.2.2 The Engineer will be the City of Santa Fe's representative during construction and until final payment is due. The Engineer will advise and consult with the City of Santa Fe. The City of Santa Fe's instructions to the Contractor shall be forwarded through the Engineer. The Engineer shall have the authority to act on behalf of the City of Santa Fe only to the extent provided in the Contract Documents, unless otherwise modified by written instrument in accordance with Subparagraph 2.2.17.

2.2.3 The Engineer shall submit to the City of Santa Fe, for approval, a list of critical inspection points based upon the construction schedule furnished by the Contract (Paragraph 4.10.1). The Engineer and his staff (including the on-site representative, if agreed upon) shall make at least three (3) weekly visits to the site at those critical points and at other times as the Engineer deems appropriate during the progress of the Work. Additionally, the Engineer shall familiarize himself with the progress and quality of the Work and determine if the Work is proceeding in accordance with the Contract Documents. On the basis of on-site observations, as an Engineer, he shall guard the City of Santa Fe against defects and deficiencies in the construction. Should the Engineer determine that any portion of the Work varies from the intent of the Contract Documents he shall immediately notify the Contractor and the City of Santa Fe of the non-compliance and the nature of the Work required to correct such non-compliance. The Engineer shall recommend to the City of Santa Fe, in writing, to issue a "stop work order" for any portion of the Work that does not substantially comply with the intent of the Contract Documents, except as follows.

2.2.4 The Engineer shall not be responsible for construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs in connection with the work. Additionally, the Engineer shall not be responsible for the Contractor's failure to carry out the Work in accordance with the Contract Documents. The Engineer shall reject work which does not meet or exceed the standards established by the Contract Documents. Whenever, in his reasonable opinion, he considers it necessary or advisable to ensure the proper implementation of the intent of the Contract Documents, he will have authority to require special inspection or testing of any work in accordance with the provisions of the Contract Documents whether or not such work be then fabricated, installed or completed.

2.2.5 The Engineer shall at all times have access to the Work wherever it is in preparation and progress. The Contractor shall provide facilities for such access so the Engineer may perform his functions under the Contract Documents.

2.2.6 Based on the Engineer's observations and an evaluation of the Contractor's Application for Payment, the Engineer will determine the amounts owing to the Contractor and will issue Certificates for Payment in such amounts, as provided in Paragraph 9.4.

2.2.7 The Engineer will be the interpreter of the requirements of the Contract Documents and the judge of the performance thereunder by both the City of Santa Fe and the

Contractor.

2.2.8 The Engineer will render interpretations necessary for the proper execution or progress of the work, with reasonable promptness and in accordance with any time limit agreed upon. Either party to the Contract may make written request to the Engineer for such interpretations.

2.2.9 Claims, disputes, and other matters in question between the Contractor and the City of Santa Fe relating to the execution or progress of the Work or the interpretation of the Contract Documents shall be referred to the Engineer for decision which he will render in writing within a reasonable time.

2.2.10 All interpretations and decisions of the Engineer shall be consistent with the intent of and reasonably inferable from the Contract Documents and will be in writing or in the form of Drawings. In his capacity as interpreter and judge, he will endeavor to secure faithful performance by both the City of Santa Fe and the Contractor, will not show partiality to either, and will not be liable for the result of any interpretation or decision rendered in good faith in such capacity.

2.2.11 The Engineer's decisions in matters relating to artistic effect will be final if consistent with the intent of the Contract Documents.

2.2.12 The Engineer will have authority to reject work which does not conform to the Contract Documents. Whenever, in his opinion, he considers it necessary or advisable for the implementation of the intent of the Contract Documents, he will have authority to require special inspection or testing of the Work in accordance with Subparagraph 7.6.2 whether or not such work be then fabricated, installed or completed. However, neither the Engineer's authority to act under this Subparagraph 2.2.12, nor any decision made by him in good faith either to exercise or not to exercise such authority, shall give rise to any duty or responsibility of the Engineer to the Contractor, any Subcontractor, any of their agents or employees, or any other person performing any of the work.

2.2.13 The Engineer will review and approve or take other appropriate action upon Contractor's submittals such as Shop Drawings, Product Data and samples, but only for conformance with the design concept of the Work and with the information given in the Contract Documents. Such action shall be taken with reasonable promptness so as to cause no delay. The Engineer's approval of a specific item shall not indicate approval of an assembly of which the time is a component.

2.2.14 The Engineer will prepare Change Orders in accordance will Article 12 and will have authority to order minor changes in the Work as provided in Subparagraph 12.3.1.

2.2.15 The Engineer will conduct inspections to determine the dates of Substantial Completion and Final Completion will receive and forward to the City of Santa Fe for the City of Santa Fe's review of written warranties and related documents required by the Contract and assembled by the Contractor and will issue a final Certificate of payment upon compliance with the requirements of Paragraph 9.9

2.2.16 If the City of Santa Fe and Engineer agree, the Engineer will provide one or more Project Representatives to assist the Engineer in carrying out his responsibilities at the site. The duties, responsibilities and limitations of authority of any such Project Representative shall be as set forth in an exhibit to be incorporated in the Contract Documents.

2.2.17 The duties, responsibilities and limitations of authority of the Engineer as the City of Santa Fe's representative during construction as set for in the Contract Documents will not be modified or extended without written consent of the City of Santa Fe, the Contractor and the Engineer.

2.2.18 In case of the termination of the employment of the Engineer, the City of Santa Fe shall appoint an Engineer whose status under the Contract Documents shall be that of the former Engineer.

ARTICLE 3

OWNER

3.1 DEFINITION

3.1.1 The Owner is the person or entity identified as such in the City of Santa Fe-Contractor Agreement and is referred to throughout the Contract Documents as if singular in number and masculine in gender. The term "City of Santa Fe" means the City of Santa Fe or his authorized representative.

3.2 INFORMATION AND SERVICES REQUIRED OF THE CITY OF SANTA FE

3.2.1 The City of Santa Fe shall, at the request of the Contractor, at the time of execution of the City of Santa Fe-Contractor Agreement, furnish to the Contractor reasonable evidence that he has made financial arrangements to fulfill his obligations under the Contract. Unless such reasonable evidence is furnished, the Contractor is not required to execute the City of Santa Fe-Contractor Agreement or to commence the work.

3.2.2 The City of Santa Fe shall furnish all surveys describing the physical characteristics for the site for the Project.

3.2.3 Except as provided in Subparagraph 4.7.1, the City of Santa Fe shall secure and pay for necessary approvals, easements, assessments, and charges required for the construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

3.2.4 Information or services under the City of Santa Fe's control shall be furnished by the City of Santa Fe with reasonable promptness to avoid delay in the orderly progress of the work.

3.2.5 Unless otherwise provided in the Contract Documents, the Contractor will be furnished, free of charge, all copies of Drawings and Specifications reasonably necessary for the execution of the work.

3.2.6 The City of Santa Fe shall forward all instructions to the Contractor through the City of Santa Fe's Representative.

3.2.7 The foregoing is in addition to other duties and responsibilities of the City of Santa Fe enumerated herein and especially those in respect to work by City of Santa Fe or by Separate Contractors, Payments and Completion, and Insurance in Articles 6, 9 and 11 respectively.

3.3 CITY OF SANTA FE'S RIGHT TO STOP THE WORK

3.3.1 If the Contractor fails to correct defective work as required by Paragraph 13.2 or persistently fails to carry out the Work in accordance with the Contract Documents, the City of Santa Fe, by a written order signed personally or by an agent specifically so empowered by the City of Santa Fe in writing, may order the Contractor to stop the work, or any portion thereof, until the cause of such order has been eliminated; however, this right of the City of Santa Fe to stop the Work shall not give rise to any duty on the part of the City of Santa Fe to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Subparagraph 6.1.3.

3.4 CITY OF SANTA FE'S RIGHT TO CARRY OUT THE WORK

3.4.1 If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within seven (7) days after receipt of written notice from the City of Santa Fe to commence and continue correction of such default or neglect with diligence and promptness, the City of Santa Fe may, after seven (7) days following receipt by the Contractor of an additional written notice and without prejudice to any other remedy he may have, make good such deficiencies. In such case, an appropriate Change Order shall be issued deducting from the payments then or thereafter due the Contractor the cost of correcting such deficiencies, including compensation for the City of Santa Fe's Representative's additional services made necessary by such default, neglect or failure. Such action by the City of Santa Fe and the amount charged to the Contractor are both subject

to the prior approval of the City of Santa Fe's Representative. If the payments then or thereafter due to the Contractor are not sufficient to cover such amount, the Contractor shall pay the difference to the City of Santa Fe.

ARTICLE 4

CONTRACTOR

4.1 DEFINITION

4.1.1 The Contractor is the person or entity identified as such in the City of Santa Fe-Contractor Agreement and is referred to throughout the Contract Documents as if singular in number and masculine in gender. The term "Contractor" means the Contractor or his authorized representative.

4.2 REVIEW OF CONTRACT DOCUMENTS

4.2.1 The Contractor shall carefully study and compare the Contract Documents and shall at once report to the City of Santa Fe's Representative any error, inconsistency or omission he may discover. The Contractor shall be liable to the City of Santa Fe or the City of Santa Fe's Representative for any damage resulting from any such errors, inconsistencies or omissions in the Contract Documents. The Contractor shall perform no portion of the Work at any time without Contract Documents or, where required, approved Shop Drawings, Product Data or Samples for such portion of the work.

4.3 SUPERVISION AND CONSTRUCTION PROCEDURES

4.3.1 The Contractor shall supervise and direct the work, using his best skill and attention. He shall be solely responsible for all construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under the contract.

4.3.2 The Contractor shall be responsible to the City of Santa Fe for the acts and omissions of his employees, Subcontractors and their agents and employees, and other persons performing any of the Work under a Contract with the Contractor.

4.3.3 The Contractor shall not be relieved from his obligations to perform the Work in accordance with the Contract Documents either by the activities or duties of the City of Santa Fe's Representative in his administration of the Contract, or by inspections, tests or approvals required or performed by persons other than the Contractor.

4.4 LABOR AND MATERIALS

4.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for all labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for the proper execution and completion of the work, whether or not incorporated or to be incorporated in the work.

4.4.2 The Contractor shall at all times enforce strict discipline and good order among his employees and shall not employ on the Work any unfit person or anyone not skilled in the task assigned to him.

4.5 WARRANTY

4.5.1 The Contractor warrants to the City of Santa Fe and City of Santa Fe's Representative that all materials and equipment furnished under this Contract will be new unless otherwise specified, and that all work will be of good quality, free from faults and conforming to these requirements. Substitutions not properly approved and authorized, may be considered defective. If required by the City of Santa Fe's Representative, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment. This warranty is not limited by the provisions in Paragraph 13.2.

4.5.2 The Contractor shall and hereby does warrant and guarantee all workmanship, labor, and materials performed and supplied by him or his Subcontractors for a period of one (1) year from the date of completion as evidenced by the date of the City of Santa Fe's Representative's Final Certificate of Payment of this Contract. This also includes all labor required for replacing materials or equipment found to be defective within the one (1) year period. All guarantees for a longer period of time required by the Work sections of these Specifications shall be secured by the Contractor from Subcontractors and delivered to the City of Santa Fe's Representative and are hereby warranted by the Contractor as much as if countersigned by him.

4.5.3 The Contractor shall and hereby does warrant and guarantee all asphalt and concrete installed for roadway and trail paving, curb and gutter, including all workmanship, labor, and materials performed and supplied by him or his Subcontractors for a period of two (2) years from the date of completion as evidenced by the date of the City of Santa Fe's Representative's Final Certificate of Payment of this Contract. This also includes all labor required for replacing roadway and trail paving, curb and gutter found to be defective within the two (2) year period. All guarantees for a longer period of time required by the Work sections of these Specifications shall be secured by the Contractor from Subcontractors and delivered to the City of Santa Fe's Representative and are hereby warranted by the Contractor as much as if countersigned by him.

4.6 TAXES

4.6.1 The Contractor shall pay all sales, consumer gross receipts tax, use and other similar taxes for the Work or portions thereof provided by the Contractor which are legally enacted at the time Bids are received, whether or not yet effective.

4.7 PERMITS, FEES AND NOTICES

4.7.1 The Contractor shall secure and pay for the building permit and for all other permits and governmental fees, licenses and inspections necessary for the proper execution and completion of the Work which are customarily secured after execution of the Contract and which are legally required at the time the Bids are received.

4.7.2 The Contractor shall give all notices and comply with all laws, ordinances, rules, regulations and lawful orders of any public authority bearing on the performance of the work.

4.7.3 It is not the responsibility of the Contractor to make certain that the Contract Documents are in accordance with applicable laws, statutes, building codes and regulations. If the Contractor observes that any of the Contract Documents are at variance therewith in any respect, he shall promptly notify the City of Santa Fe's Representative in writing, and any necessary changes shall be accomplished by appropriate Modification.

4.7.4 If the Contractor performs any work knowing it to be contrary to such laws, ordinances, rules and regulations, and without such notice to the City of Santa Fe's Representative, he shall assume full responsibility therefore and shall in turn notify the City of Santa Fe's Representative of such action.

4.8 ALLOWANCES

4.8.1 The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by these allowances shall be supplied for such amounts and by these allowances shall be supplied for such amounts and by such persons as the City of Santa Fe may direct, but the Contractor will not be required to employ persons against whom he makes a reasonable objection.

4.8.2 Unless otherwise provided in the Contract Documents:

A. These allowances shall cover the cost to the Contractor, less any applicable trade discount of the materials and equipment required by the allowance delivered at the site, and all applicable taxes;

B. The Contractor's costs for unloading and handling on the site, labor, installations costs, overhead, profit and other expenses contemplated for the original allowance shall be included in the Contract Sum and not in this allowance;

C. Whenever the cost is more than or less than the allowance, the Contract Sum shall be adjusted accordingly by Change Order, the amount of which will recognize changes, if any, in handling costs on the site, labor, installation costs, overhead, profit and other expenses.

4.9 SUPERINTENDENT

4.9.1 The Contractor shall employ a competent Superintendent and necessary assistants who shall be in attendance at the project site during the progress of the work. The Superintendent shall represent the Contractor, and all communications given to the Superintendent shall be as binding as if given to the Contractor. Important communications shall be confirmed in writing. Other communications shall be so confirmed on written request in each case.

4.10 PROGRESS SCHEDULES

4.10.1 The Contractor shall, within ten (10) days after the effective date of Notice to Proceed, furnish five copies of a preliminary progress schedule describing his operations for the one-hundred-eighty (180) day Contract period. The preliminary progress schedule shall be a bar graph or an arrow diagram showing the items the Contractor intends to commence and complete the various work stages, operations, and Contract means planned to be started during the one-hundred-eighty (180) day Contract period.

4.10.2 Unless otherwise specified in the Special Provisions, the Contractor shall submit for approval by the City of Santa Fe's Representative, within five (5) days after the effective date of Notice to Proceed, traffic control plans prepared by a qualified individual for this project.

4.10.3 The graphic network diagram shall consist of an arrow diagram or a geometric figure and connector diagram which clearly depicts the major subdivisions of the work, the order and interdependencies of activities planned by the Contractor, as well as, activities by others which affect the Contractor's planning. The intended time for starting and completing each activity shall be shown for each construction operation. For those activities lasting more than thirty (30) days, either the estimated time for 25-50 and 75 percent completion or other significant milestones in the course of the activity, shall be shown. In addition to the actual construction operations, the network diagram shall show such items as submittal of samples and Shop Drawings, delivery of materials and equipment, construction in the area by other forces, traffic detour controls, and other significant items related to the progress of construction. The graphic network diagram shall be printed or neatly and legibly drawn to a linear scale.

4.10.4 Activities shown shall be coordinated insofar as possible with the Contract Bid Items, types of work and maximum number of activities of each type.

4.10.5 The computer printout or list of activities shall show for each activity the estimated duration, the earliest starting and finishing dates, the latest starting and finishing dates, and float or slack time. Activities which constitute the critical sequence shall be identified showing a total job duration equal to the Contract Time.

4.10.6 The written explanation shall contain sufficient information to describe the construction methods to be used and to enable the City of Santa Fe's Representative to evaluate the schedule and supporting analysis for validity and practicability. If the schedule or written explanation is not accepted by the City of Santa Fe's Representative, the Contractor shall resubmit the rejected items within ten (10) days after rejection.

4.10.7 The analysis may employ the use of an electric computer or may consist of a non-computer analysis if the latter is suitable to analyze the number of activities required. The adequacy of the system selected shall be acceptable to the City of Santa Fe's Representative.

4.10.8 The Contractor shall submit to the City of Santa Fe's Representative monthly progress status reports on dates directed by the City of Santa Fe's Representative. Such reports shall list those uncompleted activities which have less than thirty (30) days' float and which are either in progress or scheduled to be started within the next reporting period. For each of the listed activities, the following shall be shown:

A. Starting date scheduled in last critical-path-analysis.
B. Actual or intended starting date.
C. Revised activity duration, if any.

If the noted starting dates or duration delay the scheduled project completion date, the delay shall be named. Reasons for the delay shall be given with an explanation of the Contractor's proposed corrective action. The Contractor shall also note each activity completed during the report period.

4.10.9 A revised critical-path-type analysis shall be submitted when one or more of the following conditions occur:

A. When an approved Change Order significantly affects the Contract completion date, or the sequence of activities.
B. When progress of any critical activity falls significantly behind the scheduled progress.
C. When delay on a non-critical activity is of such magnitude as to change the course of the critical path.
D. At any time, the Contractor elects to change any sequence of activities affecting the critical path.

The revised analysis shall be made in the same form and detail as the original submittal and shall be accompanied by an explanation of the reasons for the revisions.

4.10.10 The Contractor shall prosecute the Work in accordance with the latest critical path type analysis. Deviations therefrom shall be submitted to the City of Santa Fe's Representative for review. In the event that the progress of items along the critical path is delayed, the Contractor shall revise his planning to include additional forces, equipment, shifts or hours necessary to meet the Contract completion date. All additional cost resulting therefrom will not be borne by the City of Santa Fe.

4.11 DOCUMENTS AND SAMPLES AT THE SITE

4.11.1 The Contractor shall maintain at the site, for the City of Santa Fe, one record copy of all Drawings, Specifications, Addenda, Change Orders and other Modifications, in good order and marked currently to record all changes made during construction, and approved Shop Drawings, Product Data and Samples. These shall be available to the City of Santa Fe's Representative and shall be delivered to him for the City of Santa Fe upon completion of the work.

4.12 SHOP DRAWINGS, PRODUCT DATA AND SAMPLES

4.12.1 Shop Drawings are Drawings, diagrams, schedules and other data specially prepared for the Work by the Contractor or any Subcontractor, manufacturer, supplier or distributor to illustrate some portion of the work.

4.12.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams and other information furnished by the Contractor to illustrate a material, product or system for some portion of the work.

4.12.3 Samples are physical examples which illustrate materials, equipment or workmanship and establish standards by which the Work will be judged.

4.12.4 The Contractor shall review, approve and submit, with reasonable promptness and in such sequence as to cause no delay in the Work or in the Work of the City of Santa Fe or any separate Contractor, all Shop Drawings, Product Data and Samples required by the Contract Documents.

4.12.5 By approving and submitting Shop Drawings, Product Data and Samples, the Contractor represents that he has determined and verified all materials, field measurements, and field construction criteria related thereto, or will do so, and that he has checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

4.12.6 The Contractor shall not be relieved of responsibility for any deviation from the requirements of the Contract Documents by the City of Santa Fe's Representative's approval of Shop Drawings, Product Data or Samples unless the Contractor has specifically informed the City of Santa Fe's Representative in writing of such deviation at the time of submission and the City of Santa Fe's Representative has given written approval to the specific deviation. The Contractor shall not be relieved from responsibility for errors or omissions in the Shop Drawings, Product Data or Samples by the City of Santa Fe's Representative's approval thereof.

4.12.7 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data or Samples, to revisions other than those requested by the City of Santa Fe's Representative on previous submittals.

4.12.8 No portion of the Work requiring submission of a Shop Drawing, Product Data or Sample shall be commenced until the submittal has been approved by the City of Santa Fe's Representative as provided in Subparagraph 2.2.13. All such portions of the Work shall be in accordance with approved submittals.

4.13 USE OF SITE

4.13.1 The Contractor shall confine operations at the site to areas permitted by law, ordinances, permits and the Contract Documents and shall not reasonably encumber the site with any materials or equipment.

4.13.2 The Contractor shall hold and save the City of Santa Fe free and harmless from liability of any nature or kind arising from use, trespass or damage occasioned by third persons.

4.14 CUTTING AND PATCHING OF WORK

4.14.1 The Contractor shall be responsible for all cutting, fitting, patching or grading that may be required to complete the Work or to make its several parts fit together properly.

4.14.2 The Contractor shall not damage or endanger any portion of the Work or the Work of the City of Santa Fe or any separate contracts by cutting, patching or otherwise altering any work, or by excavation. The Contractor shall not cut or otherwise alter the Work of the City of Santa Fe or any separate Contractor except with the written consent of the City of Santa Fe and of such separate Contractor. The Contractor shall not unreasonably withhold from the City of Santa Fe or any separate Contractor his consent to cutting or otherwise altering the work.

4.15 CLEANING UP

4.15.1 The Contractor at all times shall keep the premises free from accumulation of waste materials or rubbish caused by his operations. At the completion of the work, he shall remove all his waste materials and rubbish from and about the Project as well as all his tools, construction equipment, machinery and surplus materials.

4.15.2 If the Contractor fails to clean up at the completion of the work, the City of Santa Fe may do so as provided in Paragraph 3.4, and the cost thereof shall be charged to the Contractor.

4.15.3 The Contractor shall be solely responsible for performance of the following clean up:

A. Debris: Regardless of the nature of the debris, it shall be immediately cleared form the Work area. Each trade shall cooperate with other trades in the removal of debris and in keeping a clean job throughout.

B. Cleaning of All Painted, Decorated, and Stained Work: The Contractor shall remove all marks, stains, finger prints, and other soil or dirt from all painted, decorated, and stained work.

C. Removal of all Temporary Protections: The Contractor shall remove all temporary protections and shall clean all floors, furnishings and structures at completion.

D. Removal of all Spots, Soils, and Other Contaminants for Paved Surfaces: The Contractor shall remove all spots, soil and debris from all paved surfaces and shall wash the same upon completion.

E. Temporary Stockpiling of excavated material: There may be areas where the Contractor can temporarily stockpile material during the Work day, but it shall be removed before the end of work, and all residents shall have access to their property at all times. Contractor shall verify proposed location(s) with the On-Site supervisor before utilizing any temporary stockpile location(s).

F. Cleaning of all Fixtures and Equipment: The Contractor shall clean all fixtures and equipment, removing all stains, paint, dirt, and dust.

4.16 COMMUNICATIONS

4.16.1 The Contractor shall forward all communications to the City of Santa Fe through the City of Santa Fe's Representative.

4.16.2 The Contractor shall designate a contact person to establish and maintain communication with all residents who will be affected by this construction. The Contractor shall contact all affected residents and businesses at least one week prior to commencing work and will provide updates at least weekly to the residents. Residents and businesses whose ingress and egress from their property will be temporarily blocked shall be given notice at least 48 hours prior to the blockage. Those residents and businesses shall be provided with a start and finish time when the blockage will occur. All access to properties will be restored each evening by 5 pm. Work on the project shall not commence before 8 am.

4.17 ROYALTIES AND PATENTS

4.17.1 The Contractor shall pay all royalties and license fees. He shall defend all suits or claims for infringement of any patent rights and shall save the City of Santa Fe harmless from loss on account thereof, except that the City of Santa Fe shall be responsible for all such loss when a particular design, process or the product of a particular manufacturer or manufacturers is specified; but if the Contractor has reason to believe that the design, process or product specified is an infringement of a patent, he shall be responsible for such loss unless he promptly gives such information to the City of Santa Fe's Representative.

4.18 INDEMNIFICATION

4.18.1 To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the City of Santa Fe and the City of Santa Fe's Representative and their agents and employees from and against all claims, damages, losses and expenses, including but not limited to attorneys' fees arising out of or resulting from the performance of the work, provided that any such claim, damage, loss or expense (1) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, and (2) is caused in whole or in part by any negligent act or omission by the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder. Such negligence shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this Paragraph 4.18.

4.18.2 In any and all claims against the City of Santa Fe or the City of Santa Fe's Representative or any of their agents or employees by an employee of the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation under this Paragraph 4.18 shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Contractor or any Subcontractor under workers' or workmen's compensation acts, disability benefit acts or other employee benefit acts.

4.18.3 The obligation of the Contractor under this Paragraph 4.18 shall not extend to the liability of the City of Santa Fe's Representative, his agents or employees, arising out of (1) the preparation or approval of maps, Drawings, opinions, reports, surveys, change orders, designs, or Specifications.

ARTICLE 5

SUBCONTRACTORS

5.1 DEFINITION

5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform any of the Work at the site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and masculine in gender and means a Subcontractor or his authorized representative. The term "Subcontractor" does not include any separate Contractor or his Subcontractors.

5.1.2 A Sub-Subcontractor is a person or entity who has a direct or indirect Contract with a Subcontractor to perform any of the Work at the Site.

5.2 AWARD OF SUBCONTRACTS AND OTHER CONTRACTS FOR PORTIONS OF THE WORK

5.2.1 Unless otherwise required by the Contract Documents or the Bidding Documents, the Contractor, as soon as practicable after the award of the Contract, shall furnish to the City of Santa Fe and the City of Santa Fe's Representative in writing the names of the persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for each of the principal portions of the work. The City of Santa Fe's Representative will promptly reply to the Contractor in writing stating whether or not the City of Santa Fe or the City of Santa Fe's Representative, after due investigation, has reasonable objection to any such proposed person or entity. Failure of the City of Santa Fe or the City of Santa Fe's Representative to reply promptly shall constitute notice of no reasonable objection.

5.2.2 The Contractor shall not contract with any such proposed person or entity to whom the City of Santa Fe or the City of Santa Fe's Representative has made reasonable objection under the provisions of Subparagraph 5.2.1. The Contractor shall not be required to contract with anyone to whom he has a reasonable objection.

5.3 SUBCONTRACTUAL RELATION

5.3.1 By an appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by the terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities which the Contractor, by these Documents, assumes toward the City of Santa Fe and the

City of Santa Fe's Representative. Said agreement shall preserve and protect the rights of the City of Santa Fe and the City of Santa Fe's Representative under the Contract Documents with respect to the Work to be performed by the Subcontractor so that the subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the Contractor-Subcontractor agreement, the benefit of all rights, remedies and redress against the Contractor that the Contractor, by these Documents, has against the City of Santa Fe. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with his Sub-Subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the Subcontract, copies of the Contract Documents to which the Subcontractor will be bound by this Paragraph 5.3, and identify to the Subcontractor any terms and conditions of the proposed Subcontract which may be at variance with the Contract Documents. Each Subcontractor shall similarly make copies of such Documents available to his Subcontractors.

ARTICLE 6

WORK BY CITY OF SANTA FE OR BY SEPARATE CONTRACTORS

6.1 CITY OF SANTA FE'S RIGHT TO PERFORM WORK AND TO AWARD SEPARATE CONTRACTS

6.1.1 The City of Santa Fe reserves the right to perform work related to the Project with his own forces, and to award separate contracts in connection with other portions of the Project or other work on the site under these or similar Conditions of the Contract. If the Contractor claims that delay or additional cost is involved because of such action by the City of Santa Fe, he shall make such claim as provided elsewhere in the Contract Documents.

6.1.2 When separate contracts are awarded for different portions of the Project or other work on the site, the term "Contractor" in the Contract Documents in each case shall mean the Contractor who executes each separate City of Santa Fe-Contractor Agreement.

6.1.3 The City of Santa Fe will provide for the coordination of the Work of his own forces and of each separate Contractor with the Work of the Contractor, who shall cooperate therewith as provided in paragraph 6.2.

6.1.4 The City of Santa Fe will contract with a Design Engineer for work during this Project. The Contractor **will** plan to work around and with this other firm.

6.2 MUTUAL RESPONSIBILITY

6.2.1 The Contractor shall afford the City of Santa Fe and the separate Contractors reasonable opportunity for the introduction and storage of their materials and equipment and the execution of their work, and shall connect and coordinate his work with theirs as required by the Contract Documents.

6.2.2 If any part of the Contractor's work depends for proper execution or results upon the Work of the City of Santa Fe or any separate Contractor, the Contractor shall, prior to proceeding with the work, promptly report to the City of Santa Fe's Representative any apparent discrepancies or defects in such other work that render it unsuitable for such proper execution and results. Failure of the Contractor so to report shall constitute an acceptance of the City of Santa Fe's or the separate Contractor's work as fit and proper to receive his work, except as to defects which may subsequently become apparent in such work by others.

6.2.3 Any costs caused by defective or ill-timed work shall be borne by the party responsible thereof.

6.2.4 Should the Contractor wrongfully cause damage to the Work or property of the City of Santa Fe or to other work on the site, the Contractor shall promptly remedy such damage as provided in Subparagraph 10.2.5.

6.2.5 Should the Contractor wrongfully cause damage to the Work or property of any separate Contractor, the Contractor shall upon due notice promptly attempt to settle with such other Contractor by agreement, or otherwise to resolve the dispute. If such separate Contractor sues or initiates an arbitration proceeding against the City of Santa Fe on account of any damage alleged to have been caused by the Contractor, the City of Santa Fe shall notify the Contractor, who shall defend such proceedings at the Contractor's expense, and if any judgment or award against the City of Santa Fe arises therefrom, the Contractor shall pay or satisfy it and shall reimburse the City of Santa Fe for all attorneys' fees and court or arbitration costs which the City of Santa Fe has incurred.

6.3 CITY OF SANTA FE'S RIGHT TO CLEAN UP

6.3.1 If a dispute arises between the Contractor and separate Contractors as to their responsibility for cleaning up as required by Paragraph 4.15, the City of Santa Fe may clean up and charge the cost thereof to the Contractors responsible therefore as the City of Santa Fe's Representative shall determine to be just.

ARTICLE 7

MISCELLANEOUS PROVISIONS

7.1 GOVERNING LAW

7.1.1 The Contract shall be governed by the law of the State of New Mexico.

7.1.2 The City of Santa Fe and the Contractor each binds himself, his partners, successors, assigns and legal representatives to the other party hereto and to the partners, successors, assigns and legal representatives of such other party in respect to all covenants, agreements, and obligations contained in the Contract Documents. Neither party to the Contract shall assign the Contract or sublet it as a whole without the written consent of the other, nor shall the Contractor assign any moneys due or to become due to him thereunder, without the previous written consent of the City of Santa Fe.

7.2 WRITTEN NOTICE

7.2.1 Written notice shall be deemed to have been dully served if delivered in person to the individual or member of the firm or entity or to an officer of the corporation for whom it was intended, or if delivered at or sent by registered or certified mail to the last business address known to him who gives the notice.

7.3 CLAIMS FOR DAMAGES

7.3.1 Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the other party or of any of his employees, agents or others for whose acts he is legally liable, claim shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage.

7.4 PERFORMANCE BOND AND LABOR AND MATERIAL PAYMENT BOND

7.4.1 The Contractor to whom the Contract is awarded shall furnish and pay for reputable and approved Performance and Labor and Material Payment Bonds, each for the full amount of the Contract Sum. Bonds shall be executed on standard AIA forms.

7.5 RIGHTS AND REMEDIES

7.5.1 The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law.

7.5.2 No action or failure to act by the City of Santa Fe, the City of Santa Fe's Representative, or the Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

7.6 TESTS

7.6.1 This work shall consist of compaction testing, material testing, and other testing in accordance with the plans and Specifications. If the Contract Document, laws, ordinances, rules, regulations or orders of any public authority having jurisdiction require any portion of the Work to be inspected, tested or approved, the Contractor shall give the City of Santa Fe's Representative timely notice of its readiness so the City of Santa Fe's Representative may observe such inspection, testing or approval. The Contractor shall bear all costs of such inspections, tests or approvals. Tests specifically called for by Specifications shall be made by a professional testing laboratory acceptable to the City of Santa Fe's Representative, and the Contractor shall employ same and pay all charges in connection therewith. Records of tests shall be delivered to the City of Santa Fe's Representative in duplicate on acceptable forms.

7.6.2 If the City of Santa Fe's Representative determines that any work requires special inspection, testing, or approval which Subparagraph 7.6.1 does not include, he will, upon written authorization from the City of Santa Fe, instruct the Contractor to order such special inspection, testing or approval, and the Contractor shall give notice as provided in Subparagraph 7.6.1. If such special inspection or testing reveals a failure of the Work to comply with the requirements of the Contract Documents, the Contractor shall bear all costs thereof, including compensation for the City of Santa Fe's Representative's additional services made necessary by such failure; otherwise the City of Santa Fe shall bear such costs, and an appropriate Change Order shall be issued.

7.7 INTEREST

7.7.1 The City of Santa Fe will not pay interest on payments due and unpaid under the Contract Documents.

ARTICLE 8

TIME

8.1 DEFINITIONS

8.1.1 Unless otherwise provided, the Contract Time is the period of time allotted in the Contract Documents for Substantial Completion of the Work as defined in Subparagraph 8.1.3, including authorized adjustments thereto.

8.1.2 The date of commencement of the Work is the date established in a Notice to Proceed. If there is no Notice to Proceed, it shall be the date of the City of Santa Fe-Contractor Agreement or such other date as may be established therein.

8.1.3 The date of Substantial Completion of the Work or designated portion thereof is the date certified by the City of Santa Fe's Representative and approved by the City of Santa Fe when construction is sufficiently complete, in accordance with the Contract Documents, so the City of Santa Fe can occupy or utilize the Work or designated portion thereof for the use for which it is intended.

8.1.4 The term "day" as used in the Contract Document shall mean calendar day unless otherwise specifically designated.

8.2 PROGRESS AND COMPLETION

8.2.1 All time limits stated in the Contract Documents are the essence of the Contract.

8.2.2 The Contractor shall begin the Work on the date of commencement as defined in Subparagraph 8.1.2. He shall carry the Work forward expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.

8.3 DELAYS AND EXTENSIONS OF TIME

8.3.1 If the Contractor is delayed at any time in the progress of the Work by any act or neglect of the City of Santa Fe or the City of Santa Fe's Representative or by any employees of either, or by any separate Contractor employed by the City of Santa Fe or by changes ordered in the work, or by labor disputes, fire, unusual delay in unavoidable casualties, or any causes beyond the Contractor's control or by delay authorized by the City of Santa Fe pending arbitration, or by any other cause which the City of Santa Fe's Representative determines may justify the delay, then the Contract Time shall be extended by Change Order for such reasonable time as the City of Santa Fe's Representative may determine.

8.3.2 Any claim for extension of time shall be made in writing to the City of Santa Fe's Representative not more than twenty (20) days after the commencement of the delay; otherwise it shall be waived. In the case of a continuing delay, only one

claim is necessary. The Contractor shall provide an estimate of the probable effect of such delay on the progress of the work.

8.3.3 If written agreement is made stating the dates upon which interpretations shall be furnished, then no claim for delay shall be allowed on account of failure to furnish such interpretations until fifteen (15) days after written request is made for them, and not then unless such claim is reasonable.

8.3.4 This Paragraph 8.3 does not exclude the recovery of damages for delay by either party under other provisions of the Contract Documents.

ARTICLE 9

PAYMENTS AND COMPLETION

9.1 CONTRACT SUM

9.1.1 The Contract Sum is stated in the City of Santa Fe-Contractor Agreement and including authorized adjustments thereto, is the total amount payable by the City of Santa Fe to the Contractor for the performance of the Work under the Contract Documents.

9.2 SCHEDULE OF VALUES

9.2.1 Before the first Application for Payment, the Contractor shall submit to the City of Santa Fe's Representative a schedule of values allocated to the various portions of the work, prepared in such form and supported by such data to substantiate its accuracy as the City of Santa Fe's Representative may require. This schedule, unless objected to by the City of Santa Fe's Representative, shall be used only as a basis for the Contractor's Applications for payment.

9.3 APPLICATIONS FOR PAYMENT

9.3.1 At least ten (10) days before the date for each progress payment established in the City of Santa Fe-Contractor Agreement, the Contractor shall submit to the City of Santa Fe's Representative an itemized Application for Payment, notarized if required, supported by such data substantiating the Contractor's right to payment as the City of Santa Fe or the City of Santa Fe's Representative may require and reflecting retainage, if any, as provided elsewhere in the Contract Documents. On the City of Santa Fe's Representative's recommendation, and after the Project is 50% or more complete, and if the Project is on schedule, the retainage may be reduced with the approval of the City of Santa Fe. The full Contract retainage may be reinstated if the manner of completion of the Work and its progress do not remain satisfactory to the City of Santa Fe's Representative and the City of Santa Fe.

9.3.2 Unless otherwise provided in the Contract Documents, payments will be made on account of materials or equipment not incorporated in the Work but delivered and suitably stored at the site; and, if approved in advance by the City of Santa Fe payments may similarly be made for materials or equipment suitably stored at some other location agreed upon in writing. Payments for materials or equipment stored on or off the site shall be conditioned upon submission by the Contractor of bills of sale or such other procedures satisfactory to the City of Santa Fe to establish the City of Santa Fe's title to such materials or equipment or otherwise protect the City of Santa Fe's interest, including applicable insurance and transportation to the site for those materials and equipment stored off the site.

9.3.3 The Contractor warrants that title to all work, materials and equipment covered by an Application for Payment will pass to the City of Santa Fe either by incorporation in the construction or upon the receipt of payment by the Contractor, whichever occurs first, free and clear of all liens, claims, security interest or encumbrances hereinafter referred to in this Article 9 as "liens"; and that no work, materials or equipment covered by an Application for Payment will have been acquired by the Contractor, or by any other person performing work at the site or furnishing materials or equipment for the Project, subject to an agreement under which an interest therein or an encumbrance thereon is retained by the seller or otherwise imposed by the Contractor or such other person.

9.4 CERTIFICATES FOR PAYMENT

9.4.1 The City of Santa Fe's Representative will, within seven (7) days after the receipt of the Contractor's Application for Payment, either issue a Certificate for Payment to the City of Santa Fe with a copy to the Contractor for such amount as the City of Santa Fe's Representative determines is properly due, or notify the Contractor in writing of his reasons for withholding a Certificate as provided in Subparagraph 9.6.1.

9.4.2 The issuance of Certificate for Payment will constitute a representation by the City of Santa Fe's Representative to the City of Santa Fe, based on his observations at the site and the data comprising the Application for Payment, that the Work has progressed to the point indicated; that, to the best of his knowledge, information and belief, the quality of the Work is in accordance with the Contract Documents (subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to the results of any subsequent tests required by or performed under the Contract Documents correctable prior to completion, and to any specific qualifications stated in his Certificate); and that the Contractor is entitled to payment in the amount certified. However, by issuing a Certificate for Payment, the City of Santa Fe's Representative shall not thereby be deemed to represent that he has made exhaustive or continuous on-site inspections to check the quality or quantity of the Work or that he has reviewed the construction means, methods, techniques, sequences or procedures, or that he has made any

examination to ascertain how or for what purpose the Contractor has used the moneys previously paid on account of the Contract Sum.

9.5 PROGRESS PAYMENTS

9.5.1 After the City of Santa Fe's Representative has issued a Certificate for Payment, the City of Santa Fe shall make payment in the manner and within the time provided in the Contract Documents.

9.5.2 The Contractor shall promptly pay each Subcontractor upon receipt of payment from the City of Santa Fe, out of the amount paid to the Contractor on account of such Subcontractor's work, the amount to which said Subcontractor is entitled, reflecting the percentage actually retained, if any, from payments to the Contractor on account of such Subcontractor's work. The Contractor shall, by an appropriate agreement with each Subcontractor, require each Subcontractor to make payment to his Subcontractors in similar manner.

9.5.3 The City of Santa Fe's Representative may, on request and at his discretion, furnish to any Subcontractor, if practicable, information regarding the percentages of completion or the amounts applied for by the Contractor and the action taken thereon by the City of Santa Fe's Representative on account of work done by such Subcontractor.

9.5.4 Neither the City of Santa Fe nor the City of Santa Fe's Representative shall have any obligation to pay or to see to the payment of any moneys to any Subcontractor except as may otherwise be required by law.

9.5.5 No Certificate for progress payment, no progress payment, nor any partial or entire use of occupancy of the Project by the City of Santa Fe shall constitute an acceptance of any work not in accordance with the Contract Documents.

9.6 PAYMENT WITHHELD

9.6.1 The City of Santa Fe's Representative may decline to certify payment and may withhold his Certificate in whole or in part, to the extent necessary to reasonably protect the City of Santa Fe, if in his opinion he is unable to make representations to the City of Santa Fe as provided in Subparagraph 9.4.2.

9.6.2. If the City of Santa Fe's Representative is unable to make representations to the City of Santa Fe, as provided in Subparagraph 9.4.2 and to certify payment in the amount of the Application, he will notify the Contractor as provided in Subparagraph 9.4.1. If the Contractor and City of Santa Fe's Representative cannot agree on a revised amount, the City of Santa Fe's Representative will promptly issue a Certificate for Payment for the amount for which he is able to make such representations to the City of Santa Fe. The City of Santa Fe's Representative may also decline to certify payment, or because of subsequently discovered evidence or

subsequent observations, he may nullify the whole or any part of any Certificate for Payment previously issued, to such extent as may be necessary in his opinion to protect the City of Santa Fe from loss because of:

A) Defective work not remedied;

B) Third party claims filed or reasonable evidence indicating probable filing of such claims;

C) Failure of the Contractor to make payments properly to Subcontractors or for labor, materials or equipment;

D) Reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;

E) Damage to the Work of another Contractor;

F) Reasonable evidence that the Work will not be completed within the Contract Time; or,

G) Failure to carry out the Work in accordance with the Contract Documents.

9.6.2 When the above grounds in Subparagraph 9.6.1 are removed or remedied, payment shall be made for amounts withheld because of them.

9.7 FAILURE OF PAYMENT

9.7.1 If the City of Santa Fe's Representative does not issue a Certificate for Payment, through no fault of the Contractor, within seven (7) days after receipt of the Contractor's Application for Payment, or if the City of Santa Fe does not pay the Contractor within seven (7) days after the date established in the Contract Documents any amount certified by the City of Santa Fe's Representative, then the Contractor may, upon seven additional days' written notice to the City of Santa Fe and the City of Santa Fe's Representative, stop the Work until payment of the amount owing has been received. The Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shut-down, delay and start-up, which shall be effected by appropriate Change Order in accordance with Paragraph 12.3.

9.8 SUBSTANTIAL COMPLETION

9.8.1 When the Contractor considers that the work, or a designated portion thereof which is acceptable to the City of Santa Fe, is substantially complete as defined in Subparagraph 8.1.3, the Contractor shall prepare for submission to the City of Santa Fe's Representative a list of items to be completed or corrected. The failure to include any items on such list does not alter the responsibility of the Contractor

to complete all work in accordance with the Contract Documents. When the City of Santa Fe's Representative, with the City of Santa Fe, on the basis of an inspection determines that the Work or designated portion thereof is substantially complete, he will then prepare a Certificate of Substantial Completion Form, AIA Document G704-1978, which shall establish the Date of Substantial Completion, shall state the responsibilities of the City of Santa Fe and the Contractor for security and maintenance, and the time within which the Contractor shall complete the items listed therein. Warranties required by the Contract Documents shall commence on the date of Final Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion. The Certificate of Substantial Completion shall be submitted to the Contractor and the City of Santa Fe for their written acceptance of the responsibilities assigned to them in such Certificate.

9.8.2 Upon Substantial Completion of the Work or designated portion thereof and upon application by the Contractor and certification by the City of Santa Fe's Representative, the City of Santa Fe shall make payment, reflecting adjustment in retainage, if any, for such work or portion thereof, as provided in the Contract Documents.

9.9 FINAL COMPLETION AND FINAL PAYMENT

9.9.1 Upon receipt of written notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the City of Santa Fe's Representative will promptly make such inspection and, if he finds the Work acceptable under the Contract Documents and the Contract fully performed, he will promptly issue final Certificate for Payment stating that, to the best of his observations and inspections, the Work has been completed in accordance with the terms and conditions of the Contract Documents and that the entire balance found to be due the Contractor and noted in said Final Certificate, is due and payable. The City of Santa Fe's Representative's Final Certificate of payment will constitute a further representation that the conditions precedent to the Contractor's being entitled to final payment as set forth in Subparagraph 9.9.2 have been fulfilled.

9.9.2 Neither the final payment nor the remaining retained percentage shall become due until the Contractor submits to the City of Santa Fe's Representative (1) an affidavit that all payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the City of Santa Fe or his property might in any way be responsible have been paid or otherwise satisfied, (2) consent of surety, if any, to final payment, and (3) if required by the City of Santa Fe, other data establishing payment or satisfaction of all such obligations, such as receipts, releases and waivers of liens arising out of the Contract, to the extent and in such form as may be designed by the City of Santa Fe. If any Subcontractor refuses to furnish a release or waiver required by the City of Santa Fe the Contractor may furnish a bond satisfactory to the City of Santa Fe to indemnify him against any such lien. If any such lien remains unsatisfied after all payments are made, the

Contractor shall refund to the City of Santa Fe all moneys that the latter may be compelled to pay in discharging such lien, including all costs and reasonable attorneys' fees.

9.9.3 If, after Substantial Completion of the work, final completion thereof is materially delayed through no fault of the Contractor or by the issuance of Change Orders affecting final completion, and the City of Santa Fe's Representative so confirms, the City of Santa Fe shall, upon application by the Contractor and certification by the City of Santa Fe's Representative and without terminating the Contract, make payment of the balance for that portion of the Work fully completed and accepted. If the remaining balance for work not fully completed or corrected is less than the retainage stipulated in the Contract Document, and if bonds have been furnished as provided in Paragraph 7.4, the written consent of the surety to the payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the City of Santa Fe's Representative prior to certification of such payment. Such payment shall be made under the terms and conditions governing final payment, except that it shall not constitute a waiver of claims.

9.9.4 The making of final payment shall constitute a waiver of all claims by the City of Santa Fe except those arising from:

A) Unsettled liens;
B) Faulty or defective work appearing after Substantial Completion;
C) Failure of the Work to comply with the requirements of the Contract Documents; and
D) Terms of any special warranties required by the Contract Documents.

9.9.5 The acceptance of final payment shall constitute a waiver of all claims by the Contractor except those previously made in writing and identified by the Contractor as unsettled at the time of the final Application for Payment.

9.9.6 **No Final Payment shall be made until Contractor has submitted a full set of accepted "As-Built" documentation and Drawings, manuals and accessory / operation cables.**

ARTICLE 10

PROTECTION OF PERSONS AND PROPERTY

10.1 SAFETY PRECAUTIONS AND PROGRAMS

10.1.1 The Contractor shall be responsible in initiating, maintaining and supervising all safety precautions and programs in connection with the work.

10.2. SAFETY OF PERSONS AND PROPERTY

10.2.1 The Contractor shall take all reasonable precautions for the safety of, and shall provide all reasonable protection to prevent damage, injury or loss to:

10.2.1.1 All employees on the Work and all other persons who may be affected thereby;

10.2.1.2 All the Work and all materials and equipment to be incorporated therein, whether in storage on or off the site, under the care, custody or control of the Contractor or any of his Subcontractors or Sub-Subcontractors; and

10.2.1.3 Other properties at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.

10.2.2 The Contractor shall give all notices and comply with all applicable laws, ordinances, rules, regulations, and lawful orders of any public authority bearing on the safety of persons or property or their protection from damage, injury or loss.

10.2.3 The Contractor shall erect and maintain, as required by existing conditions and progress of the work, all reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations and notifying City of Santa Fes and users of adjacent utilities.

10.2.4 When the use or storage of explosives or other hazardous materials or equipment is necessary for the execution of the work, the Contractor shall exercise the utmost care and shall carry on such activities under the supervision of properly qualified personnel.

10.2.5 The Contractor shall promptly remedy all damage or loss (other than damage or loss insured under paragraph 11.3) to any property referred to in Clauses 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, any Subcontractor or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable and for which the Contractor is responsible under clauses 10.2.1.2 and 10.2.1.3, except damage or loss attributable to the acts or omissions of the City of Santa Fe or the City of Santa Fe's Representative or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to his obligations under Paragraph 4.18.

10.2.6 The Contractor shall designate a responsible member of his organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's Superintendent unless otherwise designated by the Contractor in writing to the City of Santa Fe and the City of Santa Fe's Representative.

10.2.7 The Contractor shall not load or permit any part of the Work to be loaded so as to endanger its safety.

10.3 EMERGENCIES

10.3.1 In any emergency affecting the safety of persons or property, the Contractor shall act, at his reasonable discretion, to prevent threatened damage, injury or loss. Any additional compensation or extension of time claimed by the Contractor on account of emergency work shall be determined as provided in Article 12 for changes in the work.

ARTICLE 11

INSURANCE

11.1 CONTRACTOR'S LIABILITY INSURANCE

11.1.1. The Contractor shall carry insurance to protect the City of Santa Fe from and against all claims, demands, actions, judgments, costs, expenses and liabilities which may arise or result directly or indirectly from or by reasons of loss, injury or damage related to the Project. The Contractor shall file with the City of Santa Fe current certificates evidencing public liability insurance with limits as provided in the New Mexico Tort Claims Act, Section 41-4-19 NMSA 1978, and as that section or successors section may be amended from time to time. The contractor shall also carry such insurance as it deems necessary to protect it from all claims under any workmen's compensation law in effect that may be applicable to the Contractor. All insurance required by this Agreement shall be kept and remain in full force and effect for the entire life of this Agreement.

11.1.2. The insurance coverage shall include worker's compensation, employer's liability, comprehensive general liability (Premises-Operations, independent Contractors, products and completed operations, broad form property damage, contractual liability, explosion and collapse hazard, underground Hazard, personal injury) comprehensive automobile liability (owned and hired), excess liability (umbrella form), and all-risk builder's risk.

11.1.3. All insurance coverage must be maintained for the entire life of the Project. Products and completed operations coverage shall be maintained for a minimum period of one (1) year after final payment.

11.1.4. A valid certificate of insurance must be submitted to the City of Santa Fe prior to issuance of a Notice-to-Proceed.

Type of Required Coverage	Minimum Limits of Liability
Workman's compensation (including accident and occupational disease coverage) Employer's Liability Comprehensive General Liability (including endorsements providing broad form property damage coverage, personal injury coverage, and contractual assumption of liability coverage for all liability the Contractor has assumed under his Contract). Auto Liability (including non-owned auto coverage)	Statutory $100,000 Bodily injury liability: $500,000 each occurrence; $1,000,000 aggregate. Property damage liability: $500,000 each occurrence; $1,000,000 aggregate. Bodily injury liability: $500,000 each person; $1,000,000 each occurrence. Property damage liability: $1,000,000 each occurrence

11.1.5 Certificates of Insurance acceptable to the City of Santa Fe shall be filed with the City of Santa Fe prior to commencement of the work. These Certificates shall contain a provision that coverage afforded under the policies will not be canceled until at least thirty (30) days' prior written notice has been given to the City of Santa Fe. The Contractor shall furnish one (1) copy of each of the Certificates of insurance herein required for each copy of the Contract.

11.2 CITY OF SANTA FE'S LIABILITY INSURANCE

11.2.1 The City of Santa Fe shall be responsible for purchasing and maintaining his own liability insurance and, at his option, may purchase and maintain such insurance as will protect him against all claims which may arise from operations under the Contract.

11.3 PROPERTY INSURANCE

11.3.1 The Contractor shall maintain traditional course of construction insurance upon the Work at the site for at least the actual cash value thereof. The traditional course of construction insurance shall cover the interests of the City of Santa Fe, the Contractor, Subcontractors, and Sub-Subcontractors in the work. The insurance shall insure against at least the following perils: fire extended coverage, vandalism, malicious mischief, and flood insurance with a deductible of no more than $25,000. The Contractor shall bear the cost of such insurance and include its cost in the Bid.

11.3.2 Any loss insured under Subparagraph 11.3.1 is to be adjusted with the City of Santa Fe and made payable to the City of Santa Fe as trustee for the insured, as their interests may appear subject to the requirements of any applicable mortgage clause. The City of Santa Fe shall deposit the proceeds in a separate account and shall distribute them in accordance with such agreement as the parties in interest, including the City of Santa Fe, may reach. The Contractor shall pay each Subcontractor a just share of any insurance proceeds which the Contractor receives and shall require by written agreement signed by the Subcontractor that the Subcontractor will make payments to his Sub-Subcontractors in a similar manner. If after such loss no other special agreement is made, replacement of damaged work shall be covered by an appropriate order.

11.3.3 To the extent permitted under their respective property insurance policies, the City of Santa Fe and the Contractor hereby waive all rights, each against the other, for damages caused by fire or other perils to the extent covered by Insurance obtained pursuant to this Article 11 or any other property insurance applicable to the work, except such rights as they may have to the proceeds of such Insurance held by the City of Santa Fe as trustee. The City of Santa Fe or the Contractor, as appropriate, shall require the City of Santa Fe's Representative, other Contractors, Subcontractors, and Sub-Subcontractors to similarly waive rights of subrogation or property insurers.

11.3.4 If the City of Santa Fe finds it necessary to occupy use of any portion of the Work prior to Substantial Completion, such occupancy or use shall not commence prior to the time mutually agreed to by the City of Santa Fe and the Contractor and, if required by the applicable insurance or self-insurance coverage not prior to the time the builder's risk property insurer has consented to such occupancy or use. The Contractor's consent to such occupancy or use shall not be unreasonably withheld.

11.4 LOSS OF USE INSURANCE

11.4.1 The City of Santa Fe, at his option, may purchase and maintain such insurance as will insure him against loss of use of his property due to fire or other hazards, however caused.

ARTICLE 12

CHANGES IN THE WORK

12.1 CHANGE ORDERS

12.1.1 A Change Order is a written order to the Contractor signed by the City of Santa Fe's Representative and the Contractor and approved in writing by the City of Santa Fe. A Change Order may be issued only after the execution of the Contract and shall be the only means used to order changes in the Work for which the Contractor

requires additional compensation, changes to the Contract Time, or changes to the Contract Sum. Minor changes in the Work for which the Contractor requires no additional compensation or time shall be executed in accordance with the provision of Subparagraph 12.3.1.

12.1.2 The City of Santa Fe, without invalidating the Contract, may order changes in the Work within the general Scope of the Contract consisting of additions, deletions or other revisions, the Contract Sum and the Contract Time being adjusted accordingly. All such changes in the Work shall be authorized by Change Order and shall be performed under the applicable conditions of the Contract Documents.

12.1.3 The cost or credit to the City of Santa Fe resulting from a change in the Work shall be determined in one or more of the following ways:

A) By mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
B) By unit prices stated in the Contract Documents or subsequently agreed upon;
C) By cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
D) By the method provided in Subparagraph 12.1.4.

12.1.4 If none of the methods set forth in Clauses 12.1.2 or 12.1.3 is agreed upon, the Contractor, provided he receives a written order signed by the City of Santa Fe, shall promptly proceed with the Work involved. The cost of such work shall the be determined by the City of Santa Fe's Representative on the basis of the reasonable expenditures and savings of those performing the Work attributable to the change, including, in the case of an increase in the Contract Sum, a reasonable allowance for overhead and profit. In such case, the Contractor shall keep and present, in such form as the City of Santa Fe's Representative may prescribe, an itemized accounting together with appropriate supporting data for inclusion in a Change Order. Unless otherwise provided in the Contract Documents, cost shall be limited to the following: cost of materials, including sales tax and cost of delivery; cost of labor, including social security, old age and unemployment insurance, and fringe benefits, required by agreement or custom, workers' or workmen's compensation insurance; bond premiums; rental value of equipment and machinery; and the additional costs of supervision and field office personnel directly attributable to the change. Pending final determination of cost to the City of Santa Fe payments on account shall be made on the City of Santa Fe's Representative's Certificate for payment. The amount of credit to be allowed by the Contractor to the City of Santa Fe for any deletion or change which results in a net decrease in the Contract Sum will be the amount of the actual net cost as confirmed by the City of Santa Fe's Representative. When both additions and credits covering related work or substitutions are involved in any one change, the allowance for overhead and profit shall be figured on the basis of the net increase, if any, with respect to that change.

12.1.5 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if the quantities originally contemplated are so changed in a proposed Change Order that application of the agreed unit prices to the quantities of work proposed will cause substantial inequity to the City of Santa Fe or the Contractor, the applicable unit prices shall be equitably adjusted.

12.1.6 By submission of a Bid, the Contractor agrees and binds himself to the following method of calculating Change Order costs. The City of Santa Fe also agrees to the following method of calculating the cost of any changes to the Contract. With each proposal for a change in the amount of the Contract, the Contractor shall submit an itemized breakdown of all increases or decreases in the cost of the Contractor's and all Subcontractor's and Sub-Subcontractor's work to include at least the following detail in the general order listed:

A) Material quantities and unit costs;

B) Labor amounts and hourly rates (identified with specific items of material to be placed or operation to be performed);

C) Costs inherent in use of Contractor / Sub-Subcontractor owned equipment;

D) Equipment rental, if any;

E) Workmen's compensation and public liability insurance;

F) General administration, overhead, supervision, project insurance and profit, based on the following schedule:

Subtotal before Applying the Percentage Shown	
$500 & Less	Over $500
Contractor for work performed by his own forces	
22%	19%
Contractor for work performed by Subcontractor	
10%	8%
Subcontractor for work performed by his own forces	
18%	15%
Subcontractor for work performed by Sub-Subcontractor	
10%	8%
Sub-Subcontractor for work performed by his own forces	
18%	15%

G) Employment taxes under FICA and FUTA; and

H) State gross receipts tax (Contractor only).

12.1.7 The quotation for work under a Change Order shall be binding for sixty (60) days from the date submitted by the Contractor.

12.2 CONCEALED CONDITIONS

12.2.1 Should concealed conditions encountered in the performance of the Work below the surface of the ground or should concealed or unknown conditions in an existing structure be at variance with the conditions indicated by the Contract Documents, or should unknown physical conditions below the surface of the ground or should concealed or unknown conditions in an existing structure of an unusual nature differing materially from those ordinarily encountered and generally recognized as inherent in work of the Character provided for in this Contract, be encountered, the Contract Sum shall be equitably adjusted by Change Order upon verified claim by either party made within twenty (20) days after the first observance of the conditions.

12.2.2 If the Contractor wishes to make a claim for an increase in the Contract Sum, he shall give the City of Santa Fe's Representative written notice thereof within twenty (20) days after the occurrence of the event giving rise to such claim. This notice shall be given by the Contractor before proceeding to execute the work, except in an emergency endangering life or property, in which case the Contractor shall proceed in accordance with Paragraph 10.3. No such claim shall be valid unless so made. If such claims are justified and the City of Santa Fe authorizes an increase in the Contract Sum, the City of Santa Fe and the Contractor shall proceed to negotiate the amount of the adjustment in the Contract Sum. If the City of Santa Fe and the Contractor cannot agree on the amount of the adjustment in the Contract Sum, it shall be determined by the City of Santa Fe's Representative. Any change in the Contract Sum resulting from such claim shall be authorized by Change Order.
12.2.3 If the Contractor claims that additional cost is involved because of, but not limited to, (1) any written interpretation, (2) any order by the City of Santa Fe to stop the Work pursuant to Paragraph 3.3 where the Contractor was not at fault, (3) any written order for a minor change in the Work issued pursuant to Paragraph 12.3.1or (4) failure of payment by the City of Santa Fe pursuant to Paragraph 9.7, the Contractor shall make such claims as provided in Subparagraph 12.2.2.

12.3 MINOR CHANGES IN THE WORK

12.3.1 The City of Santa Fe's Representative will have authority to order minor changes in the Work not involving an adjustment in the Contract Sum or an extension of the Contract Time and not inconsistent with the intent of the Contract Documents. Such changes shall be effected by written order and shall be binding on the City of

Santa Fe and the Contractor. The Contractor shall carry out such written orders promptly.

ARTICLE 13

UNCOVERING AND CORRECTION OF WORK

13.1 UNCOVERING OF WORK

13.1.1 If any portion of the Work should be covered contrary to the request of the City of Santa Fe's Representative or to requirements specifically expressed in the Contract Documents, it must, if required in writing by the City of Santa Fe's Representative, be uncovered for his observation and shall be replaced at the Contractor's expense.

13.1.2 If any portion of the Work has been covered which the City of Santa Fe's Representative has not specifically requested to observe prior to being covered, the City of Santa Fe's Representative may request to see such work and it shall be uncovered by the Contractor. If such work is found to be in accordance with the Contract Documents, the cost of uncovering and replacement shall, by appropriate Change Order, be charged to the City of Santa Fe. If such work is found to be not in accordance with the Contract Documents, the Contractor shall pay such costs unless it is found that this condition was caused by the City of Santa Fe or a separate Contractor as provided in Article 6, in which case the City of Santa Fe shall be responsible for the payment of such costs.

13.2 CORRECTION OF WORK

13.2.1 The Contractor shall promptly correct all work rejected by the City of Santa Fe's Representative as defective or as failing to conform to the Contract Documents whether observed before or after Substantial Completion and whether or not fabricated, installed or completed. The Contractor shall bear all costs of correcting such rejected work, including compensation for the City of Santa Fe's Representative's additional services made necessary thereby.

13.2.2 If, within one (1) year after the Date of Substantial Completion of the Work or designated portion thereof or within one (1) year after acceptance by the City of Santa Fe of designated equipment or within such longer period of time as may be prescribed by law or by the terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be defective or not in accordance with the Contract Documents, the Contractor shall correct it promptly after receipt of a written notice from the City of Santa Fe to do so unless the City of Santa Fe has previously given the Contractor a specific written acceptance of such condition. This obligation shall survive termination of the Contract. The City of Santa Fe shall give such notice promptly after discovery of the condition.

13.2.3 The Contractor shall remove from the site all portions of the Work which are defective or non-conforming and which have not been corrected under Subparagraphs 4.5, 13.2.1 and 13.2.2, unless removal is specifically waived in writing by the City of Santa Fe.

13.2.4 If the Contractor fails to correct defective or non-conforming work as provided in Subparagraph 4.5.1, 13.2.1 and 13.2.2, the City of Santa Fe may correct it in accordance with Paragraph 3.4.

13.2.5 If the Contractor does not proceed with the correction of such defective or non-conforming work within a reasonable time fixed by written notice from the City of Santa Fe's Representative, the City of Santa Fe may remove it and may store the materials or equipment at the expense of the Contractor. If the Contractor does not pay the cost of such removal and storage within ten (10) days thereafter, the City of Santa Fe may upon ten (10) additional days' written notice sell such work at auction or at private sale and shall account for the net proceeds thereof, after deducting all the costs that should have been borne by the Contractor including compensation for the City of Santa Fe's Representative's additional services made necessary thereby. If such proceeds of sale do not cover all costs which the Contractor should have borne, the difference shall be charged to the Contractor and an appropriate Change Order shall be issued. If the payments then or thereafter due the Contractor are not sufficient to cover such amount, the Contractor shall pay the difference to the City of Santa Fe.

13.2.6 The Contractor shall bear the cost of making good all work of the City of Santa Fe or separate Contractors destroyed or damaged by such correction or removal.

13.2.7 Nothing contained in this Paragraph 13.2 shall be construed to establish a period of limitation with respect to any other obligation which the Contractor might have under the Contract Documents, including Paragraph 4.5 hereof. The establishment of the time period of one (1) year after the Date of Substantial Completion or such longer period of time as may be prescribed by law or by the terms of any warranty required by the Contract Documents relates only to the Contractor to correct the Work and has no relationship to the time within which his obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to his obligations other than specifically to correct the work.

13.3 ACCEPTANCE OF DEFECTIVE OR NON-CONFORMING WORK

13.3.1 If the City of Santa Fe prefers to accept defective or non-conforming work, he may do so instead of requiring its removal and correction, in which case a Change Order will be issued to reflect a reduction in the Contract Sum where appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

ARTICLE 14

TERMINATION OF THE CONTRACT

14.1 TERMINATION BY THE CONTRACTOR

14.1.1 If the Work is stopped for a period of thirty (30) days under an order of court or other public authority having jurisdiction, or as a result of an act of government, such as a declaration of a national emergency making materials unavailable, through no act or fault of the Contractor or a Subcontractor or their agents or employees or any other persons performing any of the Work under a Contract with the Contractor, or because the City of Santa Fe's Representative has not issued a Certificate for payment as provided in Paragraph 9.7, or because the City of Santa Fe has not made payment thereon as provided in paragraph 9.7, then the Contractor may, upon seven (7) additional days' written notice to the City of Santa Fe and the City of Santa Fe's Representative, terminate the Contract and recover from the City of Santa Fe payment for all work executed and for any proven loss sustained upon any materials, equipment, tools, construction equipment and machinery, including reasonable profit and damages.

14.2 TERMINATION BY THE CITY OF SANTA FE

14.2.1 If the Contractor is adjudged bankrupt, or if he makes a general assignment for the benefit of his creditors, or if a receiver is appointed on account of his insolvency, or if he persistently or repeatedly refuses or fails, except in cases for which extension of time is provided, to supply enough properly skilled workmen or proper materials, or if he fails to make prompt payment to Subcontractors for material or labor, or persistently disregards laws, ordinances, rules, regulations, or orders of any public authority having jurisdiction, or otherwise is guilty of a substantial violation of a provision of the Contract Documents, then the City of Santa Fe, upon certification by the City of Santa Fe's Representative that sufficient cause exists to justify such action, may without prejudice to any right or remedy and after giving the Contractor and his surety, if any, seven (7) days written notice, terminate the employment of the Contractor and take possession of the site and of all material, tools, construction equipment and machinery thereon owned by the Contractor and may finish the Work by whatever method he may deem expedient. In such case, the Contractor shall not be entitled to receive any further payment until the Work is finished.

14.2.2 If the unpaid balance of the Contract Sum exceeds the costs of finishing the work, including compensation for the City of Santa Fe's Representative's additional services made necessary thereby, and any damages sustained by the City of Santa Fe as a result of the Contractor's breach, such excess shall be paid to the Contractor. If such costs exceed the unpaid balance, the Contractor shall pay the difference to the City of Santa Fe. The amount to be paid to the Contractor or to

the City of Santa Fe, as the case may be, shall be certified by the City of Santa Fe's Representative upon application, in the manner provided in paragraph 9.4 and this obligation to the Contractor or to the City of Santa Fe, as the case may be, shall be certified by the City of Santa Fe's Representative upon application, in the manner provided in Paragraph 9.4 and this obligation for payment shall survive the termination of the Contract.

14.2.3 In the event that the Project is abandoned by the City of Santa Fe, the City of Santa Fe may terminate this Contract at any time by giving at least seven (7) days' notice to the Contractor. In the event of termination, all work completed shall become the property of the City of Santa Fe. The Contractor shall be entitled to receive compensation for actual work satisfactorily completed hereunder, including reimbursable expense authorized by the City of Santa Fe which are then due.

14.2.4 In the event the Contractor fails to perform the Work in accordance with the Contract Documents, the City of Santa Fe may terminate the Contract after giving the Contractor five (5) working days' notice.

ARTICLE 15

EQUAL OPPORTUNITY

15.1 The Contractor shall maintain policies of employment as follows:

15.1.1 The Contractor, all Subcontractors, and all Sub-Subcontractors shall not discriminate against any employee or applicant for employment because of race, religion, color, sex or national origin. The Contractor shall take affirmative action to ensure that applicants are employed and that employees are treated without discrimination during employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous place, available to employees and applicants for employment, notices setting forth the policies of non-discrimination.

15.1.2 The Contractor, all Subcontractors, and all Sub-Subcontractors shall, in all solicitation or advertisements for employees placed by them or on their behalf, state that all qualified applicant will receive consideration for employment without regard to race, religion, color, sex, or national origin.

ARTICLE 16

MINIMUM WAGE RATES

16.1 The project is not subject to a New Mexico State Wage Rate Decision at the time of

Bidding, but if a project is executed for $60,000 or more, a Wage Rate Decision will be requested and the Contractor will be required to follow all of its rules and regulations and a Bid Bond will be required for that project. A recent Wage Rate Table is attached for Contractor information only. This project is subject to the City of Santa Fe's Minimum Wage Ordinance which is attached.

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SUPPLEMENTARY CONDITIONS

(SECTION 008000)

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SUPPLEMENTARY CONDITIONS (SECTION 008000)

SUPPLEMENTARY CONDITIONS

This document is intended to be used in conjunction with the General Conditions of the Contract.

ADDITIONAL CONDITIONS

1.0 DEFINITIONS - The following definitions shall apply through the Bidding Documents or Contract Documents unless otherwise specified.

1.1 ADDENDUM: Written or graphic instrument issued prior to the execution of the Contract which modifies or interprets the Bidding Documents, including Drawings and Specifications, by additions, deletions, clarifications or corrections. Addenda will become part of the Contract Documents when the Construction Contract is executed. Plural: ADDENDA

1.2 ADDITIVE OR DEDUCTIVE ALTERNATE BID: Amount stated in the Bid to be added or deducted from the amount of the Base Bid if the corresponding change in project Scope or alternate materials and/or methods of construction is accepted.

1.3 BASE BID: Amount of money stated in the Bid as the sum for which the Bidder offers to perform the work, not including that work for which Alternate Bids are also submitted.

1.4 BID: A complete and properly signed proposal to do the Work or designated portion thereof for the sums stipulated therein, supported by data called for by the Bidding Documents.

1.5 BID LOT: A major item of work for which a separate quotation or proposal is requested.

1.6 BIDDER: One who submits a Bid for a Prime Contract with the City of Santa Fe, as distinct from a Subcontractor, who submits a Bid to a Bidder. Technically, a Bidder is not a Contractor on a specific project until a contract exists between him and the City of Santa Fe.

1.7 BIDDING DOCUMENTS: Documents that include the Invitation for Bid, Instructions to Bidders, the Bid Form, other sample Bidding and Contract Forms, and the proposed Contract Documents, including any Addenda issued prior to receipt of Bids. The Contract Documents proposed for the Work consist of the City of Santa Fe-Contractor Agreement, the Conditions of the Construction Contract (General, Supplementary, and Other Conditions), the Drawings, the Specifications, and all Addenda issued prior to and all Modifications issued after execution of the Contract.

1.8 DAY: Calendar day, which is every day shown on the calendar, beginning and ending at midnight.

1.9 CENTRAL PURCHASING OFFICE: The Central Purchasing Office is the City of Santa Fe Purchasing Department.

1.10 GOVERNING AUTHORITY: The Governing Authority of the City of Santa Fe for the execution of construction contracts is the Mayor and City Manager.

1.11 INVITATION FOR BID: The Bidding Documents utilized for soliciting sealed Bids. "Invitation to Bid" shall have the same meaning as "Invitation for Bid".

1.12 OWNER: The City of Santa Fe, New Mexico.

1.13 PROCUREMENT OFFICER: The Director of the Purchasing Division, or a designee authorized to enter into or administer contracts and make written determination with respect thereto.

1.14 RESPONSIBLE BIDDER: A Bidder who submits a responsive Bid and who has furnished, when required, information and data to prove that his financial resources, production or service facilities, personnel, service reputation, and experience are adequate to make satisfactory delivery of the services, construction, or items of tangible personal property described in the Bidding Documents (13-1-82, NMSA 1978).

1.15 SUCCESSFUL BIDDER: The lowest qualified and responsible Bidder to whom the City of Santa Fe, on the basis of the City of Santa Fe's evaluation, makes an award.

1.16 UNIT PRICES: Amounts stated in the Contract as prices per unit of measurement for materials or services as described in the Contract Documents.

1.17 USER: The City of Santa Fe or agencies or designated entity for whose use the Project is being constructed.

2.0 CONTRACT AUDIT

The City of Santa Fe shall be entitled to audit the books and records of a Contractor or any Subcontractor under any negotiated Contract or Subcontract other than a firm Fixed-Price Contract to the extent that such books and records relate to the performance of such Contract or Subcontract. Such books and records shall be maintained by the Contractor for a period of three (3) years from the date of final payment under the Prime Contract and by the Subcontractor for a period of three (3) years from the date of final payment under the Subcontract unless a shorter period is otherwise authorized in writing (13-1-161, NMSA 1978).

3.0 DEBARRED OR SUSPENDED CONTRACTORS

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

4.0 BRIBES, GRATUITIES, AND KICK-BACKS

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

4.2 Pursuant to Section 13-1-191, NMSA 1978, reference is hereby made to the Criminal Laws of New Mexico (including 30-24-1, 30-23-2, and 30-41-1 through 3-41-3, NMSA 1978), which prohibit bribes, kick-backs, and gratuities and violation of which constitutes a felon. Further, the Procurement Code (13-1-28 through 13-1-199, NMSA 1978), imposes civil and criminal penalties for its violation

5.0 PROTESTS (CITY PURCHASING MANUAL)

5.1 Any Contractor who is aggrieved in connection with procurement may protest to the City Purchasing Agent and the City of Santa Fe. The protest should be made in writing within twenty-four (24) hours after the facts or occurrences; giving rise thereto, but in no case, not more than fifteen (15) calendar days after the facts or occurrences giving rise thereto.

5.2 In the event of a timely protest under the City Purchasing Manual, the City Purchasing Agent and the City of Santa Fe shall not proceed further with the procurement unless the City Purchasing Agent or the City of Santa Fe makes a determination that the award of Contract is necessary to protect substantial interests of the City of Santa Fe.

5.3 The City Purchasing Agent or his designee shall have the authority to take any action reasonably necessary to resolve a protest of an aggrieved Contractor concerning procurement.

5.4 This authority shall be exercised in accordance with adopted regulations, but shall not include the authority to award money damages or attorneys' fees.

5.5 The City Purchasing Agent or his designee shall promptly issue a determination relating to the protest. The determination shall:

A) State the reasons for the action taken; and,

B) Inform the protestant of the right to judicial review of the determination pursuant to the City Purchasing Manual.

5.6 A copy of the determination issued under the City Purchasing Manual shall be mailed to the protestant.

6.0 CONTRACT BOND REQUIREMENTS

6.1 The Successful Bidder, where the Contract Price exceeds twenty-five thousand dollars ($25,000), shall post a one hundred percent (100%) Performance Bond and a one hundred percent (100%) Labor and Material Payment Bond. Bonds shall be executed on Performance Bond and Labor and Material Payment Bond forms attached hereto, with amount payable conforming to the terms of the Contract. Surety shall be a company licensed to do business in the State of New Mexico and acceptable to the City of Santa Fe.

6.2 Personal sureties may be accepted if the City of Santa Fe so determines in advance, but in such case the amount of the Bond shall be the full Contract Price, and the sureties shall justify under oath in amounts above liabilities and exemptions aggregating double the amount of the Bond.

6.3 Special attention of Bidders is called to the requirements of Section 13-4-18 through 13-4-20, NMSA 1978 regarding a Contractor who does not have his principal place of business in the State of New Mexico for all taxes due arising out of construction services rendered under the Contract.

6.3.1 The right to sue on this Bond accrues only to the City of Santa Fe and the parties to whom Sections 13-4-18 through 13-4-20, NMSA 1978 grant such right; and any such right shall be exercised only in accordance with the provisions and limitations of said statues.

7.0 NON-RESIDENT CONTRACTOR'S REQUIREMENTS REGARDING GROSS RECEIPTS TAX SURETY BOND

7.1 Section 7-1-55A, NMSA 1978 provides that any person (as defined in Section 7-1-3, NMSA 1978) engaged in the construction business who does not have his principal place of business in New Mexico and enters into a prime Construction Contract to be performed in this State shall, at the time such Contract is entered into, furnish the Director of the Revenue Division, Taxation and Revenue Department, or his delegate with a surety bond or other acceptable security in a sum equivalent to the gross receipts to be paid under the Contract multiplied by the applicable rate of the gross receipts tax imposed by Section 7-9-4, NMSA 1978 to secure payment of the tax imposed on the gross receipts from the contract, and shall

obtain a certificate from the Director of the Revenue Division, Taxation and Revenue Department, or his delegate that the requirements of this paragraph have been met.

7.2 If the total sum to be paid under the Contract is changed by ten percent or more after the date the surety bond or other acceptable security is furnished, to the Director or his delegate, such person shall increase or decrease, as the case may be, the amount of the bond or security within fourteen (14) days after the change (7-1-55B, NMSA 1978).

7.3 In addition to the above requirements, the Contractor will be subject to all the requirements of the City Procurement Code.

8.0 CONTRACTOR'S GROSS RECEIPTS TAX REGISTRATION

8.1 Section 7-10-4, NMSA 1978 provides that any person (as defined in Section 7-10-3, NMSA 1978) performing services for the City of Santa Fe, as those terms are used in the Gross Receipts and Compensating Tax Act (Section 7-10-1 to 7-10-5, NMSA 1978), must be registered and be issued an identification number with the Revenue Division of the Taxation and Revenue Department to pay the gross receipts tax.

8.2 The identification number is needed to properly complete the approval process of the contract; therefore, so as to cause no delay in the processing, the Contractor must register with the State of New Mexico, Taxation and Revenue Department. For information contact:

Revenue Division
Taxation and Revenue Department
Manual Lujan Building
1200 St. Francis Drive
Santa Fe, New Mexico 87503
(505) 988-2290

8.3 If any person who performs services for the City of Santa Fe is not registered to pay the gross receipts tax, the City shall withhold payment of the amount due until the person has presented evidence of registration with the Taxation and Revenue Department to pay the gross receipts tax.

9.0 CONTRACT WITH NONRESIDENT PERSON OR PARTNERSHIPS OR UNADMITTED FOREIGN CORPORATIONS; AGENT FOR SERVICE OF PROCESS

9.1 Special attention of Bidders is called to requirements of Sections 13-4-21 through 13-4-24, NMSA 1978, whereby a Public Works Contract with a nonresident person or partnership or foreign corporation not authorized to do business in the State shall

contain a specific provision designating an agent resident within the State, and his address, upon whom process and writs in any action or proceeding against such business may be served in any action arising out of such contract.

10.0 STATE ALLOWANCES

10.1 The Contractor shall purchase the "Allowed Materials" as directed by the City of Santa Fe through the City of Santa Fe's Representative / Engineer on the basis of the lowest and the best Bid of at least three competitive Bids. If the actual price for purchasing the "Allowed Materials" is more or less than the "Cash Allowance", the Contract Price shall be adjusted accordingly. The adjustment in Contract Price made on the basis of the purchase price without additional charges for overhead, profit, insurance, or any other incidental expenses. The cost of installation of the "Allowed Materials" shall be included in the applicable section of the Specifications covering the work.

11.0 MINIMUM WAGE RATES

11.1 This project is not subject to a New Mexico State Wage Rate decision. If a Work Order is executed for $60,000 or more, a New Mexico State Wage Rate Decision will be requested for that project and the Contractor will follow all applicable rules and regulations pertaining to it and a Bid Bond will be required for that project. This project is subject to the City of Santa Fe's Minimum Wage Ordinance which is attached.

12.0 FORM OF CHANGE ORDER AND CHANGE ORDER NOTICE TO PROCEED

12.1 The provided forms issued by the City of Santa Fe are to be utilized by the Contractor, City of Santa Fe's Representative / Engineer, and the City of Santa Fe pursuant to the requirements of the General Conditions.

13.0 STATE OF NEW MEXICO, CONSTRUCTION INDUSTRIES DIVISION (CID)

13.1 The Contractor, at his own expense, shall secure the required building permits from the State CID as required for this Project. Contractor shall adhere to the requirements established for inspections.

14.0 CITY OF SANTA FE REQUIREMENTS

14.1 The General Contractor shall include in the Bid the cost of all landfill dumping fees; additionally, the Contractor shall be responsible that all rubble, excess materials, etc., are disposed of at an approved, legal dumping site.

14.2 Construction debris and human debris must be cleaned from the site before Contractor leaves site daily.

14.3 The Contractor shall adhere to any applicable City of Santa Fe ordinances, resolutions, guidelines, and other requirements to complete the work.

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Insert FAA Contract Provision Guidelines for Obligated Sponsors and Airport Improvement Program Projects Pages 1-32

STANDARD SPECIFICATIONS

FOR
SANTA FE REGIONAL AIRPORT
RUNWAY 02 RSA GRADING
CITY OF SANTA FE

The FAA Standards for specifying construction of airports, AC150/5370-10H, shall govern construction of this project, except where revised or amended by the documents herein.

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Insert FAA AC 150 5210-5D Pages 1-14

Insert FAA AC 150-5370-2G Pages 1-95

EMCOOFS-01 DONISCHUK

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 12/29/2020

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

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

PRODUCER License # 0757776 HUB International Insurance Services (SOW) 6565 Americas Parkway Suite 720 Albuquerque, NM 87110	CONTACT NAME: Tammie Jojola PHONE (A/C, No, Ext): (505) 262-9457 FAX (A/C, No): E-MAIL ADDRESS: Tammie.Jojola@hubinternational.com
INSURED EMCO of Santa Fe, LLC 3810 Oliver Rd Santa Fe, NM 87505	INSURER(S) AFFORDING COVERAGE — NAIC # INSURER A : National Fire Insurance Company of Hartford — 20478 INSURER B : The Continental Insurance Company — 35289 INSURER C : New Mexico Mutual Casualty Company — 40627 INSURER D : INSURER E : INSURER F :

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE X OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: POLICY X PRO-JECT LOC OTHER:	X		6076047006	12/31/2020	12/31/2021	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG LIMITED POLLUTI	$ 1,000,000 $ 100,000 $ 15,000 $ 1,000,000 $ 2,000,000 $ 2,000,000 $ 100,000
	AUTOMOBILE LIABILITY ANY AUTO OWNED AUTOS ONLY SCHEDULED AUTOS HIRED AUTOS ONLY NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ $ $ $
B	X UMBRELLA LIAB X OCCUR EXCESS LIAB CLAIMS-MADE DED X RETENTION $ 10,000			6076591361	12/31/2020	12/31/2021	EACH OCCURRENCE AGGREGATE	$ 5,000,000 $ 5,000,000
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y/N If yes, describe under DESCRIPTION OF OPERATIONS below	N/A		0099202	1/1/2021	1/1/2022	X PER STATUTE OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	$ 500,000 $ 500,000 $ 500,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
JOB: Arroyo de Los Chamisos

SEE ATTACHED ACORD 101

CERTIFICATE HOLDER

City of Santa Fe - Streets & Drainage Maintenance Division
P.O. Box 909
Santa Fe, NM 87507

CANCELLATION

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

AUTHORIZED REPRESENTATIVE

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Exhibit C

AGENCY CUSTOMER ID: EMCOOFS-01 DONISCHUK

LOC #: 1

ADDITIONAL REMARKS SCHEDULE

AGENCY	License # 0757776	NAMED INSURED
HUB International Insurance Services (SOW)		EMCO of Santa Fe, LLC 3810 Oliver Rd Santa Fe, NM 87505
POLICY NUMBER		
SEE PAGE 1		
CARRIER	NAIC CODE	
SEE PAGE 1	SEE P 1	EFFECTIVE DATE: SEE PAGE 1

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,

FORM NUMBER: ACORD 25 FORM TITLE: Certificate of Liability Insurance

Description of Operations/Locations/Vehicles:
City of Santa Fe is listed as additional insured.

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

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1. ADDITIONAL INSUREDS

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

(1) is currently in effect or becomes effective during the term of this **Coverage Part**, and

(2) was executed prior to:

(a) the **bodily injury** or **property damage**; or

(b) the offense that caused the **personal and advertising injury**,

for which such additional insured seeks coverage.

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

(1) a higher limit of insurance than required by such contract or agreement; or

(2) coverage broader than required by such contract or agreement, and in no event broader than that described by the applicable paragraph **A.** through **H.** below.

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

A. Controlling Interest

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

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

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

B. Co-owner of Insured Premises

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

C. Lessor of Equipment

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

D. Lessor of Land

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

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

E. Lessor of Premises

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

F. Mortgagee, Assignee or Receiver

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

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

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

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

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

   The coverage granted by this paragraph does not apply to:
   a. **Bodily Injury**, **property damage** or **personal and advertising injury** arising out of operations performed for the state or governmental agency or subdivision or political subdivision; or
   b. **Bodily Injury** or **property damage** included within the **products-completed operations hazard**.

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

H. Trade Show Event Lessor

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

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

   in the performance of the **Named Insured's** ongoing operations at the trade show event premises during the trade show event.
2. The coverage granted by this paragraph does not apply to **bodily injury** or **property damage** included within the **products-completed operations hazard**.

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

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

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

3. BODILY INJURY – EXPANDED DEFINITION

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

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

4. BROAD KNOWLEDGE OF OCCURRENCE/ NOTICE OF OCCURRENCE

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

A. BROAD KNOWLEDGE OF OCCURRENCE

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

B. NOTICE OF OCCURRENCE

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

5. BROAD NAMED INSURED

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

3. Pursuant to the limitations described in Paragraph **4.** below, any organization in which a **Named Insured** has management control:
   a. on the effective date of this **Coverage Part**; or

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b. by reason of a **Named Insured** creating or acquiring the organization during the **policy period**,

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

But this **BROAD NAMED INSURED** provision does not apply to:

(a) any partnership, limited liability company or joint venture; or

(b) any organization for which coverage is excluded by another endorsement attached to this **Coverage Part**.

For the purpose of this provision, management control means:

A. owning interests representing more than 50% of the voting, appointment or designation power for the selection of a majority of the Board of Directors of a corporation; or

B. having the right, pursuant to a written trust agreement, to protect, control the use of, encumber or transfer or sell property held by a trust.

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

   a. **bodily injury** or **property damage** that first occurred prior to the date of management control, or that first occurs after management control ceases; nor

   b. **personal or advertising injury** caused by an offense that first occurred prior to the date of management control or that first occurs after management control ceases.

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

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

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

   This insurance does not apply to:

   k. Damage to Your Product

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

   (1) fire;

   (2) smoke;

   (3) collapse; or

   (4) explosion.

   l. Damage to Your Work

   Property damage to **your work** arising out of it, or any part of it and included in the **products-completed operations hazard**.

   This exclusion does not apply:

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

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

(a) fire,

(b) smoke,

(c) collapse, or

(d) explosion.

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

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

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

7. **CONTRACTUAL LIABILITY – RAILROADS**

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

Insured Contract means:

a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire to premises while rented to a **Named Insured** or temporarily occupied by a **Named Insured** with permission of the owner is not an **insured contract**;

b. A sidetrack agreement;

c. Any easement or license agreement;

d. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;

e. An elevator maintenance agreement;

f. That part of any other contract or agreement pertaining to the **Named Insured's** business (including an indemnification of a municipality in connection with work performed for a municipality) under which the **Named Insured** assumes the tort liability of another party to pay for **bodily injury** or **property damage** to a third person or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

Paragraph **f.** does not include that part of any contract or agreement:

(1) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:

(a) Preparing, approving or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or

(b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage;

(2) Under which the **Insured**, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in **(1)** above and supervisory, inspection, architectural or engineering activities.

8. **ELECTRONIC DATA LIABILITY**

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

This insurance does not apply to:

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

Damages arising out of:

(1) any access to or disclosure of any person's or organization's confidential or personal information, including patents, trade secrets, processing methods, customer lists, financial information, credit card information, health information or any other type of nonpublic information; or

(2) the loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate **electronic data** that does not result from physical injury to tangible property.

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

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

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

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

C. The following definition is added to **DEFINITIONS**:

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

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

Property damage means:

a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it;

b. Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of the **occurrence** that caused it; or

c. Loss of, loss of use of, damage to, corruption of, inability to access, or inability to properly manipulate **electronic data**, resulting from physical injury to tangible property. All such loss of **electronic data** shall be deemed to occur at the time of the **occurrence** that caused it.

For the purposes of this insurance, **electronic data** is not tangible property.

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

9. **ESTATES, LEGAL REPRESENTATIVES, AND SPOUSES**

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

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

10. **EXPECTED OR INTENDED INJURY – EXCEPTION FOR REASONABLE FORCE**

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

This insurance does not apply to:

Expected or Intended Injury

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

11. **GENERAL AGGREGATE LIMITS OF INSURANCE - PER PROJECT**

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

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

2. All medical expenses under **Coverage C**,

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

B. All:

1. **Damages** under **Coverage B**, regardless of the number of locations or construction projects involved,

2. **Damages** under **Coverage A**, caused by **occurrences** which cannot be attributed solely to ongoing operations at a single construction project, except **damages** because of **bodily injury** or **property damage** included in the **products-completed operations hazard**, and

3. Medical expenses under **Coverage C** caused by accidents which cannot be attributed solely to ongoing operations at a single construction project,

will reduce the General Aggregate Limit shown in the Declarations.

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

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

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E. If a single construction project away from premises owned by or rented to the **Insured** has been abandoned and then restarted, or if the authorized contracting parties deviate from plans, blueprints, designs, specifications or timetables, the project will still be deemed to be the same construction project.

F. The provisions of **LIMITS OF INSURANCE** not otherwise modified by this endorsement shall continue to apply as stipulated.

12. IN REM ACTIONS

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

13. INCIDENTAL HEALTH CARE MALPRACTICE COVERAGE

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

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

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

(1) such **bodily injury** is caused by an **occurrence** that takes place in the **coverage territory**.

(2) the **bodily injury** first occurs during the **policy period**. All **bodily injury** arising from an **occurrence** will be deemed to have occurred at the time of the first act, error, or omission that is part of the **occurrence**, and

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

i. add the following to the **Employers Liability** exclusion:

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

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

This insurance does not apply to:

Contractual Liability

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

iii. add the following additional exclusions:

This insurance does not apply to:

Discrimination

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

Dishonesty or Crime

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

Medicare/Medicaid Fraud

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

Services Excluded by Endorsement

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

C. **DEFINITIONS** is amended to:

i. add the following definitions:

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

a. **professional health care services** on behalf of the **Named Insured** or

b. Good Samaritan services rendered in an emergency and for which no payment is demanded or received.

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

a. Physician;

b. Nurse;

c. Nurse practitioner;

d. Emergency medical technician;

e. Paramedic;

f. Dentist;

g. Physical therapist;

h. Psychologist;

i. Speech therapist;

j. Other allied health professional; or

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

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

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

iii. amend the definition of **Insured** to:

a. add the following:

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

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

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

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

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

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

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

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

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

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

Other Insurance

b. **Excess Insurance**

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

14. JOINT VENTURES / PARTNERSHIP / LIMITED LIABILITY COMPANIES

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

No person or **organization** is an **Insured** with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a **Named Insured** in the Declarations, except that if the **Named Insured** was a joint venturer, partner, or member of a limited liability company and such joint venture, partnership or limited liability company terminated prior to or during the **policy period**, such **Named Insured** is an **Insured** with respect to its interest in such joint venture, partnership or limited liability company but only to the extent that:

a. any offense giving rise to **personal and advertising injury** occurred prior to such termination date, and the **personal and advertising injury** arising out of such offense first occurred after such termination date;

b. the **bodily injury** or **property damage** first occurred after such termination date; and

c. there is no other valid and collectible insurance purchased specifically to insure the partnership, joint venture or limited liability company, and

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

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

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

This insurance does not apply to:

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j. **Damage to Property**

Property damage to:

(1) Property the **Named Insured** owns, rents, or occupies, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;

(2) Premises the **Named Insured** sells, gives away or abandons, if the **property damage** arises out of any part of those premises.

(3) Property loaned to the **Named Insured**;

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

(5) That particular part of real property on which the **Named Insured** or any contractors or subcontractors working directly or indirectly on the **Named Insured's** behalf are performing operations, if the **property damage** arises out of those operations; or

(6) That particular part of any property that must be restored, repaired or replaced because **your work** was incorrectly performed on it.

Paragraphs **(1)**, **(3)** and **(4)** of this exclusion do not apply to **property damage** (other than damage by fire) to premises rented to the **Named Insured** or temporarily occupied by the **Named Insured** with the permission of the owner, nor to the contents of premises rented to the **Named Insured** for a period of 7 or fewer consecutive days. A separate limit of insurance applies to Damage To Premises Rented To You as described in **LIMITS OF INSURANCE**.

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

Paragraphs **(3)**, **(4)**, **(5)** and **(6)** of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraph **(6)** of this exclusion does not apply to **property damage** included in the **products-completed operations hazard**.

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

i. tools or equipment the **Named Insured** borrows from others; nor

ii. other personal property of others in the **Named Insured's** care, custody or control while being used in the **Named Insured's** operations away from any **Named Insured's** premises.

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

a. property at a job site awaiting or during such property's installation, fabrication, or erection;

b. property that is **mobile equipment** leased by an **Insured**;

c. property that is an **auto**, aircraft or watercraft;

d. property in transit; or

e. any portion of **property damage** for which the **Insured** has available other valid and collectible insurance, or would have such insurance but for exhaustion of its limits, or but for application of one of its exclusions.

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

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

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

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

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

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

D. Paragraph **6.**, Damage To Premises Rented To You Limit, of **LIMITS OF INSURANCE** is deleted and replaced by the following:

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

a. $500,000; or

b. The Damage To Premises Rented To You Limit shown in the Declarations.

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

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

16. LIQUOR LIABILITY

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

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

17. MEDICAL PAYMENTS

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

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

(1) $15,000 unless a different amount is shown here: $N,NNN,NNN,NNN. or

(2) the amount shown in the Declarations for Medical Expense Limit.

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

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

18. NON-OWNED AIRCRAFT

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

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

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

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

19. NON-OWNED WATERCRAFT

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

This exclusion does not apply to:

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

(a) less than 75 feet long; and

(b) not being used to carry persons or property for a charge.

20. PERSONAL AND ADVERTISING INJURY –DISCRIMINATION OR HUMILIATION

A. Under **DEFINITIONS**, the definition of **personal and advertising injury** is amended to add the following tort:

Discrimination or humiliation that results in injury to the feelings or reputation of a natural person.

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

1. delete the Exclusion entitled **Knowing Violation Of Rights Of Another** and replace it with the following:

This insurance does not apply to:

Knowing Violation of Rights of Another

Personal and advertising injury caused by or at the direction of the **Insured** with the knowledge that the act would violate the rights of another and would inflict **personal and advertising injury**. This exclusion shall not apply to discrimination or humiliation that results in injury to the feelings or reputation of a natural person, but only if such discrimination or humiliation is not done intentionally by or at the direction of:

(a) the **Named Insured**; or

(b) any **executive officer**, director, stockholder, partner, member or manager (if the **Named Insured** is a limited liability company) of the **Named Insured**.

2. add the following exclusions:

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This insurance does not apply to:

Employment Related Discrimination

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

Premises Related Discrimination

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

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

The coverage provided by this **PERSONAL AND ADVERTISING INJURY –DISCRIMINATION OR HUMILIATION** Provision does not apply to any person or organization whose status as an **Insured** derives solely from:

Provision **1. ADDITIONAL INSURED** of this endorsement; or

attachment of an additional insured endorsement to this **Coverage Part**.

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

21. PERSONAL AND ADVERTISING INJURY - CONTRACTUAL LIABILITY

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

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

1. Paragraph **2.d.** is replaced by the following:

d. The allegations in the **suit** and the information the Insurer knows about the offense alleged in such **suit** are such that no conflict appears to exist between the interests of the **Insured** and the interests of the indemnitee;

2. The first unnumbered paragraph beneath Paragraph **2.f.(2)(b)** is deleted and replaced by the following:

So long as the above conditions are met, attorneys fees incurred by the Insurer in the defense of that indemnitee, necessary litigation expenses incurred by the Insurer, and necessary litigation expenses incurred by the indemnitee at the Insurer's request will be paid as **defense costs**. Such payments will not be deemed to be **damages** for **personal and advertising injury** and will not reduce the limits of insurance.

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

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

22. PROPERTY DAMAGE – ELEVATORS

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

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

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

23. SUPPLEMENTARY PAYMENTS

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

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

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

24. UNINTENTIONAL FAILURE TO DISCLOSE HAZARDS

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

25. WAIVER OF SUBROGATION - BLANKET

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

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

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

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

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

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

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

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

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

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

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

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

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

This insurance is excess over:

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

C. **DEFINITIONS** is amended to add the following definitions:

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

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

1. single or multifamily housing, apartments, condominiums, townhouses, co-operatives or planned unit developments; and

2. the common areas and structures appurtenant to the structures in paragraph **1.** (including pools, hot tubs, detached garages, guest houses or any similar structures).

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

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

All other terms and conditions of the Policy remain unchanged.

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

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City of Santa Fe

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

BUSINESS REGISTRATION

Business Name: EMCO OF SANTA FE LLC
DBA: EMCO OF SANTA FE LLC

Business Location: 3810 OLIVER RD
SANTA FE, NM 87507

Owner: RICHAR COOK

License Number: 225893

Issued Date: June 08, 2021

Expiration Date: June 08, 2022

CRS Number: 03245374004

License Type: Business License - Renewable

Classification: Contractor - General

Fees Paid: $35.00

EMCO OF SANTA FE LLC
3810 OLIVER RD
SANTA FE, NM 87507

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

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

TO BE POSTED IN A CONSPICUOUS PLACE

Ver. 16 2/7/2020

Exhibit D

City of Santa Fe

Real Estate Summary of Contracts, Agreements, Amendments & Leases

Section to be completed by department

1. Munis Contract # **3202907**

Contractor: **EMCO of Santa Fe, LLC**

Description: **Runway 02 Runway Safety Area (RSA) Grading**

Contract [◉] Agreement [O] Lease / Rent [O] Amendment [O]

Term Start Date: **TBD** Term End Date: **06/30/2022**

[☑] Approved by Council Date: **09/08/2021**

Contract / Lease: Grading for RSA 2

Amendment # _____ to the Original Contract / Lease # _____

Increase/(Decrease) Amount $ _____

Extend Termination Date to: _____

[☐] Approved by Council Date: _____

Amendment is for:

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

3. Procurement History: **ITB# 21/38/B**

Jon Denney Aug 23, 2021

Purchasing Officer Review: Date:

Comment & Exceptions: 1st. year award for ITB 21/38/B

4. Funding Source: **FAA AIP 3-35-0037-54-2021** **AIR22545OA** Org / Object: **5450407.572970**

Andy Hopkins Aug 23, 2021

Budget Officer Approval: Date:

Comment & Exceptions:

Staff Contact who completed this form: **Bobbi Huseman** Phone # **955-2903**

Email: **bjhuseman@santafenm.gov**

To be recorded by City Clerk:

Clerk # _____

Date of Execution: _____

CITY OF SANTA FE PROCUREMENT CHECKLIST

Contractor Name: EMCO of Santa Fe, LLC

Procurement Title: Runway 02 Runway Safety Area (RSA) Grading

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 PWD/Airport Staff Name Mark Baca

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: _____

Bobbi Huseman	Airport Admin Manager	08/09/2021
Department Rep Printed Name (attesting that all information included)	Title	Date
Fran Dunaway (Aug 23, 2021 13:49 MDT)	Chief Procurement Officer	Aug 23, 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 any resulting contract.

*

ACTION SHEET
ITEM FROM FINANCE COMMITTEE MEETING OF 08/30/21
FOR CITY COUNCIL MEETING OF 09/08/21

Request for Approval to Award ITB #21/38/B to Low Bidder EMCO of Santa Fe, LLC, for Runway 2 Runway Safety Area (RSA) Grading, in a Total Amount of $396,886.41, Inclusive of New Mexico Gross Receipts Tax. (Mark Baca, Airport Manager: mdbaca@santafenm.gov, 505-955-2901)

Committee		**Review:**
Finance	Committee	– 08/30/21
PW/U	Committee	– 09/07/21
Council – 09/08/21		

FINANCE COMMITTEE ACTION:
Approved on consent

FUNDING SOURCE:

SPECIAL CONDITIONS OR AMENDMENTS

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

01/13/21

City of Santa Fe, New Mexico

memo

DATE: August 25, 2021

TO: Finance Committee – August 30, 2021
Community Development Commission – September 1, 2021
Quality of Life Committee – September 1, 2021
Public Works Committee – September 7, 2021
City Council Public Hearing – September 9, 2021

FROM: Alexandra Ladd, Director, Office of Affordable Housing Alexandra Ladd
Alexandra Ladd (Aug 25, 2021 11:49 MDT)

ITEM: Request Approval of the 2020-2021 CONSOLIDATED ANNUAL PERFORMANCE EVALUATION REVIEW (CAPER) for submittal to Dept of HUD

ACTION REQUESTED:
Approve the 2020-21 Consolidated Annual Performance Evaluation Review (CAPER) for submittal to the Department of HUD.

BACKGROUND:
The Community Development Block Grant (CDBG) requires that the Consolidated Annual Performance Evaluation Review (CAPER) is submitted to United States Department of Housing and Urban Development (HUD) 90 days after the end of the program year. The report details accomplishments of CDBG-funded subrecipient activities as well as the financial status of the CDBG for the prior funded year.

ITEM AND ISSUE:
In summary, the following is reported in the CAPER:

	Funded Amt	Balance	Proposed # Served	Actual # Served
Public Facility Improvements	$ 25,000.00	$ 415.55	30	19
Public Services Activities	$ 112,000.00	$ 6,196.84	1125	2999
Homeowner Housing Rehabilitated	$ 115,716.00	$ 4,794.22	22	10
Direct Financial Assistance to Homebuyers	$ 459,163.72	$441,433.26	17	22
Rental Units Acquired	$ 100,000.00	0	9	9
Overnight Shelter (Midtown)	$ 361,227.00	0	120	418
TOTAL	**$ 1,173,106.72**	**$ 452,839.87**	**1,323**	**3,477**

The CAPER is available for review August 23 – September 8, 2021 virtually at the following website address: https://www.santafenm.gov/hudrequiredreportingandplans.. Members of the public may submit comments or questions via email or phone to: Toniette Candelaria Martinez, 505-316-4634, tocandelariamartinez@santafenm.gov.

==========

Consolidated Activity Performance and Evaluation Report (CAPER)

July 1, 2020 - June 30, 2021

==========

SUBMITTED BY:

City of Santa Fe
Office of Affordable Housing
P.O. Box 909
Santa Fe, New Mexico
87504-0909
Phone # (505) 955-6607

QUESTIONS or COMMENTS? *Email: tocandelariamartinez@santafenm.gov or call: 505-316-4634*

CR-05 - Goals and Outcomes

Progress the jurisdiction has made in carrying out its strategic plan and its action plan. 91.520(a)

The City of Santa Fe's focus throughout the program year was to improve and sustain affordable housing, rental, homeownership, and economic opportunities for low- to moderate-income households in Santa Fe. Equally important adressing the needs of those experiencing homelessness or at risk of becoming homeless, while aligning housing opportunities with emerging needs. The City acomplished this by administering program funds to service providers, supporting collaboration and strategically applying resources to community needs. To meet these housing goals, the City utilized the *2018-2022 Consolidated Plan* and its Five-year Plan which assesses housing need in Santa Fe and provides recommendations for addressing the needs.

Additionally, the COVID-19 global pandemic highlighted the need to immediately house people without shelter or safe places for quarantine. To this end, the City converted student housing into a shelter facility for homeless people and worked closely with regional partners to also provide a place for people to be discharged from hospitals (either because of COVID or other illnesses), recovery programs and detention centers. This enabled local shelters to keep their population density low enough to maintain proper social distancing for their guests. The other ways in which the City responded was to increase outreach through its mobile integrated health office (MIHO) to encampments, widespread distribution of PPE and other safety equipment, and transitioning to an online working and meeting environment to protect the health and safety of its employees.

The 2020 Action Plan identified the following goals as they related to HUD-mandated objectives and outcomes for its upcoming housing and community development activities. Accomplishments from the 2020 – 21 program year are summarized below.

- SFPS Adelante served 2,880 homeless students and their families by providing referrals to housing resources as well as assistance with counseling, education, food and clothing;
- Interfaith Shelters provided services to 109 homeless individuals through the Summer Safe Haven, a shelter for homeless women and their children;
- Youth Shelters and Family Services provided winter shelter beds, outreach services and referrals to 47 homeless or at risk for homelessness youth.
- The Santa Fe Civic Housing Authority completed planning, predevelopment, and environmental studies to support the rehabilitation of the Villa Consuelo apartments which provide 100 units for very low income renters, most of whom are elderly;
- New Mexico Interfaith Housing Corp broke ground on 65 units of affordable rental housing, 100% solar powered, that will set aside 12 units for very low income renters (<30% AMI);
- Homewise assisted a total of 21 homebuyers with mortgage principle reduction loans, using a combination of reprogrammed funds and program income;
- Habitat for Humanity rehabilitated 9 homes;

- Homewise rehabilitated 22 homes using program income;
- Housing Trust assisted a total of 6 homebuyers with mortgage principle reduction loans, using program income.
- Youth Shelters and Family services installed a new roof for the children and youth emergency shelter serving 19.
- Casa Cielo, a residential care facility that provides end-of-life care for chronically ill, very low income people served 10 persons.

Comparison of the proposed versus actual outcomes for each outcome measure submitted with the consolidated plan and explain, if applicable, why progress was not made toward meeting goals and objectives. 91.520(g)

Goal	Category	Source / Amount	Indicator	Unit of Measure	Expected – Program Year	Actual – Program Year	Percent Complete
2018 Goal - Align Housing Opportunities With Emerging Needs	Affordable Housing Non-Homeless Special Needs Non-Housing Community Development	CDBG/ $40,000	Public Facility or Infrastructure Activities for Low/Moderate Income Housing Benefit	Households Assisted	40	66	165%
2018 Goal - Align Housing Opportunities With Emerging Needs	Affordable Housing Non-Homeless Special Needs Non-Housing Community Development	CDBG/ $97,000 CDBG-CV/ $361,227	Public service activities for Low/Moderate Income Housing Benefit	Households Assisted	1245	3417	274%
2018 Goal - Increase Affordable Homeowner Opportunities	Affordable Housing	CDBG/ $115,716	Homeowner Housing Rehabilitated	Household Housing Unit	22	10	45%
2018 Goal - Increase Affordable Homeowner Opportunities	Affordable Housing	CDBG/ $459,163	Direct Financial Assistance to Homebuyers	Households Assisted	17	22	129%
2018 Goal - Increase Affordable Rental Housing Opportunities	Affordable Housing	CDBG/$0	Rental units constructed	Household Housing Unit	0	0	N/A

2018 Goal - Increase Affordable Rental Housing Opportunities	Affordable Housing	CDBG/ $100,000	Rental units rehabilitated	Household Housing Unit	9	9	100%
2018 Goal - Increase Affordable Rental Housing Opportunities	Affordable Housing	$0	Housing for Homeless added	Household Housing Unit	0	0	N/A
2018 Goal - Increase Opportunities for At-Risk Populations	Affordable Housing Public Housing Homeless	CDBG/ $40,000	Public Facility or Infrastructure Activities for Low/Moderate Income Housing Benefit	Households Assisted	40	66	165%
2018 Goal - Increase Opportunities for At-Risk Populations	Affordable Housing Public Housing Homeless	CDBG/ $97,000 CDBG-CV/ $361,227	Public service activities for Low/Moderate Income Housing Benefit	Households Assisted	1245	3417	274%
2018 Goal - Increase Opportunities for At-Risk Populations	Affordable Housing Public Housing Homeless	CDBG/ $45,000 CDBG-CV/ $361,227	Homeless Person Overnight Shelter	Persons Assisted	299	583	195%
2020 Goal - AFH Goal #1: Create more affordable, quality housing	Affordable Housing	CDBG/ $459,163	Rental Units Constructed, Housing for Homeless Added, Direct Financial Assistance to Homebuyers	Household Housing Unit	17	22	129%
2020 Goal - AFH Goal #2: Preserve and improve existing housing	Affordable Housing	CDBG/ $215,716	Rental units Rehabilitated and Homeowner Housing Rehabilitated	Household Housing Unit	31	19	61%

2020 Goal - AFH Goal #4: Create more accessible, affordable, quality housing for people with disabilities	Affordable Housing Non-Homeless Special Needs	CDBG/ $215,716	Rental units Rehabilitated and Homeowner Housing Rehabilitated and Construction of New Housing Units	Household Housing Unit	31	19	61%
2020 Goal - AFH Goal #6: Strengthen access to fair housing and	Fair Housing & Renters Rights	$0	Other	Households Assisted	0	0	N/A

Table 1 - Accomplishments – Program Year & Strategic Plan to Date

Assess how the jurisdiction's use of funds, particularly CDBG, addresses the priorities and specific objectives identified in the plan, giving special attention to the highest priority activities identified.

The global health pandemic and economic downturn abruptly expanded the City's priorities. An amendment to the 2019 Action Plan was accepted by HUD to deploy CARES Act funding in direct support of people experiencing homelessness in the amount of $361,227. The City converted vacant student housing at the Midtown campus (owned by the City) into housing for people who would otherwise be living on the streets or in homeless encampments and deployed CARES Act funds to provide direct services and operations at the shelter. This achieved two goals: One, keeping the population density low at local shelters so that social distancing protocols could be maintained; and secondly, providing a place for people to quarantine if they are vulnerable to infection or COVID-positive and don't have a safe place to live. Importantly, the Midtown shelter also accepts people discharged from hospitals, recovery programs and detention centers who would otherwise be back living on the streets. The residents of the shelter receive three meals/day, referral to support services and case management, and basic health monitoring.

In mid-August of 2020, the programming and operations of the Midtown Emergency Shelter was transitioned to a newly-formed nonprofit affiliate of the NM Coalition to End Homelessness, called Consuelo's Place. A shelter director and two case managers were brought in to begin developing programming and overseeing operations of the shelter. Front office staff were also hired under Consuelo's Place to replace the furloughed city staff that had been working as front office staff. The director and case management team quickly began building out the programming structure, including: expanding the referral and intake process. The case management was trained in completing and entering clients into HMIS (Health Management Information System). The team was also trained in completing VI-SPDATs for clients to be entered into the Coordinated Entry System under the Coalition to End Homelessness. All staffed were trained in administering NARCAN. Forms and documentation were implemented for data entry and tracking for clients.

The shelter continues to provide quarantine services for clients who were COVID positive and require a safe environment in which to quarantine. While Consuelo's Place had limited documentation of clients and their departure information prior to August 2020, a total of 418 clients served at Midtown from mid-August to June 30th, 2021. Eighty-four (84) clients were COVID positive requiring quarantine at Midtown and 292 unduplicated clients were provided emergency housing and case management services. The shelter also provided services for 43 duplicated clients during this reporting period. Approximately 25% (only for those provided emergency housing), clients discharged prior to Consuelo's Place onboarding did not have documented discharge location. Case managers connected clients to permanent housing, such as: Permanent Supportive Housing, Rapid Rehousing, and other housing vouchers, as well low-income housing. Many clients were able to get into housing as self-pay with Consuelo's Place providing move-in cost assistance. Unsuccessful discharges due to inability to adhere to COVID safety protocols or program policies, and others AWOL from the program. Many times, those clients were referred to other shelter programs, whenever possible.

In a normal year, the highest priority in Santa Fe's plan is to serve the entire continuum of housing and related public services needs from the homeless to the homeowner. To some extent, accomplishments during the year reflect that priority and most goals were achieved in their entirety if not exceeded. It was anticipated that 40 households would be served as a result of Public Facility improvements and the actual served was 66, a 165% accomplishment. Likewise, public services funded through CDBG proposed to serve 1,245 households and served almost three times that number (3,417). Twenty-two (22) households were served through downpayment assistance, exceeding the goal of 17, funded primarily through program income earned by the subrecipients (Homewise and the Housing Trust). Nine rental units were acquired, continuing to serve 9 very low income renters. Shelter providers proposed providing shelter beds to 299 individuals experiencing homeless and exceeded that proposal by almost double (583). The goal to provide home repair services to 22 households was not achieved entirely, partially due to Covid restrictions which curtailed work within individual homes so only 10 homes were repaired. AFH Goal #4 was not achieved as new units serving non-homeless special needs were not supported directly through CDBG (although through other local projects, several ADA-compliant units were constructed or rehabbed); AFH Goal #6 was not achieved because the City lacks capacity for a dedicated fair housing campaign.

CR-10 - Racial and Ethnic composition of families assisted

Describe the families assisted (including the racial and ethnic status of families assisted). 91.520(a)

	CDBG
White	3,188
Black or African American	59
Asian	6
American Indian or American Native	223
Native Hawaiian or Other Pacific Islander	3
Other	40
Total	**3,519**
Hispanic	3,345
Not Hispanic	1,035

Table 2 – Table of assistance to racial and ethnic populations by source of funds

Narrative

The racial and ethnic composition reported for CDBG program sub-recipients represent cumulative annual data collected that represents a total of three thousand eight hundred and sixty one (3,519) recipients of CDBG-funded projects, programs and services. Of this number, the self-identified racial and ethnic statuses are shown in the table above.

CR-15 - Resources and Investments 91.520(a)

Identify the resources made available

Source of Funds	Source	Resources Made Available	Amount Expended During Program Year
CDBG	public - federal	811,880	397,570.62
Other - CV	public - federal	361,227	361,227

Table 3 - Resources Made Available

Narrative

The City was awarded entitlement funds of $623,093 for FY2020. Program Income generated by Homewise Home Repair and Home Purchase programs totaled: $605,781.15 through Q4 of 2020-2021 PY of which $446,906.34 was expended. Program Income generated by the Housing Trust mortgage reduction assistance programs totaled: $110,817.00, through Q4 of 2020-2021 PY of which $92,000.00 was expended. Total expenditures of CDBG funds reported in 2020-2021 PR26 including program income were $936,476.96.

Identify the geographic distribution and location of investments

Target Area	Planned Percentage of Allocation	Actual Percentage of Allocation	Narrative Description
Citywide	100	100	Citywide

Table 4 – Identify the geographic distribution and location of investments

Narrative

In any given program year, the City of Santa Fe does not prioritize allocating funds and supporting programs geographically, due to the City's lack of population density relative to its size. For the past three program years, no single Census Tract was earmarked for serving its LMI population. Instead, the City focuses programs on the household income or an identified characteristic of the participants and/or recipients of assistance. For example, mortgage reduction assistance is provided based upon the homebuyer's income rather than the location of the home. Likewise, public service programs for at risk youth serve the citywide population, rather than those youth living in a specific census tract. This description has been reported in previous years and that priority remains. However, on occasion, a project proposal will be accepted because allocating funds at that site will also ser ve other community development goals.

Leveraging

Explain how federal funds leveraged additional resources (private, state and local funds), including a description of how matching requirements were satisfied, as well as how any publicly owned land or property located within the jurisdiction that were used to address the needs identified in the plan.

The City of Santa Fe's model of service delivery is to pass through most federal funds to subgrantees, who provide the services. This ensures that services are furnished in the most efficient and relevant manner possible. Additionally, the City strives to leverage local funds to ensure that effective and important local services continue to be provided in our community, regardless of the status of federal funds. The City's nonprofit partners estimate that every dollar of federally-funded mortgage reduction assistance leverages $14 of funding from other state, local, and private sources. Both the Housing Trust and Homewise are CDFIs and actively leverage funds from HOME, Fannie Mae secondary market loans, state-funded mortgage products allocated through the New Mexico Mortgage Finance Authority, Low Income Housing Tax Credits (The Housing Trust), solar tax credits, Federal Home Loan Bank of Dallas' Community Investment Programs, bank and foundation investments, and other DOE funds as well as having substantial organizational resources to use for real estate development and to support programmatic goals. Likewise, the supportive housing providers in Santa Fe are also well-leveraged and use CDBG funds to expand on their missions very effectively.

The units owned and operated by the Santa Fe Civic Housing Authority are located on city-owned land which is controlled by long-term leases. The units are rented to income-qualified renters, many of them very low-income seniors. At any time during the year if the City determines that donating and/or using City-owned property will benefit a proposed project that will serve the priority needs and funding objectives outlined in this plan, the City will do so as allowed under the NM Affordable Housing Act.

During the program year, a five acre parcel of land on the City-owned public works yard donated to the New Mexico Interfaith Housing Corp, leveraged a large LIHTC award. The donation of land plus fee waivers provided by the City for utility hook up costs, application, development review, and building permit fees were waived, in accordance with the City’s land use code. The total value of the donation was over $2,000,000, representing a leverage ratio of 1:10, based on the project’s total cost of $18,000,000, $10.5 m of which is funded through the Low Income Housing Tax Credit program. In June 2020, ground was broken on the project with full build out by mid-2021. At completion, the project will offer 65 units, affordable to renters earning no more than 60% AMI, with 7 units set aside for very low income renters (earning less than 30% AMI). It is anticipated that some of these renters will be transitioning out of homelessness or near homelessness. The units are designed to accommodate live/work activities, particularly related to those who are self-employed, entrepreneurs, and/or engaged in a creative industry. To meet other community development goals, the project will also feature a community resource center with retail, exhibition and performance space. It is the first LIHTC project in New Mexico that will be 100% solar-powered.

CR-20 - Affordable Housing 91.520(b)

Evaluation of the jurisdiction's progress in providing affordable housing, including the number and types of families served, the number of extremely low-income, low-income, moderate-income, and middle-income persons served.

	One-Year Goal	Actual
Number of Homeless households to be provided affordable housing units	150	59
Number of Non-Homeless households to be provided affordable housing units	158	31
Number of Special-Needs households to be provided affordable housing units	0	14
Total	**308**	**104**

Table 5 – Number of Households

	One-Year Goal	Actual
Number of households supported through Rental Assistance	0	0
Number of households supported through The Production of New Units	45	0
Number of households supported through Rehab of Existing Units	130	19
Number of households supported through Acquisition of Existing Units	0	9
Total	**175**	**27**

Table 6 – Number of Households Supported

Discuss the difference between goals and outcomes and problems encountered in meeting these goals.

The one year goal of providing affordable housing units to otherwise homeless individuals was partially accomplished by transitioning 59 homeless households into permanent supportive units at Santa Fe Suites and from the Midtown Shelter. Additionally, other types of support services and referrals to shelter were provided for an increased number of individuals due to the pandemic. Adelante provided (2,880) homeless individuals with resource-linking and direct services, an accomplishment three times what was proposed. Youth Shelters and Family Services provided (47) homeless or at-risk of homelessness youth with resource-linking and direct services, and the Interfaith Shelter provided (109) women and their children with shelter services throughout the summer months of 2020.

The data reported in the next goal of non-homeless households to be provided affordable housing units represents home repair for low/mod income-households and the acquisition of nine affordable rental

units (19) and (27) mortgage principal buydown loans were provided to assist homebuyers. These loans were funded through a combination of entitlement and program income. Construction began on 65 units of affordable rental units, with another 45 units completing pre-development land use approvals. Rehabilitation was substantially completed on another 100 rental units. These projects will be reported in the upcoming program year. The difficulty meeting the goal of serving the non-homeless is related to the great demand for housing and lack of affordable supply in Santa Fe right now.

In March of 2019, the City provided transitional shelter beds to over 100 people who were homeless or precariously housed to keep them safe during the COVID-19 global pandemic. Emergency funds were deployed from local sources that paid rent and arrears for 60+ households. An amendment to the 2019 Action Plan deployed CARES Act funds to create longer term support for these individuals during 2021, leading to permanent housing for many of them.

Discuss how these outcomes will impact future annual action plans.

The outcomes of FY 2020 will impact future CDBG funding allocations in that there will be increased demand for emergency rental support services and prevention of foreclosure and homelessness. The global pandemic has exacerbated the housing instability of lower income renters, as well as homeowners as people have lost jobs and income. There will be increased need to not only shelter individuals but to provide permanent supportive housing options to keep them housed. Mortgage reduction assistance is always a big need and helps to offset high market values. It remains to be seen how the current limitations on for-sale inventory will be amplified as the pandemic continues to put pressure on all parts of the housing market. Increased focus will target the construction of new, affordable rental units as well as home repair to preserve and maintain existing affordable housing stock. Continued priority will also be given toward public services that provide systemic solutions through education, as well as mitigation efforts with homelessness, and at-risk for homelessness service programs.

Include the number of extremely low-income, low-income, and moderate-income persons served by each activity where information on income by family size is required to determine the eligibility of the activity.

Number of Households Served	CDBG Actual	HOME Actual
Extremely Low-income	3,437	0
Low-income	54	0
Moderate-income	27	0
Total	**3,518**	**0**

Table 7 – Number of Households Served

Narrative Information

A total of (3,518) individuals were served, of which (3,437) were identified as extremely low income. This achievement is reflective of the vital role served by CDBG funds in Santa Fe to meet the

needs of individuals and families who have very few options for support. All programs included outreach and services provided for those households and individuals with worst case housing needs, paying more than half of their income for rent, those living in seriously substandard housing, to include those without a home, or those who have been involuntarily displaced.

CR-25 - Homeless and Other Special Needs 91.220(d, e); 91.320(d, e); 91.520(c)

Evaluate the jurisdiction's progress in meeting its specific objectives for reducing and ending homelessness through:

Reaching out to homeless persons (especially unsheltered persons) and assessing their individual needs

The global pandemic has greatly amplified the City of Santa Fe's desire to end homelessness. Converting student housing into shelter beds at its Midtown campus property demonstrated that providing long-term, safe and supported housing is the first step to ending a person's homelessness. In the upcoming program year, the City expects to further mobilize CARES Act funds to continue supporting this shelter facility, which is run by a newly created nonprofit called "Consuelo's Place". Additionally, the City will leverage local investment to make possible the purchase of multiple motel properties to be converted into permanent supportive housing. An important aspect to the evolution of the City's approach to ending homelessness is the coordination of a system-wide framework to ensure that outreach and coordinated entry systems are truly effective.

All of the city's nonprofit partners who work with homeless persons have extensive outreach activities to include veterans, their families and unaccompanied youth. The Resource Opportunity Center (ROC), once called Pete's Place, is part of the existing Interfaith Shelter and offers emergency beds in winter, meals and clothing as well as veteran's resource services and housing linking. Most importantly, the organization brings together outreach coordinators to provide information about available services. Medical care, job counseling, meals, clothing, transportation are a few of the services provided at the ROC, which is partially funded through local funds allocated through the City's Human Services Division. In response to direct community need, Interfaith proposed the Women's Summer Safe Haven when shelter staff and first responders noted that women were particularly vulnerable on the streets during summer months when the shelter is closed for the season which resulted in the funding of a summer shelter for women and their children.

The City used CDBG funds during the program year 20-21 to support Youth Shelters and Family Services (YSFS) in providing Cold Weather Shelter and Transitional Living for young adults ages 17-24. During the pandemic, 47 young people ages 18-24 were provided Cold Weather Shelter (CWS). This was an increase from the prior year due to capacity restrictions of other shelters during the pandemic, a desire on the part of some youth to reduce COVID-19 transmission risk for vulnerable family members, and an expansion of the months CWS was offered. Many participants in CWS exited to their own apartments through the YSFS Youth Homelessness Demonstration Program (YHDP) Rapid Rehousing program, or, through flexible private funds and diversion case management efforts, found other ways to exit homelessness. CDBG funds also provided much-needed capital assistance for a roof replacement for the Santa Fe Youth Transitional Living Program apartments. Through the Transitional Living Program, 19 youth ages 17-21 were provided a safe place to stay and case management to help them attain their educational and employment goals.

Another way that families experiencing homelessness are assisted is through the Adelante program, which provides referrals to services, school supplies, food, clothing and other supports to students enrolled in Santa Fe Public Schools and their families. CDBG funds were used to expand staff hours which enabled the program to serve over 2,880 individuals in need, a much higher number than in previous years due to the economic shutdown related to the pandemic.

Addressing the emergency shelter and transitional housing needs of homeless persons

The City works in partnership with many non-profit organizations who provide a wide range of services to prevent "at-risk" populations such as unaccompanied youth, battered families, people with disabilities, veterans and seniors from becoming homeless. Another objective is to help existing homeless populations obtain safe, affordable and sustainable housing opportunities as well as needed services such as health care, transportation and counseling. These activities necessarily run along a continuum of housing program options that range from emergency shelter services to transitional housing and permanent supportive housing services to the new construction of mixed income and mixed use affordable rental development projects. Currently the City, through its community partners supports emergency and transitional housing programs for homeless individuals, families with children, veterans, and unaccompanied youth.

The City of Santa Fe also works closely with the New Mexico Coalition to End Homelessness to coordinate services for homeless individuals and families. NMCEH operates a statewide system of coordinated assessment where every homeless family and individual is given an assessment based on the nationally recognized VI/SPDAT (Vulnerability Index/Service Prioritization Assessment Tool). The results of the assessment are used to refer homeless people to the type of housing that best fits their needs and the assessment is used to create a prioritized list with chronically homeless people at the top of the list for permanent supportive housing.

Helping low-income individuals and families avoid becoming homeless, especially extremely low-income individuals and families and those who are: likely to become homeless after being discharged from publicly funded institutions and systems of care (such as health care facilities, mental health facilities, foster care and other youth facilities, and corrections programs and institutions); and, receiving assistance from public or private agencies that address housing, health, social services, employment, education, or youth needs

The City relies on its network of community partners to facilitate coordination of services and ensure that those vulnerable to homelessness don't "fall through the cracks". A Homeless Task Force was convened in 2017 to analyze and provide recommendations to the Governing Body "to ensure that homelessness is prevented whenever possible or is otherwise a rare, brief and non-recurring experience." In line with the draft recommendations of the report, in 2018 rapid rehousing was proposed as an immediate response to stabilize the housing situations of those experiencing homelessness and discharged from public institutions and systems of care. During the program year, the

City continued its work with the Built for Zero initiative, a nationally recognized, evidenced-based program which provides strategies and solutions for eliminating chronic homelessness. Implementation of the program begins with the identification of every homeless person in the City, followed by a coordinated plan with non-profits and service providers to target the specific needs of each identified individual. The goal is to provide linkage to housing for each identified homeless individual, as well as the services required, uniquely suited to their situation, and eliminate the chronic homelessness populations together as a community by 2021.

The use of Rapid Rehousing is limited by its applicability to the household in need. Life Link, the City's primary partner in administering rapid rehousing assistance, assesses each household at intake. For those with fewer barriers, rapid rehousing provides support until the household either increases income or benefits and can manage the housing expense independently. For some homeless households, rapid rehousing resources can be used to stabilize short term housing situations until a permanent supported housing unit becomes available without jeopardizing their eligibility status. Life Link and other rapid re-housing providers emphasize ongoing case management and referral to other services (employment, education, job training, budgeting, health care/insurance, food, transportation, etc.) so that when assistance ends with one program, the household is poised to enter another program if independence has not been achieved. It is likely that in the near future, local resources will need to be deployed to further support this type of assistance, given the pandemic-related and greatly increasing housing instability of low-income households.

Helping homeless persons (especially chronically homeless individuals and families, families with children, veterans and their families, and unaccompanied youth) make the transition to permanent housing and independent living, including shortening the period of time that individuals and families experience homelessness, facilitating access for homeless individuals and families to affordable housing units, and preventing individuals and families who were recently homeless from becoming homeless again

For chronically homeless households, the service delivery system relies on a network of housing providers, and services coordinated through the Continuum of Care, the City's funding cycles (through the Children and Youth Commission, the Human Services Commission and the Community Development Commission), and other regional efforts. Upon intake each homeless or at-risk household is assessed to determine whether they qualify for rapid rehousing or whether their needs are more intensive. If the household has few barriers then they can use rental assistance until they are able to manage the housing expense on their own- either through income or an increase in benefits. Extensive outreach activities include veterans, their families and unaccompanied youth.

The Resource Opportunity Center (ROC) once called Pete's Place in the existing Interfaith Shelter offers emergency beds, meals, and clothing as well as veteran's resource services and housing linking for veterans and their families as well as unaccompanied youth. Homeless individuals or families can also use Rapid Rehousing to get out of the shelter system and into housing without losing their homelessness

status (dependent on the funding source). It is the responsibility of the Case Manager to be knowledgeable about housing programs and other resources in the community and to work closely with the household to identify areas that need support which include but are not limited to: permanent supported housing, employment, education, job training, budgeting, health insurance, food, transportation, and support services. Another aspect once a household is stabilized is to continue working with case management so that that housing stability is maintained when assistance ends or circumstances change.

The City has worked closely with the Santa Fe Community Housing Trust to develop three apartment communities - Village Sage (60 units), Stagecoach Apartments (60 units) and Las Soleras Station (87 units) where 25% of the units are set aside for people at 30%AMI or less, many of them exiting homelessness. On-site support services and referral to other service providers is also provided. Additionally, by the end of 2021, Siler Yards will offer 65 units of affordable rental housing, in collaboration with a community resource center and economic development initiatives. The City has contributed financially in various ways to each of these projects.

CR-30 - Public Housing 91.220(h); 91.320(j)

Actions taken to address the needs of public housing

The Santa Fe Civic Housing Authority (SFCHA) is the public housing agency in Santa Fe. As previously reported, it oversees 490 units of public housing, and manages 670 Section 8 vouchers in Santa Fe. There are a total of 369 units for seniors and 121 units for families. Over 400 people are on the public housing waiting list, and close to 200 people on the Section 8 Voucher waiting list for Santa Fe. SFCHA receives approximately 40 applications per month for public housing. The application window is closed when 400 are reached. With only 6 to 8 families and/or individuals coming out of the program each year, new openings are extremely limited. This year is particularly challenging as the turnover for vouchers and units is practically nonexistent because of the pandemic.

The Housing Authority is considering moving towards site-based or site-driven wait lists, which better supports applicants so that the Authority doesn't have to turn an individual or family down because of location, school district or other limiting factors, and to avoid having to send an individual or household back down to the bottom of the list again.

Newly refinanced properties are being systematically renovated to address long-term deferred maintenance issues. The City of Santa Fe assists this process by donating the lease value of the land on which the units are sited which is city-owned and providing fee waivers when possible. Villa Consuelo, a 100-unit Senior housing apartment complex, was partially funded by the City's CDBG entitlement grant in 2019 for complete rehabilitation and energy efficiency improvements, estimated for completion in 2020.

Actions taken to encourage public housing residents to become more involved in management and participate in homeownership

The Santa Fe Civic Housing Authority continues to run a Family Self-Sufficiency Program which supports self-sufficiency with the eventual goal of becoming viable homeowners. The family enters into a five-year Contract of Participation with the Housing Authority and sets specific goals to be achieved over the term of the Contract. As part of the Contract, the Housing Authority opens an escrow account for each participating family and any time there is an increase to the family's earned income during the term of the Contract, money is deposited into the family's escrow account. Upon successful completion of the Program, the family receives the balance in their escrow account to use for home ownership and educational goals.

Actions taken to provide assistance to troubled PHAs

The PHA is not designated as troubled.

CR-35 - Other Actions 91.220(j)-(k); 91.320(i)-(j)

Actions taken to remove or ameliorate the negative effects of public policies that serve as barriers to affordable housing such as land use controls, tax policies affecting land, zoning ordinances, building codes, fees and charges, growth limitations, and policies affecting the return on residential investment. 91.220 (j); 91.320 (i)

Disproportionately, those who are most heavily cost-burdened, have the lowest incomes. The City of Santa Fe is reviewing its policies and practices to mitigate barriers to housing development--particularly affordable housing development. A review of city housing policies and land use and zoning regulations identified concerns in 2016, as well as in the 2017 ACH, namely stakeholders raising concerns about inconsistent and unpredictable development approval decisions and “NIMBYism” (acronym for "Not In My Back Yard") affecting approvals. According to stakeholder interviews and private sector focus groups there is a stigma associated with affordable housing developments and neighborhood associations make strong efforts to impede affordable development.

The City of Santa Fe has been exploring efforts to potentially redevelop several of its underused corridors that have infrastructure and could support rental housing. The advantage to these areas is they don’t have existing residential neighbors concerned about higher density housing developments, while also providing easy access to transportation. These include the Siler Road corridor and the Midtown Local Innovation Corridor District, or Midtown LINC, on St. Michael’s Drive. Also, the City works closely with the newly formed “Santa Fe Housing Action Coalition” which brings together industry group organizations (housing providers, homebuilders, realtors, architects) and members of the public to implement outreach and education efforts about affordable housing and to lobby for recurrable funding sources.

Recognizing that one size does not fit all, a new fee-in-lieu menu of options for developers was adopted in December of 2019 to ease the barriers to multi-family rental development. The inclusionary zoning ordinance allows multi-family developers of rental housing to pay a fee-in-lieu by right, rather than incorporating subsidized units on-site. Fees are established on an "affordability gap" basis, estimating the difference between an affordable rent, affordable to 50 - 60% AMI, and HUD's Fair Market Rent. Additionally, the ordinance amendments increased incentives available to Developers to encourage the set aside of rent-restricted units. In the upcoming program year, two projects will break ground with affordable units included on site.

Revenues generated through the fee in lieu of program are used to fund a rental assistance program for tenants that can be used citywide and does not have high requirements for eligibility. The assistance could be used for a variety of needs - rent, utilities, rental/utility arrears, rental deposits, etc. Another objective is to remove a financing barrier for multi-family housing with the expectation that the development of multi-family units will also loosen up some of the demand for existing units, stemming rising rental rates but also providing more options for voucher holders to use their subsidies. As with any revenue generated or earmarked for affordable housing, use of the funds is dictated by city

code and must be compliant with the NM Affordable Housing Act.

Actions taken to address obstacles to meeting underserved needs. 91.220(k); 91.320(j)

As reported, the projects that were funded and executed through CDBG and local funds increase the availability of affordable housing to low and moderate income households. Furthermore, the City has actively supported the development of several LIHTC multi-family properties with local funds and through the donation of City-owned land. Applications were opened for Siler Yards, 65 units of affordable rental housing. All of the properties address the needs of people transitioning out of homelessness, renters with special needs and very low incomes by offering 25% of their units at rents affordable to those earning 30% AMI and less.

Another underserved need that was addressed during the program year was to greatly improve access to broadband and internet services. The City's Office of Economic Development expanded free wi-fi to reach the exterior of schools, libraries and City buildings in addition to mobile home parks in the 87507 zip code, Santa Fe's lowest income area. This action was in direct response to remote learning requirements which were in place for the majority of the 20-21 school year but also as a longer-term means to promote equity and economic opportunities.

Actions taken to reduce lead-based paint hazards. 91.220(k); 91.320(j)

According to the State of NM Department of Health, Santa Fe has low risk factors for lead exposure in children. 9.6% of its housing stock was built before 1950 and in 2011, 0 children in Santa Fe County tested positively for elevated blood levels. More recent studies by the NMDOH identified Santa Fe County as having "low levels" of lead exposure, as cited in the NM Epidemiology Report, April 2017. The Office of Affordable Housing also conducts environmental reviews on all CDBG-funded activities. In cases where individual homes are older than 1978 and may have lead based paint, the subrecipient is required to follow all applicable law to assess the presence of lead and remediate it, if necessary.

As part of their home repair program, Homewise has tested 60 homes for lead since 2002. Of these, only four tested positive, which is 7% of the homes they tested. Extrapolated to the number of homes in Santa Fe built before 1950 (2,499 homes), a rough estimate is 175 homes could contain lead-based paint citywide.

Actions taken to reduce the number of poverty-level families. 91.220(k); 91.320(j)

Given the City's high rate of cost burden, even for homeowners, it is apparent that continued focus on rehabilitation, home repair, and other support services is essential to alleviating poverty in Santa Fe.

Specific programs that CDBG funds supported to reduce the number of poverty level of families in 2019 were:

- Provide Emergency home repair/improvement funding to support 19 low to moderate income homeowners (30 to 80 percent AMI) with home renovations, emergency repairs and energy conservation measures including the purchase of new appliances, retrofits, and solar water heaters;
- Provide donated land, fee waivers and local funds to support the preconstruction work for an affordable rental development of 65 units;
- Support the efforts of local nonprofits and the Santa Fe Civic Housing Authority to build and conserve affordable rental units through fee waivers, below market lease fees and funding for pre-construction services;
- Provide wealth building opportunities and preservation of wealth through mortgage reduction loans (20).

Additionally, in 2019, local funds were used to provide short-term rental assistance for individuals and families experiencing episodic homelessness and/or in danger of losing their current housing situations. As the pandemic took hold, the City further mobilized local resources to help renters with housing costs and foreclosure prevention.

Actions taken to develop institutional structure. 91.220(k); 91.320(j)

The City of Santa Fe continuously carries out the priorities in the *2018-2022 Consolidated Plan* by collaborating with non-profit partners. The City's philosophy is to help build the capacity of community-based service providers, rather than to increase the size of the City's bureaucracy. The City and its staff serve as advocates and coordinators for its partner nonprofits. Another strength of this service delivery model is that a wide array of services is provided with little overlap because of the coordination between City departments as well as between the City and nonprofit partners. This cooperation ensures that services reach those in most need, including homeless families and individuals and those in danger of becoming homeless – veterans, senior citizens, victims of domestic violence, very low-income renters, at risk youth – and people with special needs and disabilities.

Actions taken to enhance coordination between public and private housing and social service agencies. 91.220(k); 91.320(j)

St. Elizabeth Shelters & Supportive Housing has been an active member of the Santa Fe Housing Action Coalition almost since its inception. As a member of the steering committee we fully support the initiatives that the coalition is proposing to reduce the barriers to affordable housing in Santa Fe.

In December 2020 St. Elizabeth took on the management of the Santa Fe Suites, a formerly 123 unit extended-stay motel and converted it into housing for those coming out of homelessness and low-income individuals and couples. Purchased by the national non-profit organization Community Solutions, who goal is to end homelessness through a systematic and methodical approach, and with funds from the City of Santa Fe and the New Mexico Mortgage Finance Authority (via the CARES Act), the project has been a resounding success. In only 7 and half months, the Suites has rented 112

apartments to formerly homeless and low-income individuals and couples. Most of them are receiving wrap around services from 2 on-site case managers as well as partnering agencies like The Life Link, the VA, and Santa Fe Recovery, to name a few. The program, property and case managers have all taken 2 classes each on the NM Uniform Owner Resident Relations Act and HUD's Fair Housing Act. The breakdown of residents is as follows: 59 Formerly homeless residents (40 are subsidized, 19 are self-pay) and 53 Market rate renters.

St. Elizabeth continues to play a strong role in providing services to the needs of the homeless in Santa Fe. With 5 separate facilities, we now sleep about 225 people a night at one of our programs. We also provide food, clothing, hygiene products and mail services to almost 2000 street clients a year. We collaborate closely with the Interfaith Community Shelter, Consuelo's Place and NM Coalition to End Homelessness. We receive $100,000 a year from the City of Santa Fe Community Services Department Human Services Committee to provide navigation services to our shelter clients. This has enabled to us to assist them with finding work, applying for social security disability, obtaining medical and mental health services and ultimately, housing.

One area that desperately needs attention is the needs of the mentally ill homeless. It appears that since COVID erupted there has been a large increase in their number. The current shelters in town are not equipped to provide much service to these individuals. There really should be a separate facility in town just for these individuals.

The City's Office of Affordable Housing coordinates closely with other City departments including the Youth and Family Services Division of the Community Services Department. The Youth and Family Services Division funds emergency housing and community development programs as well as social services and supports a juvenile justice program which provides program planning, service integration, data analysis, and program evaluation to ensure that youth are provided alternatives to detention and

YouthWorks, as well as Youth Shelters and Family Services have provided several programs to integrate disconnected youth with mainstream educational opportunities, job training and internships, reunification with families, and referral to other support services. Life Link, another of the City's nonprofit partners, provides intake, referral and on-site social services to people with mental illness who are homeless or at risk of becoming homeless. The agency works closely with other governmental, private and nonprofit providers of services. The City's CDBG allocation, its economic development fund and other local funds have supported several of these initiatives. Some beneficiaries of this funding also are recipients of public housing services. The City's CDBG sub-recipients strive to coordinate with the Santa Fe Civic Housing Authority so that outreach activities and some programming is located at housing authority sites.

Identify actions taken to overcome the effects of any impediments identified in the jurisdictions analysis of impediments to fair housing choice. 91.520(a)

In the 2017 Assessment of Fair Housing, the HUD provided Opportunity Indices show that Hispanic

populations experience some of the lowest access to opportunity, particularly in the low poverty, school proficiency and labor market indexes. The indicators in Santa Fe that are of most concern are poverty and school proficiency, both of which indicate low access to opportunity. According to stakeholders and residents, lack of access to opportunity is affected by infrequent public transportation services to higher opportunity neighborhoods and destinations outside of core service areas (e.g., county social services office), limited hours and days of operation of some routes, lack of holiday service, etc. As per the 2016 Analysis of Impediments, the City's efforts to address barriers have focused on improving access to fair housing information, enhancing resident knowledge of fair housing rights and empowering residents to take action when they perceive a fair housing violation. These efforts have included:

- Preparation of outreach materials regarding housing laws including the Federal Fair Housing Act, the New Mexico Uniform Owner Resident Relations Act (UORRA) and the state Mobile Home Act. The outreach materials consist of Fair Housing Frequently Asked Questions brochures in English and Spanish and a tenant rights "Novella," both in Spanish and English called "Tino the Tenant"/"Tino el Inquilino", a story about a tenant who shares his own discrimination experiences with a group of acquaintances. Distribution is ongoing throughout the year predominantly in Spanish-speaking and lower income neighborhoods as well as through school liaisons with the Santa Fe Public Schools and community facilities throughout the city.
- The Office of Affordable Housing has participated actively with the newly formed Santa Fe Housing Action Coalition, and sponsored the production of an informational video, with a distribution plan for an outreach campaign to educate the public about affordable housing and fair housing issues
- The City of Santa Fe has committed funding or matched resources (meeting facilities), conditional on finalized budgets, to fair housing consultants to conduct fair housing training for lenders and apartment managers.

CR-40 - Monitoring 91.220 and 91.230

Describe the standards and procedures used to monitor activities carried out in furtherance of the plan and used to ensure long-term compliance with requirements of the programs involved, including minority business outreach and the comprehensive planning requirements

The CDBG Administrator monitors program service providers funded by CDBG to ensure compliance with requirements through site inspections and documentation of organizational structures, with applicability to HUD national objectives and scope of work. The City of Santa Fe utilizes HUD's following guides to ensure compliance:

- "Guidebook for Grantee's on Sub-recipient Oversight"
- CPD Monitoring Handbook
- "Managing CDBG"
- "Ensuring CDBG Sub-recipient Timeliness Guidelines"
- CFR 570 Federal Regulation governing CDBG and including Part 58 governing Environmental Reviews
- Davis Bacon fair wage resources via the Department of Labor

Additionally, the Office of Affordable Housing attends technical assistance trainings in monitoring, sub-recipient oversight and fair housing throughout the year. Other ways in which the City ensures that programs are monitored appropriately and that the public has opportunity for comment include:

Site Visits: For the 2019 projects funded through CDBG, site visits were held virtually. Prior to the visit, the subrecipient completed a self-monitoring checklist, describing accomplishments and procedures for complying with CDBG regulation. Staff members met via Zoom call with the leadership team of the particular non-profit sub-recipient, and reviewed selected files for accuracy based on the guiding regulations and documents. Like prior years, staff notes both deficiencies and accomplishments at the time of monitoring and by follow up letters which outline corrective actions to be taken to achieve effective, efficient program delivery. All 2019 CDBG funded activities were monitored for performance measurement and financial, as well as record keeping oversight.

Reporting and Fiscal Management: Staff ensures that all sub recipients keep detailed records for the Performance Measurement System to evaluate the effectiveness of the project in meeting the needs of targeted populations. Relevant data include the number of clients served, income and employment (locally and with the City depending on the program), assets breakdown (when appropriate) and Performance Measurement data by project type (Housing, Economic Development, Public Service or Facilities & Improvement), ethnicity and age breakdown.

This information is submitted quarterly and input into the Integrated Disbursement and Information System (IDIS) with data finalized prior to program closeout and reporting in the Program Year

CAPER. The reports track completion of the contracted scope of services and track program demand and utilization by demographic category for services provided by the program. The sub-recipient's program manager also must submit audits and/or audited financial statements which include a breakdown of the expenditures and revenue (including Program Income if relevant) and a specific description of the charges as defined in the contract.

Procurement and services provided by the subrecipients as well as the City followed the Fair Housing guidelines to include required community outreach and education for minorities, notifcations in Spanish as well as translation, and any additional required and requested services specific to assist persons with disabilities including those with hearing, visual, or physical impairments.

Note: this section will be updated upon conclusion of the public review and comment period.

Citizen Participation Plan 91.105(d); 91.115(d)

Describe the efforts to provide citizens with reasonable notice and an opportunity to comment on performance reports.

The CDBG Citizen Participation Plan, as approved by HUD, requires that Santa Fe residents be given adequate time – a minimum of 15 days – to review the City's use of CDBG funds as well as holding a Public Hearing at a regular City Council meeting for public comment. For the public comment opportunity, the Office of Affordable Housing published a Legal Notice in Spanish and English on Monday, August 23, 2021 in the Santa Fe New Mexican, soliciting written public comment (or comments by phone call). The document was made available from August 23 – September 8, 2021 virtually due to global health pandemic at the following website address: https://www.santafenm.gov/hudrequiredreportingandplans. Paper copies were provided upon request and phone calls also accepted.

To comply with the HUD Public Hearing requirements for public input on the 2020 CAPER, the City Clerk published an official notice in the Santa Fe New Mexican Legal Section on August 26, 2021 to provide notice for the Public Hearing held on September 8, 2021.

The CAPER is made available to the public for review along with other internal committee reviews within the timeline below:

- City Finance Committee: August 30, 2021
- City's Community Development Commission: September 1, 2021
- City Quality of Life Committee: September 1, 2021
- City's Public Works Committee: September 7, 2021
- Public Hearing, City Council: September 8, 2021

Citizens have three options to participate. They may participate by attending public meetings, which are held virtually, given the current State of NM guidelines regarding mass gatherings. They may submit written comments via email or regular mail to the Office of Affordable Housing, and may testify at public hearings via Zoom. They may watch all public meetings and hearings on the City of Santa Fe's YouTube channel and watch past meetings through its archives, links to which are posted prominently on the City's website https://www.youtube.com/user/cityofsantafe. All CDBG contracts represented in the CAPER were reviewed and recommended for approval by the Governing Body prior to the start of the program year on July 1, 2020 and provided in meeting packets available on the City's website: https://santafe.primegov.com/public/portal. The public review period for the Action Plan was also advertised in the Santa Fe New Mexican and the packets made available on the City's website.

No public comments were made via the electronic documents made available on the City's website, through email or as part of the public hearing on September 8, 2021.

CR-45 - CDBG 91.520(c)

Specify the nature of, and reasons for, any changes in the jurisdiction's program objectives and indications of how the jurisdiction would change its programs as a result of its experiences.

The global pandemic has shifted the City's approach to community development from longer term goals. In March of 2020, the Midtown campus property was partially converted into a homeless shelter, specifically for people without a safe place to quarantine or maintain social distance. Once housed, the residents were able to access an array of services, including three meals per day. Additionally, the site accepts discharged patients from local hospitals (including those who are recovering from COVID without an appropriate place to quarantine), as well as those leaving recovery programs and detention centers. As a result of the success of the Midtown Shelter and efficacy in preventing Covid outbreaks amongst the people experiencing homelessness, the City further focused this year on providing stable housing for those who don't have it (including very low income renters) not only for the duration of the pandemic but extending into the near future. Specifically, this was achieved through the use of State of NM CARES Act funds to partially fund the purchase of the Santa Fe Suites, a long stay motel property that is in the process of being converted into permanent supportive housing.

Does this Jurisdiction have any open Brownfields Economic Development Initiative (BEDI) grants?

No

[BEDI grantees] Describe accomplishments and program outcomes during the last year.

ACTION SHEET
ITEM FROM FINANCE COMMITTEE MEETING OF 08/30/21
FOR CITY COUNCIL MEETING OF 09/08/21

Review and Recommend Approval of Consolidated Annual Performance Evaluation Review (CAPER) on uses of CDBG Funds for the 2020 - 2021 Program Year, as Required by HUD (Alexandra Ladd, Director, Office of Affordable Housing: agladd@santafenm.gov, 505-303-9868).

Committee Review:
Finance Committee: 8/30/2021
Community Development Commission: 9/01/2021
Quality of Life Committee: 9/01/2021
Public Works Committee: 9/07/2021
City Council Public Hearing: 9/08/2021

FINANCE COMMITTEE ACTION:
Approved on consent

FUNDING SOURCE:

SPECIAL CONDITIONS OR AMENDMENTS

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

ACTION SHEET QUALITY OF LIFE MEETING OF 9/1/2021
ISSUE NO. 7g Review and Recommend Approval of Consolidated Annual Performance Evaluation Review (CAPER) on uses of CDBG Funds for the 2020 - 2021 Program Year, as Required by HUD (Alexandra Ladd, Director, Office of Affordable Housing: agladd@santafenm.gov, 505-303-9868). **Committee Review:** Finance Committee: 8/30/2021 Community Development Commission: 9/01/2021 Quality of Life Committee: 9/01/2021 Public Works Committee: 9/07/2021 City Council Public Hearing: 9/08/2021
PUBLIC WORKS AND UTILITES COMMITTEE ACTION: Approved on consent agenda to forward to 9/8/2021 Governing Body
SPECIAL CONDITIONS OR AMENDMENTS:
STAFF FOLLOW UP:

VOTE:	FOR	AGAINST	ABSTAIN
COUNCILOR RIVERA	X		
COUNCILOR GARICA	X		
COUNCILOR CASSUTT	X		
COUNCILOR VILLARREAL	X		
COUNCILOR ROMERO-WIRTH, CHAIR	X		

ACTION SHEET
ITEM FROM FINANCE COMMITTEE MEETING OF 08/30/21
FOR CITY COUNCIL MEETING OF 09/08/21

Request for the Approval of the Agreement with Jayne's Corporation for the Construction of the South Side Teen Center in the Total Amount of $9,267,014.53 including New Mexico gross receipts tax Sam Burnett, Facilities Division Director, jsburnett@santafenm.gov, 505-795-2491

1) Request for Approval of BAR Amendment to Allocate $4,000,000 for use of General Fund GRT revenues earned in the prior year (FY21) above budgeted revenue to fund the Southside Teen Center project.

Committee	**Review:**
Finance Committee:	8/30/2021
Public Works and Utilities Committee:	9/7/2021
Governing Body: 9/8/2021	

FINANCE COMMITTEE ACTION:
BAR Approved on discussion. Contract Postponed until 9/27 PWC then to move to GB

FUNDING SOURCE:

SPECIAL CONDITIONS OR AMENDMENTS

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

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

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

DEPARTMENT / DIVISION NAME	DATE
Public Works / CIP	8/12/2021

ITEM DESCRIPTION	ORG	OBJECT	PROJECT	INCREASE	DECREASE
EXPENDITURES				*{enter as positive #}*	*{enter as negative #}*
Facilities CIP - WIP Construction	3209980	572970	FA183200T	4,000,000	
Facilities Admin - Capital Transfer to Facilities CIP	1000431	760320		4,000,000	
REVENUES				*{enter as negative #}*	*{enter as positive #}*
Facilities CIP - Capital Transfer from General Fund	3209980	660100		(4,000,000)	
				$ 4,000,000	$ -

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

Use of General Fund GRT revenues earned in the prior year (FY21) over and above budgeted estimates to cover bid overage and provide sufficient start-up funding in order to fund the Southside Teen Center project

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

Fund(s) Affected	Fund Balance Increase/(Decrease)
100	(4,000,000)
TOTAL:	**(4,000,000)**

Andy Hopkins — 8/12/2021
Prepared By *{print name}* — Date

Division Director Signature *{optional}* — Date

Regina Wheeler
Regina Wheeler (Aug 25, 2021 09:37 MDT)
Department Director Signature — Date

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

CITY COUNCIL APPROVAL

City Council Approval Date:

Agenda Item #:

Alexis Lotero
Alexis Lotero (Aug 25, 2021 09:43 MDT)
Budget Officer — Date

N/A
Finance Director *{≤ $5,000}* — Date

N/A
City Manager *{≤ $60,000}* — Date

ACTION SHEET
ITEM FROM FINANCE COMMITTEE MEETING OF 08/30/21
FOR CITY COUNCIL MEETING OF 09/08/21

Request for the Approval of the Agreement with Jayne's Corporation for the Construction of the South Side Teen Center in the Total Amount of $9,267,014.53 including New Mexico gross receipts tax Sam Burnett, Facilities Division Director, jsburnett@santafenm.gov, 505-795-2491

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Committee	**Review:**
Finance Committee:	8/30/2021
Public Works and Utilities Committee:	9/7/2021
Governing Body: 9/8/2021	

FINANCE COMMITTEE ACTION:
BAR Approved on discussion. Contract Postponed until 9/7 or 9/27 PWC then to move to GB

FUNDING SOURCE:

SPECIAL CONDITIONS OR AMENDMENTS

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

City of Santa Fe, New Mexico
MEMO

DATE August 25, 2021

TO Governing Body

VIA Regina Wheeler
Regina Wheeler, Public Works Department Director

FROM Mark Baca, C.M., Airport Manager MB

ACTION

Ratification of the City Manager's Approval of Airport Coronavirus Response Grant Program (ACRGP) Concessions Relief Addendum Award No. 3-35-0037-056-2021 in the amount of $30,578 and approval of the BAR to budget grant funds into the Airport FY22 operating budget federal grant revenue org and object 5456050.490550. (Mark Baca, Airport Manager, mdbaca@santafenm.gov, 505-955-2901)

SUMMARY

The City has been awareded an Airport Coronavirus Response Grant Program (ACRGP) Concessions Relief Addendum, Grant No. 3-35-0037-056-2021 for the maximum obligation amount of $30,578. In order to meet FAA deadlines, there was insufficient time to bring the grant award to the Governing Body; for that reason, the City Manager signed the grant award and the division is hereby requesting ratification by the Governing Body. The end date for this grant is four (4) years from the date of acceptance and is a reimburseable grant with no matching funds required.

This grant will be used to provide relief from rent and minimum annual guarantees (MAGs) obligations to each eligible airport concession for relief provided no earlier than December 27, 2020.Concessioners (which includes all airport lessees) will be invited to apply for these relief funds. FAA will provide forms and procedures for eligibility evaluation and fund distribution. Concessioners rent and MAGs generate approximately $1,500,000 of revenue per year for the airport, but that revenue was significantly reduced in the past fiscal year due to COVID.

ACRGP Concessions Relief funds will be governed by the same regulations for "airport revenue" but may not fund any airport development program projects. This is the fourth grant offered by the Federal Government in response to the COVID-19 pandemic. The City of Santa Fe's Governing Body previously accepted Grant 51 in the amount of $1,858,505 and Grant 55 in the amount of $1,570,927. The division is processing Grant 56 in the amount of $30,578, and Grant 57 in the amount of $2,226,110 concurrently.

COMMITTEE REVIEW

Public Works and Utilities Committee: 9/7/2021
Governing Body: 9/8/2021

ATTACHMENTS

Grant Agreement
Budget Amendment Resolution (BAR)

Signature:

Email: rawheeler@ci.santa-fe.nm.us

U.S. Department
of Transportation
Federal Aviation
Administration

Airports Division
Southwest Region
Louisiana, New Mexico

FAA ASW-640
10101 Hillwood Parkway
Fort Worth, TX 76177
Fort Worth, TX 76177

August 11, 2021

Ms. Jarel Lapan Hill
City Manager
200 Lincoln Ave
Santa Fe, NM 87501

SUBJECT: Airport Coronavirus Response Grant Program (ACRGP) Concessions Addendum

Dear Ms. Hill:

Please find the following electronic ACRGP Concessions Relief Addendum Offer, Addendum No. 3-35-0037-056-2021 for Santa Fe Municipal Airport. This letter outlines expectations for success. Please read and follow the instructions carefully.

To properly enter into this agreement, you must do the following:

a. The governing body must provide authority to execute the addendum to the individual signing the addendum; i.e. the sponsor's authorized representative.

b. The sponsor's authorized representative must execute the addendum, followed by the attorney's certification, no later than August 20, 2021. in order for the addendum to be valid.

c. You may not make any modification to the text, terms or conditions of the addendum offer.

d. The addendum offer must be digitally signed by the sponsor's legal signatory authority and then the addendum offer will be routed via email to the sponsor's attorney. Once the attorney has digitally attested to the addendum, an email with the executed addendum will be sent to all parties.

Subject to the requirements in 2 CFR §200.305, each payment request for reimbursement under this addendum must be made electronically via the Delphi eInvoicing System. The terms and conditions of this agreement require you drawdown and expend these funds within four years.

An airport sponsor may use these funds to provide relief from rent and minimum annual guarantees (MAG) to on-airport car rental, on-airport parking, and in-terminal concessions.

With each payment request you are required to upload a summary directly to Delphi. The summary should include at least the list of concessions, baseline numbers for proportional calculations, amount of rent and MAG relief, and the consultation date with any Airport Concession Disadvantaged Business Enterprise. Please refer to the ACRGP Frequently Asked Questions for further information

For the final payment request, in addition to the requirement listed above for all payment requests, you are required to upload directly to Delphi:

- A final financial report summarizing all of the costs incurred and reimbursed, and
- An SF-425, and
- A closeout report (A sample report is available here).

Until the addendum is completed and closed, you are responsible for submitting a signed/dated SF-425 annually, due 90 days after the end of each federal fiscal year in which this addendum is open (due December 31 of each year this addendum is open).

As a condition of receiving Federal assistance under this award, you must comply with audit requirements as established under 2 CFR part 200. Subpart F requires non-Federal entities that expend $750,000 or more in Federal awards to conduct a single or program specific audit for that year. Note that this includes Federal expenditures made under other Federal-assistance programs. Please take appropriate and necessary action to assure your organization will comply with applicable audit requirements and standards.

I am readily available to assist you and your designated representative with the requirements stated herein. We sincerely value your cooperation in these efforts.

Sincerely,

Lacey D Spriggs
Lacey D Spriggs (Aug 11, 2021 13:01 CDT)

Lacey D. Spriggs
Manager

U.S. Department of Transportation Federal Aviation Administration

AIRPORT CORONAVIRUS RELIEF GRANT PROGRAM (ACRGP)

CONCESSIONS RELIEF ADDENDUM

Part I - Offer

Federal Award Offer Date: August 11, 2021

Airport/Planning Area: Santa Fe Municipal Airport

ACRGP Addendum Number: 3-35-0037-056-2021

Unique Entity Identifier: 069420818

TO: City of Santa Fe
(herein called the "Sponsor")

FROM: **The United States of America** (acting through the Federal Aviation Administration, herein called the "FAA")

WHEREAS, the Sponsor has submitted to the FAA an application dated August 11, 2021 to amend Airports Coronavirus Response Grant Program (ACRGP or "the Agreement") Grant Agreement 3-35-0037-055-2021 to provide relief from rent and minimum annual guarantees (MAG) obligations to each eligible airport concession at Santa Fe Municipal Airport, in accordance with the Coronavirus Response and Relief Appropriations Act ("CRRSA Act" or "the Act"), Public Law 116-260, Division M;

WHEREAS, the FAA has agreed with the Sponsor to amend its ACRGP Grant Agreement 3-35-0037-055-2021 to further allocate $30,578 to fund Concession Relief as defined below;

WHEREAS, the Sponsor has accepted the terms of the FAA's ACRGP Concessions Relief Addendum offer;

WHEREAS, in consideration of the promises, representations, and assurances provided by the Sponsor, the FAA has approved the ACRGP Concessions Relief Addendum Application for the Santa Fe Municipal Airport;

WHEREAS, no other terms, conditions, or assurances of the 3-35-0037-055-2021 shall be negated as a result of this ACRGP Concessions Relief Addendum;

WHEREAS, this ACRGP Concessions Relief Addendum hereby amends 3-35-0037-055-2021 for the purpose of adding $30,578 for Santa Fe Municipal Airport to use to provide relief from rent and minimum annual guarantees (MAG) obligations, as applicable, to each eligible airport concession in an

amount that reflects each eligible airport concession's proportional share of the total amount of the rent and MAGs of all eligible airport concessions at Santa Fe Municipal Airport, as further defined herein, for relief provided no earlier than December 27, 2020, until the specified Concession Relief funds have been fully expended.

NOW THEREFORE, in accordance with the applicable provisions of the Coronavirus Response and Relief Appropriations Act, Public Law 116-260, Division M, the representations contained in the ACRGP Concessions Relief Addendum Application, and in consideration of, (a) the Sponsor's acceptance of this Offer for an ACRGP Concessions Relief Addendum, the terms, conditions, and assurances of which are hereby attached to and made part of the terms, conditions, and assurances agreed to under 3-35-0037-055-2021 and, (b) the benefits to accrue to the United States and the public from the accomplishment of the ACRGP Concession Relief Addendum, and in compliance with the conditions and requirements as herein provided

THE FEDERAL AVIATION ADMINISTRATION, FOR AND ON BEHALF OF THE UNITED STATES, HEREBY OFFERS AND AGREES to pay 100% percent of the allowable costs incurred accomplishing ACRGP Concessions Relief as a result of and in accordance with this ACRGP Concession Relief Addendum.

Assistance Listings Number (Formerly CFDA Number): 20.106

This Offer is made on and **SUBJECT TO THE FOLLOWING ADDITIONAL TERMS AND CONDITIONS:**

CONDITIONS

ADDENDUM TO AIRPORT CORONAVIRUS RELIEF GRANT AGREEMENT 3-35-0037-055-2021

1a. **Maximum Obligation.** The maximum obligation of the United States payable under this Offer is $30,578 to be provided to the airport sponsor for rent relief provided to eligible airport concessions as described herein.

2a. **Period of Performance.** This ACRGP Concessions Relief Addendum is subject to the following federal award requirements:

a. This Addendum does not change the period of performance date prescribed in the ACGRP Grant Agreement 3-35-0037-055-2021.

b. This Addendum does not change the budget period prescribed in the ACGRP Grant Agreement 3-35-0037-055-2021.

c. Close out and Termination.

1. Unless the FAA authorizes a written extension, the Sponsor must submit all Grant closeout documentation and liquidate (pay-off) all obligations incurred under this award no later than 120 calendar days after the end date of the period of performance. If the Sponsor does not submit all required closeout documentation within this time period, the FAA will proceed to close out the grant within one year of the period of performance end date with the information available at the end of 120 days. (2 CFR § 200.344)

2. The FAA may terminate this ACRGP Concessions Relief Addendum, in whole or in part, in accordance with the conditions set forth in 2 CFR § 200.340.

3a. **Amendments or Withdrawals before Grant Acceptance.** The FAA reserves the right to amend or withdraw this offer at any time prior to its acceptance by the Sponsor.

4a. **Offer Expiration Date.** This offer will expire and the United States will not be obligated to pay any part of the costs of the Concessions Relief unless this offer has been accepted by the Sponsor on or before August 20, 2021, or such subsequent date as may be prescribed in writing by the FAA.

5a. **Electronic Grant Payment(s).** Unless otherwise directed by the FAA, the Sponsor must make each payment request under this Concessions Relief Addendum electronically via the Delphi eInvoicing System for Department of Transportation (DOT) Financial Assistance Awardees.

SUPPLEMENTAL TO ACRGP GRANT AGREEMENT 3-35-0037-055-2021

CONDITION FOR AIRPORT CONCESSIONS RELIEF -

1. **ACRGP Concessions Relief.** The Sponsor agrees that it will use the funds in this ACRGP Concessions Relief Addendum allocated specifically to cover lawful expenses to provide relief from rent and minimum annual guarantee obligations to on airport car rental, on-airport parking, and in-terminal airport concessions (collectively referred to herein as "Concessions") as defined in part 23 of title 49, Code of Federal Regulations, in accordance with the CRRSA Act, Public Law 116-260, Division M, Title IV. Use of these funds shall be governed by the following specific conditions defined in the CRRSA Act:

    a. Relief provided to Concessions must equal the total amount of funds allocated for Concessions under this ACRGP Concessions Relief Addendum, to the extent practicable and to the extent permissible under state laws, local laws, and applicable trust indentures;

    b. Relief provided to Concessions from rent and minimum annual guarantee obligations to each eligible airport concession in an amount that reflects each eligible airport concession's proportional share of the total amount of the rent and minimum annual guarantees of all the eligible airport concessions at such airport;

    c. Relief provided to Concessions shall be prioritized to minority-owned businesses, to the extent permissible;

    d. Relief shall only be provided to Concessions that have certified they have not received a second draw or assistance for a covered loan under Section 7(a)(37) of the Small Business Act (15 U.S.C. 636(a)(37)) that has been applied toward rent or minimum annual guarantee costs; and

    e. Each Concession provided relief with these funds shall certify to the Sponsor it will not apply for a covered loan as described above for rent or minimum annual guarantee costs.

    The Sponsor agrees that it will provide the FAA with reporting data in lieu of invoices to be reimbursed for eligible expenses as described herein and certify data submitted is true and correct. The FAA will provide reporting options for the Sponsor. The Sponsor may not use funds allocated for Concessions for other airport purposes except that the Sponsor may retain up to two percent of the amount allocated for Concession relief purposes in this ACRGP Concession Relief Addendum to administer the Concession relief program. Funds not expended under this condition are subject to recovery by FAA.

The Sponsor's acceptance of this Offer and ratification and adoption of the ACRGP Concessions Relief Addendum Application incorporated herein shall be evidenced by execution of this instrument by the Sponsor, as hereinafter provided, and this Offer and Acceptance shall comprise an ACRGP Concessions Relief Addendum, as provided by the CRRSA Act, constituting the contractual obligations and rights of the United States and the Sponsor with respect to the accomplishment of the Concessions Relief and compliance with the conditions as provided herein. Further, this ACRGP Concessions Relief Addendum shall be attached to ACRGP 3-35-0037-055-2021. inclusive of all terms, conditions, and assurances provided there, and become effective upon the Sponsor's acceptance of this Offer.

Please read the following information: By signing this document, you are agreeing that you have reviewed the following consumer disclosure information and consent to transact business using electronic communications, to receive notices and disclosures electronically, and to utilize electronic signatures in lieu of using paper documents. You are not required to receive notices and disclosures or sign documents electronically. If you prefer not to do so, you may request to receive paper copies and withdraw your consent at any time.

UNITED STATES OF AMERICA
FEDERAL AVIATION ADMINISTRATION

Lacey D Spriggs
Lacey D Spriggs (Aug 11, 2021 13:01 CDT)

(Signature)

Lacey D Spriggs

(Typed Name)

Manager, LA/NM Airports District Office

(Title of FAA Official)

Part II - Acceptance

The Sponsor does hereby ratify and adopt all assurances, statements, representations, warranties, covenants, and agreements contained in the ACRGP Concessions Relief Addendum Application and incorporated materials referred to in the foregoing Offer under this ACRGP Concessions Relief Addendum, and does hereby accept this Offer and by such acceptance agrees to comply with all of the terms and conditions in this Offer. Furthermore, the Sponsor acknowledges all terms, conditions and assurances in this ACRGP Concessions Relief Addendum are hereby attached to any ACRGP Grant Agreements previously or concurrently executed for any other purpose.

Please read the following information: By signing this document, you are agreeing that you have reviewed the following consumer disclosure information and consent to transact business using electronic communications, to receive notices and disclosures electronically, and to utilize electronic signatures in lieu of using paper documents. You are not required to receive notices and disclosures or sign documents electronically. If you prefer not to do so, you may request to receive paper copies and withdraw your consent at any time.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this August 11, 2021

City of Santa Fe

(Name of Sponsor)

Jarel LaPan Hill

Jarel LaPan Hill (Aug 11, 2021 12:25 MDT)

(Signature of Sponsor's Authorized Official)

By: Jarel LaPan Hill

(Typed Name of Sponsor's Authorized Official)

Title: City Manager

(Title of Sponsor's Authorized Official)

CERTIFICATE OF SPONSOR'S ATTORNEY

I, Erin McSherry , acting as Attorney for the Sponsor do hereby certify:

That in my opinion the Sponsor is empowered to enter into the foregoing ACRGP Concessions Relief Addendum under the laws of the State of New Mexico. Further, I have examined the foregoing ACRGP Concessions Relief Addendum and the actions taken by said Sponsor and Sponsor's official representative has been duly authorized and that the execution thereof is in all respects due and proper and in accordance with the laws of the said State and the CRRSA Act. In addition, for grants involving Concessions Relief to be carried out by the Sponsor, there are no legal impediments that will prevent full performance by the Sponsor. The Sponsor understands funding made available under this ACRGP Concessions Relief Addendum may only be used for the Concessions Relief prescribed in the Act and identified herein. The Sponsor acknowledges all terms, conditions and assurances in this ACRGP Concessions Relief Addendum are hereby attached to any ACRGP Grant Agreements previously or concurrently executed for any other purpose a. Further, it is my opinion that the said ACRGP Grant Agreement and the ACRGP Concessions Relief Addendum attached hereto constitute a legal and binding obligation of the Sponsor in accordance with the terms thereof.

Please read the following information: By signing this document, you are agreeing that you have reviewed the following consumer disclosure information and consent to transact business using electronic communications, to receive notices and disclosures electronically, and to utilize electronic signatures in lieu of using paper documents. You are not required to receive notices and disclosures or sign documents electronically. If you prefer not to do so, you may request to receive paper copies and withdraw your consent at any time.

Dated at August 18, 2021

By: _____

(Signature of Sponsor's Attorney)

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:_____

ATTEST:

_____
KRISTINE MIHELCIC, CITY CLERK

CITY ATTORNEY'S OFFICE:

_____
SENIOR ASSISTANT CITY ATTORNEY

APPROVED:

_____
MARY MCCOY, FINANCE DIRECTOR

Airport Operating / 5456050
Org.Name/Org.#

Log # *{Finance use only}*:	
Batch # *{Finance use only}*:	

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

DEPARTMENT / DIVISION NAME	DATE
Public Works/Airport	04/07/2021

ITEM DESCRIPTION	ORG	OBJECT	PROJECT	INCREASE	DECREASE
EXPENDITURES				*{enter as positive #}*	*{enter as negative #}*
REVENUES				*{enter as negative #}*	*{enter as positive #}*
US Department of Transportation	5456050	490550		(30,578.00)	
				0	

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

To record Airport Coronavirus Response Grant Program Concessions Addendum - Grant 56

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

Fund(s) Affected	Fund Balance Increase/(Decrease)
545	30578
TOTAL:	0

Bobbi Huseman 08/24/2021
Prepared By *{print name}* Date

Mark Baca 08/24/2021
Division Director Signature *{optional}* Date

Regina Wheeler Aug 30, 2021
Department Director Signature Date

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

CITY COUNCIL APPROVAL

City Council Approval Date

Agenda Item #

Andy Hopkins Aug 30, 2021
Budget Officer Date

Finance Director *{≤ $5,000}* Date

City Manager *{≤ $60,000}* Date

Signature:

Email: rawheeler@ci.santa-fe.nm.us

Signature: Andy Hopkins

Email: ajhopkins@ci.santa-fe.nm.us

City of Santa Fe, New Mexico
MEMO

DATE: August 25, 2021

TO: Governing Body

VIA: Regina Wheeler
Regina Wheeler, Public Works Department Director

FROM: Mark Baca, C.M., Airport Manager MB

ACTION

Ratification of the City Manager's Approval of Airport Rescue Grant Award No. 3-35-0037-057-2021 in the amount of $2,226,110 and approval of the BAR to budget grant funds into the Airport FY22 operating budget federal grant revenue org and object 5456050.490550. (Mark Baca, Airport Manager, mdbaca@santafenm.gov, 505-955-2901)

SUMMARY

The City has been awarded an Airport Rescue Grant, identified as Grant No. 3-35-0037-057-2021 for the maximum obligation amount of $2,226,110. In order to meet FAA deadlines, there was in sufficient time to bring the grant award to the Governing Body; for that reason, the City Manager signed the grant award and the division is hereby requesting ratification by the Governing Body. The end date for this grant is four (4) years from the date of acceptance and is a reimburseable grant with no matching funds required.

By accepting this grant, the City of Santa Fe will certify that the reimbursements sought is for purposes directly related to airport operations. Such purposes include the reimbursement of the airport operational and maintenance expences or debt service payments incurred no earlier than January 20, 2020, and in accordance with the limitations prescribed in the grant agreement. Airport Rescue Grant funds will be governed by the same requlations for "airport revenue". Airport Rescue Grant funds may not fund any airport development program projects. This is the fourth grant offered by the Federal Government in response to the COVID-19 pandemic. The City of Santa Fe Governing Body previously accepted Grant 51 in the amount of $1,858,505, and Grant 55 in the amount of $1,570,927. The division is processing Grant 56 in the amount of $30,578, and Grant 57 in the amount of $2,226,110 concurrently.

COMMITTEE REVIEW

Public Works and Utilities Committee: 9/7/2021
Governing Body: 9/8/2021

ATTACHMENTS

Grant Agreement
Budget Amendment Resolution (BAR)

Signature:

Email: rawheeler@ci.santa-fe.nm.us

U.S. Department
of Transportation
Federal Aviation
Administration

Airports Division
Southwest Region
Louisiana, New Mexico

FAA ASW-640
10101 Hillwood Parkway
Fort Worth, TX 76177

Airport Rescue Grant Transmittal Letter

August 11, 2021

Ms. Jarel Lapan Hill
City Manager
200 Lincoln Avenue
Santa Fe, NM 87501

Dear Ms. Hill:

Please find the following electronic Airport Rescue Grant Offer, Grant No. 3-35-0037-057-2021 for Santa Fe Municipal Airport. This letter outlines expectations for success. Please read and follow the instructions carefully.

To properly enter into this agreement, you must do the following:

a. The governing body must provide authority to execute the grant to the individual signing the grant; i.e. the sponsor's authorized representative.

b. The sponsor's authorized representative must execute the grant, followed by the attorney's certification, no later than **August 20, 2021** in order for the grant to be valid.

c. You may not make any modification to the text, terms or conditions of the grant offer.

d. The grant offer must be digitally signed by the sponsor's legal signatory authority and then routed via email to the sponsor's attorney. Once the attorney has digitally attested to the grant, an email with the executed grant will be sent to all parties.

Subject to the requirements in 2 CFR §200.305, each payment request for reimbursement under this grant must be made electronically via the Delphi eInvoicing System. Please see the attached Grant Agreement for more information regarding the use of this System. The terms and conditions of this agreement require you draw down and expend these funds within four years.

An airport sponsor may use these funds for costs related to operations, personnel, cleaning, sanitization, janitorial services, combating the spread of pathogens at the airport, and debt service payments. Please refer to the Airport Rescue Grants Frequently Asked Questions for further information.

With each payment request you are required to upload an invoice summary directly to Delphi. The invoice summary should include enough detail to permit FAA to verify compliance with the American Rescue Plan Act (Public Law 117-2). Additional details or invoices may be requested by FAA during the review of your payment requests.

As part of your final payment request, you are required to include in Delphi:

- A signed SF-425, *Federal Financial Report*
- A signed closeout report (a sample report is available here).

Until the grant is completed and closed, you are responsible for submitting a signed and dated SF-425 annually, due 90 days after the end of each Federal fiscal year in which this grant is open (due December 31 of each year this grant is open).

As a condition of receiving Federal assistance under this award, you must comply with audit requirements as established under 2 CFR part 200. Subpart F requires non-Federal entities that expend $750,000 or more in Federal awards to conduct a single or program specific audit for that year. Note that this includes Federal expenditures made under other Federal-assistance programs. Please take appropriate and necessary action to assure your organization will comply with applicable audit requirements and standards.

I am readily available to assist you and your designated representative with the requirements stated herein. The FAA sincerely values your cooperation in these efforts.

Sincerely,

Lacey D Spriggs
Lacey D Spriggs (Aug 11, 2021 15:35 CDT)

Lacey D. Spriggs
Manager
[ADO has discretion to delegate signature authority to Program Manager]

U.S. Department
of Transportation
Federal Aviation
Administration

AIRPORT RESCUE GRANT

GRANT AGREEMENT

Part I - Offer

Federal Award Offer Date August 11, 2021

Airport/Planning Area Santa Fe Municipal Airport

Airport Rescue Grant No. 3-35-0037-057-2021

Unique Entity Identifier 069420818

TO: City of Santa Fe
(herein called the "Sponsor")

FROM: The United States of America (acting through the Federal Aviation Administration, herein called the "FAA")

WHEREAS, the Sponsor has submitted to the FAA an Airport Rescue Grant Application dated July 12, 2021, for a grant of Federal funds at or associated with the Santa Fe Municipal Airport, which is included as part of this Airport Rescue Grant Agreement;

WHEREAS, the Sponsor has accepted the terms of FAA's Airport Rescue Grant offer;

WHEREAS, in consideration of the promises, representations and assurances provided by the Sponsor, the FAA has approved the Airport Rescue Grant Application for the Santa Fe Municipal Airport, (herein called the "Grant" or "Airport Rescue Grant") consisting of the following:

WHEREAS, this Airport Rescue Grant is provided in accordance with the American Rescue Plan Act ("ARP Act", or "the Act"), Public Law 117-2, as described below, to provide eligible Sponsors with funding for costs related to operations, personnel, cleaning, sanitization, janitorial services, combating the spread of pathogens at the airport, and debt service payments. Airport Rescue Grant amounts to specific airports are derived by legislative formula (See Section 7102 of the Act).

WHEREAS, the purpose of this Airport Rescue Grant is to prevent, prepare for, and respond to the coronavirus pandemic. Funds provided under this Airport Rescue Grant Agreement must be used only for purposes directly related to the airport. Such purposes can include the reimbursement of an airport's operational expenses or debt service payments in accordance with the limitations prescribed in the Act.

Airport Rescue Grants may be used to reimburse airport operational expenses directly related to Santa Fe Municipal incurred no earlier than January 20, 2020.

Airport Rescue Grants also may be used to reimburse a Sponsor's payment of debt service where such payments occur on or after March 11, 2021. Funds provided under this Airport Rescue Grant Agreement will be governed by the same principles that govern "airport revenue." New airport development projects not directly related to combating the spread of pathogens may not be funded with this Grant. Funding under this Grant for airport development projects to combat the spread of pathogens will be reallocated using an addendum to this Agreement for identified and approved projects.

NOW THEREFORE, in accordance with the applicable provisions of the ARP Act, Public Law 117-2, the representations contained in the Grant Application, and in consideration of (a) the Sponsor's acceptance of this Offer; and, (b) the benefits to accrue to the United States and the public from the accomplishment of the Grant and in compliance with the conditions as herein provided,

THE FEDERAL AVIATION ADMINISTRATION, FOR AND ON BEHALF OF THE UNITED STATES, HEREBY OFFERS AND AGREES to pay 100% percent of the allowable costs incurred as a result of and in accordance with this Grant Agreement.

Assistance Listings Number (Formerly CFDA Number): 20.106

This Offer is made on and **SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS**:

CONDITIONS

1. **Maximum Obligation.** The maximum obligation of the United States payable under this Offer is $2,226,110, allocated as follows:

   $2,226,110 ARPA KV2021

2. **Grant Performance.** This Airport Rescue Grant Agreement is subject to the following Federal award requirements:

   a. The Period of Performance:

      1. Shall start on the date the Sponsor formally accepts this agreement, and is the date signed by the last Sponsor signatory to the agreement. The end date of the period of performance is 4 years (1,460 calendar days) from the date of acceptance. The period of performance end date shall not affect, relieve, or reduce Sponsor obligations and assurances that extend beyond the closeout of this Grant Agreement.

      2. Means the total estimated time interval between the start of an initial Federal award and the planned end date, which may include one or more funded portions, or budget periods. (2 Code of Federal Regulations (CFR) § 200.1)

   b. The Budget Period:

      1. For this Airport Rescue Grant is 4 years (1,460 calendar days). Pursuant to 2 CFR § 200.403(h), the Sponsor may charge to the Grant only allowable costs incurred during the budget period.

      2. Means the time interval from the start date of a funded portion of an award to the end date of that funded portion during which the Sponsor is authorized to expend the funds awarded, including any funds carried forward or other revisions pursuant to § 200.308.

   c. Close out and Termination.

1. Unless the FAA authorizes a written extension, the Sponsor must submit all Grant closeout documentation and liquidate (pay-off) all obligations incurred under this award no later than 120 calendar days after the end date of the period of performance. If the Sponsor does not submit all required closeout documentation within this time period, the FAA will proceed to close out the Grant within one year of the period of performance end date with the information available at the end of 120 days. (2 CFR § 200.344)
2. The FAA may terminate this Airport Rescue Grant, in whole or in part, in accordance with the conditions set forth in 2 CFR § 200.340, or other Federal regulatory or statutory authorities as applicable.

3. **Unallowable Costs.** The Sponsor shall not seek reimbursement for any costs that the FAA has determined to be unallowable under the ARP Act.

4. **Indirect Costs - Sponsor.** The Sponsor may charge indirect costs under this award by applying the indirect cost rate identified in the Grant Application as accepted by the FAA, to allowable costs for Sponsor direct salaries and wages only.

5. **Final Federal Share of Costs.** The United States' share of allowable Grant costs is 100%.

6. **Completing the Grant without Delay and in Conformance with Requirements.** The Sponsor must carry out and complete the Grant without undue delays and in accordance with this Airport Rescue Grant Agreement, the ARP Act, and the regulations, policies, standards, and procedures of the Secretary of Transportation ("Secretary"). Pursuant to 2 CFR § 200.308, the Sponsor agrees to report to the FAA any disengagement from funding eligible expenses under the Grant that exceeds three months or a 25 percent reduction in time devoted to the Grant, and request prior approval from FAA. The report must include a reason for the stoppage. The Sponsor agrees to comply with the attached assurances, which are part of this agreement and any addendum that may be attached hereto at a later date by mutual consent.

7. **Amendments or Withdrawals before Grant Acceptance.** The FAA reserves the right to amend or withdraw this offer at any time prior to its acceptance by the Sponsor.

8. **Offer Expiration Date.** This offer will expire and the United States will not be obligated to pay any part of the costs unless this offer has been accepted by the Sponsor on or before August 20, 2021, or such subsequent date as may be prescribed in writing by the FAA.

9. **Improper Use of Federal Funds.** The Sponsor must take all steps, including litigation if necessary, to recover Federal funds spent fraudulently, wastefully, or in violation of Federal antitrust statutes, or misused in any other manner, including uses that violate this Airport Rescue Grant Agreement, the ARP Act, or other provision of applicable law. For the purposes of this Airport Rescue Grant Agreement, the term "Federal funds" means funds however used or dispersed by the Sponsor that were originally paid pursuant to this or any other Federal grant agreement(s). The Sponsor must return the recovered Federal share, including funds recovered by settlement, order, or judgment, to the Secretary. The Sponsor must furnish to the Secretary, upon request, all documents and records pertaining to the determination of the amount of the Federal share or to any settlement, litigation, negotiation, or other efforts taken to recover such funds. All settlements or other final positions of the Sponsor, in court or otherwise, involving the recovery of such Federal share require advance approval by the Secretary.

10. **United States Not Liable for Damage or Injury.** The United States is not responsible or liable for damage to property or injury to persons which may arise from, or relate to this Airport Rescue

Grant Agreement, including, but not limited to, any action taken by a Sponsor related to or arising from, directly or indirectly, this Airport Rescue Grant Agreement.

11. **System for Award Management (SAM) Registration and Unique Entity Identifier (UEI).**

    a. Requirement for System for Award Management (SAM): Unless the Sponsor is exempted from this requirement under 2 CFR 25.110, the Sponsor must maintain the currency of its information in SAM until the Sponsor submits the final financial report required under this Grant, or receives the final payment, whichever is later. This requires that the Sponsor review and update the information at least annually after the initial registration and more frequently if required by changes in information or another award term. Additional information about registration procedures may be found at the SAM website (currently at http://www.sam.gov).

    b. Unique entity identifier (UEI) means a 12-character alpha-numeric value used to identify a specific commercial, nonprofit or governmental entity. A UEI may be obtained from SAM.gov at https://sam.gov/SAM/pages/public/index.jsf.

12. **Electronic Grant Payment(s).** Unless otherwise directed by the FAA, the Sponsor must make each payment request under this agreement electronically via the Delphi eInvoicing System for Department of Transportation (DOT) Financial Assistance Awardees.

13. **Air and Water Quality.** The Sponsor is required to comply with all applicable air and water quality standards for all projects in this grant. If the Sponsor fails to comply with this requirement, the FAA may suspend, cancel, or terminate this Agreement.

14. **Financial Reporting and Payment Requirements.** The Sponsor will comply with all Federal financial reporting requirements and payment requirements, including submittal of timely and accurate reports.

15. **Buy American.** Unless otherwise approved in advance by the FAA, in accordance with 49 United States Code (U.S.C.) § 50101, the Sponsor will not acquire or permit any contractor or subcontractor to acquire any steel or manufactured goods produced outside the United States to be used for any project for which funds are provided under this grant. The Sponsor will include a provision implementing Buy American in every contract.

16. **Audits for Sponsors.**

    PUBLIC SPONSORS. The Sponsor must provide for a Single Audit or program-specific audit in accordance with 2 CFR Part 200. The Sponsor must submit the audit reporting package to the Federal Audit Clearinghouse on the Federal Audit Clearinghouse's Internet Data Entry System at http://harvester.census.gov/facweb/. Upon request of the FAA, the Sponsor shall provide one copy of the completed audit to the FAA.

17. **Suspension or Debarment.** When entering into a "covered transaction" as defined by 2 CFR § 180.200, the Sponsor must:

    a. Verify the non-Federal entity is eligible to participate in this Federal program by:

        1. Checking the excluded parties list system (EPLS) as maintained within the System for Award Management (SAM) to determine if the non-Federal entity is excluded or disqualified; or

        2. Collecting a certification statement from the non-Federal entity attesting the entity is not excluded or disqualified from participating; or

3. Adding a clause or condition to covered transactions attesting the individual or firm is not excluded or disqualified from participating.

b. Require prime contractors to comply with 2 CFR § 180.330 when entering into lower-tier transactions (e.g., subcontracts).

c. Immediately disclose to the FAA whenever the Sponsor (1) learns the Sponsor has entered into a covered transaction with an ineligible entity, or (2) suspends or debars a contractor, person, or entity.

18. **Ban on Texting While Driving.**

a. In accordance with Executive Order 13513, Federal Leadership on Reducing Text Messaging While Driving, October 1, 2009, and DOT Order 3902.10, Text Messaging While Driving, December 30, 2009, the Sponsor is encouraged to:

1. Adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while driving when performing any work for, or on behalf of, the Federal government, including work relating to this Airport Rescue Grant or subgrant funded by this Grant.

2. Conduct workplace safety initiatives in a manner commensurate with the size of the business, such as:

A. Establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving; and

B. Education, awareness, and other outreach to employees about the safety risks associated with texting while driving.

b. The Sponsor must insert the substance of this clause on banning texting while driving in all subgrants, contracts, and subcontracts funded by this Airport Rescue Grant.

19. **Trafficking in Persons.**

a. You as the recipient, your employees, subrecipients under this Airport Rescue Grant, and subrecipients' employees may not –

1. Engage in severe forms of trafficking in persons during the period of time that the award is in effect;

2. Procure a commercial sex act during the period of time that the award is in effect; or

3. Use forced labor in the performance of the award or subawards under the Airport Rescue Grant.

b. The FAA as the Federal awarding agency may unilaterally terminate this award, without penalty, if you or a subrecipient that is a private entity –

1. Is determined to have violated a prohibition in paragraph a. of this Airport Rescue Grant Agreement term; or

2. Has an employee who is determined by the agency official authorized to terminate the Airport Rescue Grant Agreement to have violated a prohibition in paragraph a. of this Airport Rescue Grant term through conduct that is either –

A. Associated with performance under this Airport Rescue Grant; or

B. Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR Part 180, "OMB Guidelines to Agencies on Government-wide Debarment and Suspension (Nonprocurement),"as implemented by the FAA at 2 CFR Part 1200.

c. You must inform us immediately of any information you receive from any source alleging a violation of a prohibition in paragraph a. of this Grant condition during this Airport Rescue Grant Agreement.

d. Our right to terminate unilaterally that is described in paragraph a. of this Grant condition:

1. Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. § 7104(g)), and

2. Is in addition to all other remedies for noncompliance that are available to the FAA under this Airport Rescue Grant.

20. **Employee Protection from Reprisal.**

a. Prohibition of Reprisals —

1. In accordance with 41 U.S.C. § 4712, an employee of a grantee or subgrantee may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing to a person or body described in sub-paragraph (a)(2) of this Grant condition, information that the employee reasonably believes is evidence of:

a. Gross mismanagement of a Federal grant;
b. Gross waste of Federal funds;
c. An abuse of authority relating to implementation or use of Federal funds;
d. A substantial and specific danger to public health or safety; or
e. A violation of law, rule, or regulation related to a Federal grant.

2. Persons and bodies covered: The persons and bodies to which a disclosure by an employee is covered are as follows:

a. A member of Congress or a representative of a committee of Congress;
b. An Inspector General;
c. The Government Accountability Office;
d. A Federal employee responsible for oversight or management of a grant program at the relevant agency;
e. A court or grand jury;
f. A management official or other employee of the Sponsor, contractor, or subcontractor who has the responsibility to investigate, discover, or address misconduct; or
g. An authorized official of the Department of Justice or other law enforcement agency.

3. Submission of Complaint — A person who believes that they have been subjected to a reprisal prohibited by paragraph a. of this Airport Rescue Grant Agreement may submit a complaint regarding the reprisal to the Office of Inspector General (OIG) for the U.S. Department of Transportation..

4. Time Limitation for Submittal of a Complaint — A complaint may not be brought under this subsection more than three years after the date on which the alleged reprisal took place.

5. Required Actions of the Inspector General — Actions, limitations, and exceptions of the Inspector General's office are established under 41 U.S.C. § 4712(b).

6. Assumption of Rights to Civil Remedy — Upon receipt of an explanation of a decision not to conduct or continue an investigation by the Office of Inspector General, the person submitting a complaint assumes the right to a civil remedy under 41 U.S.C. § 4712(c).

21. **Limitations.** Nothing provided herein shall be construed to limit, cancel, annul, or modify the terms of any Federal grant agreement(s), including all terms and assurances related thereto, that have been entered into by the Sponsor and the FAA prior to the date of this Airport Rescue Grant Agreement.

22. **Face Coverings Policy.** The sponsor agrees to implement a face-covering (mask) policy to combat the spread of pathogens. This policy must include a requirement that all persons wear a mask, in accordance with Centers for Disease Control (CDC) and Transportation Security Administration (TSA) requirements, as applicable, at all times while in all public areas of the airport property, except to the extent exempted under those requirements. This special condition requires the airport sponsor continue to require masks until Executive Order 13998, Promoting COVID-19 Safety in Domestic and International Travel, is no longer effective.

SPECIAL CONDITIONS FOR USE OF AIRPORT RESCUE GRANT FUNDS

CONDITIONS FOR EQUIPMENT -

1. **Equipment or Vehicle Replacement.** The Sponsor agrees that when using funds provided by this Grant to replace equipment, the proceeds from the trade-in or sale of such replaced equipment shall be classified and used as airport revenue.

2. **Equipment Acquisition.** The Sponsor agrees that for any equipment acquired with funds provided by this Grant, such equipment shall be used solely for purposes directly related to combating the spread of pathogens at the airport.

3. **Low Emission Systems.** The Sponsor agrees that vehicles and equipment acquired with funds provided in this Grant:

   a. Will be maintained and used at the airport for which they were purchased; and

   b. Will not be transferred, relocated, or used at another airport without the advance consent of the FAA.

   The Sponsor further agrees that it will maintain annual records on individual vehicles and equipment, project expenditures, cost effectiveness, and emission reductions.

CONDITIONS FOR UTILITIES AND LAND -

4. **Utilities Proration.** For purposes of computing the United States' share of the allowable airport operations and maintenance costs, the allowable cost of utilities incurred by the Sponsor to operate and maintain airport(s) included in the Grant must not exceed the percent attributable to the capital or operating costs of the airport.

5. **Utility Relocation in Grant.** The Sponsor understands and agrees that:

   a. The United States will not participate in the cost of any utility relocation unless and until the Sponsor has submitted evidence satisfactory to the FAA that the Sponsor is legally responsible for payment of such costs;

b. FAA participation is limited to those utilities located on-airport or off-airport only where the Sponsor has an easement for the utility; and

c. The utilities must serve a purpose directly related to the Airport.

The Sponsor's acceptance of this Offer and ratification and adoption of the Airport Rescue Grant Application incorporated herein shall be evidenced by execution of this instrument by the Sponsor. The Offer and Acceptance shall comprise an Airport Rescue Grant Agreement, as provided by the ARP Act, constituting the contractual obligations and rights of the United States and the Sponsor with respect to this Grant. The effective date of this Airport Rescue Grant Agreement is the date of the Sponsor's acceptance of this Offer.

Please read the following information: By signing this document, you are agreeing that you have reviewed the following consumer disclosure information and consent to transact business using electronic communications, to receive notices and disclosures electronically, and to utilize electronic signatures in lieu of using paper documents. You are not required to receive notices and disclosures or sign documents electronically. If you prefer not to do so, you may request to receive paper copies and withdraw your consent at any time.

Dated August 11, 2021

UNITED STATES OF AMERICA
FEDERAL AVIATION ADMINISTRATION

Lacey D Spriggs
Lacey D Spriggs (Aug 11, 2021 15:35 CDT)

(Signature)

Lacey D Spriggs

(Typed Name)

Manager, LA/NM Airports District Office

(Title of FAA Official)

Part II - Acceptance

The Sponsor does hereby ratify and adopt all assurances, statements, representations, warranties, covenants, and agreements contained in the Airport Rescue Grant Application and incorporated materials referred to in the foregoing Offer under Part I of this Airport Rescue Grant Agreement, and does hereby accept this Offer and by such acceptance agrees to comply with all of the terms and conditions in this Offer and in the Airport Rescue Grant Application and all applicable terms and conditions provided for in the ARP Act and other applicable provisions of Federal law.

Please read the following information: By signing this document, you are agreeing that you have reviewed the following consumer disclosure information and consent to transact business using electronic communications, to receive notices and disclosures electronically, and to utilize electronic signatures in lieu of using paper documents. You are not required to receive notices and disclosures or sign documents electronically. If you prefer not to do so, you may request to receive paper copies and withdraw your consent at any time.

I declare under penalty of perjury that the foregoing is true and correct. [1]

Dated August 11, 2021

City of Santa Fe

(Name of Sponsor)

Jarel LaPan Hill

Jarel LaPan Hill (Aug 11, 2021 15:19 MDT)

(Signature of Sponsor's Designative Official/Representative)

By: Jarel LaPan Hill

(Type Name of Sponsor's Designative Official/Representative)

Title: City Manager

(Title of Sponsor's Designative Official/Representative)

[1] Knowingly and willfully providing false information to the Federal government is a violation of 18 U.S.C. Section 1001 (False Statements) and could subject you to fines, imprisonment, or both.

CERTIFICATE OF SPONSOR'S ATTORNEY

I, Erin McSherry , acting as Attorney for the Sponsor do hereby certify:

That in my opinion the Sponsor is empowered to enter into the foregoing Grant Agreement under the laws of the State of New Mexico. Further, I have examined the foregoing Grant Agreement and the actions taken by said Sponsor and Sponsor's official representative has been duly authorized and that the execution thereof is in all respects due and proper and in accordance with the laws of the said State and the ARP Act. The Sponsor understands funding made available under this Grant Agreement may only be used for costs related to operations, personnel, cleaning, sanitization, janitorial services, and combating the spread of pathogens at the airport incurred on or after January 20, 2020, or for debt service payments that are due on or after March 11, 2021. Further, it is my opinion the foregoing Grant Agreement constitutes a legal and binding obligation of the Sponsor in accordance with the terms thereof.

Please read the following information: By signing this document, you are agreeing that you have reviewed the following consumer disclosure information and consent to transact business using electronic communications, to receive notices and disclosures electronically, and to utilize electronic signatures in lieu of using paper documents. You are not required to receive notices and disclosures or sign documents electronically. If you prefer not to do so, you may request to receive paper copies and withdraw your consent at any time.

Dated at August 18, 2021

By: _____

(Signature of Sponsor's Attorney)

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:_____

ATTEST:

_____
KRISTINE MIHELCIC, CITY CLERK

CITY ATTORNEY'S OFFICE:

_____
SENIOR ASSISTANT CITY ATTORNEY

APPROVED:

_____
MARY MCCOY, FINANCE DIRECTOR

Airport Operating / 5456050
Org.Name/Org.#

AIRPORT RESCUE GRANT ASSURANCES

AIRPORT SPONSORS

A. General.

1. These Airport Rescue Grant Assurances are required to be submitted as part of the application by sponsors requesting funds under the provisions of the American Rescue Plan Act of 2021 ("ARP Act," or "the Act"), Public Law 117-2. As used herein, the term "public agency sponsor" means a public agency with control of a public-use airport; the term "private sponsor" means a private owner of a public-use airport; and the term "sponsor" includes both public agency sponsors and private sponsors.
2. Upon acceptance of this Airport Rescue Grant offer by the sponsor, these assurances are incorporated into and become part of this Airport Rescue Grant Agreement.

B. Sponsor Certification.

The sponsor hereby assures and certifies, with respect to this Airport Rescue Grant that:

It will comply with all applicable Federal laws, regulations, executive orders, policies, guidelines, and requirements as they relate to the application, acceptance, and use of Federal funds for this Airport Rescue Grant including but not limited to the following:

FEDERAL LEGISLATION

a. 49 U.S.C. Chapter 471, as applicable
b. Davis-Bacon Act — 40 U.S.C. 276(a), et. seq.
c. Federal Fair Labor Standards Act — 29 U.S.C. 201, et. seq.
d. Hatch Act — 5 U.S.C. 1501, et. seq.[2]
e. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 Title 42 U.S.C. 4601, et. seq.
f. National Historic Preservation Act of 1966 — Section 106 — 16 U.S.C. 470(f).
g. Archeological and Historic Preservation Act of 1974 — 16 U.S.C. 469 through 469c.
h. Native Americans Grave Repatriation Act — 25 U.S.C. Section 3001, et. seq.
i. Clean Air Act, P.L. 90-148, as amended.
j. Coastal Zone Management Act, P.L. 93-205, as amended.
k. Flood Disaster Protection Act of 1973 — Section 102(a) — 42 U.S.C. 4012a.
l. Title 49, U.S.C., Section 303, (formerly known as Section 4(f)).
m. Rehabilitation Act of 1973 — 29 U.S.C. 794.
n. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin).
o. Americans with Disabilities Act of 1990, as amended, (42 U.S.C. § 12101 et seq.), prohibits discrimination on the basis of disability).
p. Age Discrimination Act of 1975 — 42 U.S.C. 6101, et. seq.

q. American Indian Religious Freedom Act, P.L. 95-341, as amended.

r. Architectural Barriers Act of 1968 — 42 U.S.C. 4151, et. seq.

s. Power plant and Industrial Fuel Use Act of 1978 — Section 403- 2 U.S.C. 8373.

t. Contract Work Hours and Safety Standards Act — 40 U.S.C. 327, et. seq.

u. Copeland Anti-kickback Act — 18 U.S.C. 874.1.

v. National Environmental Policy Act of 1969 — 42 U.S.C. 4321, et. seq.

w. Wild and Scenic Rivers Act, P.L. 90-542, as amended.

x. Single Audit Act of 1984 — 31 U.S.C. 7501, et. seq.[2]

y. Drug-Free Workplace Act of 1988 — 41 U.S.C. 702 through 706.

z. The Federal Funding Accountability and Transparency Act of 2006, as amended (Pub. L. 109-282, as amended by section 6202 of Pub. L. 110-252).

EXECUTIVE ORDERS

a. Executive Order 11246 – Equal Employment Opportunity

b. Executive Order 11990 – Protection of Wetlands

c. Executive Order 11998 – Flood Plain Management

d. Executive Order 12372 – Intergovernmental Review of Federal Programs

e. Executive Order 12699 – Seismic Safety of Federal and Federally Assisted New Building Construction

f. Executive Order 12898 – Environmental Justice

g. Executive Order 14005 – Ensuring the Future Is Made in All of America by All of America's Workers.

FEDERAL REGULATIONS

a. 2 CFR Part 180 – OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement).

b. 2 CFR Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.[3, 4]

c. 2 CFR Part 1200 – Nonprocurement Suspension and Debarment.

d. 28 CFR Part 35 – Discrimination on the Basis of Disability in State and Local Government Services.

e. 28 CFR § 50.3 – U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964.

f. 29 CFR Part 1 – Procedures for predetermination of wage rates.[1]

g. 29 CFR Part 3 – Contractors and subcontractors on public building or public work financed in whole or part by loans or grants from the United States.[1]

h. 29 CFR Part 5 – Labor standards provisions applicable to contracts covering Federally financed and assisted construction (also labor standards provisions applicable to non-construction contracts subject to the Contract Work Hours and Safety Standards Act).[1]

i. 41 CFR Part 60 – Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Federal and Federally assisted contracting requirements).[1]

j. 49 CFR Part 20 – New restrictions on lobbying.

k. 49 CFR Part 21 – Nondiscrimination in Federally-assisted programs of the Department of Transportation - effectuation of Title VI of the Civil Rights Act of 1964.

l. 49 CFR Part 23 – Participation by Disadvantage Business Enterprise in Airport Concessions.

m. 49 CFR Part 26 – Participation by Disadvantaged Business Enterprises in Department of Transportation Program.

n. 49 CFR Part 27 – Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance.[1]

o. 49 CFR Part 28 – Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities conducted by the Department of Transportation.

p. 49 CFR Part 30 – Denial of public works contracts to suppliers of goods and services of countries that deny procurement market access to U.S. contractors.

q. 49 CFR Part 32 – Government-wide Requirements for Drug-Free Workplace (Financial Assistance).

r. 49 CFR Part 37 – Transportation Services for Individuals with Disabilities (ADA).

s. 49 CFR Part 41 – Seismic safety of Federal and Federally assisted or regulated new building construction.

FOOTNOTES TO AIRPORT RESCUE GRANT ASSURANCE B

[1] These laws do not apply to airport planning sponsors.
[2] These laws do not apply to private sponsors.
[3] Cost principles established in 2 CFR Part 200 subpart E must be used as guidelines for determining the eligibility of specific types of expenses.
[4] Audit requirements established in 2 CFR Part 200 subpart F are the guidelines for audits.

SPECIFIC ASSURANCES

Specific assurances required to be included in grant agreements by any of the above laws, regulations, or circulars are incorporated by reference in this Grant Agreement.

1. Purpose Directly Related to the Airport

It certifies that the reimbursement sought is for a purpose directly related to the airport.

2. Responsibility and Authority of the Sponsor.

a. Public Agency Sponsor:

It has legal authority to apply for this Grant, and to finance and carry out the proposed grant; that an official decision has been made by the applicant's governing body authorizing the filing of the application, including all understandings and assurances contained therein, and directing

and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.

b. Private Sponsor:

It has legal authority to apply for this Grant and to finance and carry out the proposed Grant and comply with all terms, conditions, and assurances of this Grant Agreement. It shall designate an official representative and shall in writing direct and authorize that person to file this application, including all understandings and assurances contained therein; to act in connection with this application; and to provide such additional information as may be required.

3. Good Title.

It, a public agency or the Federal government, holds good title, satisfactory to the Secretary, to the landing area of the airport or site thereof, or will give assurance satisfactory to the Secretary that good title will be acquired.

4. Preserving Rights and Powers.

a. It will not take or permit any action which would operate to deprive it of any of the rights and powers necessary to perform any or all of the terms, conditions, and assurances in this Grant Agreement without the written approval of the Secretary, and will act promptly to acquire, extinguish, or modify any outstanding rights or claims of right of others which would interfere with such performance by the sponsor. This shall be done in a manner acceptable to the Secretary.

b. If the sponsor is a private sponsor, it will take steps satisfactory to the Secretary to ensure that the airport will continue to function as a public-use airport in accordance with this Grant Agreement.

c. If an arrangement is made for management and operation of the airport by any agency or person other than the sponsor or an employee of the sponsor, the sponsor will reserve sufficient rights and authority to insure that the airport will be operated and maintained in accordance Title 49, United States Code, the regulations, and the terms and conditions of this Grant Agreement.

5. Consistency with Local Plans.

Any project undertaken by this Grant Agreement is reasonably consistent with plans (existing at the time of submission of the Airport Rescue Grant application) of public agencies that are authorized by the State in which the project is located to plan for the development of the area surrounding the airport.

6. Consideration of Local Interest.

It has given fair consideration to the interest of communities in or near where any project undertaken by this Grant Agreement may be located.

7. Consultation with Users.

In making a decision to undertake any airport development project undertaken by this Grant Agreement, it has undertaken reasonable consultations with affected parties using the airport at which project is proposed.

8. **Pavement Preventative Maintenance.**

   With respect to a project undertaken by this Grant Agreement for the replacement or reconstruction of pavement at the airport, it assures or certifies that it has implemented an effective airport pavement maintenance-management program and it assures that it will use such program for the useful life of any pavement constructed, reconstructed, or repaired with Federal financial assistance at the airport, including Airport Rescue Grant funds provided under this Grant Agreement. It will provide such reports on pavement condition and pavement management programs as the Secretary determines may be useful.

9. **Accounting System, Audit, and Record Keeping Requirements.**

   a. It shall keep all Grant accounts and records which fully disclose the amount and disposition by the recipient of the proceeds of this Grant, the total cost of the Grant in connection with which this Grant is given or used, and the amount or nature of that portion of the cost of the Grant supplied by other sources, and such other financial records pertinent to the Grant. The accounts and records shall be kept in accordance with an accounting system that will facilitate an effective audit in accordance with the Single Audit Act of 1984.

   b. It shall make available to the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, for the purpose of audit and examination, any books, documents, papers, and records of the recipient that are pertinent to this Grant. The Secretary may require that an appropriate audit be conducted by a recipient. In any case in which an independent audit is made of the accounts of a sponsor relating to the disposition of the proceeds of a Grant or relating to the Grant in connection with which this Grant was given or used, it shall file a certified copy of such audit with the Comptroller General of the United States not later than six (6) months following the close of the fiscal year for which the audit was made.

10. **Minimum Wage Rates.**

    It shall include, in all contracts in excess of $2,000 for work on the airport funded under this Grant Agreement which involve labor, provisions establishing minimum rates of wages, to be predetermined by the Secretary of Labor, in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5), which contractors shall pay to skilled and unskilled labor, and such minimum rates shall be stated in the invitation for bids and shall be included in proposals or bids for the work.

11. **Veteran's Preference.**

    It shall include in all contracts for work on any airport development project funded under this Grant Agreement which involve labor, such provisions as are necessary to insure that, in the employment of labor (except in executive, administrative, and supervisory positions), preference shall be given to Vietnam-era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns owned and controlled by disabled veterans as defined in Section 47112 of Title 49, United States Code. However, this preference shall apply only where the individuals are available and qualified to perform the work to which the employment relates.

12. **Operation and Maintenance.**

    a. The airport and all facilities which are necessary to serve the aeronautical users of the airport, other than facilities owned or controlled by the United States, shall be operated at all times in a safe and serviceable condition and in accordance with the minimum standards as may be required or prescribed by applicable Federal, State and local agencies for maintenance and

operation. It will not cause or permit any activity or action thereon which would interfere with its use for airport purposes. It will suitably operate and maintain the airport and all facilities thereon or connected therewith, with due regard to climatic and flood conditions. Any proposal to temporarily close the airport for non-aeronautical purposes must first be approved by the Secretary. In furtherance of this assurance, the sponsor will have in effect arrangements for:

1. Operating the airport's aeronautical facilities whenever required;
2. Promptly marking and lighting hazards resulting from airport conditions, including temporary conditions; and
3. Promptly notifying airmen of any condition affecting aeronautical use of the airport. Nothing contained herein shall be construed to require that the airport be operated for aeronautical use during temporary periods when snow, flood or other climatic conditions interfere with such operation and maintenance. Further, nothing herein shall be construed as requiring the maintenance, repair, restoration, or replacement of any structure or facility which is substantially damaged or destroyed due to an act of God or other condition or circumstance beyond the control of the sponsor.

b. It will suitably operate and maintain noise compatibility program items that it owns or controls upon which Federal funds have been expended.

13. Hazard Removal and Mitigation.

It will take appropriate action to assure that such terminal airspace as is required to protect instrument and visual operations to the airport (including established minimum flight altitudes) will be adequately cleared and protected by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards.

14. Compatible Land Use.

It will take appropriate action, to the extent reasonable, including the adoption of zoning laws, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft.

15. Exclusive Rights.

The sponsor shall not grant an exclusive right to use an air navigation facility on which this Grant has been expended. However, providing services at an airport by only one fixed-based operator is not an exclusive right if—

a. it is unreasonably costly, burdensome, or impractical for more than one fixed-based operator to provide the services; and

b. allowing more than one fixed-based operator to provide the services requires a reduction in space leased under an agreement existing on September 3, 1982, between the operator and the airport.

16. Airport Revenues.

a. This Grant shall be available for any purpose for which airport revenues may lawfully be used to prevent, prepare for, and respond to coronavirus. Funds provided under this Airport Rescue Grant Agreement will only be expended for the capital or operating costs of the airport; the local airport system; or other local facilities which are owned or operated by the owner or operator of the airport(s) subject to this agreement and all applicable addendums for costs

related to operations, personnel, cleaning, sanitization, janitorial services, combating the spread of pathogens at the airport, and debt service payments as prescribed in the Act.

b. For airport development, 49 U.S.C. § 47133 applies.

17. Reports and Inspections.

It will:

a. submit to the Secretary such annual or special financial and operations reports as the Secretary may reasonably request and make such reports available to the public; make available to the public at reasonable times and places a report of the airport budget in a format prescribed by the Secretary;

b. in a format and time prescribed by the Secretary, provide to the Secretary and make available to the public following each of its fiscal years, an annual report listing in detail:

1. all amounts paid by the airport to any other unit of government and the purposes for which each such payment was made; and

2. all services and property provided by the airport to other units of government and the amount of compensation received for provision of each such service and property.

18. Land for Federal Facilities.

It will furnish without cost to the Federal Government for use in connection with any air traffic control or air navigation activities, or weather-reporting and communication activities related to air traffic control, any areas of land or water, or estate therein, or rights in buildings of the sponsor as the Secretary considers necessary or desirable for construction, operation, and maintenance at Federal expense of space or facilities for such purposes. Such areas or any portion thereof will be made available as provided herein within four months after receipt of a written request from the Secretary.

19. Airport Layout Plan.

a. Subject to the FAA Reauthorization Act of 2018, Public Law 115-254, Section 163, it will keep up to date at all times an airport layout plan of the airport showing:

1. boundaries of the airport and all proposed additions thereto, together with the boundaries of all offsite areas owned or controlled by the sponsor for airport purposes and proposed additions thereto;

2. the location and nature of all existing and proposed airport facilities and structures (such as runways, taxiways, aprons, terminal buildings, hangars and roads), including all proposed extensions and reductions of existing airport facilities;

3. the location of all existing and proposed non-aviation areas and of all existing improvements thereon; and

4. all proposed and existing access points used to taxi aircraft across the airport's property boundary. Such airport layout plans and each amendment, revision, or modification thereof, shall be subject to the approval of the Secretary which approval shall be evidenced by the signature of a duly authorized representative of the Secretary on the face of the airport layout plan. The sponsor will not make or permit any changes or alterations in the airport or any of its facilities which are not in conformity with the airport layout plan

as approved by the Secretary and which might, in the opinion of the Secretary, adversely affect the safety, utility or efficiency of the airport.

b. Subject to the FAA Reauthorization Act of 2018, Public Law 115-254, Section 163, if a change or alteration in the airport or the facilities is made which the Secretary determines adversely affects the safety, utility, or efficiency of any federally owned, leased, or funded property on or off the airport and which is not in conformity with the airport layout plan as approved by the Secretary, the owner or operator will, if requested, by the Secretary (1) eliminate such adverse effect in a manner approved by the Secretary; or (2) bear all costs of relocating such property (or replacement thereof) to a site acceptable to the Secretary and all costs of restoring such property (or replacement thereof) to the level of safety, utility, efficiency, and cost of operation existing before the unapproved change in the airport or its facilities except in the case of a relocation or replacement of an existing airport facility due to a change in the Secretary's design standards beyond the control of the airport sponsor.

20. Civil Rights.

It will promptly take any measures necessary to ensure that no person in the United States shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in any activity conducted with, or benefiting from, funds received from this Grant.

a. Using the definitions of activity, facility, and program as found and defined in §§ 21.23 (b) and 21.23 (e) of 49 CFR Part 21, the sponsor will facilitate all programs, operate all facilities, or conduct all programs in compliance with all non-discrimination requirements imposed by or pursuant to these assurances.

b. Applicability

1. Programs and Activities. If the sponsor has received a grant (or other Federal assistance) for any of the sponsor's program or activities, these requirements extend to all of the sponsor's programs and activities.

2. Facilities. Where it receives a grant or other Federal financial assistance to construct, expand, renovate, remodel, alter, or acquire a facility, or part of a facility, the assurance extends to the entire facility and facilities operated in connection therewith.

3. Real Property. Where the sponsor receives a grant or other Federal financial assistance in the form of, or for the acquisition of, real property or an interest in real property, the assurance will extend to rights to space on, over, or under such property.

c. Duration

The sponsor agrees that it is obligated to this assurance for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the assurance obligates the sponsor, or any transferee for the longer of the following periods:

1. So long as the airport is used as an airport, or for another purpose involving the provision of similar services or benefits; or

2. So long as the sponsor retains ownership or possession of the property.

d. Required Solicitation Language

It will include the following notification in all solicitations for bids, Requests for Proposals for work, or material under this Grant and in all proposals for agreements, including airport concessions, regardless of funding source:

"The **City of Santa Fe**, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that for any contract entered into pursuant to this advertisement, disadvantaged business enterprises and airport concession disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award."

e. Required Contract Provisions.

1. It will insert the non-discrimination contract clauses requiring compliance with the acts and regulations relative to non-discrimination in Federally-assisted programs of the DOT, and incorporating the acts and regulations into the contracts by reference in every contract or agreement subject to the non-discrimination in Federally-assisted programs of the DOT Acts and regulations.
2. It will include a list of the pertinent non-discrimination authorities in every contract that is subject to the non-discrimination acts and regulations.
3. It will insert non-discrimination contract clauses as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a sponsor.
4. It will insert non-discrimination contract clauses prohibiting discrimination on the basis of race, color, national origin, creed, sex, age, or handicap as a covenant running with the land, in any future deeds, leases, license, permits, or similar instruments entered into by the sponsor with other parties:

   A. For the subsequent transfer of real property acquired or improved under the applicable activity, grant, or program; and

   B. For the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, grant, or program.

   C. It will provide for such methods of administration for the program as are found by the Secretary to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the acts, the regulations, and this assurance.

   D. It agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the acts, the regulations, and this assurance.

21. Foreign Market Restrictions.

It will not allow funds provided under this Grant to be used to fund any activity that uses any product or service of a foreign country during the period in which such foreign country is listed by the United States Trade Representative as denying fair and equitable market opportunities for products and suppliers of the United States in procurement and construction.

22. Policies, Standards and Specifications.

It will carry out any project funded under an Airport Rescue Grant in accordance with policies, standards, and specifications approved by the Secretary including, but not limited to, current FAA Advisory Circulars for AIP projects, as of July 12, 2021.

23. Access By Intercity Buses.

The airport owner or operator will permit, to the maximum extent practicable, intercity buses or other modes of transportation to have access to the airport; however, it has no obligation to fund special facilities for intercity buses or for other modes of transportation.

24. Disadvantaged Business Enterprises.

The sponsor shall not discriminate on the basis of race, color, national origin or sex in the award and performance of any DOT-assisted contract covered by 49 CFR Part 26, or in the award and performance of any concession activity contract covered by 49 CFR Part 23. In addition, the sponsor shall not discriminate on the basis of race, color, national origin or sex in the administration of its Disadvantaged Business Enterprise (DBE) and Airport Concessions Disadvantaged Business Enterprise (ACDBE) programs or the requirements of 49 CFR Parts 23 and 26. The sponsor shall take all necessary and reasonable steps under 49 CFR Parts 23 and 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts, and/or concession contracts. The sponsor's DBE and ACDBE programs, as required by 49 CFR Parts 26 and 23, and as approved by DOT, are incorporated by reference in this agreement. Implementation of these programs is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the sponsor of its failure to carry out its approved program, the Department may impose sanctions as provided for under Parts 26 and 23 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1936 (31 U.S.C. 3801).

25. Acquisition Thresholds.

The FAA deems equipment to mean tangible personal property having a useful life greater than one year and a per-unit acquisition cost equal to or greater than $5,000. Procurements by micro-purchase means the acquisition of goods or services for which the aggregate dollar amount does not exceed $10,000, unless authorized in accordance with 2 CFR § 200.320. Procurement by small purchase procedures means those relatively simple and informal procurement methods for securing goods or services that do not exceed the $250,000 threshold for simplified acquisitions.

Current FAA Advisory Circulars Required for Use in AIP Funded and PFC Approved Projects

View the most current Series 150 Advisory Circulars (ACs) for Airport Projects at
http://www.faa.gov/airports/resources/advisory_circulars and
http://www.faa.gov/regulations_policies/advisory_circulars

SAF-SWG-3-35-0037-057-2021-Grant Agreement

Final Audit Report 2021-08-18

Created:	2021-08-11
By:	FAA - AIP (9-AWA-ARP-Soar-CoreGroup@faa.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAAWVEsIKFrgplpBvOrSp8KgeQRq0Qc_FgY

"SAF-SWG-3-35-0037-057-2021-Grant Agreement" History

Document created by FAA - AIP (9-AWA-ARP-Soar-CoreGroup@faa.gov)
2021-08-11 - 8:24:51 PM GMT- IP address: 155.178.180.14

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Signature Date: 2021-08-18 - 4:56:51 PM GMT - Time Source: server- IP address: 174.62.11.171

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Agreement completed.

2021-08-18 - 4:56:51 PM GMT

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Adobe Sign

Log # *{Finance use only}*:	
Batch # *{Finance use only}*:	

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

DEPARTMENT / DIVISION NAME	DATE
Public Works/Airport	04/07/2021

ITEM DESCRIPTION	ORG	OBJECT	PROJECT	INCREASE	DECREASE
EXPENDITURES				*{enter as positive #}*	*{enter as negative #}*
REVENUES				*{enter as negative #}*	*{enter as positive #}*
US Department of Transportation	5456050	490550		(2,226,110.00)	
				0	

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

To record Airport Rescue Grant - 3-35-0037-057-2021

{Complete section below if BAR results in a net change to ANY Fund}	
Fund(s) Affected	Fund Balance Increase/(Decrease)
345	2,226,110
TOTAL:	**0**

Bobbi Huseman 08/24/2021
Prepared By *{print name}* Date

Mark Baca 08/24/2021
Division Director Signature *{optional}* Date

Regina Wheeler Aug 27, 2021
Department Director Signature Date

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

CITY COUNCIL APPROVAL

City Council Approval Date

Agenda Item #

Andy Hopkins Aug 27, 2021
Budget Officer Date

Finance Director *{≤ $5,000}* Date

City Manager *{≤ $60,000}* Date

Signature:

Email: rawheeler@ci.santa-fe.nm.us

Signature: Andy Hopkins

Email: ajhopkins@ci.santa-fe.nm.us

FY 2024 $158,987.90
Water Division $101,624.34 (COS)
WWMD $28,681.78
ESD $28,681.78

FY 2025
$162,568.45
Water Division $29,300.44
WWMD $103,967.57 (COS)
ESD $29,300.44

CONTRACT NUMBER:
The FY22 Munis contract number:
FCS Group 3202940

FUNDING SOURCE:
The funding source is:
Public Utilities Division's Enterprise Fund 500/505/510

FY 2022
Fund Name/Number: Water Enterprise Fund/505; WWMD Enterprise Fund/500; ESD Enterprise Fund/510
Munis Org Name/Number: Water/5050381; WWMD/5000361; ESD/5100331
Munis Object Name/Number: Professional Services

Funds for these services will be available in each Division's FY 2022 Operating Budget as follows:
Water Division – 5050381.510300 $26,915.68
WWMD – 5000361.510300 $94,931.03
ESD – 5100331.510300 $26,915.68

RECOMMENDATION:

- Review and approval of award of PSA to Financial Consulting Solutions Group, Inc. (dba FCS GROUP) in the amount of $636,052.51 inclusive of nmgrt for a term of 4 years.

- Forwarding and recommendation of approval of RFP 22/04/P award and PSA to the Finance Committee for their consideration and approval to the Governing Body for their final consideration and approval.

Item#_____
Munis Contract# 3202940

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 **Financial Consulting Solutions Group, Inc. (dba FCS GROUP),** hereinafter referred to as the "Contractor," and is effective as of the date set forth below upon which it is executed by the Parties.

IT IS AGREED BETWEEN THE PARTIES:

1. **Scope of Work.**

The Contractor shall provide the following services for the City:
The basic tasks that the Contractor will be expected to accomplish for the project are listed, but not limited to, the following items:

A. COMPREHENSIVE WATER DIVISION, WASTEWATER DIVISION AND ENVIRONMENTAL SERVICES DIVISION (SOLID WASTE) FINANCIAL PLANS
Evaluate and update as necessary the current Financial Plans comparing starting cash balances, projected revenues and revenue requirements over the forecast period. Analyze each division's operating and capital plan needs. Present update to the Public Utilities Committee and City Council.

B. DOCUMENTATION AND REPORTING

The Contractor shall provide the City with thorough documentation in support of the analysis, City Council study sessions and shall present the study findings to the City Council upon substantial completion of the scope of work. The City shall be provided with a reasonable number of copies of the written report, and all presentation materials upon request.

C. MEETINGS

The Contractor will need to meet with staff on several occasions during the course of work. In addition to the staff meetings, the Contractor shall attend the following meetings for each of the (3) three divisions and shall indicate exactly who on the Contractor's project team will attend these meetings:

C.1 Financial Update Kickoff meeting

C.2 Current Financial Plan update meeting with Wastewater, Environmental Services and Water Divisions.

C.3 Cost of Service update meeting with Wastewater, Environmental Services and Water Divisions.

C.4 Public Utilities Committee meeting and Finance Committee meeting.

C.5 City Council Presentation

D. RATE MODEL SUPPORT FINANCIAL ON-CALL CONTRACT

The Contractor shall provide rate model updates, rate financial forecasts and rate model maintenance as requested by the City using generally accepted utility ratemaking methodologies and applicable New Mexico and Federal law. Work shall be initiated by a City work order and shall be based on hourly rates and required Contractor time to complete the tasks identified in the City work order.

D.1 *Rate Model Work Orders* – The Contractor shall perform work identified in individually approved City work orders including, but not limited to: Annual revenue forecast support and rate model maintenance based on updated assumptions and governing body directives.

D.2 *Collection of needed information* – The Contractor shall provide the City with a data request that will outline information needed to evaluate the City work order.

D.3 *Evaluate effects of City work order* – The Contractor shall use information available from the utility billing system and the existing financial plan to evaluate the effects of the scope of work identified in the City work order.

D.4 *Calculate the revenue impacts* – The Contractor shall use information available from the existing financial plan to determine the revenue impacts.

D.5 *Document results* – The Contractor shall document the results of the analysis in a memorandum that shall be provided to the City along with all work papers, computer model outputs or other supporting information. Work orders may require presentation at City Committees or City Council.

E. UTILITY COST-OF-SERVICE STUDY (Water, Wastewater and Environmental Services- Solid Waste)

The Contractor shall collect the necessary data/information and make the necessary efforts to calculate and update the utility user charges (i.e. rates) for the City using generally accepted utility ratemaking methodologies as described by the American Water Works Association, Manual M1 (Manual M1 describes the methods for developing water rates and charges).

E.1 *Collection of needed information* - The Contractor shall provide the City with data requests outlining information needed to calculate the utility user charges.

E.2 *Calculate the revenue requirements* – The Contractor shall use information available from the existing financial plan to determine the revenue requirements.

E.3 *Allocate revenue requirements in a cost-of-service study* – The Contractor shall allocate revenue requirements to the City's various customer classes using generally accepted cost-of-service allocation techniques.

E.4 *Develop recommendations for updating existing utility* rates – The Contractor shall work with the City to update the existing rates based on the findings of the cost-of-service allocation described above.

F. ON CALL FINANCIAL SERVICES (Water, Wastewater and Environmental Services – Solid Waste)

The Contractor shall provide On Call Financial Services as requested for the City. Work shall be initiated by a City work order and shall be based on hourly rates and the tasks identified in the City work order.

2. Compensation.

The total amount payable to the Contractor under this Agreement, including gross receipts tax and expenses, shall not exceed six hundred thirty six thousand fifty two dollars and fifty one cents ($636,052.51) for the term of this Agreement, as described in Exhibit A attached hereto.

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 forty one thousand five hundred and ten dollars ($141,510) in (FY2022). The New Mexico gross receipts tax levied on the amounts payable under this Agreement totaling seven thousand two hundred and fifty two dollars and thirty nine cents ($7,252.39) shall be paid by the City to the Contractor.

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 fifty seven thousand six hundred fifty four dollars ($157,654) in (FY2023). The New Mexico gross receipts tax levied on the amounts payable under this Agreement totaling eight thousand seventy nine dollars and seventy seven cents ($8,079.77) shall be paid by the City to the Contractor.

3) 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 fifty one thousand two hundred thirty seven dollars ($151,237) in (FY2024). The New Mexico gross receipts tax levied on the amounts payable under this Agreement totaling seven thousand seven

hundred fifty dollars and ninety cents ($7,750.90) shall be paid by the City to the Contractor.

4) 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 fifty four thousand six hundred forty three dollars ($154,643) in (FY2025). The New Mexico gross receipts tax levied on the amounts payable under this Agreement totaling seven thousand nine hundred twenty five dollars and forty five cents ($7,925.45) shall be paid by the City to the Contractor.

B. Payment in future fiscal years 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, a,260nd 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, 2025** 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. Entire Agreement.

This Agreement, together with any other documents incorporated herein by reference and all related Exhibits and Schedules constitutes the sole and entire agreement of the Parties with respect to the subject matter of this Agreement, and supersedes all prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral, with respect to the subject matter. In the event of any inconsistency between the statements in the body of this Agreement, and the related Exhibits and Schedules, the statements in the body of this Agreement shall control.

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

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

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

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

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. 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.

24. 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.

25. 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.

26. 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:

Jason Mumm
Financial Consulting Solutions Group, Inc. (dba FCS GROUP)
7525 166th Ave. NE, Ste. D-215,
Redmond, WA 98052

27. **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:_____

CONTRACTOR:
FCS GROUP

Angie S. Vienoche
NAME

Vice President
TITLE

DATE: 8/25/2021
CRS# 03-420605-00-1
Registration # 223967

ATTEST:

_____
KRISTINE BUSTOS MIHELCIC, CITY CLERK

CITY ATTORNEY'S OFFICE:

Marcos Martinez
Marcos Martinez (Aug 24, 2021 13:27 MDT)
SENIOR ASSISTANT CITY ATTORNEY

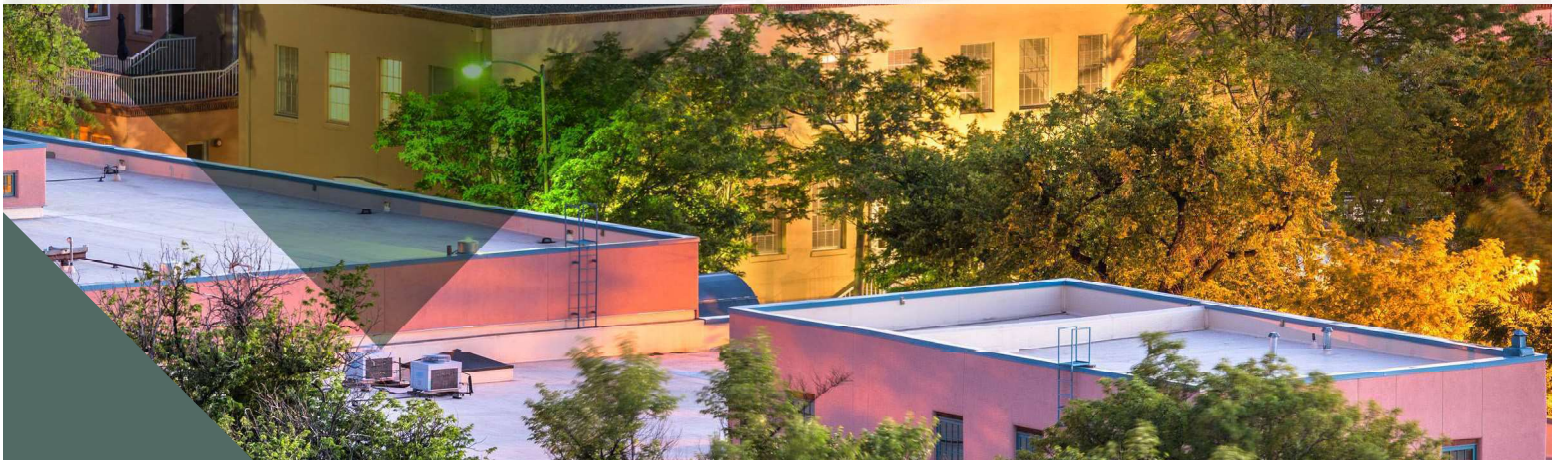
APPROVED FOR FINANCES:

_____
MARY MCCOY, FINANCE DIRECTOR

Org. Name/Org#.
5050381.510300
5100331.510300
5000361.510300

PUBLIC UTILITIES RATE EVALUATION & FINANCIAL SERVICES RFP# 22/04/P

Cost Proposal
July 20, 2021



Contact Us:
425.867.1802
www.fcsgroup.com

FCS GROUP
Solutions-Oriented Consulting

APPENDIX C

COST RESPONSE FORM

In addition to the staff meetings, the Consultant's cost proposal shall include the following meetings at a minimum for each of the (3) three divisions and shall incorporate a cost proposal indicating exactly who on the Consultant's project team will attend these meetings; the total cost for attending, including expenses; and the cost proposal shall assume three (3) hours for each meeting:

- Financial Update Kickoff meeting
- Current Financial Plan update meeting with Wastewater, Environmental Services and Water Divisions.
- Cost of Service update meeting with Wastewater, Environmental Services and Water Divisions.
- Public Utilities Committee meeting and Finance Committee meeting.
- City Council Presentation

Description	**Staff**	**Hours**	**Hourly Rate**
Financial Plan			
Documenting, Reporting, Analysis			
Meetings			
Rate Model Updates			
Rate Model Maintenance			
Forecasts			
On-Call Services			
Utility Cost of Service Study			
Who will Attend	**Title**	**3 Hours per meeting**	**Hourly Rate**
Total Annual Cost			

*****

Please review detailed cost estimates attached to this form (ppg. 1-8 immediately follow this page).

*****

All amounts provided must include all labor, materials, equipment, transportation, configuration, installation, training and profit to provide the goods and/or services described in Section IV.A, (as amended by any current RFP amendments for the period specified).

Option Year 1: (Date of Award thru June 30, 2022) Price: $ $141,510

Option Year 2: (July 1, 2022 thru June 30, 2023) Price: $ $157,654

Option Year 3: (July 1, 2023 thru June 30, 2034) Price: $ $151,237

Option Year 4: (July 1, 2024 thru June 30, 2025) Price: $ $154,643

Santa Fe Cost Summary Sheet

1. Name of Project:	Public Utilities Rate Evaluation & Financial Services RFP#22/04/P	**2. CIP #**	
3. Name of Contractor:	FCS GROUP, INC.	**4. Date of Proposal:**	7/20/2021
5. Address of Contractor:	7525 166th Ave. NW, Suite D215 Redmond, WA 98052	**6. Type of Services Furnished**	Professional Svcs.
		A. Work Element: Financial Plan and Forecasts	

Part 2 -Cost Summary

7. Direct Labor:		Est. Hours	Hourly Rate	Estimated Cost	Totals
Mumm		12	$270.00	$3,240	
Hobart		44	$175.00	$7,700	
Quinn		104	$165.00	$17,160	
Richard		104	$145.00	$15,080	
Hobson		0	$185.00	$0	
				$0	
	Direct Labor Total	264			$43,180

8. Overhead:		Rate	x Base	Estimated Cost	
	Overhead Total				$0
9. Fee or Profit:					$0

SUPPLEMENTAL SERVICES

10. Subcontracts		Est. Hours	Hourly Rate	Estimated Cost	
				$0	
				$0	
				$0	
				$0	
	Subcontractor Total:				$0

11. Special Equipment				Estimated Cost	
	Equipment Total:				$0

12. Travel				Estimated Cost	
A: Transportation					
B: Per Diem					
	Travel Total				$0

13: Other Reimbursable Cost				Estimated Cost	
	Other Reimbursable Costs:				$0
	Subtotal				$43,180
14. Gross Receipts Tax (5.125%)					$2,210
15. Total Price					**$45,390**

Santa Fe Cost Summary Sheet

1. Name of Project:	Public Utilities Rate Evaluation & Financial Services RFP#22/04/P	**2. CIP #**	
3. Name of Contractor:	FCS GROUP, INC.	**4. Date of Proposal:**	7/20/2021
5. Address of Contractor:	7525 166th Ave. NW, Suite D215 Redmond, WA 98052	**6. Type of Services Furnished**	Professional Svcs.
		A. Work Element: Rate Model Updates	

Part 2 -Cost Summary

7. Direct Labor:		Est. Hours	Hourly Rate	Estimated Cost	Totals
Mumm		0	$270.00	$0	
Hobart		0	$175.00	$0	
Quinn		0	$165.00	$0	
Richard		0	$145.00	$0	
Hobson		0	$185.00	$0	
	Direct Labor Total				$0

8. Overhead:		Rate	x Base	Estimated Cost	
	Overhead Total				$0
9. Fee or Profit:					$0

SUPPLEMENTAL SERVICES

10. Subcontracts		Est. Hours	Hourly Rate	Estimated Cost	
				$0	
				$0	
				$0	
				$0	
	Subcontractor Total:				$0

11. Special Equipment				Estimated Cost	
	Equipment Total:				$0

12. Travel				Estimated Cost	
A: Transportation				0	
B: Per Diem					
	Travel Total				$0

13: Other Reimbursable Cost				Estimated Cost	
	Other Reimbursable Costs:				$0
	Subtotal 7-12				$0
14. Gross Receipts Tax (5.125%)					$0
15. Total Price					**$0**

Santa Fe Cost Summary Sheet

1. Name of Project:	Public Utilities Rate Evaluation & Financial Services RFP#22/04/P	**2. CIP #**	
3. Name of Contractor:	FCS GROUP, INC.	**4. Date of Proposal:**	7/20/2021
5. Address of Contractor:	7525 166th Ave. NW, Suite D215 Redmond, WA 98052	**6. Type of Services Furnished**	Professional Svcs.
		A. Work Element: Rate Model Maintenance	

Part 2 -Cost Summary

7. Direct Labor:		Est. Hours	Hourly Rate	Estimated Cost	Totals
Mumm		0	$270.00	$0	
Hobart		0	$175.00	$0	
Quinn		0	$165.00	$0	
Richard		0	$145.00	$0	
Hobson		0	$185.00	$0	
	Direct Labor Total				$0

8. Overhead:		Rate	x Base	Estimated Cost	
	Overhead Total				$0
9. Fee or Profit:					$0

SUPPLEMENTAL SERVICES

10. Subcontracts		Est. Hours	Hourly Rate	Estimated Cost	
				$0	
				$0	
				$0	
				$0	
	Subcontractor Total:				$0

11. Special Equipment				Estimated Cost	
	Equipment Total:				$0

12. Travel				Estimated Cost	
A: Transportation				0	
B: Per Diem					
	Travel Total				$0

13: Other Reimbursable Cost				Estimated Cost	
	Other Reimbursable Costs:				$0
	Subtotal 7-12				$0
14. Gross Receipts Tax (5.125%)					$0
15. Total Price					**$0**

Santa Fe Cost Summary Sheet

1. Name of Project:	Public Utilities Rate Evaluation & Financial Services RFP#22/04/P	**2. CIP #**	
3. Name of Contractor:	FCS GROUP, INC.	**4. Date of Proposal:**	7/20/2021
5. Address of Contractor:	7525 166th Ave. NW, Suite D215 Redmond, WA 98052	**6. Type of Services Furnished**	Professional Svcs.
		A. Work Element: On-Call Services	

Part 2 -Cost Summary

7. Direct Labor:		Est. Hours	Hourly Rate	Estimated Cost	Totals
Mumm		8	$270.00	$2,160	
Hobart		8	$175.00	$1,400	
Quinn		16	$165.00	$2,640	
Richard		16	$145.00	$2,320	
Hobson		0	$185.00	$0	
0				$0	
	Direct Labor Total	48			$8,520

8. Overhead:		Rate	x Base	Estimated Cost	
	Overhead Total				$0
9. Fee or Profit:					$0

SUPPLEMENTAL SERVICES

10. Subcontracts		Est. Hours	Hourly Rate	Estimated Cost	
				$0	
				$0	
				$0	
				$0	
	Subcontractor Total:				$0

11. Special Equipment				Estimated Cost	
	Equipment Total:				$0

12. Travel				Estimated Cost	
A: Transportation				0	
B: Per Diem					
	Travel Total				$0

13: Other Reimbursable Cost				Estimated Cost	
	Other Reimbursable Costs:				$0
	Subtotal				$8,520
14. Gross Receipts Tax (5.125%)					$430
15. Total Price					**$8,950**

Santa Fe Cost Summary Sheet

1. Name of Project:	Public Utilities Rate Evaluation & Financial Services RFP#22/04/P	**2. CIP #**	
3. Name of Contractor:	FCS GROUP, INC.	**4. Date of Proposal:**	7/20/2021
5. Address of Contractor:	7525 166th Ave. NW, Suite D215 Redmond, WA 98052	**6. Type of Services Furnished**	Professional Svcs.
		A. Work Element: Cost-of-Service Study (Water and Wastewater Divisions)	

Part 2 -Cost Summary

7. Direct Labor:		Est. Hours	Hourly Rate	Estimated Cost	Totals
Mumm		12	$270.00	$3,240	
Hobart		24	$175.00	$4,200	
Quinn		96	$165.00	$15,840	
Richard		96	$145.00	$13,920	
Hobson		0	$185.00	$0	
0				$0	
	Direct Labor Total	228			$37,200

8. Overhead:		Rate	x Base	Estimated Cost	
	Overhead Total				$0
9. Fee or Profit:					$0

SUPPLEMENTAL SERVICES

10. Subcontracts		Est. Hours	Hourly Rate	Estimated Cost	
				$0	
				$0	
				$0	
				$0	
	Subcontractor Total:				$0

11. Special Equipment				Estimated Cost	
	Equipment Total:				$0

12. Travel				Estimated Cost	
A: Transportation				0	
B: Per Diem					
	Travel Total				$0

13: Other Reimbursable Cost				Estimated Cost	
	Other Reimbursable Costs:				$0
	Subtotal				$37,200
14. Gross Receipts Tax (5.125%)					$1,900
15. Total Price					**$39,100**

Santa Fe Cost Summary Sheet

1. Name of Project:	Public Utilities Rate Evaluation & Financial Services RFP#22/04/P	**2. CIP #**	
3. Name of Contractor:	FCS GROUP, INC.	**4. Date of Proposal:**	7/20/2021
5. Address of Contractor:	7525 166th Ave. NW, Suite D215 Redmond, WA 98052	**6. Type of Services Furnishe**	Professional Svcs.
		A. Work Element: Cost-of-Service Study (ESD)	

Part 2 -Cost Summary

7. Direct Labor:		Est. Hours	Hourly Rate	Estimated Cost	Totals
Mumm		0	$270.00	$0	
Hobart		0	$175.00	$0	
Quinn		0	$165.00	$0	
Richard		0	$145.00	$0	
Hobson		32	$185.00	$5,920	
0				$0	
	Direct Labor Total				$5,920

8. Overhead:		Rate	x Base	Estimated Cost	
	Overhead Total				$0
9. Fee or Profit:					$0

SUPPLEMENTAL SERVICES

10. Subcontracts		Est. Hours	Hourly Rate	Estimated Cost	
NewGen Strategies	*Includes travel allowances*	300	$200	$60,000	
				$0	
				$0	
				$0	
	Subcontractor Total:				$60,000

11. Special Equipment				Estimated Cost	
	Equipment Total:				$0

12. Travel				Estimated Cost	
A: Transportation					
B: Per Diem					
	Travel Total				$0

13: Other Reimbursable Cost				Estimated Cost	
Markup on Subcontractor Fee (10%)				$6,000.0	
	Other Reimbursable Costs:				$6,000
	Subtotal				$71,920
14. Gross Receipts Tax (5.125%)					$3,680
15. Total Price					**$75,600**

Santa Fe Cost Summary Sheet

1. Name of Project:	Public Utilities Rate Evaluation & Financial Services RFP#22/04/P	**2. CIP #**	
3. Name of Contractor:	FCS GROUP, INC.	**4. Date of Proposal:**	7/20/2021
5. Address of Contractor:	7525 166th Ave. NW, Suite D215 Redmond, WA 98052	**6. Type of Services Furnishe**	Professional Svcs.
		A. Work Element: Documenting & Reporting	

Part 2 -Cost Summary

7. Direct Labor:		Est. Hours	Hourly Rate	Estimated Cost	Totals
Mumm		8	$270.00	$2,160	
Hobart		18	$175.00	$3,150	
Quinn		40	$165.00	$6,600	
Richard		40	$145.00	$5,800	
Hobson		0	$185.00	$0	
0			$0.00	$0	
	Direct Labor Total				$17,710

8. Overhead:		Rate	x Base	Estimated Cost	
	Overhead Total				$0
9. Fee or Profit:					$0

SUPPLEMENTAL SERVICES

10. Subcontracts		Est. Hours	Hourly Rate	Estimated Cost	
				$0	
				$0	
				$0	
				$0	
	Subcontractor Total:				$0

11. Special Equipment				Estimated Cost	
	Equipment Total:				$0

12. Travel				Estimated Cost	
A: Transportation				0	
B: Per Diem					
	Travel Total				$0

13: Other Reimbursable Cost				Estimated Cost	
	Other Reimbursable Costs:				$0
	Subtotal				$17,710
14. Gross Receipts Tax (5.125%)					$900
15. Total Price					**$18,610**

Santa Fe Cost Summary Sheet

1. Name of Project:	Public Utilities Rate Evaluation & Financial Services RFP#22/04/P	**2. CIP #**	
3. Name of Contractor:	FCS GROUP, INC.	**4. Date of Proposal:**	7/20/2021
5. Address of Contractor:	7525 166th Ave. NW, Suite D215 Redmond, WA 98052	**6. Type of Services Furnishe**	Professional Svcs.
		A. Work Element: Meetings	

Part 2 -Cost Summary

7. Direct Labor:		Est. Hours	Hourly Rate	Estimated Cost	Totals
Mumm	*Estimate 5 total meetings/yr*	28	$270.00	$7,560	
Hobart	*Estimate 5 total meetings/yr*	28	$175.00	$4,900	
Quinn	*Estimate 5 total meetings/yr*	24	$165.00	$3,960	
Richard	*Estimate 5 total meetings/yr*	24	$145.00	$3,480	
Hobson	*Estimate 5 total meetings/yr*	0	$185.00	$0	
0			$0.00	$0	
	Direct Labor Total	104			$19,900

8. Overhead:		Rate	x Base	Estimated Cost	
	Overhead Total				$0
9. Fee or Profit:					$0

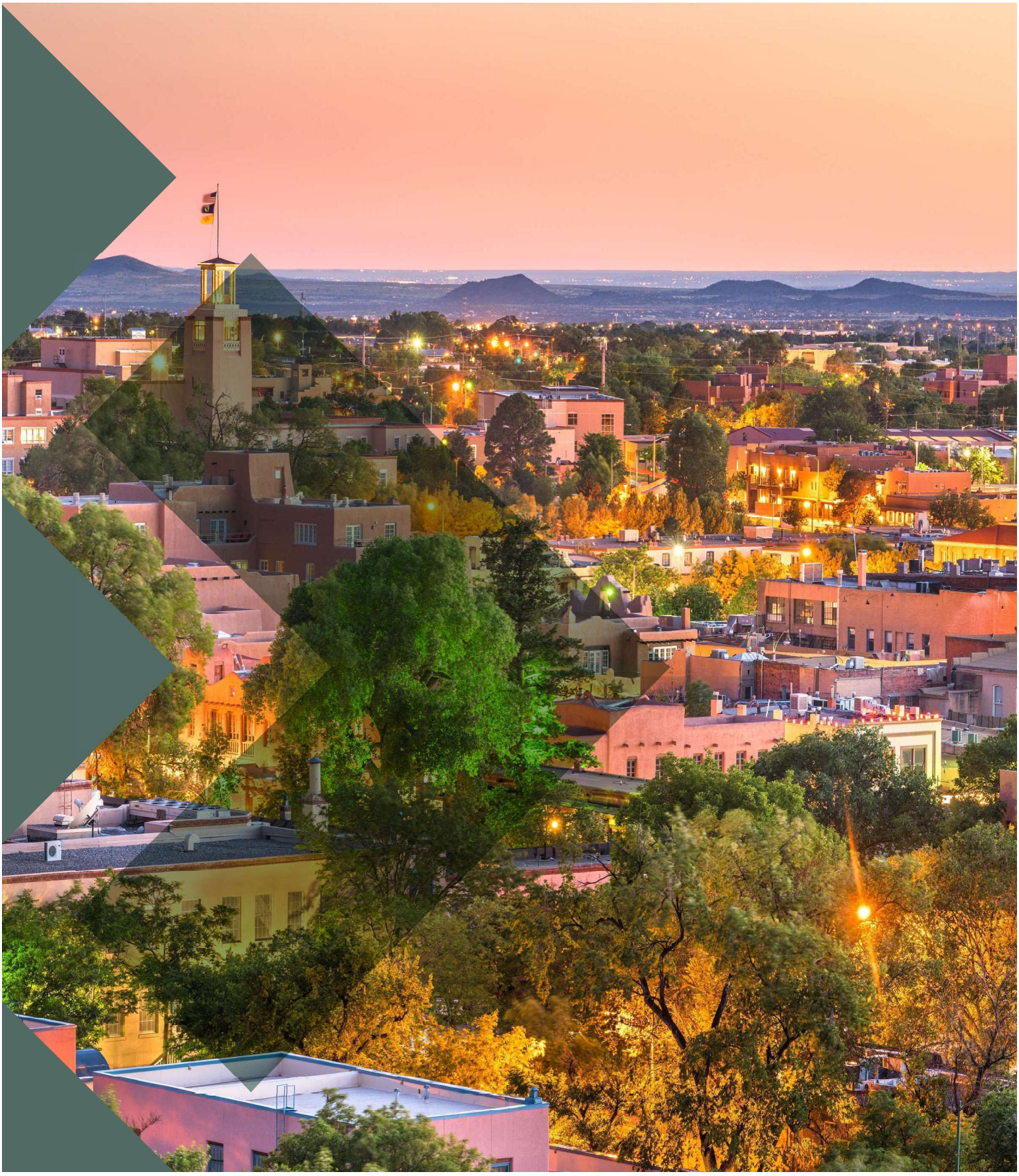
SUPPLEMENTAL SERVICES

10. Subcontracts		Est. Hours	Hourly Rate	Estimated Cost	
				$0	
				$0	
				$0	
				$0	
	Subcontractor Total:				$0

11. Special Equipment				Estimated Cost	
	Equipment Total:				$0

12. Travel				Estimated Cost	
A: Transportation	*Estimate $1,500/meeting/person on-site (2/mtg)*			15,000	
B: Per Diem					
	Travel Total				$15,000

13: Other Reimbursable Cost				Estimated Cost	
	Other Reimbursable Costs:				$0
	Subtotal				$34,900
14. Gross Receipts Tax (5.125%)					$1,780
15. Total Price					**$36,680**



FCS GROUP
Solutions-Oriented Consulting

Year 1: Wastewater COS

Task Detail	Mtgs	Mumm Principal	Hobart PM	Quinn PC	Richard Sr. Analyst	Hobson Spec. PM	Admin Support	Total Hours	Budget Estimate	Division Allocations WATER	WW	ESD
Task 1: Project Kickoff and Data Collection												
1.1 Data request and review		4	4	8	8	0		24	$4,260	$1,420	$1,420	$1,420
1.2 Kickoff meeting	1	4	4	4	4	0		16	$3,020	$1,007	$1,007	$1,007
1.3 Follow-up data request			8	16	16			40	$6,360	$2,120	$2,120	$2,120
Task 1 Subtotal	1	8	16	28	28	0	0	80	$13,640	$4,547	$4,547	$4,547
Task 2: Revenue Requirements												
2.1 Project baseline revenue requirements		8	16	40	40			104	$17,360	$5,787	$5,787	$5,787
2.2 Review meeting with City	1	8	8	12	12			40	$7,280	$2,427	$2,427	$2,427
2.3 Revise analysis		0	16	40	40			96	$15,200	$5,067	$5,067	$5,067
2.4 Present to Council	2	8	8					16	$3,560	$1,187	$1,187	$1,187
Task 2 Subtotal	3	24	48	92	92	0	0	256	$43,400	$14,467	$14,467	$14,467
Task 3: Cost of Service (Wastewater)												
3.1 Assess/refine customer data		4	8	40	40			92	$14,880		$14,880	
3.2 Allocate plant and expense		4	8	40	40			92	$14,880		$14,880	
3.3 Review meeting with City	1	8	8	8	8			32	$6,040		$6,040	
3.4 Revise Analysis		4	8	16	16		0	44	$7,440		$7,440	
Task 3 Subtotal	1	20	32	104	104	0	0	260	$43,240	$0	$43,240	$0
Task 4: Rate Alternatives Evalaution												
4.1 Develop Rate Alternatives								0	$0			
4.2 Council Presentation #2								0	$0			
4.3 Finalize Rate Recommendations								0	$0			
Task 4 Subtotal	0	0	0	0	0	0	0	0	$0	$0	$0	$0
Task 5: Documentation												
5.1 Computer spreadsheets			2	8	8			18	$2,830		$2,830	
5.2 Draft report		4	8	16	16			44	$7,440		$7,440	
5.3 Final report		4	8	16	16			44	$7,440		$7,440	
Task 5 Subtotal	0	8	18	40	40	0	0	106	$17,710	$0	$17,710	$0
Task 6: On-Call Services												
6.1 On-Call Services		8	8	16	16			48	$8,520	$2,840	$2,840	$2,840
6.2								0	$0			
6.3								0	$0			
Task 6 Subtotal	0	8	8	16	16	0	0	48	$8,520	$2,840	$2,840	$2,840
Labor Total		$18,360	$21,350	$46,200	$40,600	$0	$0		$126,510	$21,853	$82,803	$21,853
Expenses									$15,000	$3,750	$7,500	$3,750
Budget Estimate									**$141,510**	**$25,603**	**$90,303**	**$25,603**

Year 2: Solid Waste COS (NewGen)

Task Detail	Mtgs	Mumm Principal	Hobart PM	Quinn PC	Richard Sr. Analyst	Hobson Spec. PM	Admin Support	Total Hours	Budget Estimate	Division Allocations WATER	WW	ESD
Task 1: Data Collection												
1.1 Data request and review		4	4	8	8	4		28	$5,253	$1,751	$1,751	$1,751
1.2 Kickoff meeting	1	4	4	4	4	4		20	$3,950	$1,317	$1,317	$1,317
1.3 Follow-up data request		0	8	16	16	4		44	$7,459	$2,486	$2,486	$2,486
Task 1 Subtotal	1	8	16	28	28	12	0	92	$16,663	$5,554	$5,554	$5,554
Task 2: Revenue Requirements												
2.1 Project baseline revenue requirements		8	16	40	40	0		104	$18,239	$6,080	$6,080	$6,080
2.2 Review meeting with City	1	8	8	12	12	0		40	$7,649	$2,550	$2,550	$2,550
2.3 Revise analysis		0	16	40	40	0		96	$15,970	$5,323	$5,323	$5,323
2.4 Present to Council	2	8	8	0	0	0	0	16	$3,740	$1,247	$1,247	$1,247
Task 2 Subtotal	3	24	48	92	92	0	0	256	$45,597	$15,199	$15,199	$15,199
Task 3: Cost of Service (Solid Waste)												
3.1 Assess/refine customer data						4		4	$777			$777
3.2 Allocate plant and expense						4		4	$777			$777
3.3 Review meeting with City						4		4	$777			$777
3.4 Revise Analysis						4		4	$777			$777
3.5 Present to Council						4		4	$777			$777
Task 3 Subtotal	0	0	0	0	0	20	0	20	$3,887	$0	$0	$3,887
Task 4: Rate Alternatives Evalaution												
4.1 Council Presentation #1								0	$0			
4.2 Develop Rate Alternatives								0	$0			
4.3 Council Presentation #2								0	$0			
Task 4 Subtotal	0	0	0	0	0	0	0	0	$0	$0	$0	$0
Task 5: Documentation												
5.1 Computer spreadsheets								0	$0			
5.2 Draft report								0	$0			
Final report								0	$0			
Task 5 Subtotal	0	0	0	0	0	0	0	0	$0	$0	$0	$0
Task 6: On-Call Services												
6.1 On-Call Services		8	8	16	16	8		56	$10,506	$3,502	$3,502	$3,502
6.2								0	$0			
6.3								0	$0			
Task 6 Subtotal	0	8	8	16	16	8	0	56	$10,506	$3,502	$3,502	$3,502
Labor Total		$11,347	$13,238	$23,576	$20,718	$7,775	$0		$76,654	$24,255	$24,255	$28,143
Expenses									$81,000	$3,750	$3,750	$73,500
Budget Estimate									**$157,654**	**$28,005**	**$28,005**	**$101,643**

Year 3: Water COS

Task Detail	Mtgs	Mumm Principal	Hobart PM	Quinn PC	Richard Sr. Analyst	Hobson Spec. PM	Admin Support	Total Hours	Budget Estimate	Division Allocations WATER	WW	ESD
Task 1: Project Kickoff and Data Collection												
1.1 Data request and review		4	4	8	8	0		24	$4,588	$1,529	$1,529	$1,529
1.2 Kickoff meeting		4	4	4	4	0		16	$3,252	$1,084	$1,084	$1,084
1.3 Follow-up data request		0	8	16	16	0		40	$6,849	$2,283	$2,283	$2,283
Task 1 Subtotal	0	8	16	28	28	0	0	80	$14,689	$4,896	$4,896	$4,896
Task 2: Revenue Requirements												
2.1 Project baseline revenue requirements		8	16	40	40	0		104	$18,695	$6,232	$6,232	$6,232
2.2 Review meeting with City	1	8	8	12	12	0		40	$7,840	$2,613	$2,613	$2,613
2.3 Revise analysis		0	16	40	40	0		96	$16,369	$5,456	$5,456	$5,456
2.4 Present to Council	2	8	8	0	0	0		16	$3,834	$1,278	$1,278	$1,278
Task 2 Subtotal	3	24	48	92	92	0	0	256	$46,737	$15,579	$15,579	$15,579
Task 3: Cost of Service (Water)												
3.1 Assess/refine customer data		4	8	40	40	0		92	$16,024	$16,024		
3.2 Allocate plant and expense		4	8	40	40	0		92	$16,024	$16,024		
3.3 Review meeting with City		8	8	8	8	0		32	$6,504	$6,504		
3.4 Revise Analysis		4	8	16	16	0		44	$8,012	$8,012		
3.5												
Task 3 Subtotal	0	20	32	104	104	0	0	260	$46,565	$46,565	$0	$0
Task 4: Rate Alternatives Evalaution												
4.1 Council Presentation #1		0	0	0	0	0		0	$0			
4.2 Develop Rate Alternatives		0	0	0	0	0		0	$0			
4.3 Council Presentation #2		0	0	0	0	0		0	$0			
Task 4 Subtotal	0	0	0	0	0	0	0	0	$0	$0	$0	$0
Task 5: Documentation												
5.1 Computer spreadsheets		0	2	8	8	0	0	18	$3,048	$3,048		
5.2 Draft report		4	8	16	16	0	0	44	$8,012	$8,012		
Final report		4	8	16	16	0	0	44	$8,012	$8,012		
Task 5 Subtotal	0	8	18	40	40	0	0	106	$19,072	$19,072	$0	$0
Task 6: On-Call Services												
6.1 On-Call Services		8	8	16	16	0		48	$9,175	$3,058	$3,058	$3,058
6.2								0	$0			
6.3								0	$0			
Task 6 Subtotal	0	8	8	16	16	0	0	48	$9,175	$3,058	$3,058	$3,058
Labor Total		$19,772	$22,992	$49,752	$43,722	$0	$0		$136,237	$89,170	$23,534	$23,534
Expenses									$15,000	$7,500	$3,750	$3,750
Budget Estimate									**$151,237**	**$96,670**	**$27,284**	**$27,284**

Year 4: Wastewater COS

Task Detail	Mtgs	Mumm Principal	Hobart PM	Quinn PC	Richard Sr. Analyst	Hobson Spec. PM	Admin Support	Total Hours	Budget Estimate	Division Allocations WATER	WW	ESD
Task 1: Project Kickoff and Data Collection												
1.1 Data request and review		4	4	8	8	0		24	$4,702	$1,567	$1,567	$1,567
1.2 Kickoff meeting	1	4	4	4	4	0		16	$3,334	$1,111	$1,111	$1,111
1.3 Follow-up data request		0	8	16	16	0		40	$7,020	$2,340	$2,340	$2,340
Task 1 Subtotal	1	8	16	28	28	0	0	80	$15,056	$5,019	$5,019	$5,019
Task 2: Revenue Requirements												
2.1 Project baseline revenue requirements		8	16	40	40	0		104	$19,162	$6,387	$6,387	$6,387
2.2 Review meeting with City	1	8	8	12	12	0		40	$8,036	$2,679	$2,679	$2,679
2.3 Revise analysis		0	16	40	40	0		96	$16,778	$5,593	$5,593	$5,593
2.4 Present to Council	2	8	8	0	0	0	0	16	$3,930	$1,310	$1,310	$1,310
Task 2 Subtotal	3	24	48	92	92	0	0	256	$47,905	$15,968	$15,968	$15,968
Task 3: Cost of Service (Wastewater)												
3.1 Assess/refine customer data		4	8	40	40	0		92	$16,425		$16,425	
3.2 Allocate plant and expense		4	8	40	40	0		92	$16,425		$16,425	
3.3 Review meeting with City		8	8	8	8	0		32	$6,667		$6,667	
3.4 Revise Analysis		4	8	16	16	0		44	$8,212		$8,212	
Task 3 Subtotal	0	20	32	104	104	0	0	260	$47,729	$0	$47,729	$0
Task 4: Rate Alternatives Evalaution												
4.1 Council Presentation #1		0	0	0	0	0		0	$0			
4.2 Develop Rate Alternatives		0	0	0	0	0		0	$0			
4.3 Council Presentation #2		0	0	0	0	0		0	$0			
Task 4 Subtotal	0	0	0	0	0	0	0	0	$0	$0	$0	$0
Task 5: Documentation												
5.1 Computer spreadsheets		0	2	8	8	0	0	18	$3,124		$3,124	
5.2 Draft report		4	8	16	16	0	0	44	$8,212		$8,212	
Final report		4	8	16	16	0	0	44	$8,212		$8,212	
Task 5 Subtotal	0	8	18	40	40	0	0	106	$19,549	$0	$19,549	$0
Task 6: On-Call Services												
6.1 On-Call Services		8	8	16	16	0	0	48	$9,404	$3,135	$3,135	$3,135
6.2								0	$0			
6.3								0	$0			
Task 6 Subtotal	0	8	8	16	16	0	0	48	$9,404	$3,135	$3,135	$3,135
Labor Total		$20,266	$23,566	$50,996	$44,815	$0	$0		$139,643	$24,122	$91,399	$24,122
Expenses									$15,000	$3,750	$7,500	$3,750
Budget Estimate									**$154,643**	**$27,872**	**$98,899**	**$27,872**

City of Santa Fe

Real Estate Summary of Contracts, Agreements, Amendments & Leases

Section to be completed by department

1. Munis Contract # **3202940**

Contractor: **Financial Consulting Solutions Group, Inc. (dba FCS GROUP),**

Description: **Public Utilities Rate Evaluation and Financial Services**

Contract ☐ Agreement ☉ Lease / Rent ☐ Amendment ☐

Term Start Date: **as approved** Term End Date: **6/30/25**

☑ Approved by Council Date: **Pending**

Contract / Lease: **Contract $636,052.51**

Amendment # _____ to the Original Contract / Lease # _____

Increase/(Decrease) Amount $ _____

Extend Termination Date to: _____

☐ Approved by Council Date: _____

Amendment is for:

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

3. **Procurement History:** **21/43/B** RFP 22/04/P Financial Accounting Services -4 years from September 21-June 30, 2025

Fran Delaway (Aug 27, 2021 09:01 MDT) Aug 27, 2021

Purchasing Officer Review: Date:

Comment & Exceptions: **22/04/P** **5050381.510300, 5100331.510300**

4. **Funding Source:** **Water, WWM & ESD Enterprise Fund** **Org / Object:** **5000361.510300**

Andy Hopkins (Aug 25, 2021 15:17 MDT) Aug 25, 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: _____

ACORD™ CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 10/8/2020

PRODUCER

SHINSTROM & NORMAN INC
PO Box 638
Kirkland, WA 98083
(425) 827-6200

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURED

FINANCIAL CONSULTING SOLUTIONS GROUP, INC.
7525 166TH AVENUE NE, STE #D-215
REDMOND, WA 98052

INSURERS AFFORDING COVERAGE	NAIC#
INSURER A: LIBERTY MUTUAL INS. CO.	
INSURER B:	
INSURER C:	
INSURER D:	
INSURER E:	

COVERAGES

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. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	ADD'L INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
A		GENERAL LIABILITY [X] COMMERCIAL GENERAL LIABILITY [ ] CLAIMS MADE [X] OCCUR NO DEDUCTIBLE GEN'L AGGREGATE LIMIT APPLIES PER: [X] POLICY [ ] PRO-JECT [ ] LOC	BKW58035312	09/20/20	09/20/21	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG	$ 1,000,000 $ 1,000,000 $ 15,000 $ 1,000,000 $ 2,000,000 $ 2,000,000
A		AUTOMOBILE LIABILITY ANY AUTO ALL OWNED AUTOS SCHEDULED AUTOS [X] HIRED AUTOS [X] NON-OWNED AUTOS NO DEDUCTIBLE	BAA58035312	09/20/20	09/20/21	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ 1,000,000 $ $ $
		GARAGE LIABILITY ANY AUTO				AUTO ONLY - EA ACCIDENT OTHER THAN AUTO ONLY: EA ACC AGG	$ $ $
A		EXCESS/UMBRELLA LIABILITY [X] OCCUR [ ] CLAIMS MADE DEDUCTIBLE [X] RETENTION $ 10,000	USO58035312	09/20/20	09/20/21	EACH OCCURRENCE AGGREGATE	$ 2,000,000 $ 2,000,000
A		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below	BKW58035312 WASH. STOP GAP	09/20/20	09/20/21	[X] WC STATU-TORY LIMITS [ ] OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	 $ 1,000,000 $ 1,000,000 $ 2,000,000
		OTHER					

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

RE: OPERATIONS - PO #22101122, PO #22101163, PO #22101201
THE CERTIFICATE HOLDER(S) ARE INCLUDED AS PRIMARY ADDITIONAL INSURED PER ATTACHED FORM CG8810 AND INCLUDES WAIVER OF SUBROGATION.

CERTIFICATE HOLDER

CITY OF SANTA FE
801 W SAN MATEO RD.
SANTA FE, NM 87505

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 45 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

© ACORD CORPORATION 1988

ACORD™ CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YY): 10/8/2020

PRODUCER

SHINSTROM & NORMAN INC
PO Box 638
Kirkland, WA 98083
(425) 827-6200

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURERS AFFORDING COVERAGE

INSURED

FINANCIAL CONSULTING SOLUTIONS GROUP, INC.
7525 166TH AVENUE NE, SUITE D-215
REDMOND, WA 98052

INSURER A: STARSTONE NATIONAL INSURANCE CO.
INSURER B: NAIC: 25496
INSURER C:
INSURER D:
INSURER E:

COVERAGES

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. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
	GENERAL LIABILITY				EACH OCCURRENCE	$
	☐ COMMERCIAL GENERAL LIABILITY				FIRE DAMAGE (Any one fire)	$
	☐ CLAIMS MADE ☐ OCCUR				MED EXP (Any one person)	$
					PERSONAL & ADV INJURY	$
					GENERAL AGGREGATE	$
	GEN'L AGGREGATE LIMIT APPLIES PER:				PRODUCTS - COMP/OP AGG	$
	☐ POLICY ☐ PRO-JECT ☐ LOC					
	AUTOMOBILE LIABILITY				COMBINED SINGLE LIMIT (Ea accident)	$
	☐ ANY AUTO				BODILY INJURY (Per person)	$
	☐ ALL OWNED AUTOS				BODILY INJURY (Per accident)	$
	☐ SCHEDULED AUTOS				PROPERTY DAMAGE (Per accident)	$
	☐ HIRED AUTOS					
	☐ NON-OWNED AUTOS					
	GARAGE LIABILITY				AUTO ONLY - EA ACCIDENT	$
	☐ ANY AUTO				OTHER THAN AUTO ONLY: EA ACC	$
					AGG	$
	EXCESS LIABILITY				EACH OCCURRENCE	$
	☐ OCCUR ☐ CLAIMS MADE				AGGREGATE	$
						$
	☐ DEDUCTIBLE					$
	☐ RETENTION $					$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY				☐ WC STATU-TORY LIMITS ☐ OTH-ER	
					E.L. EACH ACCIDENT	$
					E.L. DISEASE - EA EMPLOYEE	$
					E.L. DISEASE - POLICY LIMIT	$
A	OTHER PROFESSIONAL LIABILITY	09550B1209APL CLAIMS MADE FORM	09/20/20	09/20/21	$2,000,000 EACH CLAIM $4,000,000 AGGREGATE $ 5,000 DEDUCTIBLE	

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS

RETROACTIVE DATE: 7/26/1988

CERTIFICATE HOLDER ☐ ADDITIONAL INSURED; INSURER LETTER: ____

CITY OF SANTA FE
801 W SAN MATEO RD.
SANTA FE, NM 87505

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 45 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

© ACORD CORPORATION 1988

City of Santa Fe

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

BUSINESS REGISTRATION

Business Name: FCS GROUP

Business Location: 7525 16TH AVE NE STE D215
REDMOND , WA 98052

CRS Number: 03420605001

Owner: FCS GROUP

License Number: 223967

License Type: Business License - Renewable

Issued Date: December 28, 2020

Classification: Out of Jurisdiction Business License

Expiration Date: December 28, 2021

Fees Paid: $10.00

FCS GROUP
7525 166TH AVE NE STE D215
REDMOND , WA 98052

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 PROCUREMENT CHECKLIST

Contractor Name: _Financial Consulting Solutions Group, Inc. (dba FCS GROUP),

Procurement Title: Public Utilities Rate Evaluation and Financial Services 22/04/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 Public Utilities Department Staff Name _ Maya Martinez

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: _____

Maya Martinez

Public Utilities Dept / Maya Martinez, PUD Fiscal Administrator

Department Rep Printed Name (attesting that all information included)	Title	Date
Fran Duraway Fran Duraway (Aug 27, 2021 09:01 MDT)	Chief Procurement Officer	Aug 27, 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 any resulting contract.

*

DATE:	August 20, 2021
TO:	Fran Dunaway, Chief Procurement Officer City of Santa Fe
FROM:	Maya Martinez, Procurement Manager MM Public Utilities Department
SUBJECT:	Evaluation Committee Report, Public Utilities Rate Evaluation & Financial Services RFP # 22/04/P

In accordance with the Request for Proposals for Public Utilities Rate Evaluation & Financial Services issued 6/17/21, one response were submitted from the following Offerors: FCS Group and evaluated by the committee.

Summary of Evaluation Committee Activity

The Evaluation Committee members are as follows:

Shannon Jones, Public Utilities Department Director
Shirlene Sitton, Environmental Services Division Director
Mike Dozier, Waste Water Management Division Director
Jesse Roach, Water Division Director
Stephen Morales, Public Utilities Department

This Evaluation Committee Report summarizes all criteria used in scoring the responses:

- July 26, 2021: Evaluation Committee met to review Evaluation Committee duties and RFP process. Evaluation Committee was provided with the proposal and evaluation criteria form.
- August 3, 2021: Evaluation Committee met to go over their scoring and comments of the proposal.

Section IV.B, Technical Specifications

Section IV.B.1, Organizational Experience (400 Total Points)

	FCS Group
Offeror Points	376

Specifications:

1) Offeror should show a past record of performance on selected projects, with respect to such factors as rate structure analysis, annual financial plan updates, cost-of-service evaluation, and the ability to comply with critical schedules and budgets. Project references are requested for each demonstration of performance on prior projects.
2) Offeror should provide a detailed description of relevant corporate experience with city or state government and private sector. The experience of all proposed subcontractors must be described. The narrative **must** thoroughly describe how the Offeror has supplied expertise for similar contracts and must include the extent of their experience, expertise and knowledge as a provider of financial management expertise.
3) Relevant experience in financial management services using generally accepted utility ratemaking methodologies, as described by the American Waterworks Association, and applicable New Mexico and Federal law to successfully implement project goals shall be documented in the proposal. The City is looking for firms who hold a Municipal Advisor Certification. The Certification must be included in the Offeror's proposal. Offeror should clearly demonstrate they currently have the requisite staff and necessary financial management expertise for this project. The Offeror should discuss specialized financial management and water rate analysis competence of firm or joint venture, regarding the type of services required. The City fully anticipates the consultant to immediately start work on this project with the notice to proceed and expediently complete identified initial work and future work orders.
4) Describe the continuity of the company, particularly its capability to sustain loss of key personnel, or owner directed substitution of key personnel, without adversely affecting a project or the company.

5) Discuss past record of performance on contracts with public agencies or private sector clients with respect to such factors as control of time, costs, value, quality of work, claims handling and ability to achieve schedules. Provide reference contacts to include:
   1. Organization
   2. Project

3. Contact information (name, title, number, address, email)

6) Discuss knowledge and familiarity with Industry Standard Practices, generally accepted utility ratemaking methodologies, as described by the American Waterworks Association, and applicable New Mexico and Federal law.

Evaluation Factors:

Points will be awarded based on the thoroughness and clarity of Offeror's response in this Section. The Evaluation Committee will also weigh the relevancy and extent of Offeror's experience, expertise and knowledge; and of personnel education, experience and certifications/licenses.

FCS Group

The Evaluation Committee awarded FCS 376 points based on the Offeror's response.

The FCS team, including subcontractor, is strong and well versed in the financial standing of the City of Santa Fe's utilities, as well as in the Southwest portion of the United States. Points were deducted because the solid waste portion is subcontracted out.

The offeror responded very well to this, the only reason for the score given is that the experience that FCS brings is fairly recent, and mostly in the form of Jason Mumm who has consulted for the City since 1999, but been with FCS since 2017. Since 2017, their organizational experience is excellent. Strong record of past performance on relevant projects for both primary contractor and subcontractor on municipal utility projects. Submitter has extensive history with AWWA and helped to write guidelines for it. Both have depth of personnel for continuity. Many client references provided with required information.

Section IV.B.2, Project Team and Related Experience (250 Total Points)

	FCS Group
Offeror Points	235

Specifications:

The Offerors Project Team shall have successfully completed a minimum of three (3) similar utility rate analysis services for communities of 70,000 residents or larger. Special consideration will be given to firms that have experience with projects similar to those outlined in the scope of work.

Discuss recent experience of firm and Project Team on similar projects. List particular projects, their completion dates, costs, owner / client, and references (including telephone numbers). Describe your Project Team's expertise and familiarity with procedural and regulatory requirements on these kinds of projects.

- Present the organizational chart for the Project Team for public involvement; the names of the specific team members; with their assigned tasks; qualifications and percent of time they will be assigned to the project.
- Provide brief resumes of all senior and key personnel Offeror proposes to use in performance of the resulting contract, should Offeror be awarded. Key personnel

is identified as personnel who would work directly with City staff. Offeror must include the following information for all key members of the project team, including subcontractors using the following format:

- Name and Title
- Specialized Professional Competence
- Current Responsibilities
- Representative Project Assignments with Firm
- Representative Project Assignments for Other Identified Employers
- Professional Background, Education

- Describe the management plan for coordinating schedules and resources to complete this project on schedule and within budget.
- Describe the client and consultant relationship the firm will establish for progress meetings, design, review, decision-making, and budget containment.
- Should the firm be invited for personal interview, the City requires the principal and key design personnel, who will be assigned to the project, be present, be introduced, make comment to the selection committee, and preferably be a participant in the interview.

Evaluation Factors:

Points will be awarded based on the thoroughness and clarity of Offeror's response in this Section. The Evaluation Committee will also weigh the relevancy and extent of Offeror's experience, expertise and knowledge; and of personnel education, experience and certifications/licenses.

FCS Group

The Evaluation Committee awarded FCS Group 235 points based on the Offeror's response. FCS's project team has completed the required minimum of 3 utility rate analysis service for communities similar to Santa Fe and in communities with population greater than 70,000 people. The proposal listed strong projects completed and ongoing with strong utilities specifically in western and southwestern United States. Including tier rate structures.

Points were deducted because of the population of reference locations not listed and had to search total population. FCS has a Strong team, particularly Jason Mumm, whose credentials are very impressive. Project team has many years of related experience and rate analysis in appropriate sized cities. Organization is clearly shown and employee resumes with relevant projects are given. FCS has 20 years' experience working with Utility Department and can work right away.

Section IV.B.3, Associations (50 Total Points)

	FCS Group
Offeror Points	49

Specifications:

The City of Santa Fe may contract with only one principal firm for this project; or the resulting contract may be a multiple award.
The use of specialty firms is recognized and with respect to joint ventures, associations, or subcontracts with other firms, describe recent associations on completing projects and your ability to effectively coordinate and manage a combination of firms. Indicate all of the firms and firm's information (company name, contact name, title, number, address).
Describe the capacity and capability of firm, joint venture or Teaming Agreement, including special consultants, to perform the work, including any specialized services, within the Offeror's time frames to expedite projects.

Evaluation Factors:

Points will be awarded based on the thoroughness and clarity of Offeror's response in this Section. The Evaluation Committee will also weigh the relevancy and extent of the firms experience, expertise, knowledge, capacity and capability.

FCS Group

The Evaluation Committee awarded FCS Group 49 points based on the Offeror's response. The Association with NewGen is strongly related to Solid Waste portion of the utility. NewGen has extensive experience and history. Points were deducted because this capacity should be in-house and not subcrontracterd. Partnering with NewGen for Solid Waste related services rounds out the service offering well. Subcontractor information is clearly shown, and this firm has previous experience with City, County. Resumes and projects are shown.

Section IV.B.4, Workload (150 Total Points)

	FCS Group
Offeror Points	**105**

Specifications:

Describe the firm's current workload (particularly in the office that will manage this project). Provide names, locations, and clients for each project. List those in your firm who are assigned to these projects that will also be assigned to the proposed project and the firm's capacity in these projects.

Evaluation Factors:

Points will be awarded based on the thoroughness and clarity of Offeror' s response in this Section.

FCS Group

The Evaluation Committee awarded FCS Group 105 points based on the Offeror's response. Points were deducted because the Description of other ongoing or new clients was vague. Answer given was not fully responsive, essentially saying they will be as responsive as they have been. Workload is addressed but not particularly shown. FCS states that after a 20-year relationship, the firm's workload is already adjusted to Santa Fe's needs.

Section IV.B.5, Knowledge of Local Conditions (50 Total Points)

	FCS Group
Offeror Points	**50**

Specifications:

Demonstrate recent knowledge and experience with the City Public Utilities Department, neighborhoods, local boards and commissions, community awareness, historic sensitivity and local practices, i.e., Santa Fe Regional Area.

Evaluation Factors:

Points will be awarded based on the thoroughness and clarity of Offeror's response in this Section.

FCS Group

The Evaluation Committee awarded FCS Group 50 points based on the Offeror's response. FCS demonstrated good knowledge of local conditions. FCS has extensive knowledge of local conditions with 20 years of being the Utility consultant. Subcontractor has also performed cost analysis for the City, County previously, and with the immediately past contract. Also recently completed projects with Albuquerque and Las Cruces

Section IV. C, Business Specifications

Section IV.C.1, Letter of Transmittal (Pass/Fail)

	FCS Group
Pass/Fail	**Pass**

Specifications:

The Letter of Transmittal Form located in APPENDIX D. must accompany the Offeror's proposal. The form **must** be completed and must be signed by the person authorized to obligate the company. **Failure to respond to ALL items, as indicated in Section II.C.30 and APPENDIX D, and to return a signed, unaltered form will result in Offeror' s disqualification.**

Evaluation Factors:

Pass/Fail only. No points Assigned.

Section IV.C.2, Signed Campaign Contribution Disclosure Form (Pass/Fail)

	FCS Group
Pass/Fail	**Pass**

Specifications:

The Offeror must complete an unaltered Campaign Contribution Disclosure Form and submit a signed copy with the Offeror's proposal. This must be accomplished whether or not an applicable contribution has been made. (See APPENDIX B). **Failure to complete and return the signed, unaltered form will result in Offeror's disqualification.**

Evaluation Factors:

Pass/Fail only. No points Assigned.

Section IV.C.3, Costs (100 Total Points)

	FCS Group
Offeror Points	**100**

Specifications:

Cost

Offerors must complete the Cost Response Form in APPENDIX C. Cost will be measured by the total annual cost for the first year for contractual services as defined by the scope of work. Offerors must list out the annual cost for each task to include labor, travel, documenting & reporting and meetings.

Evaluation Factors:

The evaluation of each Offeror's cost proposal will be conducted using the following formula:

Lowest Responsive Offeror's Total Annual Cost

---------- X Available Award Points

Each Offeror's Total Annual Cost

FCS Group

The Evaluation Committee awarded FCS Group points based on the Offeror's response.

151261

---------- = 1 X 100 = 100

151261

Section IV.C.4, NM Preferences

Evaluation Factors:

	Points	FCS Group
City of Santa Fe Local Preference per Section IV C. 2.	30	0
City of Santa Fe Local Preference using Local Subcontractors per Section IV C. 2.	60	0

Specifications:

Local Preference

To ensure adequate consideration and application of NMSA 1978, § 13-1-21 (as amended), Offerors **MUST** include a copy, in this section, of its NM Resident preference certificate, as issued by the New Mexico Taxation and Revenue Department

Evaluation Factors:

Percentages will be determined based upon the point-based system outlined below:

To qualify for a local preference, a vendor must attach a state of New Mexico Taxation and Revenue Department-issued, Resident Business certification of eligibility to its bid or proposal, showing that the business is located within the Santa Fe municipal limits. If an offer is received without a copy of the appropriate State of New Mexico Taxation and Revenue Department issued Business Registration Certificate, the preference will not be applied. A valid resident business certificate is issued by the Taxation and Revenue Department pursuant to NMSA 1978 §13-1-22.

A. The City shall award additional 3% of the total weight of all the factors used in evaluating the proposal to a local resident business. The City shall award an additional 3% of the total weight of all the factors used

in evaluating the proposal to a non-local resident business who has hired all local resident business subcontractors.

B. When the City makes a purchase using a formal request for proposal process and the contract is awarded based on a point-based system, the City shall award additional point's equivalent to 3% of the total possible points to a local resident business. The City shall award an additional 3% of the total possible points to a business who has hired all local resident business subcontractors.

The maximum available local preference shall be 6%.

C. Solicitations above One Million Dollars ($1,000,000)

a. The City shall deem a bid or proposal submitted by a resident business to be 6% lower than the bid actually submitted, if and only if at least 50% of the subcontracted services go to subcontractors who are resident businesses.

b. The City shall deem the bid or proposal submitted by a non-local resident business to be 3% lower than the bid actually submitted, if and only at least 50% of the sub- contracted services go to subcontractors who are resident businesses.

FCS Group

Offeror did not submit NM Preference Certificate. Offeror awarded zero (0) points.

Public Utilities Rate Evaluation & Financial Services

RFP # 22/04/P **Evaluation Summary**

	FCS Group
Section IV.B 1. Technical Specifications Organizational Experience (400 Points)	376
Section IV.B 2. Technical Specifications Project Team Related Experience (250 Points)	235
Section IV.B 3. Technical Specifications Associations (50 Points)	49
Section IV.B 4. Technical Specifications Workload (150 Points)	105
Section IV.B 5. Technical Specifications Knowledge of Local Conditions (50 Points)	50
Section IV.C 1. Business Specifications Letter of Transmittal (Pass/Fail)	Pass
Section IV.C 2. Business Specifications Signed Campaign Disclosure Form (Pass/Fail)	Pass
Section IV.C 3. Business Specifications Cost (100 Points)	100
Section IV.C 4. Business Specifications New Mexico Resident Business Preference 5%	0
Section IV.C 4. Business Specifications New Mexico Resident Veteran Preference 10%	0
TOTAL POINTS AWARDED	**915**

Evaluation Committee Recommendation

Based on the Evaluation Committee's evaluation of the proposals submitted, as detailed above, the committee respectfully recommends awarding a Professional Services Agreement to perform the scope of work as outlined in the Public Utilities Rate Evaluation & Financial Services
to the only proposal received; FCS Group; subject to agreement between the Public Utilities Department and the selected Offeror. Awarding Professional Services Agreement to the recommended Offeror is in the best interest of the City and the Public Utilities Department.

Committee Signature Approval

Shannon Jones

Shannon Jones — Date
Evaluation Committee Member

Jesse Roach — Date
Evaluation Committee Member

Michael Dozier (Aug 20, 2021 15:17 MDT)

8/20/21

Michael Dozier — Date
Evaluation Committee Member

Shirlene Sitton
Shirlene Sitton (Aug 20, 2021 12:04 MDT)

Shirlene Sitton — Date
Evaluation Committee Member

Stephen A Morales
Stephen A Morales (Aug 20, 2021 15:22 MDT)

08/20/2021

Stephen Morales — Date
Evaluation Committee Member

Maya Martinez

8/20/21

Maya Martinez — Date
Procurement Manager

Chief Procurement Officer Signature Approval

Fran Dunaway (Aug 23, 2021 13:53 MDT)

Fran Dunaway
Chief Procurement Officer
City of Santa Fe

Aug 23, 2021

Date

Signature: Shannon Jones

Email: swjones@santafenm.gov

Fund Name/Number: Water Enterprise Fund/ 500
Munis Org Name/Number: Water Division/ 5050381
Munis Object Name/Number: Professional Services/ 510300

ACTION REQUESTED:
Staff requests approval of this contract request with JSAI for Hydrology, Hydrogeology, and Water Resources Services in the amount of $197,560 plus gross receipts tax.

Item#_____
Munis Contract#_____

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 **John Shomaker & Associates** , 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 provide Hydrology, Hydrogeology and Water Resources services for the City as described in Exhibit "A" attached hereto

2. **Compensation.**

A. The City shall pay to the Contractor in full payment for services satisfactorily performed such compensation not to exceed one hundred ninety seven thousand five hundred sixty dollars ($197,560), plus gross receipts tax. **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, 2024** 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. Entire Agreement.

This Agreement, together with any other documents incorporated herein by reference and all related Exhibits and Schedules constitutes the sole and entire agreement of the Parties with respect to the subject matter of this Agreement, and supersedes all prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral, with respect to the subject matter. In the event of any inconsistency between the statements in the body of this Agreement, and the related Exhibits and Schedules, the statements in the body of this Agreement shall control.

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

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

C. **Broader Coverage and Limits**. The insurance requirements under this Agreement shall be the greater of (1) the minimum coverage and limits specified in this Agreement, or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the Named Insured. It is agreed that these insurance requirements shall not in any way act to reduce coverage that is broader or that includes higher limits than the

minimums required herein. No representation is made that the minimum insurance requirements of this Agreement are sufficient to cover the obligations of Contractor hereunder.

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

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. 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.

24. 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.

25. 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.

26. 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:
John Shomaker & Associates, Inc.
2611 Broadbent Pkdwy NE
Albuquerque, NM 87107

27. 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:_____

CONTRACTOR:
John Shomaker & Associates

_____
NAME Steve Finch

V.P.
TITLE

DATE: August 23, 2021
CRS# 02-058266008
Registration #

ATTEST:

_____
KRISTINE BUSTOS MIHELCIC, CITY CLERK

CITY ATTORNEY'S OFFICE:

Marcos Martinez
Marcos Martinez (Aug 23, 2021 14:47 MDT)

SENIOR ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

MARY MCCOY, FINANCE DIRECTOR

5050381.510300
Org. Name/Org#.

AJH
AJH

EXHIBIT A

SERVICES

A) 1. Groundwater Studies for Modeling, Analysis and Forecasting Projections
B) 3. Water Balance and Consumptive Use Studies
C) 5. Water Well Design, Construction, Monitoring and Testing Services
D) 6. Water Quality Studies
E) 9. Particle Tracking and Contaminant Transport Modeling
F) 12. Expert Witness Services on Hydrology, Hydrogeology, and Water Resource Studies
G) 15. Conducting Research and other issues related to the Office of the State Engineer Hydrographic Survey

EXHIBIT "A"

City of Las Cruces
MOUNTAINS OF OPPORTUNITY

RFP COMPLIANCE DECLARATION

RFP TITLE: Hydrology, Hydrogeology, and Water Resources Services

RFP NO.: 19-20-063A

DUE DATE/TIME: January 7, 2020 / 4:00 p.m.

In compliance with the requirements of this RFP, I, the undersigned, offer and agree to furnish any or all materials and/or services to the City of Las Cruces within the time agreed.

I further certify that this company has not been debarred, suspended, or otherwise made ineligible for participation in Federal Assistance programs under Executive Order 12549 Debarment and Suspension as described in the Federal Rules and Regulations.

Receipt of Addenda Nos.: 1 is hereby acknowledged (where none received, place a zero in this space)

Company Name and Address:
Enprotec / Hibbs & Todd, Inc.
6310 Genoa Avenue, Suite E
Lubbock, Texas 79424

Authorized Signature
Perry Evans, PE, PG
Typed or Printed Name
Vice President
Title
perry.evans@e-ht.com
Email Address

Telephone number (806) 794-1100 Fax number (806) 794-0778

NM Tax & Revenue Dept. CRS # 02235657006

Current NM Secretary of State Business ID # 5649641 (corporations only)

Current CLC Business Registration # _____ (respondents located in Las Cruces only)

Federal I.D. number 75 2258 512 (mandatory for all respondents)

NM Resident Certificate from NM Tax and Revenue Department enclosed _____ Yes ✓ No

THIS FORM MUST BE COMPLETED AND INCLUDED WITH PROPOSAL
FAILURE TO INCLUDE WILL SUBJECT RESPONSE TO REJECTION

EXHIBIT "A"

Enprotec / Hibbs & Todd, Inc.

ATTACHMENT B
COST PROPOSAL
RFP 19-20-063
Hydrology, Hydrogeology, and Water Resources Services

Schedule of Fees

ITEM	DIRECT LABOR / CLASSIFICATION	HOURLY RATE
1.	Principal Hydrologist, Hydrogeologist, and Water Resource Specialist	$ 210.00
2.	Senior Hydrologist, Hydrogeologist, and Water Resource Specialist	$ 170.00
3.	Assistant Hydrologist, Hydrogeologist, and Water Resource Specialist	$ 145.00
4.	Drafting Technician	$ 95.00
5.	Clerical support personnel	$ 65.00
6.	Expert witness	$ 250.00
ITEM	**MATERIALS / REIMBURSABLE EXPENSES**	**RATE**
	Travel	
7.	Per Diem (per day) – Pre-Approval Required	City of Las Cruces Rate
8.	Vehicle mileage rate (per mile)	Current IRS Rate
	Reproduction Services	
9.	Black and white copies (per copy)	$ Invoiced at Cost
10.	Color Copies (per copy)	$ Invoiced at Cost
11.	Prints (24"x36") Per sheet	$ Invoiced at Cost
12.	Mylars (24"x36") Per sheet	$ Invoiced at Cost
	Miscellaneous	
13.	Materials and Other Expenses	Case by case basis
14.	Sub-Consultants / Outside Services	% 10

Rates are to include all overhead costs and any and all assessment expenses

NOTES:
1. Detailed Man-hour Estimates are required for time and material (T&M) contracts and are to utilize corresponding rates.
2. Rates in place at the time in which a project is contracted with the City will remain in place for the duration of the contract.

19-20-063A Hydrology,
Hydrogeology and
Water Resources Services

EXHIBIT B

SCHEDULE

Revised: June 2019

EXHIBIT A

SERVICES

1) Groundwater Studies for Modeling, Analysis and Forecasting Projections
2) Surface Water Modeling
3) Water Balance and Consumptive Use Studies
4) Water Resource Economics in a support role to LCU
5) Water Well Design, Construction, Monitoring and Testing Services
6) Water Quality Studies
7) Hydrologic Forecasting to include Parametric and/or Stochastic Processes
8) Time Series Analysis
9) Particle Tracking and Contaminant Transport Modeling
10) Water/Wastewater Regulatory Studies
11) Water Rights Exploration and other Water Rights Related issues
12) Expert Witness Services on Hydrology, Hydrogeology, and Water Resource Studies
13) Reclaimed Water Studies
14) Technical and/or Institutional issues associated with Water Rights Adjudications
15) Conducting Research and other issues related to the Office of the State Engineer Hydrographic Survey
16) Water Conservation related services

ATTACHMENT B

COST PROPOSAL FOR

RFP #19-20-063A

HYDROLOGY, HYDROGEOLOGY AND WATER-RESOURCES SERVICES FOR THE CITY OF LAS CRUCES

[RFP DUE DATE: JANUARY 7, 2020]

Schedule of Fees

ITEM	DIRECT LABOR /CLASSIFICATION	HOURLY RATE
1.	Principal Hydrologist, Hydrogeologist, and Water-Resource Specialist	$ 195.00
2.	Senior Hydrologist, Hydrogeologist, and Water-Resource Specialist	$ 130.00
3.	Assistant Hydrologist, Hydrogeologist, and Water-Resource Specialist	$ 95.00
4.	Drafting Technician	$ 80.00
5.	Clerical Support Personnel	$ 65.00
6.	Expert Witness	$ 195.00
ITEM	**MATERIALS / REIMBURSABLE EXPENSES**	**RATE**
	Travel	
7.	Per Diem (per day)	City of Las Cruces rate
8.	Vehicle mileage rate (per mile)	current IRS rate
	Reproduction Services	
9.	Black and white copies (per copy)	$ 0.06
10.	Color Copies (per copy)	$ 0.30
11.	Prints (24"x36") per sheet	$ ~2.00
12.	Mylars (24"x36") per sheet	$ ~15.00
	Miscellaneous	
13.	Materials and Other Expenses	case by case basis
14.	Outside Services	cost + 10%

Rates are to include all overhead costs and any and all assessment expenses

NOTES:

1. Detailed man-hour estimates are required for time and material (T&M) contracts and are to utilize corresponding rates.
2. Rates in place at the time a project is contracted with the City will remain in place for the duration of the contract.

EXHIBIT "A"

ATTACHMENT B
COST PROPOSAL
RFP 19-20-063
Hydrology, Hydrogeology, and Water Resources Services

Schedule of Fees

ITEM	DIRECT LABOR / CLASSIFICATION	HOURLY RATE
1.	Principal Hydrologist, Hydrogeologist, and Water Resource Specialist	$ 250.00
2.	Senior Hydrologist, Hydrogeologist, and Water Resource Specialist	$ 170.00
3.	Assistant Hydrologist, Hydrogeologist, and Water Resource Specialist	$ 120.00
4.	Drafting Technician . GIS Specialist	$ 120.00
5.	Clerical support personnel	$ Not Charged
6.	Expert witness	$ 300.00
ITEM	**MATERIALS / REIMBURSABLE EXPENSES**	**RATE**
	Travel	
7.	Per Diem (per day) – Pre-Approval Required	City of Las Cruces Rate
8.	Vehicle mileage rate (per mile)	Current IRS Rate
	Reproduction Services	
9.	Black and white copies (per copy)	$ Not.Charged
10.	Color Copies (per copy)	$ Not Charged
11.	Prints (24"x36") Per sheet	$ Actual Charge
12.	Mylars (24"x36") Per sheet	$ Actual Charge
	Miscellaneous	
13.	Materials and Other Expenses	Case by case basis
14.	Sub-Consultants / Outside Services	% No Mark Up

Rates are to include all overhead costs and any and all assessment expenses

NOTES:
1. Detailed Man-hour Estimates are required for time and material (T&M) contracts and are to utilize corresponding rates.
2. Rates in place at the time in which a project is contracted with the City will remain in place for the duration of the contract.

City of Santa Fe

Real Estate Summary of Contracts, Agreements, Amendments & Leases

Section to be completed by department

1. Munis Contract # **3202936**

Contractor: **John Shomaker & Associates**

Description: **Hydrology, Hydrogeology, and Water Resources Services**

Contract ☐ Agreement ☉ Lease / Rent ☐ Amendment ☐

Term Start Date: **as approved** Term End Date: **6/30/24**

☑ Approved by Council Date: **Pending**

Contract / Lease: $197,560 plus nmgrt

Amendment # _____ to the Original Contract / Lease # _____

Increase/(Decrease) Amount $ _____

Extend Termination Date to: _____

☐ Approved by Council Date: _____

Amendment is for:

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

3. **Procurement History:** **Cooperative Procurement 19-20-063A**

Fran Delaney (Aug 27, 2021 08:52 MDT) — Aug 27, 2021

Purchasing Officer Review: Date:

Comment & Exceptions: Use of a cooperative agreement for issuance of a contract.

4. **Funding Source:** **Water Enterprise Fund** **Org / Object:** **5050381.510300**

Andy Hopkins (Aug 25, 2021 15:14 MDT) — Aug 25, 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: _____

JOHNSHO-02 AFORAKER

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 8/16/2021

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).

PRODUCER License # 0757776 HUB International Insurance Services (SOW) 6565 Americas Parkway Suite 720 Albuquerque, NM 87110	CONTACT NAME: PHONE (A/C, No, Ext): (505) 828-4000 FAX (A/C, No): (866) 487-3972 E-MAIL ADDRESS:
INSURED John Shomaker & Associates Inc 2611 Broadbent Prkwy NE Albuquerque, NM 87107	INSURER(S) AFFORDING COVERAGE — NAIC # INSURER A : Continental Casualty Company — 20443 INSURER B : Valley Forge Insurance Company — 20508 INSURER C : The Continental Insurance Company — 35289 INSURER D : — INSURER E : — INSURER F : —

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

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE / OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: POLICY X PRO-JECT / LOC OTHER:	X		B 4034680389	8/1/2021	8/1/2022	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG EPLI RETRO 0801	$ 1,000,000 $ 1,000,000 $ 10,000 $ 1,000,000 $ 2,000,000 $ 2,000,000 $ 10,000
B	AUTOMOBILE LIABILITY X ANY AUTO OWNED AUTOS ONLY / SCHEDULED AUTOS HIRED AUTOS ONLY / NON-OWNED AUTOS ONLY			BUA 4034680425	8/1/2021	8/1/2022	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)	$ 1,000,000 $ $ $
A	X UMBRELLA LIAB X OCCUR EXCESS LIAB / CLAIMS-MADE DED X RETENTION $ 10,000			B 4034680473	8/1/2021	8/1/2022	EACH OCCURRENCE AGGREGATE	$ 3,000,000 $ 3,000,000
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y / N If yes, describe under DESCRIPTION OF OPERATIONS below	N / A		WC 6 11635475	8/11/2021	8/11/2022	X PER STATUTE / OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	$ 1,000,000 $ 1,000,000 $ 1,000,000
A	Prof. Liability			EEH288341818	1/7/2021	1/7/2022	Per Claim/Aggregate	3,000,000

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

SEE ATTACHED ACORD 101

CERTIFICATE HOLDER

City of Santa Fe
PO Box 909
Santa Fe, NM 87504-0909

CANCELLATION

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

AUTHORIZED REPRESENTATIVE

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AGENCY CUSTOMER ID: JOHNSHO-02 AFORAKER

LOC #: 1

ADDITIONAL REMARKS SCHEDULE

AGENCY	License # 0757776	NAMED INSURED
HUB International Insurance Services (SOW)		John Shomaker & Associates Inc 2611 Broadbent Prkwy NE Albuquerque, NM 87107
POLICY NUMBER		
SEE PAGE 1		
CARRIER	NAIC CODE	EFFECTIVE DATE: SEE PAGE 1
SEE PAGE 1	SEE P 1	

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,

FORM NUMBER: ACORD 25 FORM TITLE: Certificate of Liability Insurance

Description of Operations/Locations/Vehicles:
The policy includes a blanket additional insured endorsement that provides additional insured status to the certificate holder only when there is a written contract between the named insured and the certificate holder that requires such status.

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BLANKET ADDITIONAL INSURED AND LIABILITY EXTENSION ENDORSEMENT

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS LIABILITY COVERAGE FORM
BUSINESSOWNERS COMMON POLICY CONDITIONS

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B.	Broad Knowledge of Occurrence
C.	Estates, Legal Representatives and Spouses
D.	Fellow Employee First Aid
E.	Legal Liability – Damage to Premises
F.	Personal and Advertising Injury – Discrimination or Humiliation
G.	Personal and Advertising Injury – Broadened Eviction
H.	Waiver of Subrogation – Blanket

I. BLANKET ADDITIONAL INSURED PROVISIONS

A. ADDITIONAL INSURED – BLANKET VENDORS

Who Is An Insured is amended to include as an additional insured any person or organization (referred to below as vendor) with whom you agreed under a "**written contract**" to provide insurance, but only with respect to "**bodily injury**" or "**property damage**" arising out of "**your products**" which are distributed or sold in the regular course of the vendor's business, subject to the following additional exclusions:

1. The insurance afforded the vendor does not apply to:
   a. "**Bodily injury**" or "**property damage**" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;
   b. Any express warranty unauthorized by you;
   c. Any physical or chemical change in the product made intentionally by the vendor;
   d. Repackaging, 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

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   h. "**Bodily injury**" or "**property damage**" arising out of the sole negligence of the vendor for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:
      (1) The exceptions contained in Subparagraphs **d.** or **f.**; or
      (2) Such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.
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.
3. This provision **2.** does not apply to any vendor included as an insured by an endorsement issued by us and made a part of this Policy.
4. This provision **2.** does not apply if "**bodily injury**" or "**property damage**" included within the "**products-completed operations hazard**" is excluded either by the provisions of the Policy or by endorsement.

B. MISCELLANEOUS ADDITIONAL INSUREDS

1. **Who Is An Insured** is amended to include as an insured any person or organization (called additional insured) described in paragraphs **3.a.** through **3.j.** below whom you are required to add as an additional insured on this policy under a "**written contract**."
2. However, subject always to the terms and conditions of this policy, including the limits of insurance, we will not provide the additional insured with:
   a. A higher limit of insurance than required by such "**written contract**;"
   b. Coverage broader than required by such "**written contract**" and in no event greater than that described by the applicable paragraph a. through k. below; or
   c. Coverage for "**bodily injury**" or "**property damage**" included within the "**products-completed operations hazard.**" But this paragraph **c.** does not apply to the extent coverage for such liability is provided by paragraph **3.j.** below.

   Any coverage granted by this endorsement shall apply only to the extent permitted by law.
3. Only the following persons or organizations can qualify as additional insureds under this endorsement:
   a. **Controlling Interest**
      Any persons or organizations with a controlling interest in you but only with respect to their liability arising out of:
      (1) such person or organization's financial control of you; or
      (2) Premises such person or organization owns, maintains or controls while you lease or occupy these premises;
      provided that the coverage granted to such additional insureds does not apply to structural alterations, new construction or demolition operations performed by or for such additional insured.
   b. **Co-owner of Insured Premises**
      A co-owner of a premises co-owned by you and covered under this insurance but only with respect to the co-owners liability for "**bodily injury**," "**property damage**" or "**personal and advertising injury**" as co-owner of such premises.
   c. **Grantor of Franchise**
      Any person or organization that has granted a franchise to you, but only with respect to such person or organization's liability for "**bodily injury**," "**property damage,**" or "**personal and advertising injury**" as grantor of a franchise to you.

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   d. **Lessor of Equipment**
      Any person or organization from whom you lease 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 such equipment, provided that the "**occurrence**" giving rise to such "**bodily injury**" or "**property damage**" or the offense giving rise to such "**personal and advertising injury**" takes place prior to the termination of such lease.
   e. **Lessor of Land**
      Any person or organization from whom you lease land, but only with respect to liability for "**bodily injury,**" "**property damage**" or "**personal and advertising injury**" arising out of the ownership, maintenance or use of that specific part of the land leased to you, provided that the "**occurrence**" giving rise to such "bodily injury" or "**property damage**" or the offense giving rise to such "**personal and advertising injury,**" takes place prior to the termination of such lease. The insurance hereby afforded to the additional insured does not apply to structural alterations, new construction or demolition operations performed by, on behalf of or for such additional insured.
   f. **Lessor of Premises**
      An owner or lessor of premises leased to you, or such owner or lessor's real estate manager, but only with respect to liability for "**bodily injury,**" "**property damage**" or "**personal and advertising injury**" arising out of the ownership, maintenance or use of such part of the premises leased to you, and provided that the "**occurrence**" giving rise to such "**bodily injury**" or "**property damage**" or the offense giving rise to such "**personal and advertising injury,**" takes place prior to the termination of such lease. The insurance hereby afforded to the additional insured does not apply to structural alterations, new construction or demolition operations performed by, on behalf of or for such additional insured.
   g. **Mortgagee, Assignee or Receiver**
      A mortgagee, assignee or receiver of premises but only with respect to such mortgagee, assignee, or receiver's liability for "**bodily injury,**" "**property damage**" or "**personal and advertising injury**" arising out of the ownership, maintenance, or use of a premises by you.
      This insurance does not apply to structural alterations, new construction or demolition operations performed by, on behalf of or for such additional insured.
   h. **State or Political Subdivisions**
      A state or government agency or subdivision or political subdivision that has issued a permit or authorization, but only with respect to such government agency or subdivision or political subdivision's liability for "**bodily injury,**" "**property damage**" or "**personal and advertising injury**" arising out of:
      (1) The following hazards in connection with premises 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, hoistaway openings, sidewalk vaults, street banners, or decorations and similar exposures; or
         (b) The construction, erection, or removal of elevators; or
         (c) The ownership, maintenance or use of any elevators covered by this insurance; or
      (2) The permitted or authorized operations performed by you or on your behalf. But the coverage granted by this paragraph does not apply to:
         (a) "**Bodily injury**", "**property damage**" or "**personal and advertising injury**" arising out of operations performed for the state or government agency or subdivision or political subdivision; or
         (b) "**Bodily injury**" or "**property damage**" included within the "**products-completed operations hazard.**"

      With respect to this provision's requirement that additional insured status must be requested under a "**written contract,**" we will treat as a "**written contract**" any governmental permit that requires you to add the governmental entity as an additional insured.

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   i. **Trade Show Event Lessor**
      With respect to your participation in a trade show event as an exhibitor, presenter or displayer, any person or organization whom you are required to include as an additional insured, but only with respect to such person or organization's liability for "**bodily injury,**" "**property damage,**" or "**personal and advertising injury**" caused by:
      a. Your acts or omissions; or
      b. Acts or omissions of those acting on your behalf;
      in the performance of your ongoing operations at the trade show premises during the trade show event.
   j. **Other Person or Organization**
      Any person or organization who is not an additional insured under paragraphs **a.** through **i.** above. Such additional insured is an insured solely for "**bodily injury,**" "**property damage**" or "**personal and advertising injury**" for which such additional insured is liable because of your acts or omissions.
      The coverage granted by this paragraph does not apply to any person or organization:
      (1) For "**bodily injury,**" "**property damage,**" or "**personal and advertising injury**" arising out of the rendering or failure to render any professional services;
      (2) For "**bodily injury**" or "**property damage**" included in the "**products-completed operations hazard.**" But this provision **(2)** does not apply to such "**bodily injury**" or "**property damage**" if:
         (a) It is entirely due to your negligence and specifically results from your work for the additional insured which is the subject to the "**written contract**"; and
         (b) The "**written contract**" requires you to make the person or organization an additional insured for such "**bodily injury**" or "**property damage**"; or
      (3) Who is afforded additional insured coverage under another endorsement attached to this policy.

C. ADDITIONAL PROVISIONS PERTINENT TO ADDITIONAL INSURED COVERAGE

1. With respect only to additional insured coverage provided under paragraphs **A.** and **B.** above:
   a. The **BUSINESSOWNERS COMMON POLICY CONDITIONS** are amended to add the following to the Condition entitled **Other Insurance**:
      This insurance is excess of all other insurance available to an additional insured whether primary, excess, contingent or on any other basis. However, if a "**written contract**" requires that this insurance be either primary or primary and noncontributing, then this insurance will be primary and non-contributory relative solely to insurance on which the additional insured is a named insured.
   b. Under **Liability and Medical Expense Definitions**, the following definition is added:
      "**Written contract**" means a written contract or agreement that requires you to make a person or organization an additional insured on this policy, provided the contract or agreement:
      (1) Is currently in effect or becomes effective during the term of this policy; and
      (2) Was executed prior to:
         (a) The "**bodily injury**" or "**property damage**;" or
         (b) The offense that caused the "**personal and advertising injury**";
      for which the additional insured seeks coverage.
2. With respect to any additional insured added by this endorsement or by any other endorsement attached to this Coverage Part, the section entitled **Who Is An Insured** is amended to make the following natural persons insureds.
   If the additional insured is:
   a. An individual, then his or her spouse is an insured;

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b. A partnership or joint venture, then its partners, members and their spouses are insureds;

c. A limited liability company, then its members and managers are insureds;

d. An organization other than a partnership, joint venture or limited liability company, then its executive officers, directors and shareholders are insureds; or

e. Any type of entity, then its employees are insureds;

but only with respect to locations and operations covered by the additional insured endorsement's provisions, and only with respect to their respective roles within their organizations. Furthermore, employees of additional insureds are not insureds with respect to liability arising out of:

(1) "**Bodily injury**" or "**personal and advertising injury**" to any fellow employee or to any natural person listed in paragraphs **a.** through **d.** above;

(2) "**Property damage**" to property owned, occupied or used by their employer or by any fellow employee; or

(3) Providing or failing to provide professional health care services.

II. LIABILITY EXTENSION COVERAGES

It is understood and agreed that this endorsement amends the **Businessowners Liability Coverage Form**. If any other endorsement attached to this policy amends any provision also amended by this endorsement, then that other endorsement controls with respect to such provision, and the changes made by this endorsement to such provision do not apply.

A. Bodily injury – Expanded Definition

Under **Liability and Medical Expenses Definitions**, the definition of "**Bodily injury**" is deleted and replaced by the following:

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

B. Broad Knowledge of Occurrence

Under Businessowners Liability Conditions, the Condition entitled Duties In The Event of Occurrence, Offense, Claim or Suit is amended to add the following:

Paragraphs **a.** and **b.** above 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.

This paragraph applies separately to you and any additional insured.

C. Estates, Legal Representatives and Spouses

The estates, heirs, legal representatives and spouses of any natural person insured shall also be insured under this policy; provided, however, coverage is afforded to such estates, heirs, legal representatives and spouses only for claims arising solely out of their capacity as such and, in the case of a spouse, where such claim seeks damages from marital common property, jointly held property, or property transferred from such natural person insured to such spouse. No coverage is provided for any act, error or omission of an estate, heir, legal representative or spouse outside the scope of such person's capacity as such, provided however that the spouse of a natural person Named Insured and the spouses of members or partners of joint venture or partnership Named Insureds are insureds with respect to such spouses' acts, errors or omissions in the conduct of the Named Insured's business.

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D. Fellow Employee First Aid Coverage

In the section entitled **Who Is An Insured**, paragraph **2.a.1.** is amended to add the following:

The limitations described in subparagraphs **2.a.1.(a)**, **(b)** and **(c)** do not apply to your "**employees**" for "**bodily injury**" that results from providing cardiopulmonary resuscitation or other first aid services to a co-"**employee**" or "**volunteer worker**" that becomes necessary while your "**employee**" is performing duties in the conduct of your business. Your "**employees**" are hereby insureds for such services. But the insured status conferred by this provision does not apply to "**employees**" whose duties in your business are to provide professional health care services or health examinations.

E. Legal Liability – Damage To Premises

1. Under **B. Exclusions, 1. Applicable to Business Liability Coverage**, Exclusion **k. Damage To Property**, is replaced by the following:

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 any real property on which you or any contractors or subcontractors working directly or indirectly in 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.

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 **1**, **3**, and **4**, of this exclusion do not apply to "**property damage**" (other than damage by fire or explosion) to premises:

(1) rented to you:

(2) temporarily occupied by you with the permission of the owner, or

(3) to the contents of 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 – Liability and Medical Expenses Limits of Insurance.

Paragraphs **3**, **4**, **5**, and **6** of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraph **6** of this exclusion does not apply to "**property damage**" included in the "**products-completed operations hazard.**"

2. Under **B. Exclusions**, **1. Applicable to Business Liability Coverage**, the following paragraph is added, and replaces the similar paragraph, if any, beneath paragraph **(14)** of the exclusion entitled **Personal and Advertising Injury**:

Exclusions **c, d, e, f, g, h, i, k, l, m, n, and o,** do not apply to damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner or to the contents of premises rented to you for a period of 7 or fewer consecutive days. A separate limit of insurance applies to this coverage as described in **Section D. Liability And Medical Expenses Limits Of Insurance.**

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3. The first Paragraph under item **5. Damage To Premises Rented To You Limit** of the section entitled **Liability And Medical Expenses Limits Of Insurance** is replaced by the following:

The most we will pay under Business Liability for damages because of "**property damage**" to any one premises, while rented to you or temporarily occupied by you with the permission of the owner, including contents of such premises rented to you for a period of 7 or fewer consecutive days, is the Damage to Premises Rented to You Limit. The Damage to Premises Rented to You Limit is the greater of:

a. $1,000,000; or

b. The Damage to Premises Rented to You Limit shown in the Declarations.

F. Personal and Advertising Injury – Discrimination or Humiliation

1. Under **Liability and Medical Expenses Definitions**, the definition of "**personal and advertising injury**" is amended to add the following:

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

(1) Not done intentionally by or at the direction of:

(a) The insured; or

(b) Any "**executive officer**," director, stockholder, partner, member or manager (if you are a limited liability company) of the insured; and

(2) Not directly or indirectly related to the employment, prospective employment, past employment or termination of employment of any person or person by any insured.

2. Under **B. Exclusions, 1. Applicable to Business Liability Coverage**, the exclusion entitled **Personal and Advertising Injury** is amended to add the following additional exclusions:

(15) Discrimination Relating to Room, Dwelling or Premises

Caused by discrimination directly or indirectly related to the sale, rental, lease or sub-lease or prospective sale, rental, lease or sub-lease of any room, dwelling or premises by or at the direction of any insured.

(16) Employment Related Discrimination

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

(17) Fines or Penalties

Fines or penalties levied or imposed by a governmental entity because of discrimination.

3. This provision **(Personal and Advertising Injury – Discrimination or Humiliation)** does not apply if **Personal and Advertising Injury** Liability is excluded either by the provisions of the Policy or by endorsement.

G. Personal and Advertising Injury - Broadened Eviction

Under **Liability and Medical Expenses Definitions**, the definition of "**Personal and advertising injury**" is amended to delete Paragraph c. and replace it with the following:

c. The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room dwelling or premises that a person or organization occupies committed by or on behalf of its owner, landlord or lessor.

H. Waiver of Subrogation – Blanket

We waive any right of recovery we may have against:

a. Any person or organization with whom you have a written contract that requires such a waiver.

All other terms and conditions of the Policy remain unchanged.

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City of Santa Fe

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

BUSINESS REGISTRATION

Business Name: JOHN SHOMAKER & ASSOCIATES, INC.
DBA: JOHN SHOMAKER & ASSOC, INC.

Business Location: 2611 BROADBENT PKWY NE
ALBUQUERQUE, NM 87107

CRS Number: 02-058266-00-8

Owner: John Shomaker

License Number: 225084

License Type: Business License - Renewable

Issued Date: December 15, 2020

Classification: Out of Jurisdiction Contractor - Specialty

Expiration Date: December 15, 2021

Fees Paid: $10.00

JOHN SHOMAKER & ASSOCIATES, INC.
2611 BROADBENT NE
ABLUQUERQUE, NM 87107

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

THIS REGISTRATION/LICENSE IS NOT TRANSFERRABLE TO

CITY OF SANTA FE PROCUREMENT CHECKLIST

Contractor Name: John Shomaker & Associate

Procurement Title: Hydrology, Hydrogeology, and Water Resources Services 19-20-063A
Procurement Method: State Price Agreement ☐ *Cooperative* ☒ *Sole Source* ☐ *Other* ☐ _____

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

Department Requesting Public Utilities Department Staff Name William Schneider

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: _____

WH SChneider — 8.23.21

Public Utilities Dept / William Schneider WH SChneider (Aug 23, 2021 11:49 MDT)

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

Fran Dunaway — Chief Procurement Officer — Aug 27, 2021

Fran Dunaway (Aug 27, 2021 08:52 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.

*

July 29, 2021

William H. Schneider.
Santa Fe Water
City of Santa Fe
801 W. San Mateo Rd
Santa Fe, New Mexico 87504 whschneider@ci.santa-fe.nm.us

RE: Las Cruces Utilities Board Resolution No. 19-20-063A and related JSAI Contract

Dear Mr. Schneider:

John Shomaker & Associates, Inc. (JSAI) understands that the City of Santa Fe would like to use the referenced JSAI contract with Las Cruces Utilities (LCU) for contracting the same services to be performed by JSAI for Santa Fe Water. It is our understanding that the LCU contract resulting from RFP-19-20-063A will authorize the successful respondent (JSAI) to extend the same terms and conditions to other governmental entities conditioned upon the Revised January 2019 Page 2 of 17 procurement laws and regulations of those entities.

JSAI will comply with the LCU terms and conditions of the professional services agreement specified in LCU Resolution No. 19-20-063A for Santa Fe Water, including the specified pricing and JSAI rates.

Sincerely,

JOHN SHOMAKER & ASSOCIATES, INC.

Steven T. Finch, Jr.

V.P., Principal Hydrogeologist-Geochemist

STF:sf

CC: Roger Peery, CEO JSAI

SCHNEIDER, WILLIAM H.

From: Adrienne Widmer <awidmer@las-cruces.org>
Sent: Tuesday, July 27, 2021 5:13 PM
To: SCHNEIDER, WILLIAM H.
Subject: FW: Request to piggy back Hydrology price agreement
Attachments: RES 19-20-063A.pdf; RFP-19-20-063A.pdf; Exhibit A - CLC New Procurement Code.pdf

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Here you go, let me know if you need something else. We just updated our procurement code, so if you need the 2019 that is referenced let me know.
Good luck!

Adrienne L. Widmer, P.E.
Assistant Director/Las Cruces Utilities/Administration
Direct: 575-528-4566 Main: 575-528-3500, Fax: 575-528-3691, awidmer@las-cruces.org

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From: Alex Liu <cliu@las-cruces.org>
Sent: Tuesday, July 27, 2021 3:47 PM
To: Adrienne Widmer <awidmer@las-cruces.org>
Cc: Donny Prosise <dprosise@las-cruces.org>
Subject: RE: Request to piggy back Hydrology price agreement

Yes ma'am. They can piggy-back on our contract for hydrologists.

Have a nice day.

Chenyu Alex Liu
Purchasing Manager/Financial Services/Purchasing
Direct: 575-541-2527, cliu@las-cruces.org

From: Adrienne Widmer <awidmer@las-cruces.org>
Sent: Tuesday, July 27, 2021 3:44 PM
To: Alex Liu <cliu@las-cruces.org>
Cc: Donny Prosise <dprosise@las-cruces.org>
Subject: Request to piggy back Hydrology price agreement
Importance: High

Hi Alex,
The City of Santa Fe is requesting to piggy back off of our contracts for hydrologists.
I have attached the RFP that has the below highlighted wording along with the approved resolution.
May the City of Santa Fe piggy back for John Shomaker & Associates, Inc.?

Thanks so much!

I. GENERAL

F. ATTACHMENT A enclosed herein is draft of the agreement to be entered for the proposed services. The agreement will be for a base period of one (1) year from the date of award with an option to renew for four (4) additional one-year terms at the discretion of the City. The contract resulting from this RFP will authorize the successful respondent to extend the same terms and conditions to other governmental entities conditioned upon the Revised January 2019 Page 2 of 17 procurement laws and regulations of those entities. The CITY shall not be a party nor have any liability relating to such extensions.

Adrienne L. Widmer, P.E.
Assistant Director/Las Cruces Utilities/Administration
Direct: 575-528-4566 Main: 575-528-3500, Fax: 575-528-3691, awidmer@las-cruces.org

LAS CRUCES UTILITIES BOARD RESOLUTION NO. 19-20-063A

A RESOLUTION TO AWARD CONTRACTS FOR HYDROLOGY, HYDROGEOLOGY, AND WATER RESOURCES SERVICES ON AN AS-NEEDED BASIS TO ENPROTEC/HIBBS & TODD, INC.; JOHN SHOMAKER & ASSOCIATES, INC.; LEE WILSON & ASSOCIATES, INC.; AND RESPEC CONSULTING & SERVICES, LLC., IN AN AMOUNT NOT TO EXCEED $300,000.00 ANNUALLY FOR EACH FIRM, FOR A PERIOD OF ONE (1) YEAR WITH FOUR (4) ADDITIONAL ONE (1) YEAR TERMS, SUBJECT TO ANNUAL RENEWALS AND APPROVED BUDGET APPROPRIATIONS (PROCUREMENT NO. 19-20-063A).

The Board of Commissioners for the City of Las Cruces Utilities, on behalf of the City of Las Cruces, is informed that:

WHEREAS, in October 2019, Water Operations & Maintenance Line of Business of Las Cruces Utilities ("LCU") Department solicited proposals from qualified firms to enter into hydrology, hydrogeology, and water resources services contracts; and

WHEREAS, these firms are required to perform specialized functions that include, but are not limited to: groundwater studies for modeling, analysis, and forecasting projections; surface water modeling; water balance and consumptive use studies; water resource economics to include modeling, cost/benefit analysis, and feasibility studies; water well design, construction, monitoring, and testing services; water quality studies; hydrologic forecasting to include parametric and/or stochastic processes; time series analysis; particle tracking and contaminant transport modeling; water/wastewater regulatory studies; water rights exploration and other water rights related issues; expert witness services on hydrology, hydrogeology, and water resource studies; reclaimed water studies; technical and/or institutional issues associated with water rights adjudications; conducting research and other issues related to the Office of the State Engineer Hydrographic Survey; and water conservation related services; and

WHEREAS, based on the Selection Advisory Committee's evaluation, staff is recommending award of the contracts to four (4) firms, which are: Enprotec/Hibbs & Todd, Inc., of Lubbock, Texas; John Shomaker & Associates, Inc., of Albuquerque, New Mexico; Lee Wilson & Associates, Inc., of Santa Fe, New Mexico; and Respec Consulting & Services, LLC., of Albuquerque, New Mexico; and

WHEREAS, these proposed service agreements will be used on an as-needed basis for one (1) year with four (4) additional one (1) year terms, subject to annual renewals and approved budget appropriations; and

WHEREAS, when required, funding will come from approved budget appropriations based on the nature of the project and/or service and will not exceed $300,000.00 annually for each firm; and.

NOW, THEREFORE, Be it Resolved by the Board of Commissioners for the City of Las Cruces Utilities, on behalf of the City of Las Cruces:

(I)

THAT the award of service contracts for hydrology, hydrogeology, and water resources go to Enprotec/Hibbs & Todd, Inc.; John Shomaker & Associates, Inc.; Lee Wilson & Associates, Inc.; and Respec Consulting & Services, LLC. For one (1) year with four (4) additional one-year terms subject to annual renewals and approved budgets, not to exceed $300,000.00 annually for each firm.

(II)

THAT City staff is hereby authorized to do all deeds necessary in the accomplishment of the herein above.

DONE AND APPROVED this 12th day of March 2020.

APPROVED:

APPROVED:

By _____
Board Chair

ATTEST:

_____
Secretary

Moved by JOHNSON

Seconded by CARMICHAEL

VOTE:

Chair Little:	AYE
Vice-Chair Archuleta:	AYE
Commissioner Baumgarn:	ABSENT
Commissioner Bencomo:	AYE
Commissioner Carmichael:	AYE
Commissioner Johnson:	AYE
Commissioner Sorg:	ABSENT

APPROVED AS TO FORM:

_____
Sr. Assistant City Attorney

City of Las Cruces

19-20-063A Hydrology, Hydrogeology and Water Resources Services

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT, made and entered into on this ____ day of February, 2020 by and between the City of Las Cruces, New Mexico, hereinafter called "CITY" and Enprotec/Hibbs & Todd, Inc. of 6310 Genoa Avenue Suite E, Lubbock, TX 79424, hereinafter called "ENGINEER".

1. PROJECT DESCRIPTION
Hydrology, Hydrogeology and Water Resources Services

2. SCOPE OF SERVICES
In a satisfactory and proper manner, the ENGINEER shall perform SERVICES, as proposed in response to the CITY'S RFP No. 19-20-063A, as set forth in Exhibit A, attached hereto and made a part of this Agreement.

3. APPROPRIATIONS
The terms of this Agreement are contingent on sufficient appropriations and authorization being made by the City Council for the performance of this Agreement. If sufficient appropriations and authorizations are not made by the City Council, this Agreement shall terminate upon written notice given by the CITY to ENGINEER. The CITY'S decision as to whether sufficient appropriations and authorizations exist shall be accepted by ENGINEER and shall be final.

4. COMPENSATION
The CITY shall compensate ENGINEER for the performance of SERVICES under this Agreement an amount agreed to for each assigned project, plus applicable taxes. ENGINEER shall perform the SERVICES upon receipt of a purchase order or written Notice to Proceed (for each assigned project) from the CITY. The CITY cannot authorize costs to be incurred prior to such written Notice to Proceed.

ENGINEER is responsible for payment of State of New Mexico Gross Receipts Tax levied on the amounts payable under this Agreement. ENGINEER agrees to comply with all federal and state tax payments and report all items of gross receipts as income from the operations of its business.

5. DEVOTION OF ADEQUATE TIME
ENGINEER will devote the necessary hours each week to the performance of projects that are required by the CITY and it will serve the CITY diligently and faithfully, and according to its best ability in all respects and will promote the best interests of the CITY.

6. TERM AND SCHEDULE
This Agreement shall become effective on April 1, 2020 for a term of one year through March 31, 2021 and, pending mutual written agreement, may be extended annually thereafter for up to four (4) additional one (1)-year terms.

ENGINEER shall perform the SERVICES in accordance with the time set forth as agreed upon by the CITY and ENGINEER in Exhibit B, attached hereto and made a part of this agreement and as agreed to for each project assigned under the terms of this Agreement.

7. EXTENSIONS, CHANGES, AND AMENDMENTS

This Agreement shall not be extended, changed, or amended except by instrument in writing executed by the parties. The CITY shall not be liable for payment of any extra services nor shall ENGINEER be obligated to perform any extra services except upon such written agreement. Such written approval shall indicate the date said extension, change, or amendment is effective and shall be signed by the parties to this Agreement. In the event that the parties cannot reach agreement as to a particular change, the issue shall be resolved pursuant to Article 21.

8. CHANGES AND EXTRA SERVICES BY THE CITY

The CITY may make changes within the general scope of the SERVICES plus may also request ENGINEER to perform other extra services not incorporated within the Services set forth in this Agreement. If the ENGINEER is of the opinion that such change causes an increase or decrease in the cost and/or the time required for performing the changes or other services required by the City, ENGINEER shall so notify the CITY of that fact within five (5) business work days from the date of receipt of change by the CITY. The CITY shall provide written response to the ENGINEER within five (5) business work days from the date of receipt of ENGINEER'S written notification.

9. CHANGES AND EXTRA SERVICES BY THE ENGINEER

In the event a condition is identified by the ENGINEER which, in the opinion of the ENGINEER, changes the services, costs, and/or time required for performance under this Agreement, the ENGINEER shall provide written notification to the CITY within five (5) business work days of such identification. The CITY shall respond in writing to such notification within five (5) business work days from the date of receipt of ENGINEER'S notification.

10. DELAYS

In the event that performance of SERVICES is delayed by causes beyond reasonable control of ENGINEER, and without the fault or negligence of ENGINEER, the time and total compensation for the performance of the SERVICES may be equitably adjusted by written agreement to reflect the extent of such delay. ENGINEER shall provide the CITY with written notice of delay pursuant to Article 9 including therein a description of the delay and the steps contemplated or actually taken by ENGINEER to mitigate the effect of such delay. The CITY will make the final determination as to reasonableness of delays.

11. TERMINATION

This Agreement may be terminated by either party hereto upon fifteen (15) calendar days written notice in the event of substantial failure by the other party to perform in

accordance with the terms of this Agreement through no fault of the terminating party. This Agreement may also be terminated by the CITY for its convenience or because the PROJECT has been permanently abandoned, but only upon fifteen (15) calendar days written notice to ENGINEER.

In the event of termination, ENGINEER shall be compensated for all services performed and costs incurred up to the effective date of termination for which ENGINEER has not been previously compensated.

Upon receipt of notice of termination from the CITY, ENGINEER shall discontinue the SERVICES unless otherwise directed and upon final payment from the CITY deliver to the CITY the required number of copies of all data, drawings, reports, estimates, summaries, and such other information and materials as may have been accumulated by ENGINEER in the performance of this Agreement, whether completed or in process.

12. RECORDS AND AUDITS

ENGINEER will maintain records indicating dates, length of time, and services rendered. The CITY has the right to audit billings both before and after payment, and contest any billing or portion thereof. Payment under this Agreement does not foreclose the CITY'S right to recover excessive or illegal payments.

13. DISCLOSURE AND OWNERSHIP OF DOCUMENTS, PRODUCTS, DESIGN, ELECTRONIC FILES

All technical data, electronic files, and other written and oral information not in the public domain or not previously known, and all information, electronic files, and data obtained, developed, or supplied by the CITY will be kept confidential and ENGINEER will not disclose to any other party, directly or indirectly, without the CITY'S prior written consent unless required by lawful order.

All technical data, electronic files, products developed, operational parameters, blueprints, and other information and work of the ENGINEER shall be the sole property of the CITY and shall be delivered to the CITY when requested and at the end of the Agreement.

14. INDEPENDENT ENGINEER

ENGINEER represents that it has, or will secure, at its own expense, all personnel required in performing the SERVICES under this Agreement. Such personnel shall not be employees of, nor have any contractual relationship with the CITY. ENGINEER, consistent with its status as an independent ENGINEER, further agrees that its personnel will not hold themselves out as, nor claim to be officers or employees of the CITY by reason of this Agreement.

To the extent that ENGINEER employs any employees, ENGINEER shall be solely responsible for providing its own form of insurance for its employees and in no event shall ENGINEER's employees be covered under any policy of the CITY.

ENGINEER'S retention hereunder is not exclusive. Subject to the terms and provisions of this Agreement: (i) ENGINEER is able, during the Term hereof, to perform services for other parties; and (ii) ENGINEER may perform for its own account other professional services outside the scope of this Agreement.

ENGINEER is and shall be an Independent ENGINEER and shall be responsible for the management of its business affairs. In the performance of the work under this Agreement, ENGINEER will at all times be acting and performing as an Independent ENGINEER, as that term is understood for federal and state law purposes, and not as an employee of the CITY. Without limitation upon the foregoing, ENGINEER shall not accrue sick leave, jury duty pay, retirement, insurance, bonding, welfare benefits, or any other benefits, which may or may not be afforded employees of the CITY. ENGINEER will not be treated as an employee for purposes of: Workers' Compensation benefits; the Federal Unemployment Tax Act; Social Security; other payroll taxes, federal or any state income tax withholding; or the employee benefit provisions described in the Internal Revenue Code of 1986, as amended. Neither the CITY, nor its agents or representatives, shall have the right to control or direct the manner, details or means by which ENGINEER accomplishes and performs its services. Nevertheless, ENGINEER shall be bound to fulfill the duties and responsibilities contained in the Agreement.

15. NO JOINT VENTURE OR PARTNERSHIP

Nothing contained in this Agreement shall create any partnership, association, joint venture, fiduciary or agency relationship between ENGINEER and CITY. Except as otherwise specifically set forth herein, neither ENGINEER nor CITY shall be authorized or empowered to make any representation or commitment or to perform any act which shall be binding on the other unless expressly authorized or empowered in writing.

16. ASSIGNMENT

ENGINEER shall perform all the services under this Agreement and shall not assign any interest in this Agreement or transfer any interest in same or assign any claims for money due or to become due under this Agreement without the prior written consent of the CITY.

17. INSURANCE

ENGINEER shall obtain and maintain insurance at its own cost and expense during the life of this Agreement, and shall require Subcontractors, if any, to maintain during the life of his subcontract:

1. $1,000,000 (One Million Dollars) General Liability Insurance with the City named as an Additional Insured with the same coverage as the FIRM. Coverage must include:
   a. Premises / Operations
   b. Products / Completed Operations
   c. The City of Las Cruces must be named as an Additional Insured.
2. $100,000 (One Hundred Thousand Dollars) Property Damage Insurance.

3. In the case of any approved subcontract, the FIRM shall require the subcontractor to provide statutory Workers' Compensation and Employers' Liability Insurance, with the same limits as those required by the FIRM.
4. Auto Liability - $1,000,000 — Each Accident, and must include:
   a. Covers all owned, leased, hired, and non-owned autos or "any auto"
5. Worker's Compensation Per New Mexico Statute (3 or more employees)
   $1,000,000 — Bodily Injury: By Accident — Each Accident
   $1,000,000 — By Disease: Policy Limit
   $1,000,000 — By Disease: Each Employee
   This coverage required for non-construction firm with three (3) or more employees, or construction firm with one (1) or more employees. Exception: Not applicable to out-of-state companies unless they are hiring in New Mexico.
6. Professional Liability - $1,000,000 – Per Claim.
7. The FIRM must immediately notify the CITY if insurance is canceled or not renewed.

The City must be named as additional insured — this coverage must be as broad as the coverage provided to the insured; coverage must be primary and non-contributory before any other insurance or self-insurance. A copy of the endorsement(s) for this coverage must be provided as a condition of this Agreement.

Waiver of Subrogation will apply and shall be noted on the certificate.

ENGINEER shall furnish the CITY with a certificate(s) of insurance showing ENGINEER and Subcontractors, if any, have complied with this Article. The ENGINEER shall provide insurance certificates before work is to start on the project and shall provide the CITY thirty (30) days written notification of cancellation of such policies.

18. INDEMNITY AND LIMITATION

ENGINEER shall indemnify, defend, and hold harmless the CITY from and against any and all claims, suits, actions, judgments, demands, losses, costs, expenses, damages, and liability caused solely by, resulting solely from, or arising solely out of the negligent acts, errors, or omissions of ENGINEER, its officers, employees, agents, or representatives in the performance of SERVICES under this agreement.

19. APPLICABLE LAW

This Agreement and the rights and obligations of the parties shall be governed by and construed by the laws of the State of New Mexico applicable to Agreements between New Mexico parties made and performed in that state, without regard to conflicts of law principles. Venue shall be in the Third Judicial District, State of New Mexico.

ENGINEER shall abide and be governed by all applicable state law, CITY ordinances, and laws regarding the ENGINEER'S services or any work done pursuant to this Agreement.

20. BREACH

In the event ENGINEER breaches any obligation contained in this Agreement, prior to instituting any action or dispute resolution procedure, the CITY shall give ENGINEER written notice of such breach. In the event ENGINEER fails to remedy the breach within five (5) working days of receiving such written notice, the CITY, at its sole discretion, without any obligation to do so and in addition to other remedies available under applicable law, may remedy ENGINEER'S breach and recover any and all costs and expenses in so doing from ENGINEER.

21. DISPUTE RESOLUTION

In the event that a dispute arises between CITY and ENGINEER under this Agreement or as a result of breach of this Agreement, the parties agree to act in good faith to attempt to resolve the dispute.

22. NOTIFICATION

All notices required or permitted under this Agreement shall be in writing and shall be deemed sufficiently served if served by Registered Mail addressed as follows:

TO CITY:	City of Las Cruces PO Box 20000 Las Cruces, NM 88004 ATTENTION: Adrienne Widmer
With Copies to:	City Attorney Purchasing Manager
TO ENGINEER:	Enprotec/Hibbs & Todd, Inc. 6310 Genoa Avenue, Suite E Lubbock, TX 79424 ATTENTION: Perry Evans

23. SCOPE OF AGREEMENT

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

ENPROTEC/HIBBS & TODD, INC.

BY: _____
Perry Evans, PE, PG
Vice President

_____
Date

CITY OF LAS CRUCES

BY: _____
Chenyu "Alex" Liu
Purchasing Manager

_____
Date

APPROVED AS TO FORM

_____ for JVB 2/7/20
City Attorney w/no edits

EXHIBIT A

SERVICES

A) 1. Groundwater Studies for Modeling, Analysis and Forecasting Projections
B) 3. Water Balance and Consumptive Use Studies
C) 5. Water Well Design, Construction, Monitoring and Testing Services
D) 6. Water Quality Studies
E) 9. Particle Tracking and Contaminant Transport Modeling
F) 12. Expert Witness Services on Hydrology, Hydrogeology, and Water Resource Studies
G) 15. Conducting Research and other issues related to the Office of the State Engineer Hydrographic Survey

City of Las Cruces
MOUNTAINS OF OPPORTUNITY

RFP COMPLIANCE DECLARATION

RFP TITLE: Hydrology, Hydrogeology, and Water Resources Services

RFP NO.: 19-20-063A

DUE DATE/TIME: January 7, 2020 / 4:00 p.m.

In compliance with the requirements of this RFP, I, the undersigned, offer and agree to furnish any or all materials and/or services to the City of Las Cruces within the time agreed.

I further certify that this company has not been debarred, suspended, or otherwise made ineligible for participation in Federal Assistance programs under Executive Order 12549 Debarment and Suspension as described in the Federal Rules and Regulations.

Receipt of Addenda Nos.: 1 is hereby acknowledged (where none received, place a zero in this space)

Company Name and Address:
Enprotec / Hibbs & Todd, Inc.
6310 Genoa Avenue, Suite E
Lubbock, Texas 79424

Authorized Signature
Perry Evans, PE, PG
Typed or Printed Name
Vice President
Title
perry.evans@e-ht.com
Email Address

Telephone number (806) 794-1100 Fax number (806) 794-0778

NM Tax & Revenue Dept. CRS # 02235657006

Current NM Secretary of State Business ID # 5649641 (corporations only)

Current CLC Business Registration # _____ (respondents located in Las Cruces only)

Federal I.D. number 75 2258 512 (mandatory for all respondents)

NM Resident Certificate from NM Tax and Revenue Department enclosed _____ Yes ✓ No

THIS FORM MUST BE COMPLETED AND INCLUDED WITH PROPOSAL
FAILURE TO INCLUDE WILL SUBJECT RESPONSE TO REJECTION

Enprotec / Hibbs & Todd, Inc.

ATTACHMENT B
COST PROPOSAL
RFP 19-20-063
Hydrology, Hydrogeology, and Water Resources Services

Schedule of Fees

ITEM	DIRECT LABOR / CLASSIFICATION	HOURLY RATE
1.	Principal Hydrologist, Hydrogeologist, and Water Resource Specialist	$ 210.00
2.	Senior Hydrologist, Hydrogeologist, and Water Resource Specialist	$ 170.00
3.	Assistant Hydrologist, Hydrogeologist, and Water Resource Specialist	$ 145.00
4.	Drafting Technician	$ 95.00
5.	Clerical support personnel	$ 65.00
6.	Expert witness	$ 250.00
ITEM	**MATERIALS / REIMBURSABLE EXPENSES**	**RATE**
	Travel	
7.	Per Diem (per day) – Pre-Approval Required	City of Las Cruces Rate
8.	Vehicle mileage rate (per mile)	Current IRS Rate
	Reproduction Services	
9.	Black and white copies (per copy)	$ Invoiced at Cost
10.	Color Copies (per copy)	$ Invoiced at Cost
11.	Prints (24"x36") Per sheet	$ Invoiced at Cost
12.	Mylars (24"x36") Per sheet	$ Invoiced at Cost
	Miscellaneous	
13.	Materials and Other Expenses	Case by case basis
14.	Sub-Consultants / Outside Services	% 10

Rates are to include all overhead costs and any and all assessment expenses

NOTES:
1. Detailed Man-hour Estimates are required for time and material (T&M) contracts and are to utilize corresponding rates.
2. Rates in place at the time in which a project is contracted with the City will remain in place for the duration of the contract.

EXHIBIT B

SCHEDULE

City of Las Cruces

PROJECT ASSIGNMENT AGREEMENT

CITY'S CONTRACT NO. / TITLE

(Example: XX-XX-XXX ELECTRICAL ENGINEERING SERVICES)

PROJECT NAME

Pursuant to terms and conditions of City of Las Cruces (CITY) Contract No. XX-XX-XXX dated _____, 20__ between the CITY and name of company, (ENGINEER/ARCHITECT/CONTRACTOR), as amended and incorporated herein by reference, the City and Contractor hereby agree on this _____ day of _____, 20___, as follows:

1. In a satisfactory and proper manner, the ENGINEER/ARCHITECT/CONTRACTOR shall perform SERVICES as proposed in response to the CITY's RFP/BID No. XX-XX-XXX and ENGINEER/ARCHITECT/CONTRACTOR's proposal as set forth in ATTACHMENT A attached hereto.

2. Insurance (select the appropriate clause below, delete the other):
(for non-construction projects)
Contractor agrees to maintain a Commercial General Liability policy with limits not less than $1 million per occurrence and $2 million aggregate limits. The City of Las Cruces is to be named as an additional Insured. Evidence of coverage must be on an Acord 25 Certificate of Insurance with attached Additional Insured Endorsement.

   (for construction, maintenance, installation projects)
Contractor agrees to maintain a Commercial General Liability policy with limits not less than $1 million per occurrence and $2 million aggregate limits. Coverage must include Premise and Operations, Products and Completed Operation and Personal and Advertising Injury coverage. Aggregate limits must be "per project" or "per location". The City of Las Cruces is to be named as an additional Insured. This coverage is to be primary and non-contributory before any other insurance or self-insurance. Evidence of coverage must be on an Acord 25 Certificate of Insurance with attached Additional Insured Endorsement and Waiver of Subrogation.

3. The estimated completion date is number days after a Notice to Proceed is issued by the CITY to the ENGINEER/ARCHITECT/CONTRACTOR.

4. In consideration for the satisfactory completion of the work agreed to herein, compensation shall be made in the amount of $ dollars.cents, plus NMGRT. Invoices issued by the ENGINEER/ARCHITECT/CONTRACTOR shall be made monthly / upon completion of project with payment by the CITY being made within 30 days upon receipt of undisputed invoice.

(SIGNATURE BLOCK FOLLOWS ON NEXT PAGE)

CONTRACTOR NAME

By: _____
Signature Date

_____
Print Name and Title

Requisition No. XXXXXXXX

CITY OF LAS CRUCES

By: _____
Signature Date

Chenyu "Alex" Liu, Purchasing Manager

City of Las Cruces

19-20-063A Hydrology, Hydrogeology and Water Resources Services

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT, made and entered into on this ____ day of February, 2020 by and between the City of Las Cruces, New Mexico, hereinafter called "CITY" and John Shomaker & Associates, Inc., of 2611 Broadbent Parkway NE, Albuquerque, NM 87107, hereinafter called "ENGINEER".

1. PROJECT DESCRIPTION
Hydrology, Hydrogeology and Water Resources Services

2. SCOPE OF SERVICES
In a satisfactory and proper manner, the ENGINEER shall perform SERVICES, as proposed in response to the CITY'S RFP No. 19-20-063A, as set forth in Exhibit A, attached hereto and made a part of this Agreement.

3. APPROPRIATIONS
The terms of this Agreement are contingent on sufficient appropriations and authorization being made by the City Council for the performance of this Agreement. If sufficient appropriations and authorizations are not made by the City Council, this Agreement shall terminate upon written notice given by the CITY to ENGINEER. The CITY'S decision as to whether sufficient appropriations and authorizations exist shall be accepted by ENGINEER and shall be final.

4. COMPENSATION
The CITY shall compensate ENGINEER for the performance of SERVICES under this Agreement an amount agreed to for each assigned project, plus applicable taxes. ENGINEER shall perform the SERVICES upon receipt of a purchase order or written Notice to Proceed (for each assigned project) from the CITY. The CITY cannot authorize costs to be incurred prior to such written Notice to Proceed.

ENGINEER is responsible for payment of State of New Mexico Gross Receipts Tax levied on the amounts payable under this Agreement. ENGINEER agrees to comply with all federal and state tax payments and report all items of gross receipts as income from the operations of its business.

5. DEVOTION OF ADEQUATE TIME
ENGINEER will devote the necessary hours each week to the performance of project(s) that are required by the CITY and it will serve the CITY diligently and faithfully, and according to its best ability in all respects and will promote the best interests of the CITY.

6. TERM AND SCHEDULE
This Agreement shall become effective on April 1, 2020 for a term of one year through March 31, 2021 and, pending mutual written agreement, may be extended annually thereafter for up to four (4) additional one (1)-year terms.

ENGINEER shall perform the SERVICES in accordance with the time set forth as agreed upon by the CITY and ENGINEER in Exhibit B, attached hereto and made a part of this agreement and as agreed to for each project assigned under the terms of this Agreement.

7. EXTENSIONS, CHANGES, AND AMENDMENTS

This Agreement shall not be extended, changed, or amended except by instrument in writing executed by the parties. The CITY shall not be liable for payment of any extra services nor shall ENGINEER be obligated to perform any extra services except upon such written agreement. Such written approval shall indicate the date said extension, change, or amendment is effective and shall be signed by the parties to this Agreement. In the event that the parties cannot reach agreement as to a particular change, the issue shall be resolved pursuant to Article 21.

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The CITY may make changes within the general scope of the SERVICES plus may also request ENGINEER to perform other extra services not incorporated within the Services set forth in this Agreement. If the ENGINEER is of the opinion that such change causes an increase or decrease in the cost and/or the time required for performing the changes or other services required by the City, ENGINEER shall so notify the CITY of that fact within five (5) business work days from the date of receipt of change by the CITY. The CITY shall provide written response to the ENGINEER within five (5) business work days from the date of receipt of ENGINEER'S written notification.

9. CHANGES AND EXTRA SERVICES BY THE ENGINEER

In the event a condition is identified by the ENGINEER which, in the opinion of the ENGINEER, changes the services, costs, and/or time required for performance under this Agreement, the ENGINEER shall provide written notification to the CITY within five (5) business work days of such identification. The CITY shall respond in writing to such notification within five (5) business work days from the date of receipt of ENGINEER'S notification.

10. DELAYS

In the event that performance of SERVICES is delayed by causes beyond reasonable control of ENGINEER, and without the fault or negligence of ENGINEER, the time and total compensation for the performance of the SERVICES may be equitably adjusted by written agreement to reflect the extent of such delay. ENGINEER shall provide the CITY with written notice of delay pursuant to Article 9 including therein a description of the delay and the steps contemplated or actually taken by ENGINEER to mitigate the effect of such delay. The CITY will make the final determination as to reasonableness of delays.

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This Agreement may be terminated by either party hereto upon fifteen (15) calendar days written notice in the event of substantial failure by the other party to perform in

accordance with the terms of this Agreement through no fault of the terminating party. This Agreement may also be terminated by the CITY for its convenience or because the PROJECT has been permanently abandoned, but only upon fifteen (15) calendar days written notice to ENGINEER.

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Upon receipt of notice of termination from the CITY, ENGINEER shall discontinue the SERVICES unless otherwise directed and upon final payment from the CITY deliver to the CITY the required number of copies of all data, drawings, reports, estimates, summaries, and such other information and materials as may have been accumulated by ENGINEER in the performance of this Agreement, whether completed or in process.

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ENGINEER will maintain records indicating dates, length of time, and services rendered. The CITY has the right to audit billings both before and after payment, and contest any billing or portion thereof. Payment under this Agreement does not foreclose the CITY'S right to recover excessive or illegal payments.

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All technical data, electronic files, products developed, operational parameters, blueprints, and other information and work of the ENGINEER shall be the sole property of the CITY and shall be delivered to the CITY when requested and at the end of the Agreement.

14. INDEPENDENT ENGINEER

ENGINEER represents that it has, or will secure, at its own expense, all personnel required in performing the SERVICES under this Agreement. Such personnel shall not be employees of, nor have any contractual relationship with the CITY. ENGINEER, consistent with its status as an independent ENGINEER, further agrees that its personnel will not hold themselves out as, nor claim to be officers or employees of the CITY by reason of this Agreement.

To the extent that ENGINEER employs any employees, ENGINEER shall be solely responsible for providing its own form of insurance for its employees and in no event shall ENGINEER's employees be covered under any policy of the CITY.

ENGINEER'S retention hereunder is not exclusive. Subject to the terms and provisions of this Agreement: (i) ENGINEER is able, during the Term hereof, to perform services for other parties; and (ii) ENGINEER may perform for its own account other professional services outside the scope of this Agreement.

ENGINEER is and shall be an Independent ENGINEER and shall be responsible for the management of its business affairs. In the performance of the work under this Agreement, ENGINEER will at all times be acting and performing as an Independent ENGINEER, as that term is understood for federal and state law purposes, and not as an employee of the CITY. Without limitation upon the foregoing, ENGINEER shall not accrue sick leave, jury duty pay, retirement, insurance, bonding, welfare benefits, or any other benefits, which may or may not be afforded employees of the CITY. ENGINEER will not be treated as an employee for purposes of: Workers' Compensation benefits; the Federal Unemployment Tax Act; Social Security; other payroll taxes, federal or any state income tax withholding; or the employee benefit provisions described in the Internal Revenue Code of 1986, as amended. Neither the CITY, nor its agents or representatives, shall have the right to control or direct the manner, details or means by which ENGINEER accomplishes and performs its services. Nevertheless, ENGINEER shall be bound to fulfill the duties and responsibilities contained in the Agreement.

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Nothing contained in this Agreement shall create any partnership, association, joint venture, fiduciary or agency relationship between ENGINEER and CITY. Except as otherwise specifically set forth herein, neither ENGINEER nor CITY shall be authorized or empowered to make any representation or commitment or to perform any act which shall be binding on the other unless expressly authorized or empowered in writing.

16. ASSIGNMENT

ENGINEER shall perform all the services under this Agreement and shall not assign any interest in this Agreement or transfer any interest in same or assign any claims for money due or to become due under this Agreement without the prior written consent of the CITY.

17. INSURANCE

ENGINEER shall obtain and maintain insurance at its own cost and expense during the life of this Agreement, and shall require Subcontractors, if any, to maintain during the life of his subcontract:

1. $1,000,000 (One Million Dollars) General Liability Insurance with the City named as an Additional Insured with the same coverage as the FIRM. Coverage must include:
   a. Premises / Operations
   b. Products / Completed Operations
   c. The City of Las Cruces must be named as an Additional Insured.
2. $100,000 (One Hundred Thousand Dollars) Property Damage Insurance.

3. In the case of any approved subcontract, the FIRM shall require the subcontractor to provide statutory Workers' Compensation and Employers' Liability Insurance, with the same limits as those required by the FIRM.
4. Auto Liability - $1,000,000 — Each Accident, and must include:
   a. Covers all owned, leased, hired, and non-owned autos or "any auto"
5. Worker's Compensation Per New Mexico Statute (3 or more employees)
   $1,000,000 — Bodily Injury: By Accident — Each Accident
   $1,000,000 — By Disease: Policy Limit
   $1,000,000 — By Disease: Each Employee
   This coverage required for non-construction firm with three (3) or more employees, or construction firm with one (1) or more employees. Exception: Not applicable to out-of-state companies unless they are hiring in New Mexico.
6. Professional Liability - $1,000,000 – Per Claim.
7. The FIRM must immediately notify the CITY if insurance is canceled or not renewed.

The City must be named as additional insured — this coverage must be as broad as the coverage provided to the insured; coverage must be primary and non-contributory before any other insurance or self-insurance. A copy of the endorsement(s) for this coverage must be provided as a condition of this Agreement.

Waiver of Subrogation will apply and shall be noted on the certificate.

ENGINEER shall furnish the CITY with a certificate(s) of insurance showing ENGINEER and Subcontractors, if any, have complied with this Article. The ENGINEER shall provide insurance certificates before work is to start on the project and shall provide the CITY thirty (30) days written notification of cancellation of such policies.

18. INDEMNITY AND LIMITATION

ENGINEER shall indemnify, defend, and hold harmless the CITY from and against any and all claims, suits, actions, judgments, demands, losses, costs, expenses, damages, and liability caused solely by, resulting solely from, or arising solely out of the negligent acts, errors, or omissions of ENGINEER, its officers, employees, agents, or representatives in the performance of SERVICES under this agreement.

19. APPLICABLE LAW

This Agreement and the rights and obligations of the parties shall be governed by and construed by the laws of the State of New Mexico applicable to Agreements between New Mexico parties made and performed in that state, without regard to conflicts of law principles. Venue shall be in the Third Judicial District, State of New Mexico.

ENGINEER shall abide and be governed by all applicable state law, CITY ordinances, and laws regarding the ENGINEER'S services or any work done pursuant to this Agreement.

20. BREACH

In the event ENGINEER breaches any obligation contained in this Agreement, prior to instituting any action or dispute resolution procedure, the CITY shall give ENGINEER written notice of such breach. In the event ENGINEER fails to remedy the breach within five (5) working days of receiving such written notice, the CITY, at its sole discretion, without any obligation to do so and in addition to other remedies available under applicable law, may remedy ENGINEER'S breach and recover any and all costs and expenses in so doing from ENGINEER.

21. DISPUTE RESOLUTION

In the event that a dispute arises between CITY and ENGINEER under this Agreement or as a result of breach of this Agreement, the parties agree to act in good faith to attempt to resolve the dispute.

22. NOTIFICATION

All notices required or permitted under this Agreement shall be in writing and shall be deemed sufficiently served if served by Registered Mail addressed as follows:

TO CITY:	City of Las Cruces PO Box 20000 Las Cruces, NM 88004 ATTENTION: Adrienne Widmer
With Copies to:	City Attorney Purchasing Manager
TO ENGINEER:	John Shomaker & Associates, Inc. 2611 Broadbent Parkway NE Albuquerque, NM 87107 ATTENTION: Roger Peery

23. SCOPE OF AGREEMENT

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

JOHN SHOMAKER
& ASSOCIATES, INC.

BY: _____
Roger Peery
CEO

_____
Date

CITY OF LAS CRUCES

BY: _____
Chenyu "Alex" Liu
Purchasing Manager

_____
Date

APPROVED AS TO FORM

_____
City Attorney for JWB 2/7/20 w/no edits

EXHIBIT A

SERVICES

1) Groundwater Studies for Modeling, Analysis and Forecasting Projections
2) Surface Water Modeling
3) Water Balance and Consumptive Use Studies
4) Water Resource Economics in a support role to LCU
5) Water Well Design, Construction, Monitoring and Testing Services
6) Water Quality Studies
7) Hydrologic Forecasting to include Parametric and/or Stochastic Processes
8) Time Series Analysis
9) Particle Tracking and Contaminant Transport Modeling
10) Water/Wastewater Regulatory Studies
11) Water Rights Exploration and other Water Rights Related issues
12) Expert Witness Services on Hydrology, Hydrogeology, and Water Resource Studies
13) Reclaimed Water Studies
14) Technical and/or Institutional issues associated with Water Rights Adjudications
15) Conducting Research and other issues related to the Office of the State Engineer Hydrographic Survey
16) Water Conservation related services

City of Las Cruces
MOUNTAINS OF OPPORTUNITY

RFP COMPLIANCE DECLARATION

RFP TITLE:	Hydrology, Hydrogeology, and Water Resources Services
RFP NO.:	19-20-063A
DUE DATE/TIME:	January 7, 2020 / 4:00 p.m.

In compliance with the requirements of this RFP, I, the undersigned, offer and agree to furnish any or all materials and/or services to the City of Las Cruces within the time agreed.

I further certify that this company has not been debarred, suspended, or otherwise made ineligible for participation in Federal Assistance programs under Executive Order 12549 Debarment and Suspension as described in the Federal Rules and Regulations.

Receipt of Addenda Nos.: 2 is hereby acknowledged (where none received, place a zero in this space)

Company Name and Address:
JOHN SHOMAKER & ASSOCIATES, INC.
Water-Resource and Environmental
2611 Broadbent Parkway NE
Albuquerque, NM 87107

Authorized Signature
Roger Peery
Typed or Printed Name
CEO/Principal Hydrogeologist
Title
rpeery@shomaker.com
Email Address

Telephone number 505-280-1994 Fax number 505-345-9920

NM Tax & Revenue Dept. CRS # 02-058266-008

Current NM Secretary of State Business ID # 1306836 (corporations only)

Current CLC Business Registration # NA (respondents located in Las Cruces only)

Federal I.D. number 85-0345462 (mandatory for all respondents)

NM Resident Certificate from NM Tax and Revenue Department enclosed X Yes ____ No

THIS FORM MUST BE COMPLETED AND INCLUDED WITH PROPOSAL
FAILURE TO INCLUDE WILL SUBJECT RESPONSE TO REJECTION

ATTACHMENT B

COST PROPOSAL FOR

RFP #19-20-063A

HYDROLOGY, HYDROGEOLOGY AND WATER-RESOURCES SERVICES FOR THE CITY OF LAS CRUCES

[RFP DUE DATE: JANUARY 7, 2020]

Schedule of Fees

ITEM	DIRECT LABOR /CLASSIFICATION	HOURLY RATE
1.	Principal Hydrologist, Hydrogeologist, and Water-Resource Specialist	$ 195.00
2.	Senior Hydrologist, Hydrogeologist, and Water-Resource Specialist	$ 130.00
3.	Assistant Hydrologist, Hydrogeologist, and Water-Resource Specialist	$ 95.00
4.	Drafting Technician	$ 80.00
5.	Clerical Support Personnel	$ 65.00
6.	Expert Witness	$ 195.00
ITEM	**MATERIALS / REIMBURSABLE EXPENSES**	**RATE**
	Travel	
7.	Per Diem (per day)	City of Las Cruces rate
8.	Vehicle mileage rate (per mile)	current IRS rate
	Reproduction Services	
9.	Black and white copies (per copy)	$ 0.06
10.	Color Copies (per copy)	$ 0.30
11.	Prints (24"x36") per sheet	$ ~2.00
12.	Mylars (24"x36") per sheet	$ ~15.00
	Miscellaneous	
13.	Materials and Other Expenses	case by case basis
14.	Outside Services	cost + 10%

Rates are to include all overhead costs and any and all assessment expenses

NOTES:

1. Detailed man-hour estimates are required for time and material (T&M) contracts and are to utilize corresponding rates.
2. Rates in place at the time a project is contracted with the City will remain in place for the duration of the contract.

EXHIBIT B

SCHEDULE

City of Las Cruces

PROJECT ASSIGNMENT AGREEMENT

CITY'S CONTRACT NO. / TITLE

(Example: XX-XX-XXX ELECTRICAL ENGINEERING SERVICES)

PROJECT NAME

Pursuant to terms and conditions of City of Las Cruces (CITY) Contract No. XX-XX-XXX dated _____, 20__ between the CITY and name of company, (ENGINEER/ARCHITECT/CONTRACTOR), as amended and incorporated herein by reference, the City and Contractor hereby agree on this _____ day of _____, 20___, as follows:

1. In a satisfactory and proper manner, the ENGINEER/ARCHITECT/CONTRACTOR shall perform SERVICES as proposed in response to the CITY's RFP/BID No. XX-XX-XXX and ENGINEER/ARCHITECT/CONTRACTOR's proposal as set forth in ATTACHMENT A attached hereto.

2. Insurance (select the appropriate clause below, delete the other):
(for non-construction projects)
Contractor agrees to maintain a Commercial General Liability policy with limits not less than $1 million per occurrence and $2 million aggregate limits. The City of Las Cruces is to be named as an additional Insured. Evidence of coverage must be on an Acord 25 Certificate of Insurance with attached Additional Insured Endorsement.

   (for construction, maintenance, installation projects)
Contractor agrees to maintain a Commercial General Liability policy with limits not less than $1 million per occurrence and $2 million aggregate limits. Coverage must include Premise and Operations, Products and Completed Operation and Personal and Advertising Injury coverage. Aggregate limits must be "per project" or "per location". The City of Las Cruces is to be named as an additional Insured. This coverage is to be primary and non-contributory before any other insurance or self-insurance. Evidence of coverage must be on an Acord 25 Certificate of Insurance with attached Additional Insured Endorsement and Waiver of Subrogation.

3. The estimated completion date is number days after a Notice to Proceed is issued by the CITY to the ENGINEER/ARCHITECT/CONTRACTOR.

4. In consideration for the satisfactory completion of the work agreed to herein, compensation shall be made in the amount of $ dollars.cents, plus NMGRT. Invoices issued by the ENGINEER/ARCHITECT/CONTRACTOR shall be made monthly / upon completion of project with payment by the CITY being made within 30 days upon receipt of undisputed invoice.

(SIGNATURE BLOCK FOLLOWS ON NEXT PAGE)

CONTRACTOR NAME

By: _____
Signature Date

_____
Print Name and Title

Requisition No. XXXXXXXX

CITY OF LAS CRUCES

By: _____
Signature Date

Chenyu "Alex" Liu, Purchasing Manager

City of Las Cruces

19-20-063A Hydrology, Hydrogeology and Water Resources Services

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT, made and entered into on this ____ day of February, 2020 by and between the City of Las Cruces, New Mexico, hereinafter called "CITY" and Lee Wilson & Associates, Inc., of PO box 931 Santa Fe, NM 87504, hereinafter called "ENGINEER".

1. PROJECT DESCRIPTION
Hydrology, Hydrogeology and Water Resources Services

2. SCOPE OF SERVICES
In a satisfactory and proper manner, the ENGINEER shall perform SERVICES, as proposed in response to the CITY'S RFP No. 19-20-063A, as set forth in Exhibit A, attached hereto and made a part of this Agreement.

3. APPROPRIATIONS
The terms of this Agreement are contingent on sufficient appropriations and authorization being made by the City Council for the performance of this Agreement. If sufficient appropriations and authorizations are not made by the City Council, this Agreement shall terminate upon written notice given by the CITY to ENGINEER. The CITY'S decision as to whether sufficient appropriations and authorizations exist shall be accepted by ENGINEER and shall be final.

4. COMPENSATION
The CITY shall compensate ENGINEER for the performance of SERVICES under this Agreement an amount agreed to for each assigned project, plus applicable taxes. ENGINEER shall perform the SERVICES upon receipt of a purchase order or written Notice to Proceed (for each assigned project) from the CITY. The CITY cannot authorize costs to be incurred prior to such written Notice to Proceed.

ENGINEER is responsible for payment of State of New Mexico Gross Receipts Tax levied on the amounts payable under this Agreement. ENGINEER agrees to comply with all federal and state tax payments and report all items of gross receipts as income from the operations of its business.

5. DEVOTION OF ADEQUATE TIME
ENGINEER will devote the necessary hours each week to the performance of project(s) that are required by the CITY and it will serve the CITY diligently and faithfully, and according to its best ability in all respects and will promote the best interests of the CITY.

6. TERM AND SCHEDULE
This Agreement shall become effective on April 1, 2020 for a term of one year through March 31, 2021 and, pending mutual written agreement, may be extended annually thereafter for up to four (4) additional one (1)-year terms.

ENGINEER shall perform the SERVICES in accordance with the time set forth as agreed upon by the CITY and ENGINEER in Exhibit B, attached hereto and made a part of this agreement and as agreed to for each project assigned under the terms of this Agreement.

7. EXTENSIONS, CHANGES, AND AMENDMENTS

This Agreement shall not be extended, changed, or amended except by instrument in writing executed by the parties. The CITY shall not be liable for payment of any extra services nor shall ENGINEER be obligated to perform any extra services except upon such written agreement. Such written approval shall indicate the date said extension, change, or amendment is effective and shall be signed by the parties to this Agreement. In the event that the parties cannot reach agreement as to a particular change, the issue shall be resolved pursuant to Article 21.

8. CHANGES AND EXTRA SERVICES BY THE CITY

The CITY may make changes within the general scope of the SERVICES plus may also request ENGINEER to perform other extra services not incorporated within the Services set forth in this Agreement. If the ENGINEER is of the opinion that such change causes an increase or decrease in the cost and/or the time required for performing the changes or other services required by the City, ENGINEER shall so notify the CITY of that fact within five (5) business work days from the date of receipt of change by the CITY. The CITY shall provide written response to the ENGINEER within five (5) business work days from the date of receipt of ENGINEER'S written notification.

9. CHANGES AND EXTRA SERVICES BY THE ENGINEER

In the event a condition is identified by the ENGINEER which, in the opinion of the ENGINEER, changes the services, costs, and/or time required for performance under this Agreement, the ENGINEER shall provide written notification to the CITY within five (5) business work days of such identification. The CITY shall respond in writing to such notification within five (5) business work days from the date of receipt of ENGINEER'S notification.

10. DELAYS

In the event that performance of SERVICES is delayed by causes beyond reasonable control of ENGINEER, and without the fault or negligence of ENGINEER, the time and total compensation for the performance of the SERVICES may be equitably adjusted by written agreement to reflect the extent of such delay. ENGINEER shall provide the CITY with written notice of delay pursuant to Article 9 including therein a description of the delay and the steps contemplated or actually taken by ENGINEER to mitigate the effect of such delay. The CITY will make the final determination as to reasonableness of delays.

11. TERMINATION

This Agreement may be terminated by either party hereto upon fifteen (15) calendar days written notice in the event of substantial failure by the other party to perform in

accordance with the terms of this Agreement through no fault of the terminating party. This Agreement may also be terminated by the CITY for its convenience or because the PROJECT has been permanently abandoned, but only upon fifteen (15) calendar days written notice to ENGINEER.

In the event of termination, ENGINEER shall be compensated for all services performed and costs incurred up to the effective date of termination for which ENGINEER has not been previously compensated.

Upon receipt of notice of termination from the CITY, ENGINEER shall discontinue the SERVICES unless otherwise directed and upon final payment from the CITY deliver to the CITY the required number of copies of all data, drawings, reports, estimates, summaries, and such other information and materials as may have been accumulated by ENGINEER in the performance of this Agreement, whether completed or in process.

12. RECORDS AND AUDITS

ENGINEER will maintain records indicating dates, length of time, and services rendered. The CITY has the right to audit billings both before and after payment, and contest any billing or portion thereof. Payment under this Agreement does not foreclose the CITY'S right to recover excessive or illegal payments.

13. DISCLOSURE AND OWNERSHIP OF DOCUMENTS, PRODUCTS, DESIGN, ELECTRONIC FILES

All technical data, electronic files, and other written and oral information not in the public domain or not previously known, and all information, electronic files, and data obtained, developed, or supplied by the CITY will be kept confidential and ENGINEER will not disclose to any other party, directly or indirectly, without the CITY'S prior written consent unless required by lawful order.

All technical data, electronic files, products developed, operational parameters, blueprints, and other information and work of the ENGINEER shall be the sole property of the CITY and shall be delivered to the CITY when requested and at the end of the Agreement.

14. INDEPENDENT ENGINEER

ENGINEER represents that it has, or will secure, at its own expense, all personnel required in performing the SERVICES under this Agreement. Such personnel shall not be employees of, nor have any contractual relationship with the CITY. ENGINEER, consistent with its status as an independent ENGINEER, further agrees that its personnel will not hold themselves out as, nor claim to be officers or employees of the CITY by reason of this Agreement.

To the extent that ENGINEER employs any employees, ENGINEER shall be solely responsible for providing its own form of insurance for its employees and in no event shall ENGINEER's employees be covered under any policy of the CITY.

ENGINEER'S retention hereunder is not exclusive. Subject to the terms and provisions of this Agreement: (i) ENGINEER is able, during the Term hereof, to perform services for other parties; and (ii) ENGINEER may perform for its own account other professional services outside the scope of this Agreement.

ENGINEER is and shall be an Independent ENGINEER and shall be responsible for the management of its business affairs. In the performance of the work under this Agreement, ENGINEER will at all times be acting and performing as an Independent ENGINEER, as that term is understood for federal and state law purposes, and not as an employee of the CITY. Without limitation upon the foregoing, ENGINEER shall not accrue sick leave, jury duty pay, retirement, insurance, bonding, welfare benefits, or any other benefits, which may or may not be afforded employees of the CITY. ENGINEER will not be treated as an employee for purposes of: Workers' Compensation benefits; the Federal Unemployment Tax Act; Social Security; other payroll taxes, federal or any state income tax withholding; or the employee benefit provisions described in the Internal Revenue Code of 1986, as amended. Neither the CITY, nor its agents or representatives, shall have the right to control or direct the manner, details or means by which ENGINEER accomplishes and performs its services. Nevertheless, ENGINEER shall be bound to fulfill the duties and responsibilities contained in the Agreement.

15. NO JOINT VENTURE OR PARTNERSHIP

Nothing contained in this Agreement shall create any partnership, association, joint venture, fiduciary or agency relationship between ENGINEER and CITY. Except as otherwise specifically set forth herein, neither ENGINEER nor CITY shall be authorized or empowered to make any representation or commitment or to perform any act which shall be binding on the other unless expressly authorized or empowered in writing.

16. ASSIGNMENT

ENGINEER shall perform all the services under this Agreement and shall not assign any interest in this Agreement or transfer any interest in same or assign any claims for money due or to become due under this Agreement without the prior written consent of the CITY.

17. INSURANCE

ENGINEER shall obtain and maintain insurance at its own cost and expense during the life of this Agreement, and shall require Subcontractors, if any, to maintain during the life of his subcontract:

1. $1,000,000 (One Million Dollars) General Liability Insurance with the City named as an Additional Insured with the same coverage as the FIRM. Coverage must include:
   a. Premises / Operations
   b. Products / Completed Operations
   c. The City of Las Cruces must be named as an Additional Insured.
2. $100,000 (One Hundred Thousand Dollars) Property Damage Insurance.

3. In the case of any approved subcontract, the FIRM shall require the subcontractor to provide statutory Workers' Compensation and Employers' Liability Insurance, with the same limits as those required by the FIRM.
4. Auto Liability - $1,000,000 — Each Accident, and must include:
   a. Covers all owned, leased, hired, and non-owned autos or "any auto"
5. Worker's Compensation Per New Mexico Statute (3 or more employees)
   $1,000,000 — Bodily Injury: By Accident — Each Accident
   $1,000,000 — By Disease: Policy Limit
   $1,000,000 — By Disease: Each Employee
   This coverage required for non-construction firm with three (3) or more employees, or construction firm with one (1) or more employees. Exception: Not applicable to out-of-state companies unless they are hiring in New Mexico.
6. Professional Liability - $1,000,000 – Per Claim.
7. The FIRM must immediately notify the CITY if insurance is canceled or not renewed.

The City must be named as additional insured — this coverage must be as broad as the coverage provided to the insured; coverage must be primary and non-contributory before any other insurance or self-insurance. A copy of the endorsement(s) for this coverage must be provided as a condition of this Agreement.

Waiver of Subrogation will apply and shall be noted on the certificate.

ENGINEER shall furnish the CITY with a certificate(s) of insurance showing ENGINEER and Subcontractors, if any, have complied with this Article. The ENGINEER shall provide insurance certificates before work is to start on the project and shall provide the CITY thirty (30) days written notification of cancellation of such policies.

18. INDEMNITY AND LIMITATION

ENGINEER shall indemnify, defend, and hold harmless the CITY from and against any and all claims, suits, actions, judgments, demands, losses, costs, expenses, damages, and liability caused solely by, resulting solely from, or arising solely out of the negligent acts, errors, or omissions of ENGINEER, its officers, employees, agents, or representatives in the performance of SERVICES under this agreement.

19. APPLICABLE LAW

This Agreement and the rights and obligations of the parties shall be governed by and construed by the laws of the State of New Mexico applicable to Agreements between New Mexico parties made and performed in that state, without regard to conflicts of law principles. Venue shall be in the Third Judicial District, State of New Mexico.

ENGINEER shall abide and be governed by all applicable state law, CITY ordinances, and laws regarding the ENGINEER'S services or any work done pursuant to this Agreement.

20. BREACH

In the event ENGINEER breaches any obligation contained in this Agreement, prior to instituting any action or dispute resolution procedure, the CITY shall give ENGINEER written notice of such breach. In the event ENGINEER fails to remedy the breach within five (5) working days of receiving such written notice, the CITY, at its sole discretion, without any obligation to do so and in addition to other remedies available under applicable law, may remedy ENGINEER'S breach and recover any and all costs and expenses in so doing from ENGINEER.

21. DISPUTE RESOLUTION

In the event that a dispute arises between CITY and ENGINEER under this Agreement or as a result of breach of this Agreement, the parties agree to act in good faith to attempt to resolve the dispute.

22. NOTIFICATION

All notices required or permitted under this Agreement shall be in writing and shall be deemed sufficiently served if served by Registered Mail addressed as follows:

TO CITY:	City of Las Cruces PO Box 20000 Las Cruces, NM 88004 ATTENTION: Adrienne Widmer
With Copies to:	City Attorney Purchasing Manager
TO ENGINEER:	Lee Wilson & Associates, Inc. P.O. Box 931 Santa Fe, NM 87504 ATTENTION: Lee Wilson

23. SCOPE OF AGREEMENT

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

LEE WILSON & ASSOCIATES, INC.

BY: _____
Lee Wilson
President

_____
Date

CITY OF LAS CRUCES

BY: _____
Chenyu "Alex" Liu
Purchasing Manager

_____
Date

APPROVED AS TO FORM

_____ for JVB 2/7/20
City Attorney w/no edits

EXHIBIT A

SERVICES

1) Groundwater Studies for Modeling, Analysis and Forecasting Projections
2) Surface Water Modeling
3) Water Balance and Consumptive Use Studies
4) Water Resource Economics to include Modeling, Cost/Benefit Analysis,
5) Water Well Design, Monitoring. City of Las Cruces will need to contract Construction and Testing Services
6) Water Quality Studies
7) Hydrologic Forecasting to include Parametric and/or Stochastic Processes
8) Time Series Analysis
9) Particle Tracking and Contaminant Transport Modeling
10) Water/Wastewater Regulatory Studies
11) Water Rights Exploration and other Water Rights Related issues
12) Expert Witness Services on Hydrology, Hydrogeology, and Water Resource Studies
13) Reclaimed Water Studies
14) Technical and/or Institutional issues associated with Water Rights Adjudications
15) Conducting Research and other issues related to the Office of the State Engineer Hydrographic Survey
16) Water Conservation related services

City of Las Cruces
MOUNTAINS OF OPPORTUNITY

RFP COMPLIANCE DECLARATION

RFP TITLE: **Hydrology, Hydrogeology, and Water Resources Services**

RFP NO.: **19-20-063A**

DUE DATE/TIME: **January 7, 2020 / 4:00 p.m.**

In compliance with the requirements of this RFP, I, the undersigned, offer and agree to furnish any or all materials and/or services to the City of Las Cruces within the time agreed.

I further certify that this company has not been debarred, suspended, or otherwise made ineligible for participation in Federal Assistance programs under Executive Order 12549 Debarment and Suspension as described in the Federal Rules and Regulations.
Receipt of Addenda Nos.: 0 is hereby acknowledged (where none received, place a zero in this space)

Company Name and Address:
Lee Wilson & Associates, Inc.
P.O. Box 931
Santa Fe, NM 87504

Lee Wilson
Authorized Signature
Lee Wilson
Typed or Printed Name
President
Title
lwa@lwasf.com
Email Address

Telephone number (505) 988-9811 Fax number (505) 986-0092

NM Tax & Revenue Dept. CRS # 01-802692-00-3

Current NM Secretary of State Business ID # 0803873 (corporations only)

Current CLC Business Registration # _____ (respondents located in Las Cruces only)

Federal I.D. number 85-0230617 (mandatory for all respondents)

NM Resident Certificate from NM Tax and Revenue Department enclosed X Yes _____ No

THIS FORM MUST BE COMPLETED AND INCLUDED WITH PROPOSAL
FAILURE TO INCLUDE WILL SUBJECT RESPONSE TO REJECTION

STATE OF NEW MEXICO

TAXATION AND REVENUE DEPARTMENT

RESIDENT BUSINESS CERTIFICATE

Issued to: LEE WILSON & ASSOCIATES, INC.
DBA: LEE WILSON & ASSOCIATES, INC.
PO BOX 931
SANTA FE, NM 87504-0931

Expires: 05-Jul-2020

Certificate Number:

L0230192432

John Monforte, *Acting Cabinet Secretary*

THIS CERTIFICATE IS NOT TRANSFERABLE

ATTACHMENT B
COST PROPOSAL
RFP 19-20-063
Hydrology, Hydrogeology, and Water Resources Services

Schedule of Fees

ITEM	DIRECT LABOR / CLASSIFICATION	HOURLY RATE
1.	Principal Hydrologist, Hydrogeologist, and Water Resource Specialist	$ 250.00
2.	Senior Hydrologist, Hydrogeologist, and Water Resource Specialist	$ 170.00
3.	Assistant Hydrologist, Hydrogeologist, and Water Resource Specialist	$ 120.00
4.	Drafting Technician . GIS Specialist	$ 120.00
5.	Clerical support personnel	$ Not Charged
6.	Expert witness	$ 300.00
ITEM	**MATERIALS / REIMBURSABLE EXPENSES**	**RATE**
	Travel	
7.	Per Diem (per day) – Pre-Approval Required	City of Las Cruces Rate
8.	Vehicle mileage rate (per mile)	Current IRS Rate
	Reproduction Services	
9.	Black and white copies (per copy)	$ Not Charged
10.	Color Copies (per copy)	$ Not Charged
11.	Prints (24"x36") Per sheet	$ Actual Charge
12.	Mylars (24"x36") Per sheet	$ Actual Charge
	Miscellaneous	
13.	Materials and Other Expenses	Case by case basis
14.	Sub-Consultants / Outside Services	% No Mark Up

Rates are to include all overhead costs and any and all assessment expenses

NOTES:
1. Detailed Man-hour Estimates are required for time and material (T&M) contracts and are to utilize corresponding rates.
2. Rates in place at the time in which a project is contracted with the City will remain in place for the duration of the contract.

EXHIBIT B

SCHEDULE

City of Las Cruces

PROJECT ASSIGNMENT AGREEMENT

CITY'S CONTRACT NO. / TITLE

(Example: XX-XX-XXX ELECTRICAL ENGINEERING SERVICES)

PROJECT NAME

Pursuant to terms and conditions of City of Las Cruces (CITY) Contract No. XX-XX-XXX dated _____, 20__ between the CITY and name of company, (ENGINEER/ARCHITECT/CONTRACTOR), as amended and incorporated herein by reference, the City and Contractor hereby agree on this _____ day of _____, 20___, as follows:

1. In a satisfactory and proper manner, the ENGINEER/ARCHITECT/CONTRACTOR shall perform SERVICES as proposed in response to the CITY's RFP/BID No. XX-XX-XXX and ENGINEER/ARCHITECT/CONTRACTOR's proposal as set forth in ATTACHMENT A attached hereto.

2. Insurance (select the appropriate clause below, delete the other):
(for non-construction projects)
Contractor agrees to maintain a Commercial General Liability policy with limits not less than $1 million per occurrence and $2 million aggregate limits. The City of Las Cruces is to be named as an additional Insured. Evidence of coverage must be on an Acord 25 Certificate of Insurance with attached Additional Insured Endorsement.

(for construction, maintenance, installation projects)
Contractor agrees to maintain a Commercial General Liability policy with limits not less than $1 million per occurrence and $2 million aggregate limits. Coverage must include Premise and Operations, Products and Completed Operation and Personal and Advertising Injury coverage. Aggregate limits must be "per project" or "per location". The City of Las Cruces is to be named as an additional Insured. This coverage is to be primary and non-contributory before any other insurance or self-insurance. Evidence of coverage must be on an Acord 25 Certificate of Insurance with attached Additional Insured Endorsement and Waiver of Subrogation.

3. The estimated completion date is number days after a Notice to Proceed is issued by the CITY to the ENGINEER/ARCHITECT/CONTRACTOR.

4. In consideration for the satisfactory completion of the work agreed to herein, compensation shall be made in the amount of $ dollars.cents, plus NMGRT. Invoices issued by the ENGINEER/ARCHITECT/CONTRACTOR shall be made monthly / upon completion of project with payment by the CITY being made within 30 days upon receipt of undisputed invoice.

(SIGNATURE BLOCK FOLLOWS ON NEXT PAGE)

CONTRACTOR NAME

By: _____
Signature Date

_____
Print Name and Title

Requisition No. XXXXXXXX

CITY OF LAS CRUCES

By: _____
Signature Date

Chenyu "Alex" Liu, Purchasing Manager

City of Las Cruces

19-20-063A Hydrology, Hydrogeology and Water Resources Services

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT, made and entered into on this ____ day of February, 2020 by and between the City of Las Cruces, New Mexico, hereinafter called "CITY" and RESPEC Consulting & Services, LLC of 5971 Jefferson Street NE, Suite 101 Albuquerque, NM 87124, hereinafter called "ENGINEER".

1. PROJECT DESCRIPTION
Hydrology, Hydrogeology and Water Resources Services

2. SCOPE OF SERVICES
In a satisfactory and proper manner, the ENGINEER shall perform SERVICES, as proposed in response to the CITY'S RFP No. 19-20-063A, as set forth in Exhibit A, attached hereto and made a part of this Agreement.

3. APPROPRIATIONS
The terms of this Agreement are contingent on sufficient appropriations and authorization being made by the City Council for the performance of this Agreement. If sufficient appropriations and authorizations are not made by the City Council, this Agreement shall terminate upon written notice given by the CITY to ENGINEER. The CITY'S decision as to whether sufficient appropriations and authorizations exist shall be accepted by ENGINEER and shall be final.

4. COMPENSATION
The CITY shall compensate ENGINEER for the performance of SERVICES under this Agreement an amount agreed to for each assigned project, plus applicable taxes. ENGINEER shall perform the SERVICES upon receipt of a purchase order or written Notice to Proceed (for each assigned project) from the CITY. The CITY cannot authorize costs to be incurred prior to such written Notice to Proceed.

ENGINEER is responsible for payment of State of New Mexico Gross Receipts Tax levied on the amounts payable under this Agreement. ENGINEER agrees to comply with all federal and state tax payments and report all items of gross receipts as income from the operations of its business.

5. DEVOTION OF ADEQUATE TIME
ENGINEER will devote the necessary hours each week to the performance of project(s) that are required by the CITY and it will serve the CITY diligently and faithfully, and according to its best ability in all respects and will promote the best interests of the CITY.

6. TERM AND SCHEDULE
This Agreement shall become effective on April 1, 2020 for a term of one year through March 31, 2021 and, pending mutual written agreement, may be extended annually thereafter for up to four (4) additional one (1)-year terms.

ENGINEER shall perform the SERVICES in accordance with the time set forth as agreed upon by the CITY and ENGINEER in Exhibit B, attached hereto and made a part of this agreement and as agreed to for each project assigned under the terms of this Agreement.

7. EXTENSIONS, CHANGES, AND AMENDMENTS

This Agreement shall not be extended, changed, or amended except by instrument in writing executed by the parties. The CITY shall not be liable for payment of any extra services nor shall ENGINEER be obligated to perform any extra services except upon such written agreement. Such written approval shall indicate the date said extension, change, or amendment is effective and shall be signed by the parties to this Agreement. In the event that the parties cannot reach agreement as to a particular change, the issue shall be resolved pursuant to Article 21.

8. CHANGES AND EXTRA SERVICES BY THE CITY

The CITY may make changes within the general scope of the SERVICES plus may also request ENGINEER to perform other extra services not incorporated within the Services set forth in this Agreement. If the ENGINEER is of the opinion that such change causes an increase or decrease in the cost and/or the time required for performing the changes or other services required by the City, ENGINEER shall so notify the CITY of that fact within five (5) business work days from the date of receipt of change by the CITY. The CITY shall provide written response to the ENGINEER within five (5) business work days from the date of receipt of ENGINEER'S written notification.

9. CHANGES AND EXTRA SERVICES BY THE ENGINEER

In the event a condition is identified by the ENGINEER which, in the opinion of the ENGINEER, changes the services, costs, and/or time required for performance under this Agreement, the ENGINEER shall provide written notification to the CITY within five (5) business work days of such identification. The CITY shall respond in writing to such notification within five (5) business work days from the date of receipt of ENGINEER'S notification.

10. DELAYS

In the event that performance of SERVICES is delayed by causes beyond reasonable control of ENGINEER, and without the fault or negligence of ENGINEER, the time and total compensation for the performance of the SERVICES may be equitably adjusted by written agreement to reflect the extent of such delay. ENGINEER shall provide the CITY with written notice of delay pursuant to Article 9 including therein a description of the delay and the steps contemplated or actually taken by ENGINEER to mitigate the effect of such delay. The CITY will make the final determination as to reasonableness of delays.

11. TERMINATION

This Agreement may be terminated by either party hereto upon fifteen (15) calendar days written notice in the event of substantial failure by the other party to perform in

accordance with the terms of this Agreement through no fault of the terminating party. This Agreement may also be terminated by the CITY for its convenience or because the PROJECT has been permanently abandoned, but only upon fifteen (15) calendar days written notice to ENGINEER.

In the event of termination, ENGINEER shall be compensated for all services performed and costs incurred up to the effective date of termination for which ENGINEER has not been previously compensated.

Upon receipt of notice of termination from the CITY, ENGINEER shall discontinue the SERVICES unless otherwise directed and upon final payment from the CITY deliver to the CITY the required number of copies of all data, drawings, reports, estimates, summaries, and such other information and materials as may have been accumulated by ENGINEER in the performance of this Agreement, whether completed or in process.

12. RECORDS AND AUDITS

ENGINEER will maintain records indicating dates, length of time, and services rendered. The CITY has the right to audit billings both before and after payment, and contest any billing or portion thereof. Payment under this Agreement does not foreclose the CITY'S right to recover excessive or illegal payments.

13. DISCLOSURE AND OWNERSHIP OF DOCUMENTS, PRODUCTS, DESIGN, ELECTRONIC FILES

All technical data, electronic files, and other written and oral information not in the public domain or not previously known, and all information, electronic files, and data obtained, developed, or supplied by the CITY will be kept confidential and ENGINEER will not disclose to any other party, directly or indirectly, without the CITY'S prior written consent unless required by lawful order.

All technical data, electronic files, products developed, operational parameters, blueprints, and other information and work of the ENGINEER shall be the sole property of the CITY and shall be delivered to the CITY when requested and at the end of the Agreement.

14. INDEPENDENT ENGINEER

ENGINEER represents that it has, or will secure, at its own expense, all personnel required in performing the SERVICES under this Agreement. Such personnel shall not be employees of, nor have any contractual relationship with the CITY. ENGINEER, consistent with its status as an independent ENGINEER, further agrees that its personnel will not hold themselves out as, nor claim to be officers or employees of the CITY by reason of this Agreement.

To the extent that ENGINEER employs any employees, ENGINEER shall be solely responsible for providing its own form of insurance for its employees and in no event shall ENGINEER's employees be covered under any policy of the CITY.

ENGINEER'S retention hereunder is not exclusive. Subject to the terms and provisions of this Agreement: (i) ENGINEER is able, during the Term hereof, to perform services for other parties; and (ii) ENGINEER may perform for its own account other professional services outside the scope of this Agreement.

ENGINEER is and shall be an Independent ENGINEER and shall be responsible for the management of its business affairs. In the performance of the work under this Agreement, ENGINEER will at all times be acting and performing as an Independent ENGINEER, as that term is understood for federal and state law purposes, and not as an employee of the CITY. Without limitation upon the foregoing, ENGINEER shall not accrue sick leave, jury duty pay, retirement, insurance, bonding, welfare benefits, or any other benefits, which may or may not be afforded employees of the CITY. ENGINEER will not be treated as an employee for purposes of: Workers' Compensation benefits; the Federal Unemployment Tax Act; Social Security; other payroll taxes, federal or any state income tax withholding; or the employee benefit provisions described in the Internal Revenue Code of 1986, as amended. Neither the CITY, nor its agents or representatives, shall have the right to control or direct the manner, details or means by which ENGINEER accomplishes and performs its services. Nevertheless, ENGINEER shall be bound to fulfill the duties and responsibilities contained in the Agreement.

15. NO JOINT VENTURE OR PARTNERSHIP

Nothing contained in this Agreement shall create any partnership, association, joint venture, fiduciary or agency relationship between ENGINEER and CITY. Except as otherwise specifically set forth herein, neither ENGINEER nor CITY shall be authorized or empowered to make any representation or commitment or to perform any act which shall be binding on the other unless expressly authorized or empowered in writing.

16. ASSIGNMENT

ENGINEER shall perform all the services under this Agreement and shall not assign any interest in this Agreement or transfer any interest in same or assign any claims for money due or to become due under this Agreement without the prior written consent of the CITY.

17. INSURANCE

ENGINEER shall obtain and maintain insurance at its own cost and expense during the life of this Agreement, and shall require Subcontractors, if any, to maintain during the life of his subcontract:

1. $1,000,000 (One Million Dollars) General Liability Insurance with the City named as an Additional Insured with the same coverage as the FIRM. Coverage must include:
   a. Premises / Operations
   b. Products / Completed Operations
   c. The City of Las Cruces must be named as an Additional Insured.
2. $100,000 (One Hundred Thousand Dollars) Property Damage Insurance.

3. In the case of any approved subcontract, the FIRM shall require the subcontractor to provide statutory Workers' Compensation and Employers' Liability Insurance, with the same limits as those required by the FIRM.
4. Auto Liability - $1,000,000 — Each Accident, and must include:
   a. Covers all owned, leased, hired, and non-owned autos or "any auto"
5. Worker's Compensation Per New Mexico Statute (3 or more employees)
   $1,000,000 — Bodily Injury: By Accident — Each Accident
   $1,000,000 — By Disease: Policy Limit
   $1,000,000 — By Disease: Each Employee
   This coverage required for non-construction firm with three (3) or more employees, or construction firm with one (1) or more employees. Exception: Not applicable to out-of-state companies unless they are hiring in New Mexico.
6. Professional Liability - $1,000,000 – Per Claim.
7. The FIRM must immediately notify the CITY if insurance is canceled or not renewed.

The City must be named as additional insured — this coverage must be as broad as the coverage provided to the insured; coverage must be primary and non-contributory before any other insurance or self-insurance. A copy of the endorsement(s) for this coverage must be provided as a condition of this Agreement.

Waiver of Subrogation will apply and shall be noted on the certificate.

ENGINEER shall furnish the CITY with a certificate(s) of insurance showing ENGINEER and Subcontractors, if any, have complied with this Article. The ENGINEER shall provide insurance certificates before work is to start on the project and shall provide the CITY thirty (30) days written notification of cancellation of such policies.

18. INDEMNITY AND LIMITATION

ENGINEER shall indemnify, defend, and hold harmless the CITY from and against any and all claims, suits, actions, judgments, demands, losses, costs, expenses, damages, and liability caused solely by, resulting solely from, or arising solely out of the negligent acts, errors, or omissions of ENGINEER, its officers, employees, agents, or representatives in the performance of SERVICES under this agreement.

19. APPLICABLE LAW

This Agreement and the rights and obligations of the parties shall be governed by and construed by the laws of the State of New Mexico applicable to Agreements between New Mexico parties made and performed in that state, without regard to conflicts of law principles. Venue shall be in the Third Judicial District, State of New Mexico.

ENGINEER shall abide and be governed by all applicable state law, CITY ordinances, and laws regarding the ENGINEER'S services or any work done pursuant to this Agreement.

20. BREACH

In the event ENGINEER breaches any obligation contained in this Agreement, prior to instituting any action or dispute resolution procedure, the CITY shall give ENGINEER written notice of such breach. In the event ENGINEER fails to remedy the breach within five (5) working days of receiving such written notice, the CITY, at its sole discretion, without any obligation to do so and in addition to other remedies available under applicable law, may remedy ENGINEER'S breach and recover any and all costs and expenses in so doing from ENGINEER.

21. DISPUTE RESOLUTION

In the event that a dispute arises between CITY and ENGINEER under this Agreement or as a result of breach of this Agreement, the parties agree to act in good faith to attempt to resolve the dispute.

22. NOTIFICATION

All notices required or permitted under this Agreement shall be in writing and shall be deemed sufficiently served if served by Registered Mail addressed as follows:

TO CITY:	City of Las Cruces PO Box 20000 Las Cruces, NM 88004 ATTENTION: Adrienne Widmer
With Copies to:	City Attorney Purchasing Manager
TO ENGINEER:	RESPEC Consulting & Services, LLC 5971 Jefferson Street NE, Suite 101 Albuquerque, NM 87124 ATTENTION: Chris Naidu

23. SCOPE OF AGREEMENT

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

RESPEC CONSULTING &
SERVICES, LLC

BY: _____
Chris Naidu
Project Manager

_____
Date

CITY OF LAS CRUCES

BY: _____
Chenyu "Alex" Liu
Purchasing Manager

_____
Date

APPROVED AS TO FORM

_____ for JVB 2/7/20
City Attorney w/m edits

EXHIBIT A

SERVICES

1) Groundwater Studies for Modeling, Analysis and Forecasting Projections
2) Surface Water Modeling
3) Water Balance and Consumptive Use Studies
4) Water Resource Economics to include Modeling, Cost/Benefit Analysis
5) Water Well Design, Construction, Monitoring and Testing Services
6) Water Quality Studies
7) Hydrologic Forecasting to include Parametric and/or Stochastic Processes
8) Time Series Analysis
9) Particle Tracking and Contaminant Transport Modeling
10) Water/Wastewater Regulatory Studies
11) Water Rights Exploration and other Water Rights Related issues
12) Expert Witness Services on Hydrology, Hydrogeology, and Water Resource Studies
13) Reclaimed Water Studies
14) Technical and/or Institutional issues associated with Water Rights Adjudications
15) Conducting Research and other issues related to the Office of the State Engineer Hydrographic Survey
16) Water Conservation related services

City of Las Cruces
MOUNTAINS OF OPPORTUNITY

RFP COMPLIANCE DECLARATION

RFP TITLE: **Hydrology, Hydrogeology, and Water Resources Services**

RFP NO.: **19-20-063A**

DUE DATE/TIME: **January 7, 2020 / 4:00 p.m.**

In compliance with the requirements of this RFP, I, the undersigned, offer and agree to furnish any or all materials and/or services to the City of Las Cruces within the time agreed.

I further certify that this company has not been debarred, suspended, or otherwise made ineligible for participation in Federal Assistance programs under Executive Order 12549 Debarment and Suspension as described in the Federal Rules and Regulations.

Receipt of Addenda Nos.: 1 and 2 is hereby acknowledged (where none received, place a zero in this space)

Company Name and Address:
RESPEC Consulting & Services, LLC

5971 Jefferson Street NE

Albuquerque, NM 87124

Authorized Signature
Chris Naidu, PE
Typed or Printed Name
Project Manager
Title
Chris.Naidu@respec.com
Email Address

Telephone number 505.243.2287 Fax number 505.268.0040

NM Tax & Revenue Dept. CRS # 03-430633-00-1

Current NM Secretary of State Business ID # 5835968 (corporations only)

Current CLC Business Registration # _____ (respondents located in Las Cruces only)

Federal I.D. number 83-2898293 (mandatory for all respondents)

NM Resident Certificate from NM Tax and Revenue Department enclosed X Yes ____ No

THIS FORM MUST BE COMPLETED AND INCLUDED WITH PROPOSAL
FAILURE TO INCLUDE WILL SUBJECT RESPONSE TO REJECTION

STATE OF NEW MEXICO

TAXATION AND REVENUE DEPARTMENT

RESIDENT BUSINESS CERTIFICATE

Issued to: **RE/SPEC INC**

DBA: **RE/SPEC INC**
PO BOX 725
RAPID CITY, SD 57709-0725

Expires: **10-Dec-2021**

Certificate Number:

L0675039408

John Monforte, *Acting Cabinet Secretary*

THIS CERTIFICATE IS NOT TRANSFERABLE

EXHIBIT "A"

ATTACHMENT B
COST PROPOSAL
RFP 19-20-063
Hydrology, Hydrogeology, and Water Resources Services

Schedule of Fees

ITEM	DIRECT LABOR / CLASSIFICATION	HOURLY RATE
1.	Principal Hydrologist, Hydrogeologist, and Water Resource Specialist	$185
2.	Senior Hydrologist, Hydrogeologist, and Water Resource Specialist	$155
3.	Assistant Hydrologist, Hydrogeologist, and Water Resource Specialist	$125
4.	Drafting Technician	$105
5.	Clerical support personnel	$85
6.	Expert witness	$185
ITEM	**MATERIALS / REIMBURSABLE EXPENSES**	**RATE**
	Travel	
7.	Per Diem (per day) – Pre-Approval Required	City of Las Cruces Rate
8.	Vehicle mileage rate (per mile)	Current IRS Rate
	Reproduction Services	
9.	Black and white copies (per copy)	$At cost
10.	Color Copies (per copy)	$At cost
11.	Prints (24"x36") Per sheet	$At cost
12.	Mylars (24"x36") Per sheet	$At cost
	Miscellaneous	
13.	Materials and Other Expenses	Case by case basis
14.	Sub-Consultants / Outside Services	%10

Rates are to include all overhead costs and any and all assessment expenses

NOTES:
1. Detailed Man-hour Estimates are required for time and material (T&M) contracts and are to utilize corresponding rates.
2. Rates in place at the time in which a project is contracted with the City will remain in place for the duration of the contract.

EXHIBIT B

SCHEDULE

City of Las Cruces

PROJECT ASSIGNMENT AGREEMENT

CITY'S CONTRACT NO. / TITLE

(Example: XX-XX-XXX ELECTRICAL ENGINEERING SERVICES)

PROJECT NAME

Pursuant to terms and conditions of City of Las Cruces (CITY) Contract No. XX-XX-XXX dated _____, 20__ between the CITY and name of company, (ENGINEER/ARCHITECT/CONTRACTOR), as amended and incorporated herein by reference, the City and Contractor hereby agree on this _____ day of _____, 20___, as follows:

1. In a satisfactory and proper manner, the ENGINEER/ARCHITECT/CONTRACTOR shall perform SERVICES as proposed in response to the CITY's RFP/BID No. XX-XX-XXX and ENGINEER/ARCHITECT/CONTRACTOR's proposal as set forth in ATTACHMENT A attached hereto.

2. Insurance (select the appropriate clause below, delete the other):
(for non-construction projects)
Contractor agrees to maintain a Commercial General Liability policy with limits not less than $1 million per occurrence and $2 million aggregate limits. The City of Las Cruces is to be named as an additional Insured. Evidence of coverage must be on an Acord 25 Certificate of Insurance with attached Additional Insured Endorsement.

(for construction, maintenance, installation projects)
Contractor agrees to maintain a Commercial General Liability policy with limits not less than $1 million per occurrence and $2 million aggregate limits. Coverage must include Premise and Operations, Products and Completed Operation and Personal and Advertising Injury coverage. Aggregate limits must be "per project" or "per location". The City of Las Cruces is to be named as an additional Insured. This coverage is to be primary and non-contributory before any other insurance or self-insurance. Evidence of coverage must be on an Acord 25 Certificate of Insurance with attached Additional Insured Endorsement and Waiver of Subrogation.

3. The estimated completion date is number days after a Notice to Proceed is issued by the CITY to the ENGINEER/ARCHITECT/CONTRACTOR.

4. In consideration for the satisfactory completion of the work agreed to herein, compensation shall be made in the amount of $ dollars.cents, plus NMGRT. Invoices issued by the ENGINEER/ARCHITECT/CONTRACTOR shall be made monthly / upon completion of project with payment by the CITY being made within 30 days upon receipt of undisputed invoice.

(SIGNATURE BLOCK FOLLOWS ON NEXT PAGE)

CONTRACTOR NAME

By: _____
Signature Date

_____
Print Name and Title

Requisition No. XXXXXXXX

CITY OF LAS CRUCES

By: _____
Signature Date

Chenyu "Alex" Liu, Purchasing Manager

ATTACHMENT "A"

City of Las Cruces
MOUNTAINS OF OPPORTUNITY

MEMORANDUM

To: Jorge A. Garcia, Ph.D., P.E., Utilities Director

From: Adrienne L. Widmer, P.E **Initials:** PHR for AW

Date: February 20, 2020 **File #:** W488

Subject: Recommendation of Award for Various Hydrology, Hydrogeology and Water Resources Services, RFP No. 19-20-063A

On January 7, 2020, four proposals for the above referenced Request for Proposals (RFP) were received by the City of Las Cruces (City) Purchasing Program. The Proposals and corresponding reference checks were evaluated by Utilities and the Selection Advisory Committee (SAC). Based on the evaluation, on January 16, 2020, the SAC recommended the four proposers to be awarded contracts.

Projects awarded under these agreements could include, but are not limited to, the following functions: groundwater studies for modeling, analysis and forecasting projections; surface water modeling; water balance and consumptive use studies; water resource economics to include modeling, cost/benefit analysis, and feasibility studies; water well design, construction, monitoring, and testing services; water quality studies; hydrologic forecasting to include parametric and/or stochastic modeling; water/wastewater regulatory studies; water rights exploration and other water rights related issues; reclaimed water studies; technical and/or institutional issues associated with water rights adjudications; conducting research and other issues related to the Office of the State Engineer Hydrographic Survey; and water conservation related services.

These proposed service agreements will be used on an as-needed basis for a period of up to five (5) years, subject to annual renewals and approve budget appropriations. It is advantageous for the City to have a pre-qualified list of hydrology, hydrogeology, and water resources firms, from which to select, in order to get projects completed. The SAC is recommending award to the four (4) firms as follows: 1) Enprotec/Hibbs & Todd, Inc., of Lubbock, Texas; 2) John Shomaker & Associated, Inc., of Albuquerque, New Mexico; 3) Lee Wilson & Associates, Inc., of Santa Fee, New Mexico; and 4) Respec Consulting & Services, LLC, of Albuquerque, New Mexico. When required, funding will come from approved budget appropriations based on the nature of the project and/or service provided.

Based on the SAC's recommendation, I request these service agreements be approved by the Las Cruces Utilities Board.

If you have any questions or require additional information, please contact me at 528-3514.

Approved: ☑

Disapproved: ☐

Jorge A. Garcia, Ph.D., P.E., Utilities Director

2/21/20
Date

City of Las Cruces
MOUNTAINS OF OPPORTUNITY

LAS CRUCES UTILITIES BOARD OF COMMISSIONERS ACTION FORM

For Meeting of March 12, 2020
(Adoption Date)

TITLE:

A RESOLUTION TO AWARD CONTRACTS FOR HYDROLOGY, HYDROGEOLOGY, AND WATER RESOURCES SERVICES ON AN AS-NEEDED BASIS TO ENPROTEC/HIBBS & TODD, INC.; JOHN SHOMAKER & ASSOCIATES, INC.; LEE WILSON & ASSOCIATES, INC.; AND RESPEC CONSULTING & SERVICES, LLC., IN AN AMOUNT NOT TO EXCEED $300,000.00 ANNUALLY FOR EACH FIRM, FOR A PERIOD OF ONE (1) YEAR WITH FOUR (4) ADDITIONAL ONE (1) YEAR TERMS, SUBJECT TO ANNUAL RENEWALS AND APPROVED BUDGET APPROPRIATIONS (PROCUREMENT NO. 19-20-063A).

BACKGROUND:

In October 2019, the Water Operations & Maintenance Line of Business of Las Cruces Utilities ("LCU") Department requested proposals for hydrology, hydrogeology, and water resources services. These services are required to perform functions that include, but are not limited to, the following: groundwater studies for modeling, analysis, and forecasting projections; surface water modeling; water balance and consumptive use studies; water resource economics to include modeling, cost/benefit analysis, and feasibility studies; water well design, construction, monitoring, and testing services; water quality studies; hydrologic forecasting to include parametric and/or stochastic processes; time series analysis; particle tracking and contaminant transport modeling; water/wastewater regulatory studies; water rights exploration and other water rights related issues; expert witness services on hydrology, hydrogeology, and water resource studies; reclaimed water studies; technical and/or institutional issues associated with water rights adjudications; conducting research and other issues related to the Office of the State Engineer Hydrographic Survey; and water conservation related services. The purpose of the hydrology, hydrogeology, and water resources services Request for Proposals ("RFPs") is to pre-qualify hydrology, hydrogeology, and water resources firms that can provide these specialized services.

(Continue on additional sheets as required)

Name of Drafter: Adrienne Widmer	**Department:** Utilities	**Phone:** 575-528-3514
Account Number: N/A	**Amount of Expenditure:** N/A	**Budget Amount:** N/A

Strategic Plan Goal / Objective / Strategy Addressed: LCU Department Strategic Business Plan: Results 1 and Results 3
Performance Budget Goal / Objective Addressed: N/A

Department	Signature	Phone	Department	Signature	Phone
Utilities		528-3512	Budget		541-2300
Legal		541-2128	Assistant City Manager		541-2271
			City Manager		541-2076

LCU 5/18 Rev.4

These proposed service agreements will be used on an as-needed basis for a period of up to five (5) years, subject to annual renewals and approved budget appropriations. It is advantageous for the City of Las Cruces ("City") to have a pre-qualified list of hydrology, hydrogeology, and water resources firms, from which to select, in order to get projects completed. All City departments will be able to enter into individual Project Assignment Agreements with these firms on an as-needed basis.

The LCU Department has numerous projects budgeted throughout upcoming fiscal years. There are also times when special demands come up for the City that are time sensitive to complete. By having a pre-qualified list of hydrology, hydrogeology, and water resources firms, it will not be necessary to go through individual RFPs in order to contract the necessary work for each individual project or demand. These agreements will allow the City to contract with any one of the four (4) pre-qualified firms. As a result, valuable time is saved in the specialized requirements of each project or demand and staff time can be used on other projects and in other capacities.

The Purchasing Program received four (4) proposals that were evaluated and scored by the Selection Advisory Committee ("SAC") on January 16, 2020.

The SAC is recommending award to all four (4) rated firms as follows: 1) Enprotec/Hibbs & Todd, Inc., of Lubbock, Texas; 2) John Shomaker & Associates, Inc., of Albuquerque, New Mexico; 3) Lee Wilson & Associates, Inc., of Santa Fe, New Mexico; and 4) Respec Consulting & Services, LLC., of Albuquerque, New Mexico.

When required, funding will come from approved budget appropriations based on the nature of the project and/or service provided.

SUPPORT INFORMATION:

1. LCU Resolution No. 19-20-063A
2. Exhibit "A" – Professional Services Agreement with Enprotec/Higgs & Todd, Inc.
3. Exhibit "B" – Professional Services Agreement with John Shomaker & Associates, Inc.
4. Exhibit "C" – Professional Services Agreement with Lee Wilson & Associates, Inc.
5. Exhibit "D" – Professional Services Agreement with Respec Consulting & Services, LLC.
6. Attachment "A" - Recommendation Memo to Jorge A. Garcia, Ph.D., P.E., Utilities Director.

BOARD OPTIONS:

1. **VOTE "YES"** – Will approve Resolution No. 19-20-063A and award contracts to the four (4) selected pre-qualified firms, to provide hydrology, hydrogeology, and water resources services for the City, on an as-needed basis, for an amount up to $300,000.00 annually for each firm, for the next five (5) years, subject to annual renewals and approved budget appropriations.

2. **VOTE "NO"** – Will not approve Resolution No. 19-20-063A and staff will require strategic guidance.

Signature:

Email: jdroach@santafenm.gov

Signature:

Email: swjones@santafenm.gov

AIA® Document A101® – 2017

Standard Form of Agreement Between Owner and Contractor *where the basis of payment is a Stipulated Sum*

FOR REQUEST FOR BID (RFB) PURPOSES ONLY

AGREEMENT made as of the 19 day of August in the year 2021
(In words, indicate day, month and year.)

BETWEEN the Owner:
(Name, legal status, address and other information)

City of Santa Fe
PO Box 909
Santa Fe, NM 87504-0909
505-955-5937

and the Contractor:
(Name, legal status, address and other information)

Jaynes Corporation
2906 Broadway Blvd NE
Albuquerque, NM 87107

for the following Project:
(Name, location and detailed description)

Southside Teen Center
Santa Fe, NM

The Architect:
(Name, legal status, address and other information)

Wilson & Company, Inc - ABQ
4401 Masthead St. NE
Suite 150
Albuquerque, NM 87109
Telephone Number: 505-348-4000
Fax Number: 505-348-4072

The Owner and Contractor agree as follows.

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

The parties should complete A101®–2017, Exhibit A, Insurance and Bonds, contemporaneously with this Agreement. AIA Document A201®–2017, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

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User Notes: (1631015778)

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EXHIBIT A INSURANCE AND BONDS

ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary, and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. An enumeration of the Contract Documents, other than a Modification, appears in Article 9.

In the event of a conflict between or among the Contract Documents, the following order of priority shall be:

(1) This Agreement
(2) AIA Document A101 Exhibit A Insurance and Bonds
(3) AIA Document A201–2007, General Conditions of the Construction Contract as set forth in Exhibit B
(4) The City of Santa Fe Supplementary Conditions set forth in Exhibit C
(5) Provisions set forth in the Project Manual issued by the Architect
(6) Provisions set forth in other exhibited documents

ARTICLE 2 THE WORK OF THIS CONTRACT

The Contractor shall fully execute the Work described in the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others.

ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be:
(Check one of the following boxes.)

[ ] The date of this Agreement.

[X] A date set forth in a notice to proceed which is mutually agreed to by Contractor and Owner.

[ ] Established as follows:
(Insert a date or a means to determine the date of commencement of the Work.)

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If a date of commencement of the Work is not selected, then the date of commencement shall be the date of this Agreement.

§ 3.2 The Contract Time shall be measured from the date of commencement of the Work.

§ 3.3 Substantial Completion

§ 3.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall achieve Substantial Completion of the entire Work:
(Check one of the following boxes and complete the necessary information.)

[X] Not later than three hundred and sixty-five (365) calendar days from the date of commencement of the Work.

[ ] By the following date:

§ 3.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work are to be completed prior to Substantial Completion of the entire Work, the Contractor shall achieve Substantial Completion of such portions by the following dates:

Portion of Work	Substantial Completion Date

§ 3.3.3 If the Contractor fails to achieve Substantial Completion as provided in this Section 3.3, liquidated damages, if any, shall be assessed as set forth in Section 4.5.

ARTICLE 4 CONTRACT SUM

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be Eight Million five hundred forty-five thousand nine hundred fifty dollars and no/100ths ($ 8,545,950.00 plus New Mexico Gross Receipts Tax), subject to additions and deductions as provided in the Contract Documents. Sum as follows:

Base Bid Amount:	$8,003,500.00
Bid Alternate 1:	$ 180,000.00
Unanticipated Cost Overruns:	$ 362,450.00*
Subtotal:	$8,545,950.00
NMGRT @ 8.4375%:	$ 721,064.53
Total Contract Sum:	$9,267,014.53

* In the event that any aspect of this project exceeds the deliverable amount, the city, at its sole discretion, may agree to pay additional compensation to the contractor in an amount less than or equal to $362,450.00.

§ 4.2 Alternates

§ 4.2.1 Alternates, if any, included in the Contract Sum:

Item	Price
#1 Kitchen Equipment	One hundred and eighty thousand and no/100ths $180,000.00

§ 4.2.2 Subject to the conditions noted below, the following alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement.
(Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)

Item	Price	Conditions for Acceptance
N/A		

§ 4.3 Allowances, if any, included in the Contract Sum:
(Identify each allowance.)

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Item	Price
#1 Utilities and Sitework Improvements	Fifteen thousand and no/100ths $15,000

§ 4.4 Unit prices, if any:
(Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)

Item	Units and Limitations	Price per Unit ($0.00)
N/A		

§ 4.5 Liquidated damages, if any:
(Insert terms and conditions for liquidated damages, if any.)

Liquidated damages of One Thousand dollars ($1,000.00) per calendar day will apply for work not completed by the Substantial Completion date.

§ 4.6 Other:
(Insert provisions for bonus or other incentives, if any, that might result in a change to the Contract Sum.)

N/A

ARTICLE 5 PAYMENTS

§ 5.1 Progress Payments

§ 5.1.1 Based upon Applications for Payment submitted to the Architect by the Contractor and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

§ 5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

§ 5.1.3 Provided that an Application for Payment is received by the Architect not later than the 1st day of a month, the Owner shall make payment of the amount certified to the Contractor not later than the 21st day of the month. If an Application for Payment is received by the Architect after the application date fixed above, payment of the amount certified shall be made by the Owner not later than twenty-one (21) days after the Architect receives the Application for Payment.
(Federal, state or local laws may require payment within a certain period of time.)

§ 5.1.4 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 5.1.5 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment. The Contractor shall stipulate a sum as a line item on the schedule of values for Completion of Work after issuance of the Certificate of Substantial Completion as listed on the Architect's official Punch list and for completion and submission of all Project Close Out documentation, including, but not limited to the documents listed below. The Certificate of Final Completion will be issued after acceptance of these documents by the Owner.

.1 Certificate of Liability Insurance with expiration date no earlier than the Substantial Completion date.
.2 Contractor's Affidavit of Release of Liens (AIA Document G706A)
.3 Contractor's Affidavit of Payment of Debts and Claims (AIA Document G706)
.4 Contractor's Warranty
.5 Manufacturer's Warranties (as applicable)

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.6 Operations and Maintenance Manual covering warranted equipment, materials requiring maintenance and including any reports or procedural documentation generated by third parties or subcontractors as part of, or necessitated by the Work.

.7 Approved Construction Permit(s) with Construction Document set stamped by Permitting Authorities (as applicable)

.8 As-Built Construction Document set and documentation of all other Work completed that is not included in the As-Built set

.9 Final Inspection Report(s) from Permitting Authorities (as applicable)

.10 Consent of Surety Company to Final Payment.

.11 Application for Final Payment.

.12 Lien Bond (as applicable)

.13 Lien Discharge Fee(s) Refund (as applicable)

.14 Certificate of Occupancy (as applicable)

.15 New Mexico Dept. of Workforce Solutions Affidavit of Wages Paid

.16 New Mexico Dept. of Workforce Solutions Payroll Statement of Compliance

§ 5.1.6 In accordance with AIA Document A201™–2017, General Conditions of the Contract for Construction, and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

.1 Take that portion of the Contract Sum, including fully executed change orders, properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the Contract Sum allocated to that portion of the Work in the schedule of values.

.2 Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing).

.3 Subtract the aggregate of previous payments made by the Owner; and

.4 Subtract amounts, if any, for which the Architect has withheld or nullified a Certificate for Payment as provided in Section 9.5 of AIA Document A201–2007.

The progress payment amount determined in accordance with Section 5.1.6 shall be further modified under the following circumstances:

.1 Add, upon Substantial Completion of the Work, a sum sufficient to increase the total payments to the full amount of the Contract Sum, less such amounts as the Architect shall determine for incomplete Work and unsettled claims; and

.2 Add, if final completion of the Work is thereafter materially delayed through no fault of the Contractor, any additional amounts payable in accordance with Section 9.10.3 of AIA Document A201–2007.

(Paragraphs deleted)

§ 5.1.7 Retainage

§ 5.1.7.1 For each progress payment made prior to Substantial Completion of the Work, the Owner may withhold the following amount, as retainage, from the payment otherwise due:

(Insert a percentage or amount to be withheld as retainage from each Application for Payment. The amount of retainage may be limited by governing law.)

N/A

(Paragraphs deleted)

§ 5.1.8 If final completion of the Work is materially delayed through no fault of the Contractor, the Owner shall pay the Contractor any additional amounts in accordance with Article 9 of AIA Document A201–2017.

§ 5.1.9 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ 5.2 Final Payment

§ 5.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

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.1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Article 12 of AIA Document A201–2017, and to satisfy other requirements, if any, which extend beyond final payment; and

.2 a final Certificate for Payment has been issued by the Architect.

§ 5.2.2 The Owner's final payment to the Contractor shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment, or as follows:

Within fifteen days of the Contractor's request for final payment being submitted to the City, provided the Owner has received the Consent of Surety and Waivers and Releases of Liens from the Contractor

§ 5.3 Interest

Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.
(Insert rate of interest agreed upon, if any.)

1.5 % per month

ARTICLE 6 DISPUTE RESOLUTION

§ 6.1 Initial Decision Maker

The Owner will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document A201–2017, unless the parties appoint below another individual, not a party to this Agreement, to serve as the Initial Decision Maker.
(Paragraphs deleted)

§ 6.2 Binding Dispute Resolution

For any Claim subject to, but not resolved by, mediation pursuant to Article 15 of AIA Document A201–2017, the method of binding dispute resolution shall be as follows:
(Check the appropriate box.)

[ ] Arbitration pursuant to Section 15.4 of AIA Document A201–2017

[X] Litigation in a court of competent jurisdiction; as a condition precedent to litigation, Owner and Contractor agree to mediate any Claim.

[X] *In accordance with New Mexico Public Works Mediation Act 13-4C-1 through 13-4C-11, NMSA 1978.*

Claims will be resolved by litigation in a court of competent jurisdiction.

ARTICLE 7 TERMINATION OR SUSPENSION

§ 7.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A201–2017.

§ 7.1.1 If the Contract is terminated for the Owner's convenience in accordance with Article 14 of AIA Document A201–2017, then the Owner shall pay the Contractor a termination fee as follows:
(Insert the amount of, or method for determining, the fee, if any, payable to the Contractor following a termination for the Owner's convenience.)

§ 7.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2017.

ARTICLE 8 MISCELLANEOUS PROVISIONS

§ 8.1 Where reference is made in this Agreement to a provision of AIA Document A201–2017 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

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§ 8.2 The Owner's representative:
(Name, address, email address, and other information)

J. Samuel Burnett-Ragueneau
Facilities Director
City of Santa Fe
2651 Siringo Road, Building E, Santa Fe, New Mexico 87505
(505)-955-5933

§ 8.3 The Contractor's representative:
(Name, address, email address, and other information)

Shad S. James
President & CEO
Jaynes Corporation
2906 Broadway NE, Albuquerque, NM 87107
(505) 345-8591

§ 8.4 Neither the Owner's nor the Contractor's representative shall be changed without ten days' written notice to the other party.

§ 8.5 Insurance and Bonds
§ 8.5.1 The Contractor shall purchase and maintain insurance and provide bonds as set forth in the A101-2017, Exhibit A, Insurance and Bonds:

Type of insurance or bond	**Limit of liability or bond amount ($0.00)**
(Refer to Exhibit A)	(Refer to Exhibit A)

§ 8.5.2 The Contractor shall provide bonds as set forth in AIA Document A101™–2017 Exhibit A, and elsewhere in the Contract Documents.

§ 8.6 Notice in electronic format, pursuant to Article 1 of AIA Document A201–2017, may be given in accordance with AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:
(If other than in accordance with AIA Document E203–2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)

§ 8.7 Other provisions:

§ 8.7.1 INDEMNIFICATION

The Contractor shall indemnify, hold harmless and defend the City from all losses, damages, claims or judgements, including payments of all attorneys' fees and costs on account of any suit, judgment, execution, claim, action or demand whatsoever arising from Contractor's performance under this Agreement as well as the performance of Contractor's employees, agents, representatives and subcontractors.

§ 8.7.2 APPROPRIATIONS

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

§ 8.7.3 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.

§ 8.7.4 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.

§ 8.7.5 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.

§ 8.7.6 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.

§ 8.7.7 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.

§ 8.7.8 INSURANCE

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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.

§ 8.7.9 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.

§ 8.7.10 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.

§ 8.7.11 AMENDMENT

This Agreement shall not be altered, changed or modified except by an amendment in writing executed by the parties hereto.

§ 8.7.12 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.

§ 8.7.13 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.

§ 8.7.14 NOTICES

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Any and all notices provided for hereunder shall be in writing and shall be deemed delivered, given and received when (i) personally delivered, or (ii) five (5) days after the same are deposited in the United States Postal Service mail, postage prepaid, certified mail, return receipt requested, addressed to the applicable party at the address indicated below for each party, or at such other address as may be designated by either party in a written notice to the other party:

OWNER: City of Santa Fe
Attn: J Sam Burnett
Facilities Division Director
Public Works Department
2561 Siringo Road, Building E
Santa Fe, NM 87504-0909

CONTRACTOR: Shad S. James, President & CEO
Jaynes Corporation
2906 Broadway NE, Albuquerque, NM 87107

§ 8.7.15 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 any limitation of liability pursuant to law. No provision in this Agreement modifies or waives any provision of the New Mexico Tort Claims Act.

§ 8.7.16 TERM AND EFFECTIVE DATE

This Agreement shall be effective when signed by the City and the Contractor, whichever occurs last, and terminate on December 31, 2023, unless sooner pursuant to section 8.5.11, infra.

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 This Agreement is comprised of the following documents:

.1 AIA Document A101™–2017, Standard Form of Agreement Between Owner and Contractor
.2 AIA Document A101™–2017, Exhibit A, Insurance and Bonds
.3 AIA Document A201™–2017, General Conditions of the Contract for Construction
.4 AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:
(Insert the date of the E203-2013 incorporated into this Agreement.)

The Contract Documents, except for Modifications issued after execution of this Agreement, are enumerated herein. The General Conditions are AIA Document A201–2007, General Conditions of the Contract for Construction (Exhibit A) and City of Santa Fe General Conditions (Exhibit B) attached hereto and incorporated herein. Where there is a conflict or duplication between these two documents, the AIA General Conditions shall prevail. The Supplementary and other Conditions of the Contract attached hereto and incorporated herein:

.5 Drawings

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Number	Title	Date
Drawings as indicated in the index on the cover sheet G-001	Permit Set (118 Sheets)	06/18/2021

.6 Specifications

Section	Title	Date	Pages
All sections as indicated in the Table of Contents for Volumes 1 and 2	Project Manual Volume 1 and 2	06/18/2021	1254

.7 Addenda, if any:

Number	Date	Pages
Addendum 01	07/30/2021	8
Addendum 02	08/04/2021	9
Addendum 03	08/06/2021	1
Addendum 04	09/02/2021	2

Portions of Addenda relating to bidding or proposal requirements are not part of the Contract Documents unless the bidding or proposal requirements are also enumerated in this Article 9.

.8 Other Exhibits:
(Check all boxes that apply and include appropriate information identifying the exhibit where required.)

[
(Paragraphs deleted)
X] Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
City of Santa Fe Supplementary Conditions	Exhibit C		
Contractor's Price Proposal dated TBD	Exhibit D		
Contractor's Certificate of Liability Insurance	Exhibit F		
Project Schedule TBD	Exhibit G		
TBD: NMDWS Wage Documents	Exhibit H		

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(Paragraph deleted)

This Agreement entered into as of the day and year first written above.

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

CITY OF SANTA FE:

_____
ALAN WEBBER,
MAYOR

DATE:_____

CONTRACTOR:

_____
SHAD JAMES
PRESIDENT & CEO
JAYNES CORPORATION

DATE: 9/3/2021

NM LICENSE #:4866
CRS #:01-7120-47000
CITY BUSINESS REGISTRATION #:226914

ATTEST:

_____
KRISTINE BUSTOS-MIHELCIC
CITY CLERK
(Paragraphs deleted)

APPROVED AS TO FORM:

Marcos Martinez
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_____ Sep 3, 2021
MARCOS D. MARTINEZ
SENIOR ASSISTANT CITY ATTORNEY

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_____
MARY MCCOY
FINANCE DIRECTOR

Object and Organization: 3209980.572970

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General Conditions of the Contract for Construction

for the following PROJECT:
(Name and location or address)
Southside Teen Center
Santa Fe, NM

THE OWNER:
(Name, legal status and address)
City of Santa Fe
PO Box 909
200 Lincoln Avenue
Santa Fe, NM 87501

THE ARCHITECT:
(Name, legal status and address)
Wilson & Company, Inc - ABQ
4401 Masthead St. NE
Suite 150
Albuquerque, NM 87109

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

For guidance in modifying this document to include supplementary conditions, see AIA Document A503™, Guide for Supplementary Conditions.

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ARTICLE 1 GENERAL PROVISIONS

§ 1.1 Basic Definitions

§ 1.1.1 The Contract Documents

The Contract Documents are enumerated in the Agreement between the Owner and Contractor (hereinafter the Agreement) and consist of the Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of the Contract, other documents listed in the Agreement, and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive, or (4) a written order for a minor change in the Work issued by the Architect. Unless specifically enumerated in the Agreement, the Contract Documents do not include the advertisement or invitation to bid, Instructions to Bidders, sample forms, other information furnished by the Owner in anticipation of receiving bids or proposals, the Contractor's bid or proposal, or portions of Addenda relating to bidding or proposal requirements.

§ 1.1.2 The Contract

The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Architect or the Architect's consultants, (2) between the Owner and a Subcontractor or a Sub-subcontractor, (3) between the Owner and the Architect or the Architect's consultants, or (4) between any persons or entities other than the Owner and the Contractor. The Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of the Architect's duties.

§ 1.1.3 The Work

The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment, and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.

§ 1.1.4 The Project

The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by the Owner and by Separate Contractors.

§ 1.1.5 The Drawings

The Drawings are the graphic and pictorial portions of the Contract Documents showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules, and diagrams.

§ 1.1.6 The Specifications

The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services.

§ 1.1.7 Instruments of Service

Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect and the Architect's consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials.

§ 1.1.8 Initial Decision Maker

The Initial Decision Maker is the person identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2. The Initial Decision Maker shall not show partiality to the Owner or Contractor and shall not be liable for results of interpretations or decisions rendered in good faith.

§ 1.2 Correlation and Intent of the Contract Documents

§ 1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results.

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§ 1.2.1.1 The invalidity of any provision of the Contract Documents shall not invalidate the Contract or its remaining provisions. If it is determined that any provision of the Contract Documents violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Contract Documents shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Contract.

§ 1.2.2 Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

§ 1.2.3 Unless otherwise stated in the Contract Documents, words that have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

§ 1.3 Capitalization

Terms capitalized in these General Conditions include those that are (1) specifically defined, (2) the titles of numbered articles, or (3) the titles of other documents published by the American Institute of Architects.

§ 1.4 Interpretation

In the interest of brevity the Contract Documents frequently omit modifying words such as "all" and "any" and articles such as "the" and "an," but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

§ 1.5 Ownership and Use of Drawings, Specifications, and Other Instruments of Service

§ 1.5.1 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and retain all common law, statutory, and other reserved rights in their Instruments of Service, including copyrights. The Contractor, Subcontractors, Sub-subcontractors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' reserved rights.

§ 1.5.2 The Contractor, Subcontractors, Sub-subcontractors, and suppliers are authorized to use and reproduce the Instruments of Service provided to them, subject to any protocols established pursuant to Sections 1.7 and 1.8, solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Contractor, Subcontractors, Sub-subcontractors, and suppliers may not use the Instruments of Service on other projects or for additions to the Project outside the scope of the Work without the specific written consent of the Owner, Architect, and the Architect's consultants.

§ 1.6 Notice

§ 1.6.1 Except as otherwise provided in Section 1.6.2, where the Contract Documents require one party to notify or give notice to the other party, such notice shall be provided in writing to the designated representative of the party to whom the notice is addressed and shall be deemed to have been duly served if delivered in person, by mail, by courier, or by electronic transmission if a method for electronic transmission is set forth in the Agreement.

§ 1.6.2 Notice of Claims as provided in Section 15.1.3 shall be provided in writing and shall be deemed to have been duly served only if delivered to the designated representative of the party to whom the notice is addressed by certified or registered mail, or by courier providing proof of delivery.

§ 1.7 Digital Data Use and Transmission

The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 1.8 Building Information Models Use and Reliance

Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document

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G202™–2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

ARTICLE 2 OWNER

§ 2.1 General

§ 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization. Except as otherwise provided in Section 4.2.1, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

§ 2.1.2 The Owner shall furnish to the Contractor, within fifteen days after receipt of a written request, information necessary and relevant for the Contractor to evaluate, give notice of, or enforce mechanic's lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner's interest therein.

§ 2.2 Evidence of the Owner's Financial Arrangements

§ 2.2.1 Prior to commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. The Contractor shall have no obligation to commence the Work until the Owner provides such evidence. If commencement of the Work is delayed under this Section 2.2.1, the Contract Time shall be extended appropriately.

§ 2.2.2 Following commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract only if (1) the Owner fails to make payments to the Contractor as the Contract Documents require; (2) the Contractor identifies in writing a reasonable concern regarding the Owner's ability to make payment when due; or (3) a change in the Work materially changes the Contract Sum. If the Owner fails to provide such evidence, as required, within fourteen days of the Contractor's request, the Contractor may immediately stop the Work and, in that event, shall notify the Owner that the Work has stopped. However, if the request is made because a change in the Work materially changes the Contract Sum under (3) above, the Contractor may immediately stop only that portion of the Work affected by the change until reasonable evidence is provided. If the Work is stopped under this Section 2.2.2, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided in the Contract Documents.

§ 2.2.3 After the Owner furnishes evidence of financial arrangements under this Section 2.2, the Owner shall not materially vary such financial arrangements without prior notice to the Contractor.

§ 2.2.4 Where the Owner has designated information furnished under this Section 2.2 as "confidential," the Contractor shall keep the information confidential and shall not disclose it to any other person. However, the Contractor may disclose "confidential" information, after seven (7) days' notice to the Owner, where disclosure is required by law, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or by court or arbitrator(s) order. The Contractor may also disclose "confidential" information to its employees, consultants, sureties, Subcontractors and their employees, Sub-subcontractors, and others who need to know the content of such information solely and exclusively for the Project and who agree to maintain the confidentiality of such information.

§ 2.3 Information and Services Required of the Owner

§ 2.3.1 Except for permits and fees that are the responsibility of the Contractor under the Contract Documents, including those required under Section 3.7.1, the Owner shall secure and pay for necessary approvals, easements, assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

§ 2.3.2 The Owner shall retain an architect lawfully licensed to practice architecture, or an entity lawfully practicing architecture, in the jurisdiction where the Project is located. That person or entity is identified as the Architect in the Agreement and is referred to throughout the Contract Documents as if singular in number.

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§ 2.3.3 If the employment of the Architect terminates, the Owner shall employ a successor to whom the Contractor has no reasonable objection and whose status under the Contract Documents shall be that of the Architect.

§ 2.3.4 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site. The Contractor shall be entitled to rely on the accuracy of information furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

§ 2.3.5 The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Contractor's performance of the Work with reasonable promptness after receiving the Contractor's written request for such information or services.

§ 2.3.6 Unless otherwise provided in the Contract Documents, the Owner shall furnish to the Contractor one copy of the Contract Documents for purposes of making reproductions pursuant to Section 1.5.2.

§ 2.4 Owner's Right to Stop the Work

If the Contractor fails to correct Work that is not in accordance with the requirements of the Contract Documents as required by Section 12.2 or repeatedly fails to carry out Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Section 6.1.3.

§ 2.5 Owner's Right to Carry Out the Work

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ten-day period after receipt of notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default or neglect. Such action by the Owner and amounts charged to the Contractor are both subject to prior approval of the Architect and the Architect may, pursuant to Section 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Architect's additional services made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15.

ARTICLE 3 CONTRACTOR

§ 3.1 General

§ 3.1.1 The Contractor is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor shall designate in writing a representative who shall have express authority to bind the Contractor with respect to all matters under this Contract. The term "Contractor" means the Contractor or the Contractor's authorized representative.

§ 3.1.2 The Contractor shall perform the Work in accordance with the Contract Documents.

§ 3.1.3 The Contractor shall not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Architect in the Architect's administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.

§ 3.2 Review of Contract Documents and Field Conditions by Contractor

§ 3.2.1 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally familiar with local conditions under which the Work is to be performed, and correlated personal observations with requirements of the Contract Documents.

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§ 3.2.2 Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.3.4, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Architect any errors, inconsistencies or omissions discovered by or made known to the Contractor as a request for information in such form as the Architect may require. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.

§ 3.2.3 The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Architect any nonconformity discovered by or made known to the Contractor as a request for information in such form as the Architect may require.

§ 3.2.4 If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall submit Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner, subject to Section 15.1.7, as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.

§ 3.3 Supervision and Construction Procedures

§ 3.3.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work under the Contract. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences, or procedures, the Contractor shall evaluate the jobsite safety thereof and shall be solely responsible for the jobsite safety of such means, methods, techniques, sequences, or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely notice to the Owner and Architect, and shall propose alternative means, methods, techniques, sequences, or procedures. The Architect shall evaluate the proposed alternative solely for conformance with the design intent for the completed construction. Unless the Architect objects to the Contractor's proposed alternative, the Contractor shall perform the Work using its alternative means, methods, techniques, sequences, or procedures.

§ 3.3.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for, or on behalf of, the Contractor or any of its Subcontractors.

§ 3.3.3 The Contractor shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

§ 3.4 Labor and Materials

§ 3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

§ 3.4.2 Except in the case of minor changes in the Work approved by the Architect in accordance with Section 3.12.8 or ordered by the Architect in accordance with Section 7.4, the Contractor may make substitutions only with the consent of the Owner, after evaluation by the Architect and in accordance with a Change Order or Construction Change Directive.

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§ 3.4.3 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them.

§ 3.5 Warranty

§ 3.5.1 The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

§ 3.5.2 All material, equipment, or other special warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 9.8.4.

§ 3.6 Taxes

The Contractor shall pay sales, consumer, use and similar taxes for the Work provided by the Contractor that are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect.

§ 3.7 Permits, Fees, Notices and Compliance with Laws

§ 3.7.1 Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit as well as for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded.

§ 3.7.2 The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to performance of the Work.

§ 3.7.3 If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.

§ 3.7.4 Concealed or Unknown Conditions

If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Architect before conditions are disturbed and in no event later than 14 days after first observance of the conditions. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner and Contractor, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may submit a Claim as provided in Article 15.

§ 3.7.5 If, in the course of the Work, the Contractor encounters human remains or recognizes the existence of burial markers, archaeological sites or wetlands not indicated in the Contract Documents, the Contractor shall immediately suspend any operations that would affect them and shall notify the Owner and Architect. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Contractor shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 15.

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§ 3.8 Allowances

§ 3.8.1 The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct, but the Contractor shall not be required to employ persons or entities to whom the Contractor has reasonable objection.

§ 3.8.2 Unless otherwise provided in the Contract Documents,

.1 allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;

.2 Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowances; and

.3 whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 3.8.2.1 and (2) changes in Contractor's costs under Section 3.8.2.2.

§ 3.8.3 Materials and equipment under an allowance shall be selected by the Owner with reasonable promptness.

§ 3.9 Superintendent

§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor.

§ 3.9.2 The Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the name and qualifications of a proposed superintendent. Within 14 days of receipt of the information, the Architect may notify the Contractor, stating whether the Owner or the Architect (1) has reasonable objection to the proposed superintendent or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 3.9.3 The Contractor shall not employ a proposed superintendent to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed.

§ 3.10 Contractor's Construction and Submittal Schedules

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall submit for the Owner's and Architect's information a Contractor's construction schedule for the Work. The schedule shall contain detail appropriate for the Project, including (1) the date of commencement of the Work, interim schedule milestone dates, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project.

§ 3.10.2 The Contractor, promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, shall submit a submittal schedule for the Architect's approval. The Architect's approval shall not be unreasonably delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor's construction schedule, and (2) allow the Architect reasonable time to review submittals. If the Contractor fails to submit a submittal schedule, or fails to provide submittals in accordance with the approved submittal schedule, the Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of submittals.

§ 3.10.3 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to the Owner and Architect.

§ 3.11 Documents and Samples at the Site

The Contractor shall make available, at the Project site, the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and the approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Architect and Owner, and

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delivered to the Architect for submittal to the Owner upon completion of the Work as a record of the Work as constructed.

§ 3.12 Shop Drawings, Product Data and Samples

§ 3.12.1 Shop Drawings are drawings, diagrams, schedules, and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier, or distributor to illustrate some portion of the Work.

§ 3.12.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

§ 3.12.3 Samples are physical examples that illustrate materials, equipment, or workmanship, and establish standards by which the Work will be judged.

§ 3.12.4 Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. Their purpose is to demonstrate how the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review by the Architect is subject to the limitations of Section 4.2.7. Informational submittals upon which the Architect is not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Architect without action.

§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Architect, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of Separate Contractors.

§ 3.12.6 By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Contractor represents to the Owner and Architect that the Contractor has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

§ 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples, or similar submittals, until the respective submittal has been approved by the Architect.

§ 3.12.8 The Work shall be in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from the requirements of the Contract Documents by the Architect's approval of Shop Drawings, Product Data, Samples, or similar submittals, unless the Contractor has specifically notified the Architect of such deviation at the time of submittal and (1) the Architect has given written approval to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals, by the Architect's approval thereof.

§ 3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to revisions other than those requested by the Architect on previous submittals. In the absence of such notice, the Architect's approval of a resubmission shall not apply to such revisions.

§ 3.12.10 The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences, and procedures. The Contractor shall not be required to provide professional services in violation of applicable law.

§ 3.12.10.1 If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will

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specify all performance and design criteria that such services must satisfy. The Contractor shall be entitled to rely upon the adequacy and accuracy of the performance and design criteria provided in the Contract Documents. The Contractor shall cause such services or certifications to be provided by an appropriately licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings, and other submittals prepared by such professional. Shop Drawings, and other submittals related to the Work, designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect. The Owner and the Architect shall be entitled to rely upon the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals, provided the Owner and Architect have specified to the Contractor the performance and design criteria that such services must satisfy. Pursuant to this Section 3.12.10, the Architect will review and approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.

§ 3.12.10.2 If the Contract Documents require the Contractor's design professional to certify that the Work has been performed in accordance with the design criteria, the Contractor shall furnish such certifications to the Architect at the time and in the form specified by the Architect.

§ 3.13 Use of Site

The Contractor shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities, and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.

§ 3.14 Cutting and Patching

§ 3.14.1 The Contractor shall be responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly. All areas requiring cutting, fitting, or patching shall be restored to the condition existing prior to the cutting, fitting, or patching, unless otherwise required by the Contract Documents.

§ 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner or Separate Contractors by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter construction by the Owner or a Separate Contractor except with written consent of the Owner and of the Separate Contractor. Consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold, from the Owner or a Separate Contractor, its consent to cutting or otherwise altering the Work.

§ 3.15 Cleaning Up

§ 3.15.1 The Contractor shall keep the premises and surrounding area free from accumulation of waste materials and rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove waste materials, rubbish, the Contractor's tools, construction equipment, machinery, and surplus materials from and about the Project.

§ 3.15.2 If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so and the Owner shall be entitled to reimbursement from the Contractor.

§ 3.16 Access to Work

The Contractor shall provide the Owner and Architect with access to the Work in preparation and progress wherever located.

§ 3.17 Royalties, Patents and Copyrights

The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and Architect harmless from loss on account thereof, but shall not be responsible for defense or loss when a particular design, process, or product of a particular manufacturer or manufacturers is required by the Contract Documents, or where the copyright violations are contained in Drawings, Specifications, or other documents prepared by the Owner or Architect. However, if an infringement of a copyright or patent is discovered by, or made known to, the Contractor, the Contractor shall be responsible for the loss unless the information is promptly furnished to the Owner

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§ 3.18 Indemnification

§ 3.18.1 To the fullest extent permitted by law, the Contractor shall indemnify, defend and hold harmless the Owner, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section 3.18.

§ 3.18.2 In claims against any person or entity indemnified under this Section 3.18 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, the indemnification obligation under Section 3.18.1 shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts, or other employee benefit acts.

ARTICLE 4 ARCHITECT

§ 4.1 General

§ 4.1.1 The Architect is the person or entity retained by the Owner pursuant to Section 2.3.2 and identified as such in the Agreement.

§ 4.1.2 Duties, responsibilities, and limitations of authority of the Architect as set forth in the Contract Documents shall not be restricted, modified, or extended without written consent of the Owner, Contractor, and Architect. Consent shall not be unreasonably withheld.

§ 4.2 Administration of the Contract

§ 4.2.1 The Architect will provide administration of the Contract as described in the Contract Documents and will be an Owner's representative during construction until the date the Architect issues the final Certificate for Payment. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents.

§ 4.2.2 The Architect will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine in general if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect will not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents.

§ 4.2.3 On the basis of the site visits, the Architect will keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work. The Architect will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect will not have control over or charge of, and will not be responsible for acts or omissions of, the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

§ 4.2.4 Communications

The Owner and Contractor shall include the Architect in all communications that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and suppliers shall be through the Contractor. Communications by and with Separate Contractors shall be through the Owner. The Contract Documents may specify other communication protocols.

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§ 4.2.5 Based on the Architect's evaluations of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

§ 4.2.6 The Architect has authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect will have authority to require inspection or testing of the Work in accordance with Sections 13.4.2 and 13.4.3, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 4.2.7 The Architect will review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's action will be taken in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5, and 3.12. The Architect's review shall not constitute approval of safety precautions or of any construction means, methods, techniques, sequences, or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 4.2.8 The Architect and/or Owner Representatives will prepare Change Orders and Construction Change Directives, and may order minor changes in the Work as provided in Section 7.4. The Architect will investigate and make determinations and recommendations regarding concealed and unknown conditions as provided in Section 3.7.4.

§ 4.2.9 The Architect will conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion pursuant to Section 9.8; receive and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract and assembled by the Contractor pursuant to Section 9.10; and issue a final Certificate for Payment pursuant to Section 9.10.

§ 4.2.10 If the Owner and Architect agree, the Architect will provide one or more Project representatives to assist in carrying out the Architect's responsibilities at the site. The Owner shall notify the Contractor of any change in the duties, responsibilities and limitations of authority of the Project representatives.

§ 4.2.11 The Architect will interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 4.2.12 Interpretations and decisions of the Architect will be consistent with the intent of, and reasonably inferable from, the Contract Documents and will be in writing or in the form of drawings. When making such interpretations and decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either, and will not be liable for results of interpretations or decisions rendered in good faith.

§ 4.2.13 The Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

§ 4.2.14 The Architect will review and respond to requests for information about the Contract Documents. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information.

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ARTICLE 5 SUBCONTRACTORS

§ 5.1 Definitions

§ 5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a Separate Contractor or the subcontractors of a Separate Contractor.

§ 5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the site. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

§ 5.2 Award of Subcontracts and Other Contracts for Portions of the Work

§ 5.2.1 Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the persons or entities proposed for each principal portion of the Work, including those who are to furnish materials or equipment fabricated to a special design. Within 14 days of receipt of the information, the Architect may notify the Contractor whether the Owner or the Architect (1) has reasonable objection to any such proposed person or entity or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 5.2.2 The Contractor shall not contract with a proposed person or entity to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

§ 5.2.3 If the Owner or Architect has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner or Architect has no reasonable objection. If the proposed but rejected Subcontractor was reasonably capable of performing the Work, the Contract Sum and Contract Time shall be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute Subcontractor's Work. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required.

§ 5.2.4 The Contractor shall not substitute a Subcontractor, person, or entity for one previously selected if the Owner or Architect makes reasonable objection to such substitution.

§ 5.3 Subcontractual Relations

By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work that the Contractor, by these Contract Documents, assumes toward the Owner and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

§ 5.4 Contingent Assignment of Subcontracts

§ 5.4.1 Each subcontract agreement for a portion of the Work is assigned by the Contractor to the Owner, provided that

- **.1** assignment is effective only after termination of the Contract by the Owner for cause pursuant to Section 14.2 and only for those subcontract agreements that the Owner accepts by notifying the Subcontractor and Contractor; and
- **.2** assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

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When the Owner accepts the assignment of a subcontract agreement, the Owner assumes the Contractor's rights and obligations under the subcontract.

§ 5.4.2 Upon such assignment, if the Work has been suspended for more than 30 days, the Subcontractor's compensation shall be equitably adjusted for increases in cost resulting from the suspension.

§ 5.4.3 Upon assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a successor contractor or other entity. If the Owner assigns the subcontract to a successor contractor or other entity, the Owner shall nevertheless remain legally responsible for all of the successor contractor's obligations under the subcontract.

ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

§ 6.1 Owner's Right to Perform Construction and to Award Separate Contracts

§ 6.1.1 The term "Separate Contractor(s)" shall mean other contractors retained by the Owner under separate agreements. The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and with Separate Contractors retained under Conditions of the Contract substantially similar to those of this Contract, including those provisions of the Conditions of the Contract related to insurance and waiver of subrogation.

§ 6.1.2 When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "Contractor" in the Contract Documents in each case shall mean the Contractor who executes each separate Owner-Contractor Agreement.

§ 6.1.3 The Owner shall provide for coordination of the activities of the Owner's own forces and of each Separate Contractor with the Work of the Contractor, who shall cooperate with them. The Contractor shall participate with any Separate Contractors and the Owner in reviewing their construction schedules. The Contractor shall make any revisions to its construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Contractor, Separate Contractors, and the Owner until subsequently revised.

§ 6.1.4 Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces or with Separate Contractors, the Owner or its Separate Contractors shall have the same obligations and rights that the Contractor has under the Conditions of the Contract, including, without excluding others, those stated in Article 3, this Article 6, and Articles 10, 11, and 12.

§ 6.2 Mutual Responsibility

§ 6.2.1 The Contractor shall afford the Owner and Separate Contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents.

§ 6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner or a Separate Contractor, the Contractor shall, prior to proceeding with that portion of the Work, promptly notify the Architect of apparent discrepancies or defects in the construction or operations by the Owner or Separate Contractor that would render it unsuitable for proper execution and results of the Contractor's Work. Failure of the Contractor to notify the Architect of apparent discrepancies or defects prior to proceeding with the Work shall constitute an acknowledgment that the Owner's or Separate Contractor's completed or partially completed construction is fit and proper to receive the Contractor's Work. The Contractor shall not be responsible for discrepancies or defects in the construction or operations by the Owner or Separate Contractor that are not apparent.

§ 6.2.3 The Contractor shall reimburse the Owner for costs the Owner incurs that are payable to a Separate Contractor because of the Contractor's delays, improperly timed activities or defective construction. The Owner shall be responsible to the Contractor for costs the Contractor incurs because of a Separate Contractor's delays, improperly timed activities, damage to the Work or defective construction.

§ 6.2.4 The Contractor shall promptly remedy damage that the Contractor wrongfully causes to completed or partially completed construction or to property of the Owner or Separate Contractor as provided in Section 10.2.5.

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§ 6.2.5 The Owner and each Separate Contractor shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

§ 6.3 Owner's Right to Clean Up

If a dispute arises among the Contractor, Separate Contractors, and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up and the Architect will allocate the cost among those responsible.

ARTICLE 7 CHANGES IN THE WORK

§ 7.1 General

§ 7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents.

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Contractor, and Architect. A Construction Change Directive requires agreement by the Owner and Architect and may or may not be agreed to by the Contractor. An order for a minor change in the Work may be issued by the Architect alone.

§ 7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents. The Contractor shall proceed promptly with changes in the Work, unless otherwise provided in the Change Order, Construction Change Directive, or order for a minor change in the Work.

§ 7.2 Change Orders

§ 7.2.1 A Change Order is a written instrument prepared by the Architect and signed by the Owner, Contractor, and Architect stating their agreement upon all of the following:

.1 The change in the Work;
.2 The amount of the adjustment, if any, in the Contract Sum; and
.3 The extent of the adjustment, if any, in the Contract Time.

§ 7.3 Construction Change Directives

§ 7.3.1 A Construction Change Directive is a written order prepared by the Architect and signed by the Owner and Architect, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by Construction Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions, the Contract Sum and Contract Time being adjusted accordingly.

§ 7.3.2 A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

§ 7.3.3 If the Construction Change Directive provides for an adjustment to the Contract Sum, the adjustment shall be based on one of the following methods:

.1 Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
.2 Unit prices stated in the Contract Documents or subsequently agreed upon;
.3 Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
.4 As provided in Section 7.3.4.

§ 7.3.4 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Architect shall determine the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Architect may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.4 shall be limited to the following:

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.1 Costs of labor, including applicable payroll taxes, fringe benefits required by agreement or custom, workers' compensation insurance, and other employee costs approved by the Architect;

.2 Costs of materials, supplies, and equipment, including cost of transportation, whether incorporated or consumed;

.3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;

.4 Costs of premiums for all bonds and insurance, permit fees, and sales, use, or similar taxes, directly related to the change; and

.5 Costs of supervision and field office personnel directly attributable to the change.

§ 7.3.5 If the Contractor disagrees with the adjustment in the Contract Time, the Contractor may make a Claim in accordance with applicable provisions of Article 15.

§ 7.3.6 Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Architect of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

§ 7.3.7 A Construction Change Directive signed by the Contractor indicates the Contractor's agreement therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.

§ 7.3.8 The amount of credit to be allowed by the Contractor to the Owner for a deletion or change that results in a net decrease in the Contract Sum shall be actual net cost as confirmed by the Architect. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

§ 7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for Payment. The Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Architect determines, in the Architect's professional judgment, to be reasonably justified. The Architect's interim determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

§ 7.3.10 When the Owner and Contractor agree with a determination made by the Architect concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Architect will prepare a Change Order. Change Orders may be issued for all or any part of a Construction Change Directive.

§ 7.4 Minor Changes in the Work

The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. The Architect's order for minor changes shall be in writing. If the Contractor believes that the proposed minor change in the Work will affect the Contract Sum or Contract Time, the Contractor shall notify the Architect and shall not proceed to implement the change in the Work. If the Contractor performs the Work set forth in the Architect's order for a minor change without prior notice to the Architect that such change will affect the Contract Sum or Contract Time, the Contractor waives any adjustment to the Contract Sum or extension of the Contract Time.

ARTICLE 8 TIME

§ 8.1 Definitions

§ 8.1.1 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

§ 8.1.2 The date of commencement of the Work is the date established in the Agreement.

§ 8.1.3 The date of Substantial Completion is the date certified by the Architect in accordance with Section 9.8.

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§ 8.1.4 The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

§ 8.2 Progress and Completion

§ 8.2.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement, the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

§ 8.2.2 The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, commence the Work prior to the effective date of insurance required to be furnished by the Contractor and Owner.

§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.

§ 8.3 Delays and Extensions of Time

§ 8.3.1 If the Contractor is delayed at any time in the commencement or progress of the Work by (1) an act or neglect of the Owner or Architect, of an employee of either, or of a Separate Contractor; (2) by changes ordered in the Work; (3) by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented in accordance with Section 15.1.6.2, or other causes beyond the Contractor's control; (4) by delay authorized by the Owner pending mediation and binding dispute resolution; or (5) by other causes that the Contractor asserts, and the Architect determines, justify delay, then the Contract Time shall be extended for such reasonable time as the Architect may determine.

§ 8.3.2 Claims relating to time shall be made in accordance with applicable provisions of Article 15.

§ 8.3.3 This Section 8.3 does not preclude recovery of damages for delay by either party under other provisions of the Contract Documents.

§ 8.3.4 Notwithstanding any provision(s) of the Contract, if as a direct or indirect result of any virus, disease, contagion, or any other widespread communicable disease that causes disruption, including but not limited to COVID-19, (individually or together an "Epidemic"), the Work is delayed, disrupted, suspended, or otherwise impacted by, including but not limited to:

(1) disruptions to material and/or equipment supply;

(2) illness of the Contractor's, or its Subcontractors', workforces;

(3) governmental quarantines, shelter-in-place orders, related closures, or other mandates, restrictions and/or directives, (individually or collectively an "Order");

(4) any Owner restrictions and/or directives; and/or

(5) fulfillment of the Contractor's contractual or legal health and safety obligations associated with an Epidemic;

then the Contractor shall be entitled to an equitable adjustment to its Subcontract Time or schedule duration to account for such disruptions, suspension, or impacts. To the extent any of the causes identified herein results in an increase in the price of labor, materials, or equipment used in the performance of the Work, the Contractor may request an increase in compensation for such increases in labor, material or equipment prices, the approval of which shall not be unreasonably withheld, but no request shall obligate Owner to violate the Bateman Act, NMSA 1978, Section 6-6-11.

§ 8.3.5 Potential Time and Price-Impacted Material. As of the date of this Agreement, certain markets providing essential materials to the Project are experiencing, or are expected to experience, significant, industry-wide economic fluctuation during the performance of this Agreement that are outside the control of Contractor that may impact price, availability, and delivery time frames. If during the course of the Project, potential time and price-impacted material(s) experience delay in delivery, or become unavailable and/or result in an increase of price due to events or circumstances beyond the control of and not the fault of Contractor its Subcontractors and Material Suppliers, Contractor shall be entitled to an equitable extension in time, Schedule, and Dates of Substantial and Final Completion. The Contractor shall submit to the Owner a request for a Contract modification to increase the

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Compensation to reflect any increases in labor, materials or equipment prices, which shall not be reasonably withheld by the Owner. In any event, Contractor shall not be liable to the Owner for any such delays and/or price increases, nor any expenses, losses or damages, including but not limited to liquidated or consequential damages, arising from or related to such delay, unavailability and/or price increase which are beyond the control of and not the fault of Contractor, its Subcontractors and Material Suppliers.

ARTICLE 9 PAYMENTS AND COMPLETION

§ 9.1 Contract Sum

§ 9.1.1 The Contract Sum is stated in the Agreement and, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

§ 9.1.2 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed so that application of such unit prices to the actual quantities causes substantial inequity to the Owner or Contractor, the applicable unit prices shall be equitably adjusted.

§ 9.2 Schedule of Values

Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit a schedule of values to the Architect before the first Application for Payment, allocating the entire Contract Sum to the various portions of the Work. The schedule of values shall be prepared in the form, and supported by the data to substantiate its accuracy, required by the Architect. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment. Any changes to the schedule of values shall be submitted to the Architect and supported by such data to substantiate its accuracy as the Architect may require, and unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's subsequent Applications for Payment.

§ 9.3 Applications for Payment

§ 9.3.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. The application shall be notarized, if required, and supported by all data substantiating the Contractor's right to payment that the Owner or Architect require, such as copies of requisitions, and releases and waivers of liens from Subcontractors and suppliers, and shall reflect retainage if provided for in the Contract Documents.

§ 9.3.1.1 As provided in Section 7.3.9, such applications may include requests for payment on account of changes in the Work that have been properly authorized by Construction Change Directives, or by interim determinations of the Architect, but not yet included in Change Orders.

§ 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Contractor does not intend to pay a Subcontractor or supplier, unless such Work has been performed by others whom the Contractor intends to pay.

§ 9.3.2 Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage, and transportation to the site, for such materials and equipment stored off the site.

§ 9.3.3 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information, and belief, be free and clear of liens, claims, security interests, or encumbrances, in favor of the Contractor, Subcontractors, suppliers, or other persons or entities that provided labor, materials, and equipment relating to the Work.

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§ 9.4 Certificates for Payment

§ 9.4.1 The Architect will, within seven days after receipt of the Contractor's Application for Payment, either (1) issue to the Owner a Certificate for Payment in the full amount of the Application for Payment, with a copy to the Contractor; or (2) issue to the Owner a Certificate for Payment for such amount as the Architect determines is properly due, and notify the Contractor and Owner of the Architect's reasons for withholding certification in part as provided in Section 9.5.1; or (3) withhold certification of the entire Application for Payment, and notify the Contractor and Owner of the Architect's reason for withholding certification in whole as provided in Section 9.5.1.

§ 9.4.2 The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, based on the Architect's evaluation of the Work and the data in the Application for Payment, that, to the best of the Architect's knowledge, information, and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion, and to specific qualifications expressed by the Architect. However, the issuance of a Certificate for Payment will not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work; (2) reviewed construction means, methods, techniques, sequences, or procedures; (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment; or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 9.5 Decisions to Withhold Certification

§ 9.5.1 The Architect may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect's opinion the representations to the Owner required by Section 9.4.2 cannot be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as provided in Section 9.4.1. If the Contractor and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Section 3.3.2, because of

- **.1** defective Work not remedied;
- **.2** third party claims filed or reasonable evidence indicating probable filing of such claims, unless security acceptable to the Owner is provided by the Contractor;
- **.3** failure of the Contractor to make payments properly to Subcontractors or suppliers for labor, materials or equipment;
- **.4** reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- **.5** damage to the Owner or a Separate Contractor;
- **.6** reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
- **.7** repeated failure to carry out the Work in accordance with the Contract Documents.

§ 9.5.2 When either party disputes the Architect's decision regarding a Certificate for Payment under Section 9.5.1, in whole or in part, that party may submit a Claim in accordance with Article 15.

§ 9.5.3 When the reasons for withholding certification are removed, certification will be made for amounts previously withheld.

§ 9.5.4 If the Architect withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or supplier to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall notify the Architect and the Contractor shall reflect such payment on its next Application for Payment.

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§ 9.6 Progress Payments

§ 9.6.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Architect.

§ 9.6.2 The Contractor shall pay each Subcontractor, no later than seven days after receipt of payment from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner.

§ 9.6.3 The Architect will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Architect and Owner on account of portions of the Work done by such Subcontractor.

§ 9.6.4 The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors and suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within seven days, the Owner shall have the right to contact Subcontractors and suppliers to ascertain whether they have been properly paid. Neither the Owner nor Architect shall have an obligation to pay, or to see to the payment of money to, a Subcontractor or supplier, except as may otherwise be required by law.

§ 9.6.5 The Contractor's payments to suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

§ 9.6.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.

§ 9.6.7 Unless the Contractor provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Contractor for Work properly performed by Subcontractors or provided by suppliers shall be held by the Contractor for those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Contractor, create any fiduciary liability or tort liability on the part of the Contractor for breach of trust, or entitle any person or entity to an award of punitive damages against the Contractor for breach of the requirements of this provision.

§ 9.6.8 Provided the Owner has fulfilled its payment obligations under the Contract Documents, the Contractor shall defend and indemnify the Owner from all loss, liability, damage or expense, including reasonable attorney's fees and litigation expenses, arising out of any lien claim or other claim for payment by any Subcontractor or supplier of any tier. Upon receipt of notice of a lien claim or other claim for payment, the Owner shall notify the Contractor. If approved by the applicable court, when required, the Contractor may substitute a surety bond for the property against which the lien or other claim for payment has been asserted.

§ 9.7 Failure of Payment

If the Architect does not issue a Certificate for Payment, through no fault of the Contractor, within seven days after receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within seven days after the date established in the Contract Documents, the amount certified by the Architect or awarded by binding dispute resolution, then the Contractor may, upon seven additional days' notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided for in the Contract Documents.

§ 9.8 Substantial Completion

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use.

§ 9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Architect a comprehensive list of

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items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

§ 9.8.3 Upon receipt of the Contractor's list, the Architect will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Architect. In such case, the Contractor shall then submit a request for another inspection by the Architect to determine Substantial Completion.

§ 9.8.4 When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion; establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.5 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in the Certificate. Upon such acceptance, and consent of surety if any, the Owner shall make payment of retainage applying to the Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

§ 9.9 Partial Occupancy or Use

§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Architect as provided under Section 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect.

§ 9.9.2 Immediately prior to such partial occupancy or use, the Owner, Contractor, and Architect shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

§ 9.9.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

§ 9.10 Final Completion and Final Payment

§ 9.10.1 Upon receipt of the Contractor's notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection. When the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect, (3) a written statement that the Contractor

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knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment, (5) documentation of any special warranties, such as manufacturers' warranties or specific Subcontractor warranties, and (6) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond which satisfies NMSA 1978, 13-3-18 to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Architect so confirms, the Owner shall, upon application by the Contractor and certification by the Architect, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed, corrected, and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of the surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.

§ 9.10.4 The making of final payment shall constitute a waiver of Claims by the Owner except those arising from

- **.1** liens, Claims, security interests, or encumbrances arising out of the Contract and unsettled;
- **.2** failure of the Work to comply with the requirements of the Contract Documents;
- **.3** terms of special warranties required by the Contract Documents; or
- **.4** audits performed by the Owner, if permitted by the Contract Documents, after final payment.

§ 9.10.5 Acceptance of final payment by the Contractor, a Subcontractor, or a supplier, shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 Safety Precautions and Programs

The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract.

§ 10.2 Safety of Persons and Property

§ 10.2.1 The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury, or loss to

- **.1** employees on the Work and other persons who may be affected thereby;
- **.2** the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody, or control of the Contractor, a Subcontractor, or a Sub-subcontractor; and
- **.3** other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction.

§ 10.2.2 The Contractor shall comply with, and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, bearing on safety of persons or property or their protection from damage, injury, or loss.

§ 10.2.3 The Contractor shall implement, erect, and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards; promulgating safety regulations; and notifying the owners and users of adjacent sites and utilities of the safeguards.

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§ 10.2.4 When use or storage of explosives or other hazardous materials or equipment, or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.

§ 10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2 and 10.2.1.3. The Contractor may make a Claim for the cost to remedy the damage or loss to the extent such damage or loss is attributable to acts or omissions of the Owner or Architect or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18.

§ 10.2.6 The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner and Architect.

§ 10.2.7 The Contractor shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

§ 10.2.8 Injury or Damage to Person or Property

If either party suffers injury or damage to person or property because of an act or omission of the other party, or of others for whose acts such party is legally responsible, notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 21 days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

§ 10.3 Hazardous Materials and Substances

§ 10.3.1 The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials or substances. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and notify the Owner and Architect of the condition.

§ 10.3.2 Upon receipt of the Contractor's notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of the material or substance or who are to perform the task of removal or safe containment of the material or substance. The Contractor and the Architect will promptly reply to the Owner in writing stating whether or not either has reasonable objection to the persons or entities proposed by the Owner. If either the Contractor or Architect has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor and the Architect have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable additional costs of shutdown, delay, and start-up.

(Paragraph deleted)

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§ 10.3.4 The Owner shall not be responsible under this Section 10.3 for hazardous materials or substances the Contractor brings to the site unless such materials or substances are required by the Contract Documents. The Owner shall be responsible for hazardous materials or substances required by the Contract Documents, except to the extent of the Contractor's fault or negligence in the use and handling of such materials or substances.

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§ 10.3.5 The Contractor shall reimburse the Owner for the cost and expense the Owner incurs (1) for remediation of hazardous materials or substances the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence.

§ 10.3.6 If, without negligence on the part of the Contractor, the Contractor is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall reimburse the Contractor for all cost and expense thereby incurred.

§ 10.4 Emergencies

In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.

ARTICLE 11 INSURANCE AND BONDS

§ 11.1 Contractor's Insurance and Bonds

§ 11.1.1 The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Owner, Architect, and Architect's consultants shall be named as additional insureds under the Contractor's commercial general liability policy or as otherwise described in the Contract Documents. The Contractor may elect to utilize its Contractor Controlled Insurance Program (CCIP) to fulfill the minimum general liability insurance requirements under this Agreement.

§ 11.1.2 The Contractor shall provide surety bonds of the types, for such penal sums, and subject to such terms and conditions as required by the Contract Documents. The Contractor shall purchase and maintain the required bonds from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located.

§ 11.1.3 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

§ 11.1.4 Notice of Cancellation or Expiration of Contractor's Required Insurance. Within three (3) business days of the date the Contractor becomes aware of an impending or actual cancellation or expiration of any insurance required by the Contract Documents, the Contractor shall provide notice to the Owner of such impending or actual cancellation or expiration. Upon receipt of notice from the Contractor, the Owner shall, unless the lapse in coverage arises from an act or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by the Contractor. The furnishing of notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage.

(Paragraphs deleted)

§ 11.3 Waivers of Subrogation

§ 11.3.1 The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents, and employees, each of the other; (2) the Architect and Architect's consultants; and (3) Separate Contractors, if any, and any of their subcontractors, sub-subcontractors, agents, and employees, for damages caused by fire, or other causes of loss, to the extent those losses are covered by property insurance required by the Agreement or other property insurance applicable to the Project, except such rights as they have to proceeds of such insurance. The Owner or Contractor, as appropriate, shall require similar written waivers in favor of the individuals and entities identified above from the Architect, Architect's consultants, Separate Contractors, subcontractors, and sub-subcontractors. The policies of insurance purchased and maintained by each person or entity agreeing to waive claims pursuant to this section 11.3.1 shall not prohibit this waiver of subrogation. This waiver of subrogation shall be effective as to a person or entity (1) even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, (2) even though that person or entity did not pay the insurance premium directly or indirectly, or (3) whether or not the person or entity had an insurable interest in the damaged property.

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§ 11.3.2 If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, to the extent permissible by such policies, the Owner waives all rights in accordance with the terms of Section 11.3.1 for damages caused by fire or other causes of loss covered by this separate property insurance.

(Paragraphs deleted)

ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

§ 12.1 Uncovering of Work

§ 12.1.1 If a portion of the Work is covered contrary to the Architect's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by the Architect, be uncovered for the Architect's examination and be replaced at the Contractor's expense without change in the Contract Time.

§ 12.1.2 If a portion of the Work has been covered that the Architect has not specifically requested to examine prior to its being covered, the Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, the Contractor shall be entitled to an equitable adjustment to the Contract Sum and Contract Time as may be appropriate. If such Work is not in accordance with the Contract Documents, the costs of uncovering the Work, and the cost of correction, shall be at the Contractor's expense.

§ 12.2 Correction of Work

§ 12.2.1 Before Substantial Completion

The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense.

§ 12.2.2 After Substantial Completion

§ 12.2.2.1 In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of notice from the Owner to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Section 2.5.

§ 12.2.2.2 The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.

§ 12.2.2.3 The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section 12.2.

§ 12.2.3 The Contractor shall remove from the site portions of the Work that are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

§ 12.2.4 The Contractor shall bear the cost of correcting destroyed or damaged construction of the Owner or Separate Contractors, whether completed or partially completed, caused by the Contractor's correction or removal of Work that is not in accordance with the requirements of the Contract Documents.

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§ 12.2.5 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

§ 12.3 Acceptance of Nonconforming Work

If the Owner prefers to accept Work that is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

ARTICLE 13 MISCELLANEOUS PROVISIONS

(Paragraphs deleted)

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§ 13.2 Successors and Assigns

§ 13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns, and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 13.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 13.2.2 The Owner may, without consent of the Contractor, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Contract Documents. The Contractor shall execute all consents reasonably required to facilitate the assignment.

§ 13.3 Rights and Remedies

§ 13.3.1 Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law.

§ 13.3.2 No action or failure to act by the Owner, Architect, or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed upon in writing.

§ 13.4 Tests and Inspections

§ 13.4.1 Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections, and approvals. The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so that the Architect may be present for such procedures. The Owner shall bear costs of tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 13.4.2 If the Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the Contractor shall give timely notice to the Architect of when and where tests and inspections are to be made so that the Architect may be present for such procedures. Such costs, except as provided in Section 13.4.3, shall be at the Owner's expense.

§ 13.4.3 If procedures for testing, inspection, or approval under Sections 13.4.1 and 13.4.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by

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such failure, including those of repeated procedures and compensation for the Architect's services and expenses, shall be at the Contractor's expense.

§ 13.4.4 Required certificates of testing, inspection, or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Architect.

§ 13.4.5 If the Architect is to observe tests, inspections, or approvals required by the Contract Documents, the Architect will do so promptly and, where practicable, at the normal place of testing.

§ 13.4.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

(Paragraphs deleted)

ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

§ 14.1 Termination by the Contractor

§ 14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, for any of the following reasons:

.1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;

.2 An act of government, such as a declaration of national emergency, that requires all Work to be stopped;

.3 Because the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Section 9.4.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents; or

.4 The Owner has failed to furnish to the Contractor reasonable evidence as required by Section 2.2.

§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, repeated suspensions, delays, or interruptions of the entire Work by the Owner as described in Section 14.3, constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days' notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed, as well as reasonable overhead and profit on Work not executed, and costs incurred by reason of such termination.

§ 14.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, or their agents or employees or any other persons or entities performing portions of the Work because the Owner has repeatedly failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven additional days' notice to the Owner and the Architect, terminate the Contract and recover from the Owner as provided in Section 14.1.3.

§ 14.2 Termination by the Owner for Cause

§ 14.2.1 The Owner may terminate the Contract if the Contractor

.1 repeatedly refuses or fails to supply enough properly skilled workers or proper materials;

.2 fails to make payment to Subcontractors or suppliers in accordance with the respective agreements between the Contractor and the Subcontractors or suppliers;

.3 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or

.4 otherwise is guilty of substantial breach of a provision of the Contract Documents.

§ 14.2.2 When any of the reasons described in Section 14.2.1 exist, and upon certification by the Architect that sufficient cause exists to justify such action, the Owner may, without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

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.1 Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
.2 Accept assignment of subcontracts pursuant to Section 5.4; and
.3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 14.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 14.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Architect's services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Initial Decision Maker, upon application, and this obligation for payment shall survive termination of the Contract.

§ 14.3 Suspension by the Owner for Convenience

§ 14.3.1 The Owner 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 Owner may determine.

§ 14.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. Adjustment of the Contract Sum shall include profit. No adjustment shall be made to the extent

.1 that performance is, was, or would have been, so suspended, delayed, or interrupted, by another cause for which the Contractor is responsible; or
.2 that an equitable adjustment is made or denied under another provision of the Contract.

§ 14.4 Termination by the Owner for Convenience

§ 14.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

§ 14.4.2 Upon receipt of notice from the Owner of such termination for the Owner's convenience, the Contractor shall

.1 cease operations as directed by the Owner in the notice;
.2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and
.3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

§ 14.4.3 In case of such termination for the Owner's convenience, the Owner shall pay the Contractor for Work properly executed.

ARTICLE 15 CLAIMS AND DISPUTES

§ 15.1 Claims

§ 15.1.1 Definition

A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, a change in the Contract Time, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim. This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents.

§ 15.1.2 Time Limits on Claims

The Owner and Contractor shall commence all Claims and causes of action against the other and arising out of or related to the Contract, whether in contract, tort, breach of warranty or otherwise, in accordance with the requirements of the binding dispute resolution method selected in the Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Contractor waive all Claims and causes of action not commenced in accordance with this Section 15.1.2.

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§ 15.1.3 Notice of Claims

§ 15.1.3.1 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party and to the Initial Decision Maker with a copy sent to the Architect, if the Architect is not serving as the Initial Decision Maker. Claims by either party under this Section 15.1.3.1 shall be initiated within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later.

§ 15.1.3.2 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party. In such event, no decision by the Initial Decision Maker is required.

§ 15.1.4 Continuing Contract Performance

§ 15.1.4.1 Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents.

§ 15.1.4.2 The Contract Sum and Contract Time shall be adjusted in accordance with the Initial Decision Maker's decision, subject to the right of either party to proceed in accordance with this Article 15. The Architect will issue Certificates for Payment in accordance with the decision of the Initial Decision Maker.

§ 15.1.5 Claims for Additional Cost

If the Contractor wishes to make a Claim for an increase in the Contract Sum, notice as provided in Section 15.1.3 shall be given before proceeding to execute the portion of the Work that is the subject of the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

§ 15.1.6 Claims for Additional Time

§ 15.1.6.1 If the Contractor wishes to make a Claim for an increase in the Contract Time, notice as provided in Section 15.1.3 shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.

§ 15.1.6.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated, and had an adverse effect on the scheduled construction.

§ 15.1.7 Waiver of Claims for Consequential Damages

The Contractor and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes

.1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and

.2 damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit, except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 14. Nothing contained in this Section 15.1.7 shall be deemed to preclude assessment of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

§ 15.2 Initial Decision

§ 15.2.1 Claims, excluding those where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2 or arising under Sections 10.3, 10.4, and 11.5, shall be referred to the Initial Decision Maker for initial decision. The Architect will serve as the Initial Decision Maker, unless otherwise indicated in the Agreement. Except for those Claims excluded by this Section 15.2.1, an initial decision shall be required as a condition precedent to mediation of any Claim. If an initial decision has not been rendered within 30 days after the Claim has been referred to the Initial Decision Maker, the party asserting the Claim may demand

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mediation and binding dispute resolution without a decision having been rendered. Unless the Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.

§ 15.2.2 The Initial Decision Maker will review Claims and within ten days of the receipt of a Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) reject the Claim in whole or in part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the parties that the Initial Decision Maker is unable to resolve the Claim if the Initial Decision Maker lacks sufficient information to evaluate the merits of the Claim or if the Initial Decision Maker concludes that, in the Initial Decision Maker's sole discretion, it would be inappropriate for the Initial Decision Maker to resolve the Claim.

§ 15.2.3 In evaluating Claims, the Initial Decision Maker may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Initial Decision Maker in rendering a decision. The Initial Decision Maker may request the Owner to authorize retention of such persons at the Owner's expense.

§ 15.2.4 If the Initial Decision Maker requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of the request, and shall either (1) provide a response on the requested supporting data, (2) advise the Initial Decision Maker when the response or supporting data will be furnished, or (3) advise the Initial Decision Maker that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Initial Decision Maker will either reject or approve the Claim in whole or in part.

§ 15.2.5 The Initial Decision Maker will render an initial decision approving or rejecting the Claim, or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) notify the parties and the Architect, if the Architect is not serving as the Initial Decision Maker, of any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution.

§ 15.2.6 Either party may file for mediation of an initial decision at any time, subject to the terms of Section 15.2.6.1.

§ 15.2.6.1 Either party may, within 30 days from the date of receipt of an initial decision, demand in writing that the other party file for mediation. If such a demand is made and the party receiving the demand fails to file for mediation within 30 days after receipt thereof, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision.

§ 15.2.7 In the event of a Claim against the Contractor, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

§ 15.2.8 If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.

§ 15.3 Mediation

§ 15.3.1 Claims, disputes, or other matters in controversy arising out of or related to the Contract, except those waived as provided for in Sections 9.10.4, 9.10.5, and 15.1.7, shall be subject to mediation as a condition precedent to binding dispute resolution.

(Paragraph deleted)

§ 15.3.

§ 15.3.3 Either party may, within 30 days from the date that mediation has been concluded without resolution of the dispute or 60 days after mediation has been demanded without resolution of the dispute, demand in writing that the other party file for binding dispute resolution. If such a demand is made and the party receiving the demand fails to file for binding dispute resolution within 60 days after receipt thereof, then both parties waive their rights to binding dispute resolution proceedings with respect to the initial decision.

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§ 15.3.4 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

(Paragraphs deleted)

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AIA® Document A101® – 2017 Exhibit A

Insurance and Bonds

This Insurance and Bonds Exhibit is part of the Agreement, between the Owner and the Contractor, dated the 19th day of August in the year 2021
(In words, indicate day, month and year.)

for the following **PROJECT**:
(Name and location or address)

Southside Teen Center
Santa Fe, NM

THE OWNER:
(Name, legal status and address)

City of Santa Fe
PO Box 909
200 Lincoln Avenue
Santa Fe, NM 87501

THE CONTRACTOR:
(Name, legal status and address)

Jaynes Corporation
2906 Broadway Blvd NE
Albuquerque, NM 87107

TABLE OF ARTICLES

A.1 GENERAL

A.2 OWNER'S INSURANCE

A.3 CONTRACTOR'S INSURANCE AND BONDS

A.4 SPECIAL TERMS AND CONDITIONS

ARTICLE A.1 GENERAL

The Owner and Contractor shall purchase and maintain insurance, and provide bonds, as set forth in this Exhibit. As used in this Exhibit, the term General Conditions refers to AIA Document A201™–2017, General Conditions of the Contract for Construction.

ARTICLE A.2 OWNER'S INSURANCE

§ A.2.1 General

Prior to commencement of the Work, the Owner shall secure the insurance, and provide evidence of the coverage, required under this Article A.2 and, upon the Contractor's request, provide a copy of the property insurance policy or policies required by Section A.2.3. The copy of the policy or policies provided shall contain all applicable conditions, definitions, exclusions, and endorsements.

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

This document is intended to be used in conjunction with AIA Document A201®–2017, General Conditions of the Contract for Construction. Article 11 of A201®–2017 contains additional insurance provisions.

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§ A.2.2 Liability Insurance
The Owner shall be responsible for purchasing and maintaining the Owner's usual general liability insurance.

§ A.2.3 Required Property Insurance
§ A.2.3.1 Unless this obligation is placed on the Contractor pursuant to Section A.3.3.2.1, the Owner shall purchase and maintain, from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located, property insurance written on a builder's risk "all-risks" completed value or equivalent policy form and sufficient to cover the total value of the entire Project on a replacement cost basis. The Owner's property insurance coverage shall be no less than the amount of the initial Contract Sum, plus the value of subsequent Modifications and labor performed and materials or equipment supplied by others. The property insurance shall be maintained until Substantial Completion and thereafter as provided in Section A.2.3.1.3, unless otherwise provided in the Contract Documents or otherwise agreed in writing by the parties to this Agreement. This insurance shall include the interests of the Owner, Contractor, Subcontractors, and Sub-subcontractors in the Project as insureds. This insurance shall include the interests of mortgagees as loss payees.

§ A.2.3.1.1 Causes of Loss. The insurance required by this Section A.2.3.1 shall provide coverage for direct physical loss or damage, and shall not exclude the risks of fire, explosion, theft, vandalism, malicious mischief, collapse, earthquake, flood, or windstorm. The insurance shall also provide coverage for ensuing loss or resulting damage from error, omission, or deficiency in construction methods, design, specifications, workmanship, or materials. Sub-limits, if any, are as follows:
(Indicate below the cause of loss and any applicable sub-limit.)

Causes of Loss	Sub-Limit
See certificate of insurance by Jaynes	

§ A.2.3.1.2 Specific Required Coverages. The insurance required by this Section A.2.3.1 shall provide coverage for loss or damage to falsework and other temporary structures, and to building systems from testing and startup. The insurance shall also cover debris removal, including demolition occasioned by enforcement of any applicable legal requirements, and reasonable compensation for the Architect's and Contractor's services and expenses required as a result of such insured loss, including claim preparation expenses. Sub-limits, if any, are as follows:
(Indicate below type of coverage and any applicable sub-limit for specific required coverages.)

Coverage	Sub-Limit
See certificate of insurance by Jaynes	

§ A.2.3.1.3 Unless the parties agree otherwise, upon Substantial Completion, the Owner shall continue the insurance required by Section A.2.3.1 or, if necessary, replace the insurance policy required under Section A.2.3.1 with property insurance written for the total value of the Project that shall remain in effect until expiration of the period for correction of the Work set forth in Section 12.2.2 of the General Conditions.

§ A.2.3.1.4 Deductibles and Self-Insured Retentions. If the insurance required by this Section A.2.3 is subject to deductibles or self-insured retentions.

§ A.2.3.2 Occupancy or Use Prior to Substantial Completion. The Owner's occupancy or use of any completed or partially completed portion of the Work prior to Substantial Completion shall not commence until the insurance company or companies providing the insurance under Section A.2.3.1 have consented in writing to the continuance of coverage. The Owner and the Contractor shall take no action with respect to partial occupancy or use that would cause cancellation, lapse, or reduction of insurance, unless they agree otherwise in writing.

§ A.2.3.3 Insurance for Existing Structures
If the Work involves remodeling an existing structure or constructing an addition to an existing structure, the Owner shall purchase and maintain, until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, "all-risks" property insurance, on a replacement cost basis, protecting the existing structure against direct physical loss or damage from the causes of loss identified in Section A.2.3.1, notwithstanding the undertaking of the Work. The Owner shall be responsible for all co-insurance penalties.

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§ A.2.4 Optional Extended Property Insurance.
The Owner shall purchase and maintain the insurance selected and described below.
(Select the types of insurance the Owner is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance. For each type of insurance selected, indicate applicable limits of coverage or other conditions in the fill point below the selected item.)

[ ] **§ A.2.4.1 Loss of Use, Business Interruption, and Delay in Completion Insurance**, to reimburse the Owner for loss of use of the Owner's property, or the inability to conduct normal operations due to a covered cause of loss.

[ ] **§ A.2.4.2 Ordinance or Law Insurance**, for the reasonable and necessary costs to satisfy the minimum requirements of the enforcement of any law or ordinance regulating the demolition, construction, repair, replacement or use of the Project.

[ ] **§ A.2.4.3 Expediting Cost Insurance**, for the reasonable and necessary costs for the temporary repair of damage to insured property, and to expedite the permanent repair or replacement of the damaged property.

[ ] **§ A.2.4.4 Extra Expense Insurance**, to provide reimbursement of the reasonable and necessary excess costs incurred during the period of restoration or repair of the damaged property that are over and above the total costs that would normally have been incurred during the same period of time had no loss or damage occurred.

[ ] **§ A.2.4.5 Civil Authority Insurance**, for losses or costs arising from an order of a civil authority prohibiting access to the Project, provided such order is the direct result of physical damage covered under the required property insurance.

[ ] **§ A.2.4.6 Ingress/Egress Insurance**, for loss due to the necessary interruption of the insured's business due to physical prevention of ingress to, or egress from, the Project as a direct result of physical damage.

[ ] **§ A.2.4.7 Soft Costs Insurance**, to reimburse the Owner for costs due to the delay of completion of the Work, arising out of physical loss or damage covered by the required property insurance: including construction loan fees; leasing and marketing expenses; additional fees, including those of architects, engineers, consultants, attorneys and accountants, needed for the completion of the construction, repairs, or reconstruction; and carrying costs such as property taxes, building permits, additional interest on loans, realty taxes, and insurance premiums over and above normal expenses.

§ A.2.5 Other Optional Insurance.
The Owner shall purchase and maintain the insurance selected below.
(Select the types of insurance the Owner is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance.)

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[ ] **§ A.2.5.1 Cyber Security Insurance** for loss to the Owner due to data security and privacy breach, including costs of investigating a potential or actual breach of confidential or private information. *(Indicate applicable limits of coverage or other conditions in the fill point below.)*

[ ] **§ A.2.5.2 Other Insurance**
(List below any other insurance coverage to be provided by the Owner and any applicable limits.)

Coverage	Limits

ARTICLE A.3 CONTRACTOR'S INSURANCE AND BONDS

§ A.3.1 General

§ A.3.1.1 Certificates of Insurance. The Contractor shall provide certificates of insurance acceptable to the Owner evidencing compliance with the requirements in this Article A.3 at the following times: (1) prior to commencement of the Work; (2) upon renewal or replacement of each required policy of insurance; and (3) upon the Owner's written request. An additional certificate evidencing continuation of commercial liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment and thereafter upon renewal or replacement of such coverage until the expiration of the periods required by Section A.3.2.1 and Section A.3.3.1. The certificates will show the Owner as an additional insured on the Contractor's Commercial General Liability and excess or umbrella liability policy or policies.

(Paragraph deleted)

§ A.3.1.3 Additional Insured Obligations. To the fullest extent permitted by law, the Contractor shall cause the commercial general liability coverage to include (1) the Owner, the Architect, and the Architect's consultants as additional insureds for claims caused in whole or in part by the Contractor's negligent acts or omissions during the Contractor's operations; and (2) the Owner as an additional insured for claims caused in whole or in part by the Contractor's negligent acts or omissions for which loss occurs during completed operations. The additional insured coverage shall be primary and non-contributory to any of the Owner's general liability insurance policies and shall apply to both ongoing and completed operations. To the extent commercially available, the additional insured coverage shall be no less than that provided by Insurance Services Office, Inc. (ISO) forms CG 20 10 07 04, CG 20 37 07 04, and, with respect to the Architect and the Architect's consultants, CG 20 32 07 04. Contractor may elect to fulfill the obligations to the Owner outlined in this Section by utilizing its Contractor Controlled Insurance Program (CCIP). Owner's status under the CCIP shall be that of a named insured.

§ A.3.2 Contractor's Required Insurance Coverage

§ A.3.2.1 The Contractor shall purchase and maintain the following types and limits of insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Contractor shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:
(If the Contractor is required to maintain insurance for a duration other than the expiration of the period for correction of Work, state the duration.)

Contractor shall maintain products-completed operations General Liability coverage for a period of Ten (10) years from the date of Substantial completion of the Project.

§ A.3.2.2 Commercial General Liability

§ A.3.2.2.1 Commercial General Liability insurance for the Project written on an occurrence form with policy limits of not less than Five Million ($ 5,000,000) each occurrence, Ten Million ($ 10,000,000) general aggregate, and Five Million ($ 5,000,000) aggregate for products-completed operations hazard, providing coverage for claims including

.1 damages because of bodily injury, sickness or disease, including occupational sickness or disease, and death of any person;

.2 personal injury and advertising injury;

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.3 damages because of physical damage to or destruction of tangible property, including the loss of use of such property;
.4 bodily injury or property damage arising out of completed operations; and
.5 the Contractor's indemnity obligations under Section 3.18 of the General Conditions.

Contractor may elect to utilize its Contractor Controlled Insurance Program (CCIP) to fulfill the minimum commercial general liability insurance requirements.

§ A.3.2.2.2 The Contractor's Commercial General Liability policy under this Section A.3.2.2 shall not contain an exclusion or restriction of coverage for the following:

.1 Claims by one insured against another insured, if the exclusion or restriction is based solely on the fact that the claimant is an insured, and there would otherwise be coverage for the claim.
.2 Claims for property damage to the Contractor's Work arising out of the products-completed operations hazard where the damaged Work or the Work out of which the damage arises was performed by a Subcontractor.
.3 Claims for bodily injury other than to employees of the insured.
.4 Claims for indemnity under Section 3.18 of the General Conditions arising out of injury to employees of the insured.
.5 Claims or loss excluded under a prior work endorsement or other similar exclusionary language.
.6 Claims or loss due to physical damage under a prior injury endorsement or similar exclusionary language.
.7 Claims related to residential, multi-family, or other habitational projects, if the Work is to be performed on such a project.
.8 Claims related to roofing, if the Work involves roofing.
.9 Claims related to exterior insulation finish systems (EIFS), synthetic stucco or similar exterior coatings or surfaces, if the Work involves such coatings or surfaces.
.10 Claims related to earth subsidence or movement, where the Work involves such hazards.
.11 Claims related to explosion, collapse and underground hazards, where the Work involves such hazards.

§ A.3.2.3 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Contractor, with policy limits of not less than Two Million ($ 2,000,000) per accident, for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles along with any other statutorily required automobile coverage.

§ A.3.2.4 The Contractor may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella insurance policies result in the same or greater coverage as the coverages required under Section A.3.2.2 and A.3.2.3, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ A.3.2.5 Workers' Compensation at statutory limits.

§ A.3.2.6 Employers' Liability with policy limits not less than One Million ($ 1,000,000) each accident, One Million ($ 1,000,000) each employee, and One Million ($ 1,000,000) policy limit.

§ A.3.2.7 Jones Act, and the Longshore & Harbor Workers' Compensation Act, as required, if the Work involves hazards arising from work on or near navigable waterways, including vessels and docks

§ A.3.2.8 If the Contractor is required to furnish professional services as part of the Work, the Contractor shall procure Professional Liability insurance covering performance of the professional services, with policy limits of not less than ($) per claim and ($) in the aggregate.

§ A.3.2.9 If the Work involves the transport, dissemination, use, or release of pollutants, the Contractor shall procure Pollution Liability insurance, with policy limits of not less than Two Million ($ 2,000,000) per claim and in the aggregate.

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§ A.3.2.10 Coverage under Sections A.3.2.8 and A.3.2.9 may be procured through a Combined Professional Liability and Pollution Liability insurance policy, with combined policy limits of not less than ($) per claim and ($) in the aggregate.

§ A.3.2.11 Insurance for maritime liability risks associated with the operation of a vessel, if the Work requires such activities, with policy limits of not less than ($) per claim and ($) in the aggregate.

§ A.3.2.12 Insurance for the use or operation of manned or unmanned aircraft, if the Work requires such activities, with policy limits of not less than ($) per claim and ($) in the aggregate.

§ A.3.3 Contractor's Other Insurance Coverage

§ A.3.3.1 Insurance selected and described in this Section A.3.3 shall be purchased from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Contractor shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:
(If the Contractor is required to maintain any of the types of insurance selected below for a duration other than the expiration of the period for correction of Work, state the duration.)

§ A.3.3.2 The Contractor shall purchase and maintain the following types and limits of insurance in accordance with Section A.3.3.1.
(Select the types of insurance the Contractor is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance. Where policy limits are provided, include the policy limit in the appropriate fill point.)

[X] **§ A.3.3.2.1** Property insurance of the same type and scope satisfying the requirements identified in Section A.2.3, which, if selected in this section A.3.3.2.1, relieves the Owner of the responsibility to purchase and maintain such insurance except insurance required by Section A.2.3.1.3 and Section A.2.3.3. The Contractor shall comply with all obligations of the Owner under Section A.2.3 except to the extent provided below. The Contractor shall disclose to the Owner the amount of any deductible. Upon request, the Contractor shall provide the Owner with a copy of the property insurance policy or policies required. The Owner shall adjust and settle the loss with the insurer and be the trustee of the proceeds of the property insurance in accordance with Article 11 of the General Conditions unless otherwise set forth below:
(Where the Contractor's obligation to provide property insurance differs from the Owner's obligations as described under Section A.2.3, indicate such differences in the space below. Additionally, if a party other than the Owner will be responsible for adjusting and settling a loss with the insurer and acting as the trustee of the proceeds of property insurance in accordance with Article 11 of the General Conditions, indicate the responsible party below.)

[ ] **§ A.3.3.2.2 Railroad Protective Liability Insurance**, with policy limits of not less than ($) per claim and ($) in the aggregate, for Work within fifty (50) feet of railroad property.

[ ] **§ A.3.3.2.3 Asbestos Abatement Liability Insurance**, with policy limits of not less than ($) per claim and ($) in the aggregate, for liability arising from the encapsulation, removal, handling, storage, transportation, and disposal of asbestos-containing materials.

[X] **§ A.3.3.2.4** Insurance for physical damage to property while it is in storage and in transit to the construction site on an "all-risks" completed value form.

[X] **§ A.3.3.2.5** Property insurance on an "all-risks" completed value form, covering property owned by the Contractor and used on the Project, including scaffolding and other equipment.

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[ ] **§ A.3.3.2.6 Other Insurance**

(List below any other insurance coverage to be provided by the Contractor and any applicable limits.)

Coverage	Limits

§ A.3.4 Performance Bond and Payment Bond

The Contractor shall provide surety bonds, from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located, as follows:

(Specify type and penal sum of bonds.)

Type	Penal Sum ($0.00)
Payment Bond	As required by contract
Performance Bond	As required by contract

Payment and Performance Bonds shall be AIA Document A312™, Payment Bond and Performance Bond, or contain provisions identical to AIA Document A312™, current as of the date of this Agreement.

ARTICLE A.4 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Insurance and Bonds Exhibit, if any, are as follows:

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User Notes: (1869894005)

City of Santa Fe, New Mexico
Memorandum

DATE **August 26, 2021**

TO **Governing Body**

VIA **Regina Wheeler, Public Works Department Director** RW

FROM **Sam Burnett, Facilities Division Director**

ACTION
Request for the Approval of the agreement with Jayne's Corporation for the Construction of the South Side Teen Center in the Total Amount of $9,267,014.53 including New Mexico gross receipts tax. (Sam Burnett, Facilities Division Director, jsburnett@santafenm.gov, 505-795-2491)

1) Request for Approval of BAR Amendment Resolution to Allocate $4,000,000 for use of General Fund GRT revenues earned in the prior year (FY21) over and above budgeted estimates to provide sufficient start-up funding in order to fund the Southside Teen Center project.

BACKGROUND AND SUMMARY
The new Southside Teen Center will be built at the corner of Country Club Road and Valentine Way. This new City facility will provide a much needed resource to Santa Fe youth in the area. Community input that was incorporated into the design which will includes a gym, performance stage, game room, break out areas, and a commercial kitchen. It designed to achieve a LEED Silver rating which was required by a state executive order, which will make the Southside Teen Center one of the City's most sustainable facilities.

The City issued Invitation to Bid #22/02/B for the construction of this facility. Bids were due at 2:00pm on August 11th 2021. The City received seven (7) bids for this project. On August 20th the City issued a Notice of Intention to Award the bid to Jaynes Corporation, who was the lowest bidder. Jaynes is a well-known and well-respected General Contractor in the Southwest and the City's Public Works Department is very confident that Jaynes is an excellent partner for this project. Wilson & Company completed the design of the teen center and will provide construction administration services throughout the construction of the building.

The construction bid is higher than the engineering estimate due to volatility in construction labor and materials market at this time. Construction is scheduled to complete within 19 months of issuance of notice to proceed and purchase order which includes a seven month lead time on materials which is longer than normal due to world-wide construction materials availability issues.

The cost for construction of the teen center including tax and 5% contingency and tax is $9,267,014.53. The project has funding of $6,000,000 consisting of $1,000,000 City allocation, $1,100,000 legislative appropriation grant entered July 23, 2019 and $3.900,000 legislative appropriation grant entered August 3, 2021. An additional appropriation of $1,800,000 was made in the 2021 legislative session, but that agreement has not been received from DFA and therefore those funds are not available at this time. To

immediately fund the construction of this long awaited community facility, the use of $4,000,000 of general fund GRT revenues earned in the prior year (FY21) above budgeted estimates is recommended. Once the city receives and executes the legislative grant for $1,800,000, expected in early CY22, reimbursement for construction costs will be submitted to the grant recouping that amount of the FY21 GRT and reducing city's additional contribution to $2,200,000 of FY21 GRT revenues over and above budget.

Committee Review
Finance Committee: 8/30/2021
Public Works and Utilities Committee: 9/7/2021
Governing Body: 9/8/2021

Procurement Method
Invitation to Bid 22/02/B

CONTRACT NUMBER:
The Munis contract number is 3202933

FUNDING SOURCE:
Project Ledger ID: FA183200T
Munis Org Name/Number: 3209980 Facilities CIP
Munis Object Name/Number: 572970 WIP Construction

ATTACHMENTS:

Contract A101 & General Conditions A201
Exhibit A: Design Summary
Exhibit B: Jayne's Bid
Exhibit C: Bid Bond
Exhibit D: Final Bid Tab
Business License
Certificate of Insurance
Procurement Checklist
Summary of Contract

SOUTH SIDE TEEN CENTER

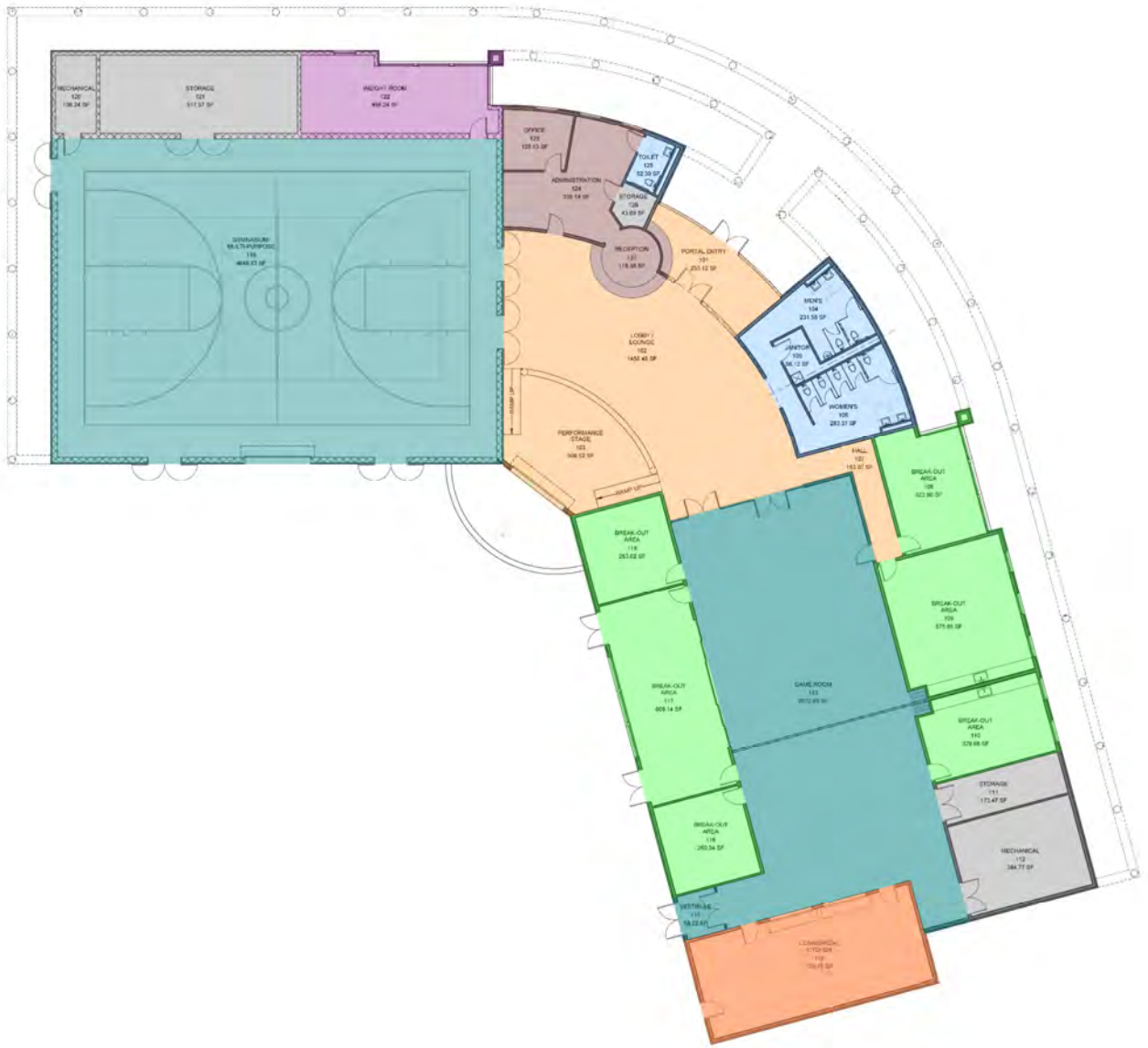
Exhibit A

N
Site Plan
599
Willow Way
Morning Dr
Rufina St
Calle Inez
Zepol Rd
Calle Alaio
Camino de Jacobo
A St
San Ignacio Rd
Zafarano Dr
Rodeo Rd
300
S Richards Ave
64A
64B
Cl Vera Cruz
Pso De Los Pueblos
Agua Fria Rd
San Felipe Rd
Thomas Rd
Cll Jenah
Riverside Dr
284
Cll Vencejo
Fields Ln
Buffalo Grass Rd
61B
La Vera Rd
Plum Dr
Peach Dr
Maple
Camino Ortiz
Wagon Rd
Cam Jalisco
61A
Cll Zanate
Los Milagros
Fairly Rd
S Meadows Rd
Lucia Ln
Cristos Rd
Emblem Rd
Dancing Ground Rd
Governor Miles Rd
Ojos De Jo
La Carrera
W Sol Rd
Paseo Del Sol
Ave Contenta
Camino Rojo
Valentine Way
Country Club Rd
Golden Mesa
Solecito Loop
Contenta Ridge
Ocate Rd
Jaguar Dr
14
Richards Ave
Beckner Rd
Church Rd
Rabbit Rd
Willow Back Rd
Oshara Blvd
La Piradera
25

Site Plan

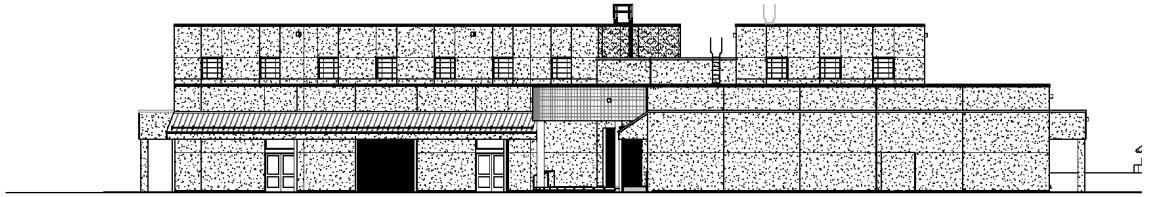
Site Plan

Floor Plan

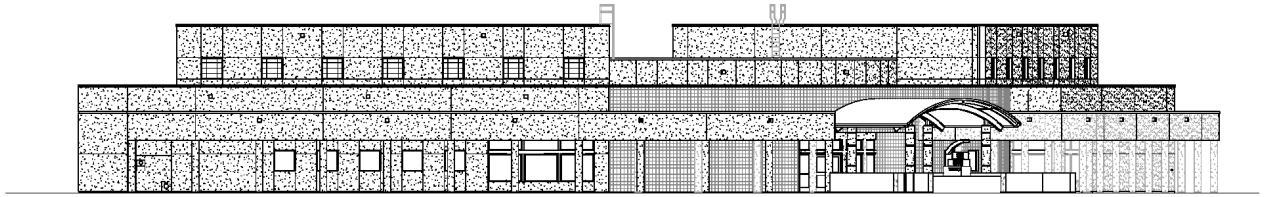

MECHANICAL
STORAGE
WEIGHT ROOM
OFFICE
ADMINISTRATION
TOILET
STORAGE
GYMNASIUM
RECEPTION
PORTAL ENTRY
MEN'S
JANITOR
WOMEN'S
LOBBY / LOUNGE
PERFORMANCE STAGE
HALL
BREAK-OUT AREA
BREAK-OUT AREA
BREAK-OUT AREA
BREAK-OUT AREA
BREAK-OUT AREA
GAME ROOM
STORAGE
MECHANICAL

Elevations

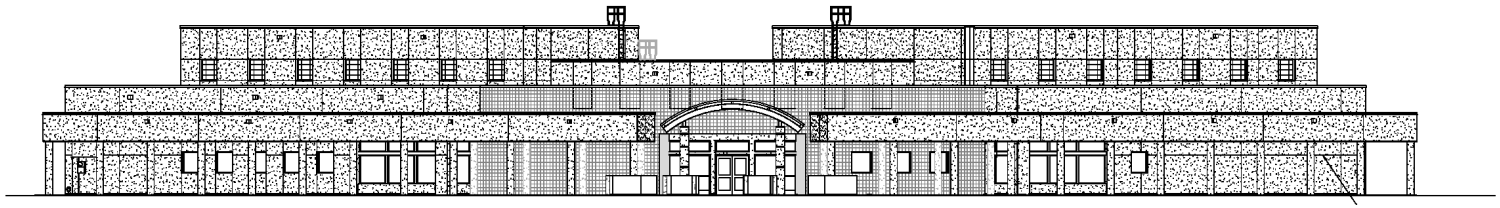
H1 GAMEROOM - WEST
1/8" = 1'-0"



F1 GAMEROOM - SOUTH
1/8" = 1'-0"

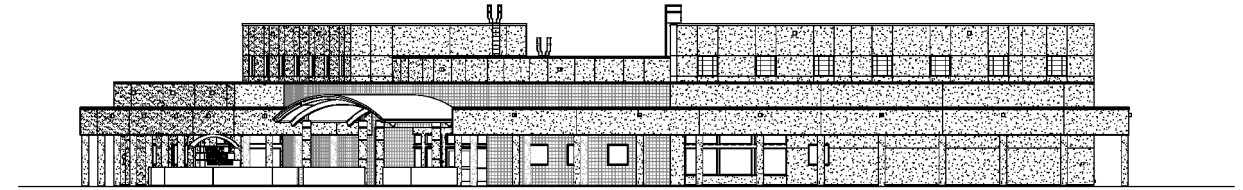


C1 GAMEROOM - EAST
1/8" = 1'-0"

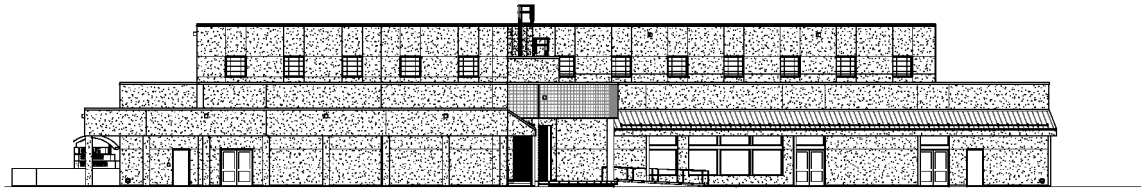


A1 ADMIN - NORTH
1/8" = 1'-0"

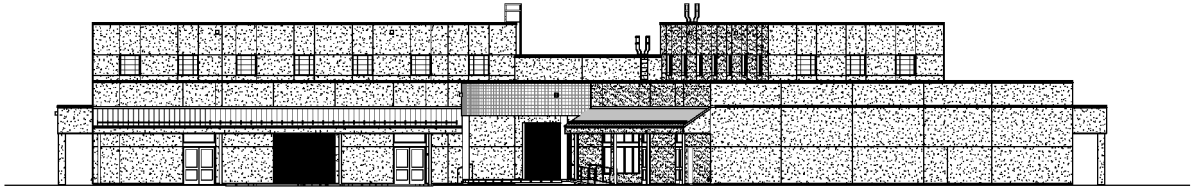
Elevations



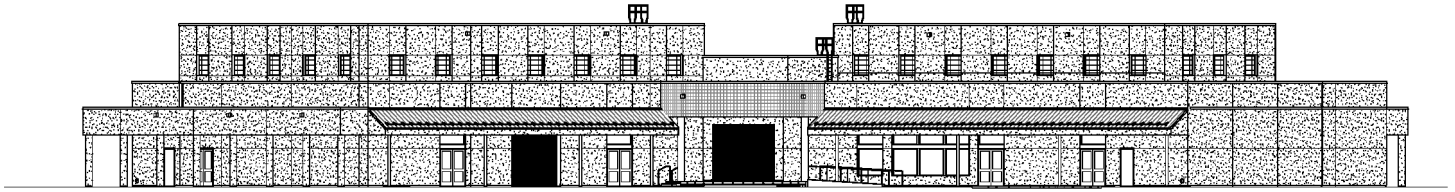
H1 GYM - NORTH ELEVATION
1/8" = 1'-0"



F1 GYM - WEST ELEVATION
1/8" = 1'-0"



C1 GYM - SOUTH ELEVATION
1/8" = 1'-0"



A1 LOUNGE - SOUTH
1/8" = 1'-0"

WILSON
&COMPANY

WILSON
&COMPANY

WILSON
&COMPANY

WILSON
&COMPANY

WILSON
&COMPANY

Exhibit B

CITY OF SANTA FE

SOUTHSIDE TEEN CENTER

INVITATION TO BID #22/02/B

BID SUBMISSION
AUGUST 11, 2021 | 2:00 PM

SECTION 00 4100
BID FORM

THE PROJECT AND THE PARTIES

TO:

Owner
City of Sant Fe
PO Box 909
200 Lincoln Avenue
Santa Fe, NM 87501

FOR:

Southside Teen Center
Invitation to Bid #22/02/B
Santa Fe, NM

DATE: 8/11/21 (BIDDER TO ENTER DATE)

SUBMITTED BY: (BIDDER TO ENTER NAME AND ADDRESS)

Bidder's Full Name Jaynes Corporation
Business Address Line 1: 2906 Broadway Blvd NE
Business Address Line 2: Albuquerque, NM 87107
Business Address Line 3:

OFFER

Having examined the Place of The Work and all matters referred to in the Instructions to Bidders and the Bid Documents prepared by Wilson & Company for the above mentioned project, we, the undersigned, hereby offer to enter into a Contract to perform the Work for the Sum of:

Lump Sum Price (Base Bid):

Seven Million Nine Hundred Fifty Nine Thousand dollars
($ **7,959,000**).

We have included the required security Bid Bond as required by the Instruction to Bidders.

We have included the required performance assurance bonds in the Bid Amount as required by the Instructions to Bidders. N/A - Performance Assurance Bonds will be submitted upon Notice of Award.

All applicable federal taxes are excluded and State of New Mexico taxes are excluded from the Bid Sum.

Sums for Alternates are indicated in Document 00 4323 - Supplement C - List of Alternates. Sums for Alternates are not included in the above Lump Sum Price.

All Cash Allowances described in Section 01 2100 - Allowances are included in the Bid Sum.

ACCEPTANCE

This offer shall be open to acceptance and is irrevocable for sixty days from the bid closing date.

If this bid is accepted by Owner within the time period stated above, we will:

Execute the Agreement within seven days of receipt of Notice of Award.
Furnish the required bonds within seven days of receipt of Notice of Award.
Commence work within seven days after written Notice to Proceed of this bid.

CONTRACT TIME

If this Bid is accepted we will complete the Work in the number of calendar days indicated in Section 00 7300 - Supplementary Conditions.

ADDENDA

The following Addenda have been received. The modifications to the Bid Documents noted below have been considered and all costs are included in the Bid Sum.

Addendum # 1 Dated 7/30/21
Addendum # 2 Dated 8/4/21
Addendum # 3 Dated 8/6/21
Addendum # _____ Dated _____
Addendum # _____ Dated _____

BID FORM SUPPLEMENTS

The following information is included with Bid submission:

The following Supplements are attached to this Bid Form and are considered an integral part of this Bid Form:

Document 00 4314 - Supplement J - Bid Bond: Bid Security.
Document 00 4323 - Supplement C - List of Alternates: Include the cost variations to the Bid Sum applicable to the Work as described in Section 01 2300 - Alternates.

BID FORM SIGNATURE(S)

If the Bidder is an Individual:

By: Shad S. James
(Bidder - print your full name)

Shad S. J
(Bidder's Signature)

Doing business as: Jaynes Corporation
Telephone: 505.345.8591
Fax: 505.345.8598

Bidder's NM Contractor's License Number(s) and Classifications(s):

Number: 4866 | Classification: GB98

Contractor's Department of Labor Registration Number:

0185652011514

If the Bidder is a Corporation:

The Corporate Seal of

Jaynes Corporation
(Bidder - print the full name of your firm)

was hereunto affixed in the presence of:

_____

Shad S. James, President & CEO
(Authorized signing officer, Title)

(Seal)

Shad S. James, President & CEO
(Authorized signing officer, Title)

Telephone: 505.345.8591

Fax: 505.345.8598

Bidder's NM Contractor's License Number(s) and Classifications(s):

Number: 4866 | Classification: GB98

Contractor's Department of Labor Registration Number:

0185652011514

IF THE BID IS A JOINT VENTURE OR PARTNERSHIP, ADD ADDITIONAL FORMS OF EXECUTION FOR EACH MEMBER OF THE JOINT VENTURE IN THE APPROPRIATE FORM OR FORMS AS ABOVE.

END OF BID FORM

SECTION 00 4301
BID FORM SUPPLEMENTS COVER SHEET

PARTICULARS

TO (OWNER): CITY OF SANTA FE

PROJECT: SOUTHSIDE TEEN CENTER

INVITATION TO BID #22/02/B

DATE: 8/11/21

SUBMITTED BY: (BIDDER TO INSERT FULL NAME AND ADDRESS)

Jaynes Corporation
2906 Broadway Blvd NE
Albuquerque, NM 87107

In accordance with Section 00 2113 - Instructions to Bidders and Section 00 4100 - Bid Form, we include the Supplements To Bid Form listed below. The information provided shall be considered an integral part of the Bid Form.

SUPPLEMENTS TO BID FORM

Supplement C - List of Alternates: Include the cost variations to the Bid Sum applicable to the Work as described in Section 01 2300 - Alternates.

Supplement J - Bid Bond: Requirements as described in Section 00 4314 - Supplement J - Bid Bond.

END OF SUPPLEMENTS TO BID FORM

SECTION 00 4323
SUPPLEMENT C - LIST OF ALTERNATES

PARTICULARS

THE FOLLOWING IS THE LIST OF ALTERNATES REFERENCED IN THE BID SUBMITTED BY:

(BIDDER) Jaynes Corporation

TO (OWNER): CITY OF SANTA FE

DATED 8/11/21 AND WHICH IS AN INTEGRAL PART OF THE BID FORM.

ALTERNATES LIST

THE FOLLOWING AMOUNTS SHALL BE ADDED TO THE BID AMOUNT. REFER TO SECTION 01 2300 - ALTERNATES.

Alternate Number 1 - Food Service Equipment:
Alternate Number 1 Cost (Add):

One Hundred Eighty Thousand dollars
($ **180,000**).

ALL APPLICABLE FEDERAL TAXES ARE EXCLUDED AND STATE OF NEW MEXICO TAXES ARE EXCLUDED FROM THE AMOUNTS INDICATED FOR EACH ALTERNATE.

END OF SUPPLEMENT C

SECTION 00 4556

SUPPLEMENT R - RESIDENT CONTRACTOR CERTIFICATION

PART 1 GENERAL

AN EXAMPLE OF THE NEW MEXICO RESIDENT CONTRACTOR CERTIFICATE FORM IS ATTACHED FOLLOWING THIS PAGE

ELIGIBLE CONTRACTORS MAY OBTAIN THE FORM FROM THE NEW MEXICO TAXATION AND REVENUE DEPARTMENT

PART 2 PRODUCTS (NOT USED

PART 3 EXECUTION (NOT USED)

END OF SECTION

STATE OF NEW MEXICO

TAXATION AND REVENUE DEPARTMENT

RESIDENT CONTRACTOR CERTIFICATE

Issued to: JAYNES CORPORATION

DBA: JAYNES CORPORATION
2906 BROADWAY BLVD NE
ALBUQUERQUE, NM 87107-1506

Expires: **19-Nov-2023**

Certificate Number:

L0801341104

Stephanie Schardin Clarke
Cabinet Secretary

THIS CERTIFICATE IS NOT TRANSFERABLE

SECTION 00 4557

SUPPLEMENT V - RESIDENT VETERAN CONTRACTOR CERTIFICATION

PART 1 GENERAL

AN EXAMPLE OF THE NEW MEXICO RESIDENT VETERAN CONTRACTOR CERTIFICATE FORM IS ATTACHED FOLLOWING THIS PAGE

ELIGIBLE CONTRACTORS MAY OBTAIN THE FORM FROM THE NEW MEXICO TAXATION AND REVENUE DEPARTMENT

PART 2 PRODUCTS (NOT USED

PART 3 EXECUTION (NOT USED)

END OF SECTION

Jaynes does not qualify for Resident/Veteran preference.

Bill Richardson
Governor

Edward J. Lopez
Superintendent

State of New Mexico
Regulation and Licensing Department
CONSTRUCTION INDUSTRIES DIVISION
2550 Cerillos Rd.
Santa Fe, New Mexico 87505

Lisa D. Martinez
Director

This is to certify that: **JAYNES CORPORATION**
PERMANENT LICENSE #4866

Located at: **2906 BROADWAY NE, ALBUQUERQUE, NM 87107**

Has complied with all the requirements of the law and is hereby licensed as a contractor, to operate under the classification(s) of:
GB98
And to permit or contract projects singly in New Mexico of a dollar amount up to:
UNLIMITED

Given under my signature and the seal of the Construction Industries Division at Santa Fe, New Mexico on

Signature of Contractor

NOTE: This Certificate is now and shall remain the property

STATE OF NEW MEXICO
CONSTRUCTION INDUSTRIES DIVISION

JAYNES CORPORATION
LICENSE NUMBER
4866
Qualifying Party(s)
MARGARET RICK

EXPIRES
03/31/2023
CLASSIFICATION(S)
GB98

Lisa D. Martinez
Director
time upon demand. This certificate is not transferable

Certificate of Contractor Registration

New Mexico Department of WORKFORCE SOLUTIONS

This is to certify that

Jaynes Corporation

Jaynes
2906 BROADWAY BLVD NE

ALBUQUERQUE, NM, 87107-1506

has registered with the Department of Workforce Solutions

Registration Date: 4/18/2020 **Registration Number: 0185652011514**

This certificate does not show the current status of the company.
To see the current status for this company please go to the Public Works and Apprenticeship Application (PWAA) at https://www.dws.state.nm.us/pwaa

New Mexico Department of Workforce Solutions, Labor Relations Division, Public Works, 121 Tijeras Ave NE. Suite 3000, Albuquerque, NM 87102, (505) 841-4400

THE WAY UP

Sub Contractor Listing

Type of Work	Entity Name	City & State	Labor enforcement fund registration # (if over $60,000)	SIGNATURE *
Concrete	Jaynes	Albuquerque, NM		
Cement roof deck	Condeck	Albuquerque, NM		
Masonry	Beaty Masonry	Albuquerque, NM		
Structural Erection	Structural steel services	Albuquerque, NM		
Casework	Jaynes	Albuquerque, NM		
EIFS	Firebird	Albuquerque, NM		
Metal Panels	Hot Shot	Santa Fe, NM		
TPO roofing	Hot Shot	Albuquerque, NM		
Glass and glazing	SW glass and Glazing	Albuquerque, NM		
Translucent roof panels	Powers Products SW	Albuquerque, NM		
Gyp Board Assemb	Rock on Steel	Albuquerque, NM		
Acoustic Tile Ceiling	NM acoustics	Albuquerque, NM		
Flooring	Rays Flooring	Albuquerque, NM		
Athletic Flooring	Robert Cohen	Albuquerque, NM		
Painting	F&R painting	Albuquerque, NM		
Car Shelters	Positive Energy	Santa Fe, NM		
Food Service	Standard Resturant	Albuquerque, NM		
Gym Equip	ACI	Peoria, AZ		
Fire Supression	Split Fire	Albuquerque, NM		

THE WAY UP

Sub Contractor Listing

Type of Work	Entity Name	City & State	Labor enforcement fund registration # (if over $60,000)	SIGNATURE *
Plumbing/HVAC	KDC	Albuquerque, NM		
Electrical Special System	Electric Horseman	Las Vegas, NM		
Earthwork	RL leader	Santa Fe, NM		
Syn Turf	Robert Cohen	Albuquerque, NM		
Landscape	Cassidy's	Santa Fe, NM		
Utilities	Sierra Canyon	Santa Fe, NM		

SECTION 00 4314

SUPPLEMENT J - BID BOND

BID BOND FORM

BID SECURITY, MADE PAYABLE TO THE OWNER IN THE AMOUNT OF 5 PERCENT OF THE BASE BID INCLUDING ALL COSTS FOR ALLOWANCES AND ALTERNATES, IF ANY, SHALL BE SUBMITTED WITH THE BID.

BID SECURITY SHALL BE IN THE FORM OF AIA A310 BID BOND ISSUED BY A SURETY LICENSED TO CONDUCT BUSINESS IN THE STATE OF NEW MEXICO.

SEE AIA DOCUMENT A310, BID BOND, FOLLOWING THIS DOCUMENT.

END OF SUPPLEMENT J

THE AMERICAN INSTITUTE OF ARCHITECTS

AIA Document A310

Bid Bond

KNOW ALL MEN BY THESE PRESENTS, that we JAYNES CORPORATION
2906 Broadway NE, Albuquerque, New Mexico 87107
as Principal, hereinafter called the Principal, and WESTERN SURETY COMPANY
4100 Osuna NE, Suite 2-203, Albuquerque, New Mexico 87109
a corporation duly organized under the laws of the State of South Dakota
as Surety, hereinafter called the Surety, are held and firmly bound unto CITY OF SANTA FE
200 Lincoln Ave., Santa Fe, New Mexico 87501
as Obligee, hereinafter called the Obligee, in the sum of
FIVE PERCENT (5%) OF THE AMOUNT BID---
Dollars ($),
for the payment of which sum well and truly to be made, the said Principal and the said Surety, bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has submitted a bid for

SANTA FE SOUTHSIDE TEEN CENTER

NOW, THEREFORE, if the Obligee shall accept the bid of the Principal and the Principal shall enter into a Contract with the Obligee in accordance with the terms of such bid, and give such bond or bonds as may be specified in the bidding or Contract Documents with good and sufficient surety for the faithful performance of such Contract and for the prompt payment of labor and material furnished in the prosecution thereof, or in the event of the failure of the Principal to enter such Contract and give such bond or bonds, if the Principal shall pay to the Obligee the difference not to exceed the penalty hereof between the amount specified in said bid and such larger amount for which the Obligee may in good faith contract with another party to perform the Work covered by said bid, then this obligation shall be null and void, otherwise to remain in full force and effect.

Signed and sealed this 11TH day of AUGUST 2021

(Witness)

JAYNES CORPORATION (Principal) (Seal)

President & CEO (Title)

JAYNES CORPORATION N.S.L. CORPORATE SEAL NEW MEXICO

(Witness)

WESTERN SURETY COMPANY (Surety) (Seal)

CARL S. CONLEE, III (Title) ATTORNEY-IN-FACT

WESTERN SURETY COMPANY CORPORATE SEAL SOUTH DAKOTA

AGENT'S AFFIDAVIT

THIS FORM MUST BE USED BY SURETY

(To be filled in by Agent)

STATE OF NEW MEXICO)
) ss.
COUNTY OF BERNALILLO)

CARL S. CONLEE, III, being first duly sworn, deposes and says that he / she is the duly appointed agent for WESTERN SURETY COMPANY and is licensed in the State of New Mexico.

Deponent further states that a certain bond was given to indemnify the State of New Mexico in connection with the construction of SANTA FE SOUTHSIDE TEEN CENTER dated the 11TH day of AUGUST, 2021, executed by JAYNES CORPORATION Contractor, as principal, and WESTERN SURETY COMPANY, as surety, signed by this Deponent; and Deponent further states that said bond was written, signed, and delivered by him/her; that the premium on the same has been or will be collected by him/her; and that the full commission thereon has been or will be retained by him/her.

CARL S. CONLEE, III

Subscribed and sworn to before me, a notary public in and for the County of, BERNALILLO, this 11TH day of AUGUST, 2021.

Notary Public

My Commission Expires: 12/22/24

AGENT'S ADDRESS: 4100 Osuna NE, Suite 2-203
Albuquerque, NM 87109

OFFICIAL SEAL
Muriel Bray
NOTARY PUBLIC-STATE OF NEW MEXICO
My commission expires 12/22/24

Western Surety Company

POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

Know All Men By These Presents, That WESTERN SURETY COMPANY, a South Dakota corporation, is a duly organized and existing corporation having its principal office in the City of Sioux Falls, and State of South Dakota, and that it does by virtue of the signature and seal herein affixed hereby make, constitute and appoint

Carl S Conlee III, Dean E Vigil, Linda D Dooley, Bart H Kinney III, Stuart E Kuyper, Muriel Bray, James D Zanios, Individually

of Albuquerque, NM, its true and lawful Attorney(s)-in-Fact with full power and authority hereby conferred to sign, seal and execute for and on its behalf bonds, undertakings and other obligatory instruments of similar nature

- In Unlimited Amounts -

and to bind it thereby as fully and to the same extent as if such instruments were signed by a duly authorized officer of the corporation and all the acts of said Attorney, pursuant to the authority hereby given, are hereby ratified and confirmed.

This Power of Attorney is made and executed pursuant to and by authority of the By-Law printed on the reverse hereof, duly adopted, as indicated, by the shareholders of the corporation.

In Witness Whereof, WESTERN SURETY COMPANY has caused these presents to be signed by its Vice President and its corporate seal to be hereto affixed on this 28th day of April, 2021.

WESTERN SURETY COMPANY

Paul T. Bruflat, Vice President

State of South Dakota }
County of Minnehaha } ss

On this 28th day of April, 2021, before me personally came Paul T. Bruflat, to me known, who, being by me duly sworn, did depose and say: that he resides in the City of Sioux Falls, State of South Dakota; that he is the Vice President of WESTERN SURETY COMPANY described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to authority given by the Board of Directors of said corporation and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said corporation.

My commission expires

March 2, 2026

M. BENT NOTARY PUBLIC SOUTH DAKOTA

M. Bent, Notary Public

CERTIFICATE

I, L. Nelson, Assistant Secretary of WESTERN SURETY COMPANY do hereby certify that the Power of Attorney hereinabove set forth is still in force, and further certify that the By-Law of the corporation printed on the reverse hereof is still in force. In testimony whereof I have hereunto subscribed my name and affixed the seal of the said corporation this 11th day of August 2021

WESTERN SURETY COMPANY

L. Nelson, Assistant Secretary

Form F4280-7-2012

Go to www.cnasurety.com > Owner / Obligee Services > Validate Bond Coverage, if you want to verify bond authenticity.

Authorizing By-Law

ADOPTED BY THE SHAREHOLDERS OF WESTERN SURETY COMPANY

This Power of Attorney is made and executed pursuant to and by authority of the following By-Law duly adopted by the shareholders of the Company.

Section 7. All bonds, policies, undertakings, Powers of Attorney, or other obligations of the corporation shall be executed in the corporate name of the Company by the President, Secretary, and Assistant Secretary, Treasurer, or any Vice President, or by such other officers as the Board of Directors may authorize. The President, any Vice President, Secretary, any Assistant Secretary, or the Treasurer may appoint Attorneys in Fact or agents who shall have authority to issue bonds, policies, or undertakings in the name of the Company. The corporate seal is not necessary for the validity of any bonds, policies, undertakings, Powers of Attorney or other obligations of the corporation. The signature of any such officer and the corporate seal may be printed by facsimile.

CITY OF SANTA FE
Purchasing Office, 200 Lincoln Ave., Room 122
Santa Fe, NM 87505
Fran Dunaway CPO,
21/29/B Southside Transit Station

Exhibit F

DATE: 04/15/2021 **BID NUMBER 21/29/B** **PREPARED BY: Kathy Sanchez**	**Bradbury Stamm**	**Brycon Corporation**	**EPX Construction**	**Jaynes Corporation**	**HB Construction**	**T A Cole**	**Weil Construction**
ITEM & DESCRIPTION		**BID AMOUNT**	**BID AMOUNT**				
Base Bid	$8,325,000.00	$9,305,314.00	$8,410,947.00	$7,959,000.00	$8,718,000.00	$8,643,000.00	$8,516,000.00
Alternate One	$195,000.00	$185,000.00	$185,000.00	$180,000.00	$197,000.00	$237,700.00	$198,000.00
Bid Bond	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Sublist	Yes	Yes	Yes	Yes	No	Yes	No

Signature
Kathy Sanchez
Randy Herrera

Date: 08/11/2021

City of Santa Fe

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

BUSINESS REGISTRATION

Business Name: JAYNES STRUCTURES
DBA: JAYNES STRUCTURES

Business Location: PO BOX 26841
ALBUQUERQUE, NM 87125

Owner: JAYNES STRUCTURES

License Number: 226956

Issued Date: February 09, 2021

Expiration Date: February 09, 2022

CRS Number: 02450582000

License Type: Business License - Renewable

Classification: Out of Jurisdiction Contractor - General

Fees Paid: $10.00

JAYNES STRUCTURES
PO BOX 26841
ALBUQUERQUE, NM 87125

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

Client#: 1142343 JAYNECOR3

ACORD™ CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 6/03/2021

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 any rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
USI Southwest Inc. NM - CL
4100 Osuna Road NE Suite 2-203
Albuquerque, NM 87109
505 262-2621

CONTACT NAME: Sam Conlee / Jenny Coughlin
PHONE (A/C, No, Ext): 505 262-2621 **FAX (A/C, No):** 855-512-3881
E-MAIL ADDRESS: Jenny.Coughlin@usi.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : American Contractors Ins Co RRG	12300
INSURER B : ACIG Insurance Company	19984
INSURER C : Westchester Surplus Lines Insurance Co	10172
INSURER D : Continental Insurance Company	35289
INSURER E : ACUITY A Mutual Insurance Company	14184
INSURER F :	

INSURED
Jaynes Corporation
PO Box 26841
Albuquerque, NM 87125-6841

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

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

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY	X	X	GL21A00022	06/01/2021	06/01/2022	EACH OCCURRENCE	$10,000,000
A	CLAIMS-MADE X OCCUR	X	X	GL21B00022(GLXS)	06/01/2021	06/01/2022	DAMAGE TO RENTED PREMISES (Ea occurrence)	$100,000
A		X	X	GL21C00022(GLXS)	06/01/2021	06/01/2022	MED EXP (Any one person)	$5,000
							PERSONAL & ADV INJURY	$10,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$10,000,000
	POLICY X PRO-JECT LOC						PRODUCTS - COMP/OP AGG	$10,000,000
	OTHER:							$
E	AUTOMOBILE LIABILITY	X	X	Z73089	06/01/2021	06/01/2022	COMBINED SINGLE LIMIT (Ea accident)	$5,000,000
	X ANY AUTO						BODILY INJURY (Per person)	$
	OWNED AUTOS ONLY / SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	X HIRED AUTOS ONLY / X NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	$
								$
C	UMBRELLA LIAB X OCCUR	X	X	G46644189005	06/01/2021	06/01/2022	EACH OCCURRENCE	$25,000,000
	X EXCESS LIAB CLAIMS-MADE						AGGREGATE	$25,000,000
	DED RETENTION $							$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y/N		X	WCA000006621	06/01/2021	06/01/2022	X PER STATUTE OTH-ER	
B	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? N	N / A	X	WCA000016621	06/01/2021	06/01/2022	E.L. EACH ACCIDENT	$1,000,000
	(Mandatory in NH)						E.L. DISEASE - EA EMPLOYEE	$1,000,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - POLICY LIMIT	$1,000,000
D	Excess GL & AL	X	X	7014991654	06/01/2021	06/01/2022	Ea Occ $10,000,000 Agg $10,000,000	

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

RE: Evidence of Insurance.
The General Liability and Auto policies include an automatic Additional Insured endorsement that provides Additional Insured status to the Certificate Holder, only when there is a written contract or written agreement between the named insured and the certificate holder and with regard to work performed on behalf of the named insured.
(See Attached Descriptions)

CERTIFICATE HOLDER
Jaynes Corporation
P.O. Box 26841
Albuquerque, NM 87125-6841

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

AUTHORIZED REPRESENTATIVE

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DESCRIPTIONS (Continued from Page 1)

The General Liability and Auto policies have Primary and Noncontributory wording, when required by written contract.
The General Liability, Auto and Workers Compensation policies provide a Blanket Waiver of Subrogation in favor of the Certificate Holder, when required by written contract.
The General Liability and Workers Compensation policies include an endorsement providing that 60 days notice of cancellation for reasons other than nonpayment of premium and 10 days notice of cancellation for nonpayment of premium will be given to the Certificate Holder by the insurance carrier.
The Excess Liability is following form of underlying General Liability, Automobile Liability and Workers Compensation policies.
Excess GL & AL: Insurer issues an Excess Liability policy that follows Commercial General Liability and Auto Liability for $10M Each Occurrence/$10M Aggregate.

City of Santa Fe

Real Estate Summary of Contracts, Agreements, Amendments & Leases

Section to be completed by department

1. Munis Contract # **3202933**

Contractor: **Jaynes Corporation**

Description: **Agreement for the Construction of the South Side Teen Center in the Total Amount of $9,267,014.53 Including NMGRT**

Contract ☐ Agreement ☉ Lease / Rent ☐ Amendment ☐

Term Start Date: **upon approval** Term End Date: **365 days from NTP**

☑ Approved by Council Date: _____

Contract / Lease: Original

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)
Original Contract $9,267,014.53 Munis Contract# 3202933

3. **Procurement History:** _____

Fran Delaway Sep 3, 2021 Sep 3, 2021
Purchasing Officer Review: Date:

Comment & Exceptions: _____

4. **Funding Source:** **FA183200T** **Org / Object:** **3209980.572970**

Andy Hopkins Sep 3, 2021
Budget Officer Approval: Date:

Comment & Exceptions: _____

Staff Contact who completed this form: **Sam Burnett** Phone # **955-5933**

Email: **jsburnett@santafenm.gov**

To be recorded by City Clerk:

Clerk # _____

Date of Execution: _____

CITY OF SANTA FE PROCUREMENT CHECKLIST

Contractor Name: Jaynes Corporation

Procurement Title: Construction of South Side Teen Center

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 Works/Facilities Division Staff Name Sam Burnett

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
☒	☐	Bid 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: _____

Sam Burnett | Facilities Division Director | August 26, 2021
Department Rep Printed Name (attesting that all information included) | Title | Date

Fran Delaway (Sep 3, 2021 15:54 MDT) | Sep 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 any resulting contract.