City of Santa Fe

AGENDA

SPECIAL MEETING OF THE PUBLIC WORKS AND UTILITIES COMMITTEE
NOVEMBER 08, 20215:00 PM
ATTEND VIRTUALLY

SPECIAL PROCEDURES 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/81514033469?pwd=RE50N3paT0JXTTFLdGpCVXZraVBuZz09
Passcode: 035498
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: 1 346 248 7799 - Webinar ID: 815 1403 3469 - Passcode: 035498**
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 October 25, 2021 Public Works and Utilities Committee Meeting.

6. **PRESENTATION/INFORMATIONAL ITEMS**

a. Streetlight LED Conversion Project Report. (Regina Wheeler, Public Works Department Director, rawheeler@santafenm.gov, 955-6622)

b. Status of Major Roads and Trails Projects Progress and Funding. (Romella Glorioso-Moss, Senior Project Administrator: rsgloriosomoss@santafenm.gov, 505-955-6623; Erick Aune, Director Metropolitan Planning Organization: ejaune@santafenm.gov, 505-955-6664).

7. **ACTION ITEMS: CONSENT**

a. CONSIDERATION OF RESOLUTION NO 2021-__. (Mayor Webber)
A Resolution Approving First Quarter Budget Amendments for Fiscal Year 2021-2022. (Andy Hopkins, Acting Budget Officer: ajhopkins@santafenm.gov, 955-6177)

Committee Review:
Introduced: 10/27/21
Finance Committee: 11/01/21
Public Works and Utilities Committee: 11/08/21
Governing Body: 11/10/21

b. Request the Approval of NMDOT Funding Agreements as Per Ordinance #2020-33, Section 2-4.6.B and Budget Amendment Resolution Funding. (Romella Glorioso-Moss, PW Project Administrator Sr. rglorioso-moss@santafenm.gov; 955-6623)
   1. Ratify Contract Amendments to NMDOT Contract No. D15509, Project No. S100460 Guadalupe St. Reconstruction Project Extending Termination Date from 09/15/2021 to 03/15/2022; Approved by the City Manager on 09/13/2021.

2. Ratify Contract Amendments to NMDOT Contract No. D18446, Project No. S100470 St. Michael's Drive/Rail Trail Underpass Increasing Design Funding from $284,999 to $1,069,437; and Extending Termination Date from 03/31/2022 to 01/25/2024; Approved by the City Manager on 09/17/2021.
3. Approve Budget Adjustment Resolution (BAR) of $784,438 to Project ID# ENG18330E; Org./Obj. 3309980.572960.

Committee Review:
Finance Committee: 11/01/2021
Public Works & Utilities Committee: 11/08/2021
Governing Body: 11/10/2021

c. Request for Approval of Budget Adjustment Resolution (BAR) in the Amount $663,224.72 for the Santa Fe Community Convention Center Air-Handler (IntelliPak) Replacement Project for a Twelve (12) Month Term; Trane U.S. Inc. dba Trane 47QSWA20D0021 / SPA 00-00000-20-00099. (Randy Randall, TOURISM Director, rrandall@santafenm.gov, 955-6209)

Committee Review
Finance Committee – 11/01/2021
Public Works and Utilities Committee: 11/08/2021
Governing Body – 11/10/2021

d. Request for Approval of a Four-Year Equipment Lease Agreement in the Total Amount of $367,186.56 Inclusive of New Mexico GRT with PNC Equipment Finance, LLC. for Golf Carts at Marty Sanchez Links de Santa Fe Golf Course. (Melissa McDonald, Acting Parks Division Director: mamcdonald@santafenm.gov, 505-955-6840)

Committee Review:
Public Works and Utilities Committee: 11/08/2021
Finance Committee: 11/29/2021
Governing Body: 12/08/2021

e. Request for Approval of a Professional Service Contract for Comprehensive Insurance Claims Administrative Broker Services in the Amount of $271,936.00; Arthur J. Gallagher. (Bradley Fluetsch, CFA, Planning and Investment Officer: bjfluetsch@santafenm.gov, 955-6885)

Committee Review
Finance Committee: 11/01/2021
Public Works and Utilities Committee: 11/08/2021
Governing Body: 11/10/2021

f. Request for Approval of a Professional Services Contract for Workers Comp & General Liability Third Party Administrative Services in the Amount of $768,434.23; Cannon Cochran Management Services. (Bradley Fluetsch, CFA, Planning and Investment Officer: bjfluetsch@santafenm.gov, 955-6885)

Committee Review
Finance Committee: 11/01/2021
Public Works and Utilities Committee: 11/08/2021
Governing Body: 11/10/2021

g. Request to Award Invitation to Bid # '21/46/B for the Publicly Owned Treatment Works (POTW) On-Call Repair, Replacement, Extension and Rehabilitation of Sewer Collection System Price Agreement, CIP #962 to Sub Surface Contracting, Inc., Allied 360 Construction, LLC. and TLC Plumbing, Inc. for a total amount up to $200,000 inclusive of nmgrt. (Stan Holland, Wastewater Division Engineer, tsholland@santafenm.gov, 505-955-4637)

Committee Review:
Public Works and Utilities Committee – 11/08/2021
Finance Committee – 11/29/2021
Governing Body – 12/08/2021

h. Request for Approval of the Assignment of Santa Fe Regional Airport Lease Agreement (Item #18-0188) from "Gate 13, LLC," to "Gate 13 Hangar Condominium Association. (Mark Baca, Airport Manager: mdbaca@santafenm.gov, 955-2901)

Committee Review:
Finance Committee: 11/1/21
Public Works and Utilities: 11/8/21
Governing Body: 11/10/2021

i. Request for Approval of a Budget Amendment Resolution (BAR) in the Amount of Two Hundred Ninety-Two Thousand, Three Hundred Thirty-Six Dollars ($292,336) to Pay for the Legal Services Provided by Gallagher & Kennedy,

P.A., Pursuant to Settlement Agreement between the City of Santa Fe and the New Mexico Department of Taxation and Revenue Department in 2021. (Erin McSherry, City Attorney, ekmcsherry@santafenm.gov, 955-6961)

Committee Review:
Finance Committee: 11/01/2021
Quality of Life Committee: 11/03/2021
Governing Body: 11/10/2021

j. Request for Approval of Budget Amendment Resolution (BAR) in the Amount of $100,000 from the New Mexico Department of Finance and Administration for Severance Tax Bond Appropriation to the Kitchen Angels, Project # 20-E2738, to Fund a Meals Program Serving Homebound and Special Needs Individuals in Santa Fe in Santa Fe County. (David A. Chapman, Grant Administrator: dachapman@santafenm.gov 505-660-2619)

Committee Review:
Public Works and Utilities Committee: 11/08/21
Finance Committee Committee: 11/29/21
Governing Body: 12/08/21

k. Approval of Transportation Project Fund Grant Agreement in the Total Amount of $1,700,000 for the Construction of Agua Fria/South Meadows Intersection Improvements Project; New Mexico Department of Transportation. (Romella Glorioso-Moss, Projects Administrator: rsglorioso-moss@santafenm.gov, 955-6623)
   1. Approval of a Budget Adjustment Resolution (BAR) in the Total Amount of $1,615,000 to Put the Funds from the TPF Grant into Budget for the Construction of Agua Fria/South Meadows Intersection Improvements.

Committee Review:
Public Works and Utilities Committee: 11/08/2021
Governing Body: 11/10/2021

l. CONSIDERATION OF RESOLUTION NO 2021-__. (Councilor Rivera and Councilor Abeyta)
A Resolution Approving the City of Santa Fe's Participation in a Transportation Fund Program Administered by the New Mexico Department of Transportation for Improvements to the Agua Fria/South Meadows Intersection. (Romella

Glorioso-Moss, Projects Administrator: rglorioso-moss@santafenm.gov, 955-6623)

Committee Review:
Introduced: 10/27/21
Public Works and Utilities Committee: 11/08/21
Governing Body: 11/10/21

m. Approval of Transportation Project Fund Grant in the Total Amount of $800,000 for the Engineering Design of Bishop's Lodge Reconstruction Project; New Mexico Department of Transportation. (Romella Glorioso-Moss, Projects Administrator: rsglorioso-moss@santafenm.gov, 955-6623)

1. Approval of a Budget Adjustment Resolution (BAR) in the Total Amount of $760,000 to Put the Funds from the TPF Grant into Budget for the Engineering Design of Bishop's Lodge Reconstruction Project.

Committee Review:
Public Works and Utilities Committee:11/08/2021
Governing Body: 11/10/2021

n. CONSIDERATION OF RESOLUTION NO. 2021-__. (Councilors Lindell and Villarreal)
A Resolution Approving the City of Santa Fe's Participation in a Transportation Fund Program Administered by the New Mexico Department of Transportation for the Reconstruction of Bishop's Lodge Road. (Romella Glorioso-Moss, Projects Administrator: rglorioso-moss@santafenm.gov, 955-6623)

Committee Review:
Introduced: 10/27/21
Public Works and Utilities Committee: 11/08/21
Governing Body: 11/10/21

o. Approval of Transportation Project Fund Grant Agreement in the Total Amount of $450,000 for Engineering Design of Henry Lynch Road Reconstruction Project; New Mexico Department of Transportation. (Romella Glorioso-Moss, Projects Administrator: rsglorioso-moss@santafenm.gov, 955-6623)

1. Approval of a Budget Adjustment Resolution (BAR) in the Total Amount of $427,500 for Engineering Design of Henry Lynch Road Reconstruction Project.

Committee Review:
Public Works and Utilities Committee: 11/08/2021
Governing Body: 11/10/2021

p. CONSIDERATION OF RESOLUTION NO. 2021-__. (Councilor Vigil Coppler and Councilor Cassutt)
A Resolution Approving the City of Santa Fe's Participation in a Transportation Fund Program Administered by the New Mexico Department of Transportation for the Reconstruction of Henry Lynch Road. (Romella Glorioso-Moss, Projects Administrator: rglorioso-moss@santafenm.gov, 955-6623)

Committee Review:
Introduced: 10/27/21
Public Works and Utilities Committee: 11/08/21
Governing Body: 11/10/21

q. Approval of Transportation Project Fund Grant Agreement in the Amount of $800,000 for the Engineering Design of Paseo del Sol Extension Project as per Tierra Contenta Master Development Plan; New Mexico Department of Transportation. (Romella Glorioso-Moss, Projects Administrator: rsglorioso-moss@santafenm.gov, 955-6623)
1. Approval of a Budget Adjustment Resolution (BAR) in the Total Amount of $760,000 to Put the Funds from the TPF Grant into Budget for the Engineering Design of Paseo del Sol Extension Project.

Committee Review:
Public Works and Utilities Committee: 11/08/2021
Governing Body: 11/10/2021

r. CONSIDERATION OF RESOLUTION NO. 2021-__. (Councilor Rivera and Councilor Abeyta)
A Resolution Approving the City of Santa Fe's Participation in a Transportation Fund Program Administered by the New Mexico Department of Transportation for the Extension of Paseo Del Sol. (Romella Glorioso-Moss, Projects Administrator: rglorioso-moss@santafenm.gov, 955-6623)

Committee Review:
Introduced: 10/27/21
Public Works and Utilities Committee: 11/08/21
Governing Body: 11/10/21

s. Request for Approval to Purchase Two Automated Side Load Collection Vehicles for Residential Recycling Waste Collection Services with Bruckners Truck Sales, Inc. via the Cooperative Education Services in the total amount of $879,068. (Lawrence Garcia, ESD Maintenance Manager, lmgarcia@santafenm.gov)

Committee Review:
Public Works and Utilities Committee: 11/08/2021
Finance Committee: 11/29/2021
Governing Body: 12/08/2021

8. **MATTERS FROM STAFF**

9. **MATTERS FROM THE COMMITTEE**

10. **MATTERS FROM THE CHAIR**

11. **NEXT MEETING: Monday, December 13, 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 OCTOBER 25, 2021 AT 5:00 PM VIRTUAL MEETING

1. CALL TO ORDER

meeting start approximately at 5:05pm.

2. ROLL CALL

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

Members Excused:
Councilor JoAnne Vigil Coppler

Others Attending:
Jamie-Rae Diaz, Administrative Manager
Shannon Jones, Public Utilities Department Director
Nancy Jimenez, Attendee
Randy Randall, Attendee
Andy Hopkins, Attendee
Jonathan Montoya, Attendee
Jesse Roach, Attendee
Mary McCoy, Attendee
Alan Hook, Attendee
Bernadette Salazar, Attendee

3. APPROVAL OF AGENDA

MOTION: Councilor Abeyta moved, seconded by Councilor Lindell, to approve the agenda as amended.

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

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

Against: None

Abstain: None

Item 7e has been removed from the agenda.

4. **APPROVAL OF CONSENT AGENDA**

MOTION: Councilor Lindell moved, seconded by Councilor Abeyta, to approve the consent agenda as amended.

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

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

Against: None

Abstain: None

Councilor Garcia pulled item 7a for discussion.

5. **APPROVAL OF MINUTES**

a. Approval of the October 12, 2021 Public Works and Utilities Committee Meeting Minutes

MOTION: Councilor Lindell moved, seconded by Councilor Garcia, 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

Against: None

Abstain: None

6. **PRESENTATION**

a. Streetlight LED Conversion Project Report. (Regina Wheeler, Public Works Department Director, rawheeler@santafenm.gov, 955-6622)

7. **ACTION ITEMS: CONSENT**

a. CONSIDERATION OF RESOLUTION NO. 2021-__. (Mayor Webber, Councilor Lindell, Councilor Romero-Wirth, Councilor Abeyta, Councilor Cassutt, Councilor Rivera, Councilor Garcia, Councilor Vigil Coppler, and Councilor Villarreal)
A Resolution Waiving the City Personnel Rule's Limitations on Salary Increases for the Purpose of Offering a Wage of at Least Fifteen Dollars Per Hour to All City Employees in November, 2021.

1. Request for Approval of Budget Amendment Resolution in the Total Amount of $149,862 to Increase Salaries to $15 Per Hour.

Committee Review:
Quality of Life Committee: 10/20/21
Public Works and Utilities Committee: 10/25/21
Governing Body: 10/27/21

MOTION: Councilor Garcia moved, seconded by Councilor Abeyta, to approve the resolution as presented.

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

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

Against: None

Abstain: None

Pulled by Councilor Garcia for discussion. Approved to forward to 10/27/2021 Governing Body

b. Santa Fe Community Convention Center Air-Handler (IntelliPak) Replacement Project; Request for approval of a Professional Goods and Services Agreement in total amount of $663,224.72 for a twelve (12) month term; Trane U.S. Inc. dba Trane 47QSWA20D0021 / SPA

00-00000-20-00099; (Randy Randall, TOURISM Director, rrandall@santafenm.gov, 505-955-6209).

Committee Review
Public Works and Utilities Committee: 10/25/2021
Finance Committee: 11/01/2021
Governing Body – 11/10/2021

MOTION: Councilor Lindell moved, seconded by Councilor Abeyta, to approve the contract as presented.

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

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

Against: None

Abstain: None

c. CONSIDERATION OF RESOLUTION NO. 2021-__. (Councilor Rivera, Councilor Abeyta, and Councilor Romero-Wirth)
A Resolution Directing the City Manager to Identify and Apply for Federal and State Funding Sources for Water, Wastewater, and Other Water-Related projects. (Alan Hook, Water Resources Coordinator Assistant: aghook@santafenm.gov, 955-4205)

Committee Review:
Public Works and Utilities Committee: 10/25/21
Governing Body: 10/27/21

MOTION: Councilor Lindell moved, seconded by Councilor Abeyta, to approve the resolution as presented.

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

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

Against: None

Abstain: None

d. Request for Approval of a Budget Adjustment Resolution (BAR) in the amount of $131,698 to fund the reclassification of two positions. (Jonathan Montoya, Source of Supply Operations Manager, jmmontoya@santafenm.gov, 955-4373)

1) Reclassify a Source of Supply Water Operator Entry position to a Water Operator Advanced position, an increase amount of $42,788;
2) Reclassify and transfer Utility Customer Service Meter Reader position to the Water Division SOS Water Operator Advanced position, an increase of $88,910.

Committee Review:
Public Works and Utilities Committee: 10/25/2021
Finance Committee: 11/01/2021
Governing Body: 11/10/2021

MOTION: Councilor Lindell moved, seconded by Councilor Abeyta, to approve the budget adjustment resolution (BAR) as presented.

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

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

Against: None

Abstain: None

e. Request for the Approval of Amendment No. #2 to Service Contract 20-0263 with FacilityBUILD, to increase compensation in the Amount of $115,776.39 including NMGRT for Design/Build services for the design and construction of a new restroom facility that will be located at the Water Street parking lot; Sam Burnett, Facilities Division Director, jsburnett@santafenm.gov, 505-955-5933

1) Request for the approval of a BAR in the amount of $350,000 to transfer Capital Impact Fees into WIP Construction for the Water Street Restroom project, as approved at the CIAC on 11/17/2020 Item 6B; Sam Burnett, Facilities Division Director, jsburnett@santafenm.gov, 505-955-5933

2) Request for the approval of a BAR in the amount of $125,770 to transfer ½% GRT Revenues into WIP Construction for the Water Street Restroom project; Sam Burnett, Facilities Division Director, jsburnett@santafenm.gov, 505-955-5933

Committee Review:
Public Works and Utilities Committee: 10/25/2021
Finance Committee: 11/01/2021
Governing Body: 11/10/2021

Item was removed from the agenda.

8. **ACTION ITEMS: DISCUSSION**

9. **EXECUTIVE SESSION**

10. **MATTERS FROM STAFF**

11. **MATTERS FROM THE COMMITTEE**

12. **MATTERS FROM THE CHAIR**

Chair Rivera requested for Mark Duran to join the meeting to give the committee an update on ICIP. Duran will potently give the Councilors an update at the next Public Works and Utilities Committee meeting.

13. **NEXT MEETING: November 08 2021**

14. **ADJOURN**

meeting adjourn at 5:16pm.

_____ _____

Liaison Chair

Project Status Overview

The conversion of lights continued throughout the south/southwest side of Santa Fe over the past week and a half. To date, over 400 fixtures have been converted and we are beginning the process of converting to the new rate with PNM. Almost 200 door hangers have been distributed and the website has received increased traffic and engagement.

Continuing Community Engagement

WEBSITE & FEEDBACK FORM

New responses were received this week:

Page submitted on: The Santa Fe LED Conversion Project

What is the nature of your response?:
Request additional lighting

Comment/Question:
Please install additional lighting/street lamps along the 2800/2900 block of Galisteo Road.

First Name:
Camille

Last Name:
Romero

Street Address:
[redacted]

City:
Santa Fe

State/Region:
NM

Page submitted on: The Santa Fe LED Conversion Project

What is the nature of your response?:
Provide feedback on your experience with the conversion

Comment/Question:
What is the status of the conversion? The last newsletter said it would be starting in mid-October, but I have heard rumors that it is delayed until 2022.

First Name:
Albert

Last Name:
Shultz

Street Address:
[redacted]

City:
Santa Fe

State/Region:
NM

Page submitted on: The Santa Fe LED Conversion Project

What is the nature of your response?:
Report an outage or malfunction

Comment/Question:
Received a call in the office from Linn that her street light was installed yesterday (10/27), but did not come on at night. We were able to determine that it was an issue with the node that was resolved right away.

First Name:
Linn

Last Name:
Cotrell

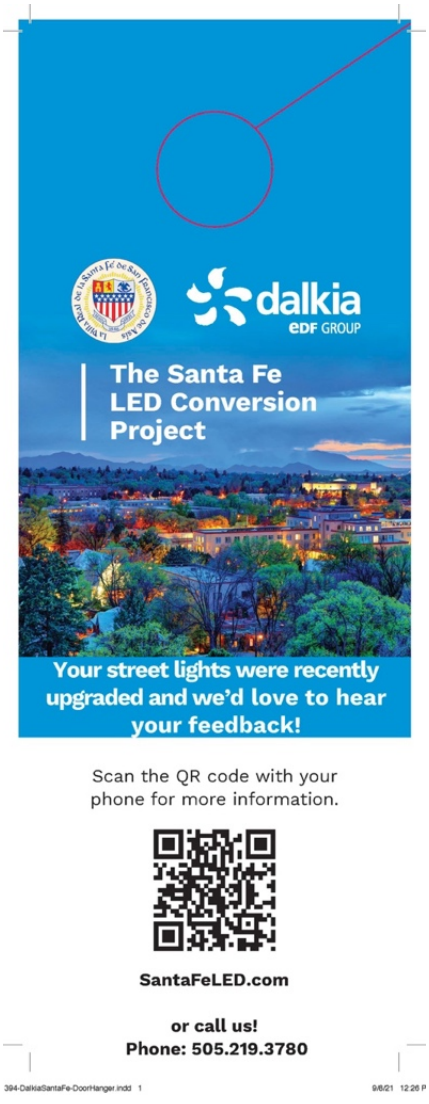
Street Address:
[redacted]

City:
Santa Fe

State/Region:
NM

DOOR HANGERS

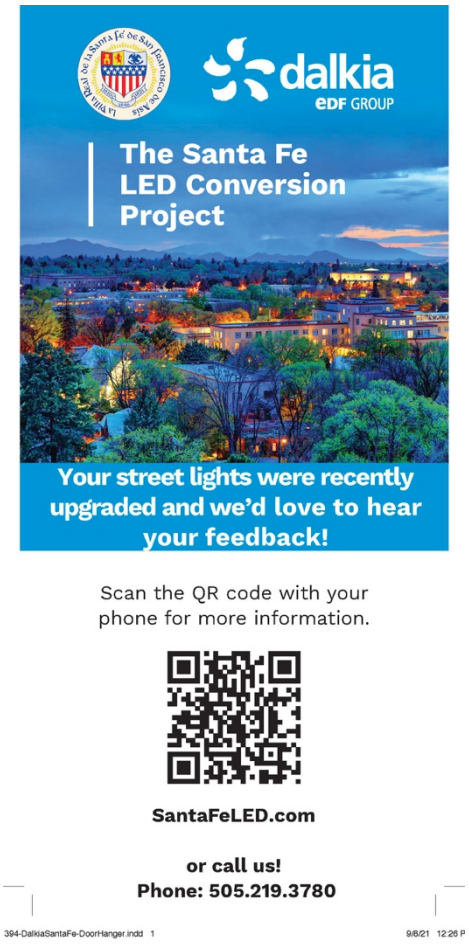
Door hangers continuing to be distributed, with 197 having been distributed to date. One side of the door hanger is printed in English and one side is printed in Spanish.





INFORMATION CARDS

Each operational truck continues to be stocked with information cards. Our crews have reported several instances of being approached by community-members and providing them with a card to submit their feedback, with over 20 cards having been distributed to date.





DRONE FOOTAGE

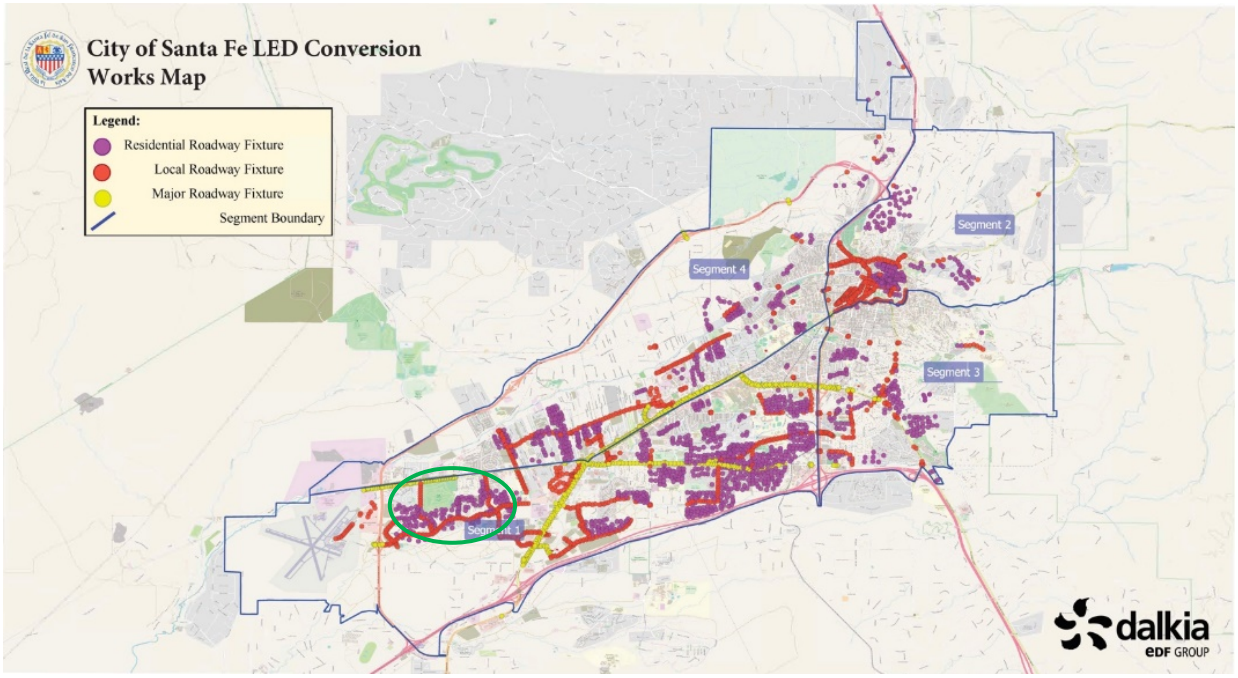
Drone footage of the existing conditions of the street lighting infrastructure has been collected and is being rendered. Please see the attached Appendix A for the locations of filming in each Segment. We look forward to compiling the “before and after” footage to visually demonstration the improvements achieved through this project.

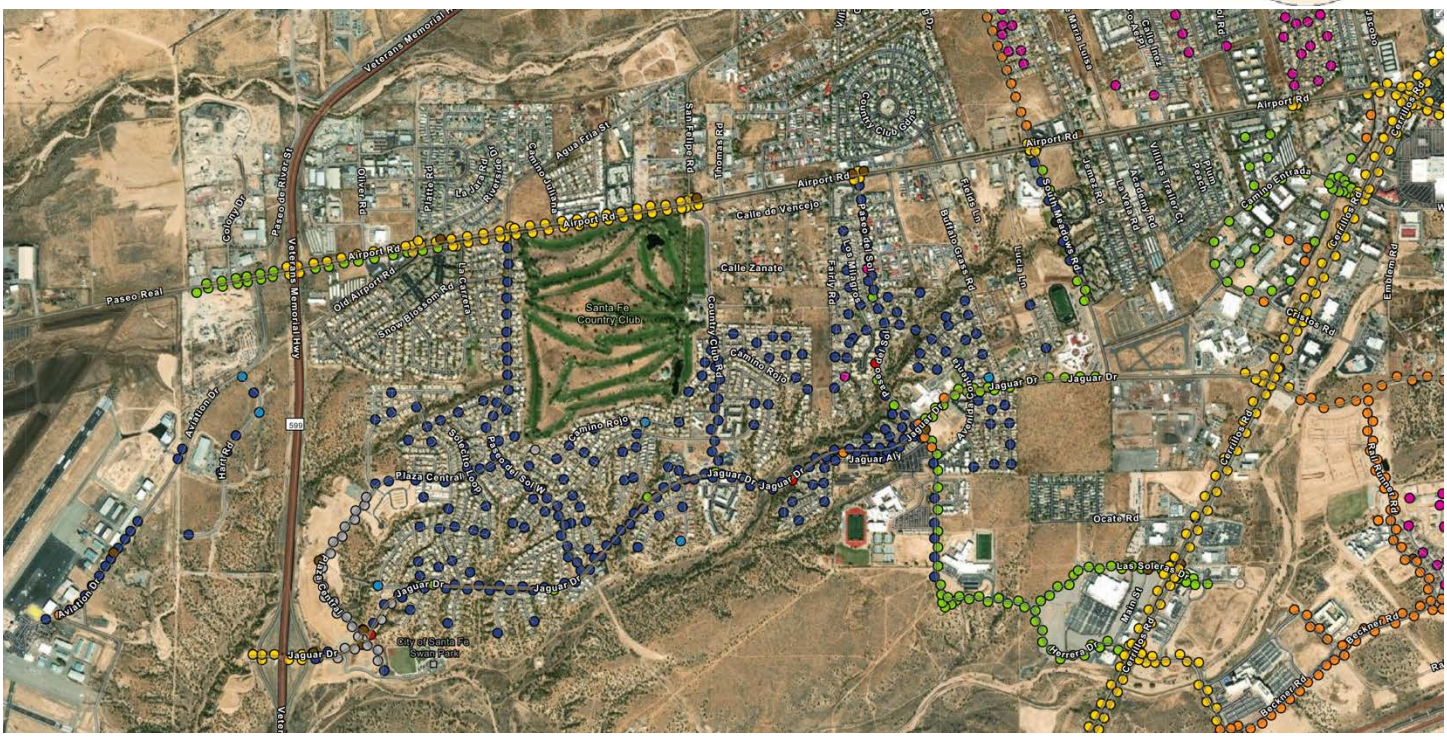
ADDITIONAL MAINTENANCE COMPLETED

- Leaning poles, straightened
- Misshapen pole arms cut to achieve proper fit
- Wiring

Conversion Work Completed from 10/20/21 – 11/03/21

FIXTURES CONVERTED
Total Complete: 476
Residential: 170
Local: 284
Major: 22
Watts Reduced to Date: -59,692 W

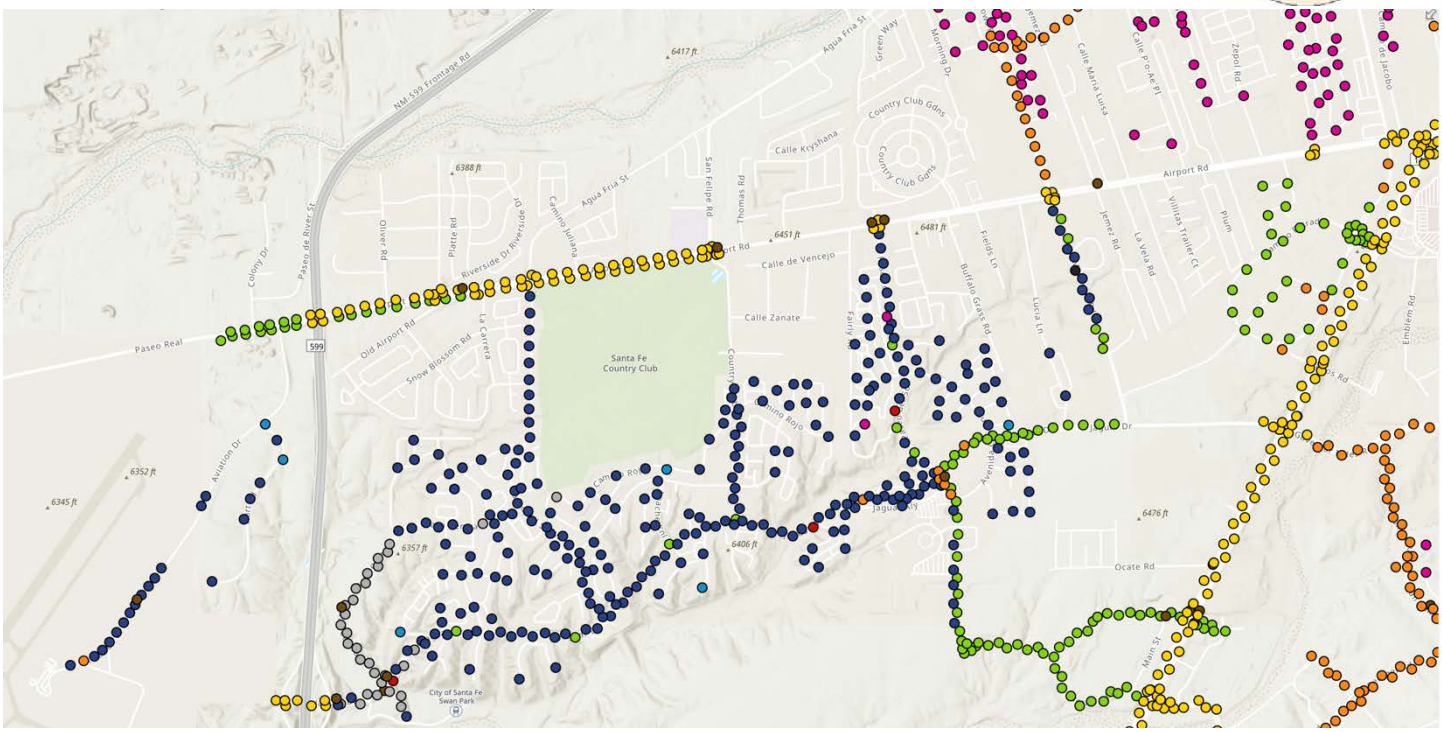




FIXTURES CONVERTED through 11/03/21 GREEN DOTS & BLUE DOTS = COMPLETED FIXTURES

LEGEND

ALL BLUE = COMPLETED FIXTURES, FIELD VERIFICATION COMPLETE
ALL GREEN = COMPLETED FIXTURES, AWAITING FIELD VERIFICATION
YELLOW = FIXTURE TO BE CONVERTED, MAJOR ROADWAY
ORANGE = FIXTURE TO BE CONVERTED, LOCAL ROADWAY
PINK = FIXTURE TO BE CONVERTED, RESIDENTIAL ROADWAY
BROWN = CONTACTORS (ELECTRICAL EQUIPMENT)
RED OR GRAY = ADDITIONAL MAINTENANCE REQUIRED BY PNM (DISTRIBUTION-SIDE WORK)



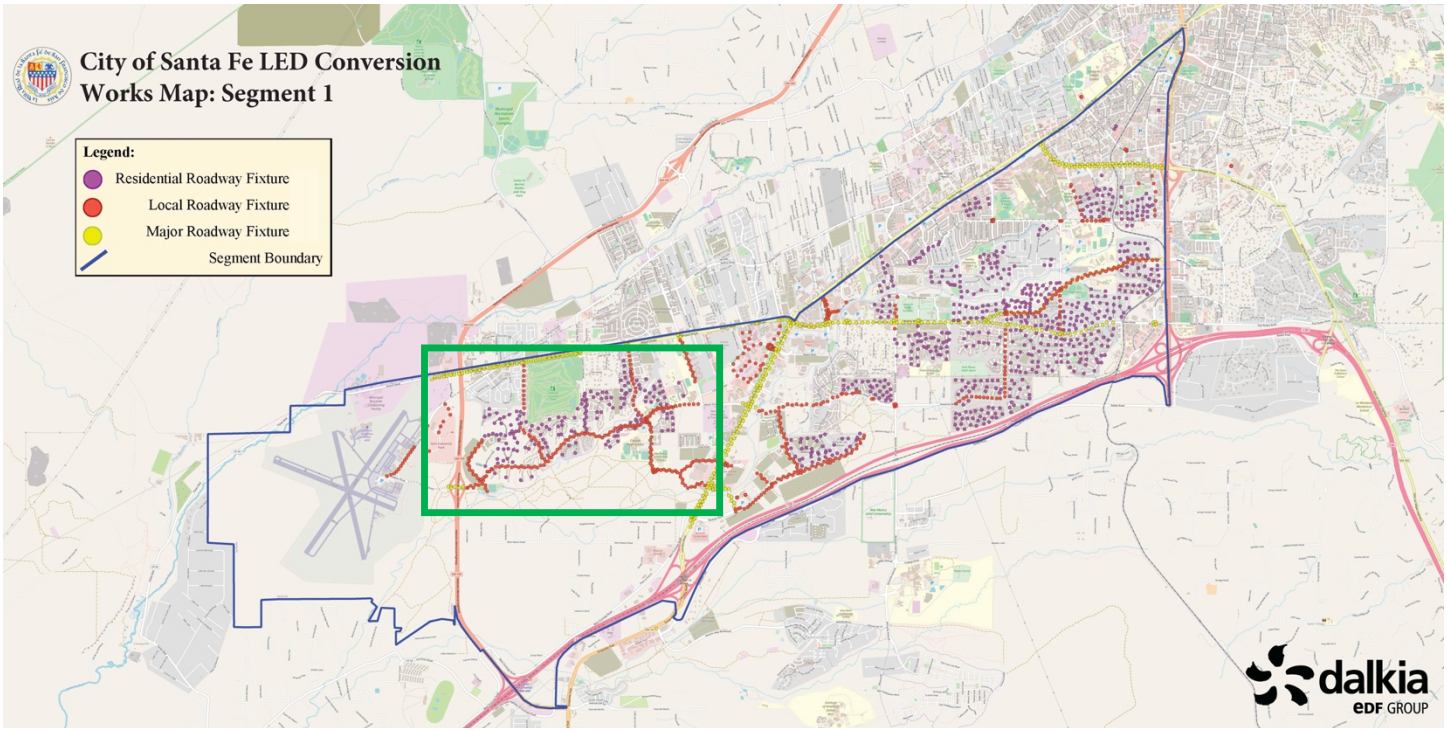
FIXTURES CONVERTED through 11/03/21 GREEN DOTS & BLUE DOTS = COMPLETED FIXTURES

LEGEND

ALL BLUE = COMPLETED FIXTURES, FIELD VERIFICATION COMPLETE
ALL GREEN = COMPLETED FIXTURES, AWAITING FIELD VERIFICATION
YELLOW = FIXTURE TO BE CONVERTED, MAJOR ROADWAY
ORANGE = FIXTURE TO BE CONVERTED, LOCAL ROADWAY
PINK = FIXTURE TO BE CONVERTED, RESIDENTIAL ROADWAY
BROWN = CONTACTORS (ELECTRICAL EQUIPMENT)
RED OR GRAY = ADDITIONAL MAINTENANCE REQUIRED BY PNM (DISTRIBUTION-SIDE WORK)

WORK PROJECTED TO BE COMPLETED BY THE NEXT REPORT

It is expected that Segment 1 will be complete at the time of the next PWUC Report.



GREEN BOX INDICATES AREA COMPLETED TO DATE

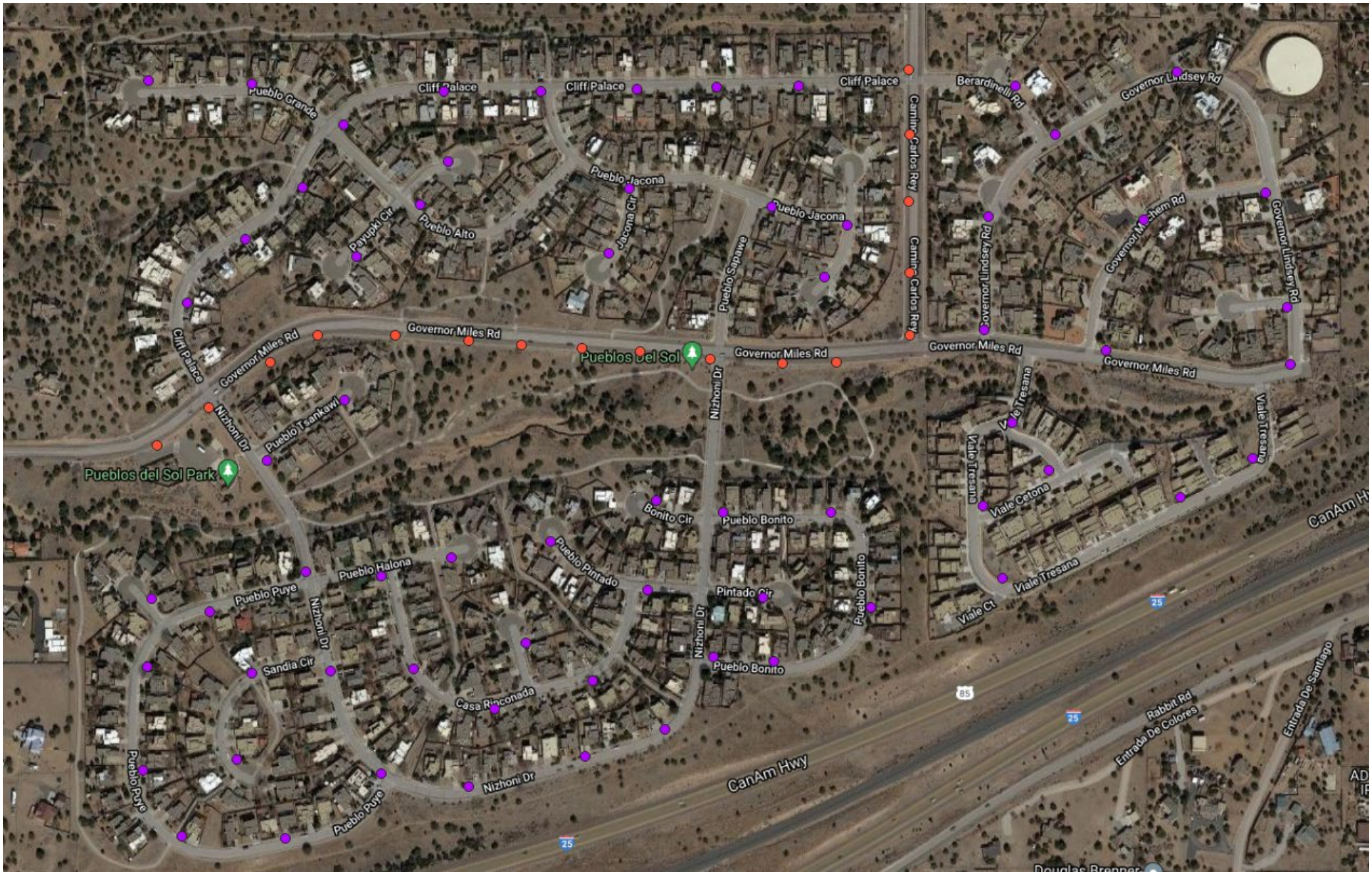
NEXT REPORT

The next report to the PWUC will be December 13, 2021. It will include a progress update along with feedback received through the website. It will also include an update regarding any house-side shield requests received and fulfilled.

Appendix A: Drone Footage Locations

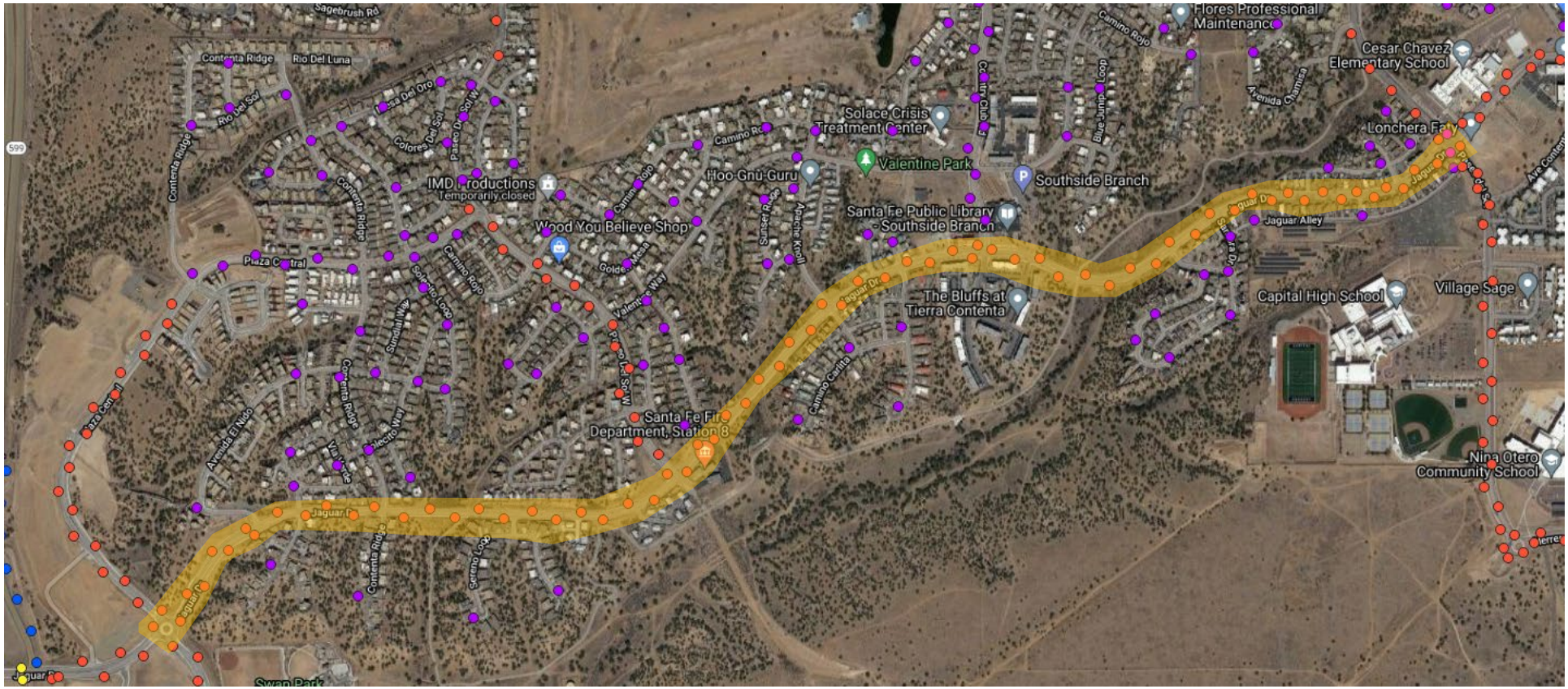
Segment 1

Residential – Purple dots only
Neighborhoods around Intersection of Camino Carlos Rey & Governor Miles



Local – Orange dots in highlighted area

Jaguar Drive (Plaza Central to Paseo del Sol)



Major – Yellow dots

Airport Road (Veterans Memorial Highway/599 – Country Club Road)



Segment 2

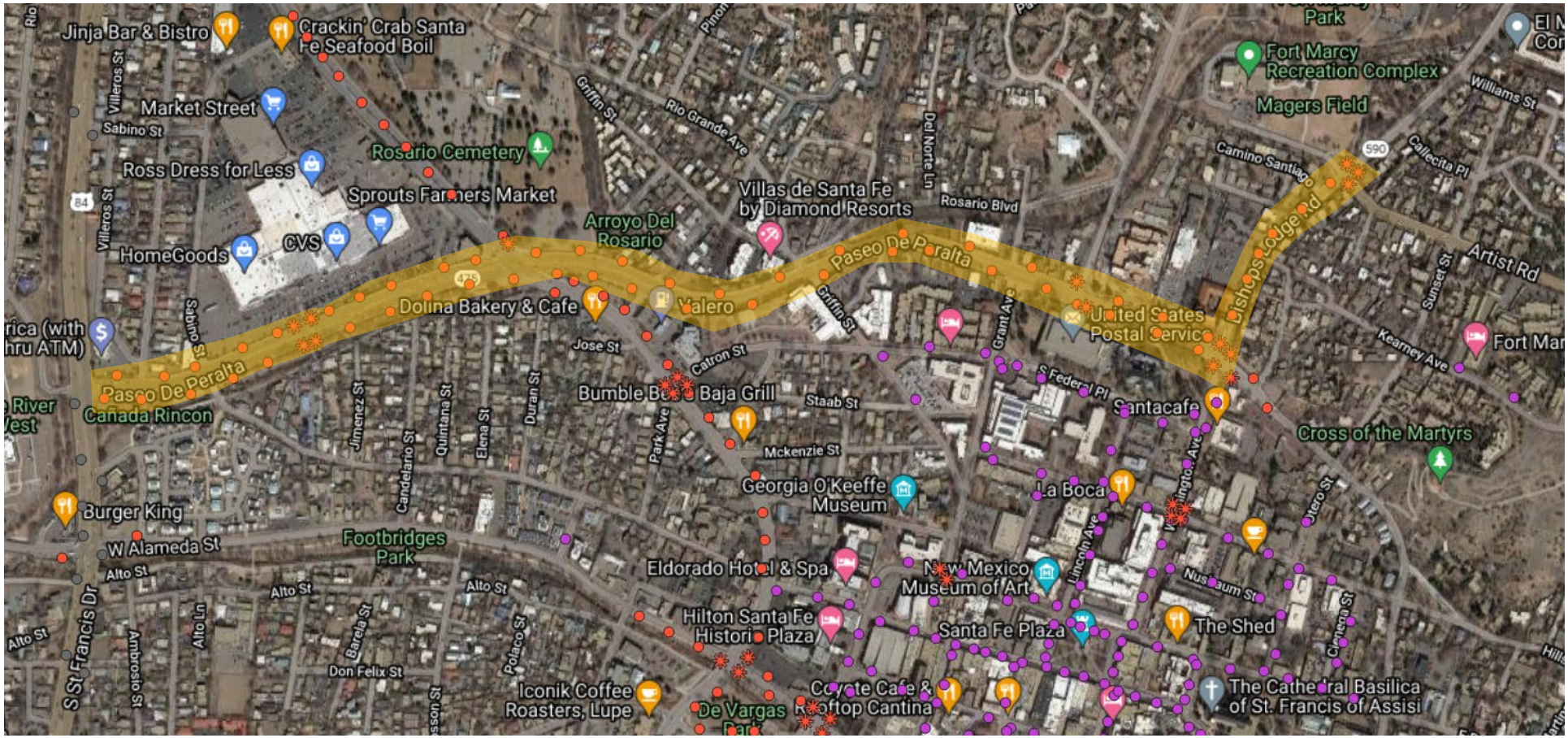
Residential – Purple dots in highlighted area

Northern Boundary: East Palace Ave Southern Boundary: East Alameda St

Western Boundary: Sandoval St Eastern Boundary: Cathedral Pl



Local – Orange dots in highlighted area
Paseo de Peralta (St. Francis Dr. – Bishops Lodge Road)
Bishops Lodge Road (Paseo de Peralta – Artist Road)



Major

There are no Major roadway street lights in Segment 2

Segment 3

Residential – Purple dots

Neighborhood off intersection of Old Pecos Trail and West Zia Road.



Local – Orange dots in highlighted area
West Zia Rd (St. Francis Dr – Botulph Rd)
Botulph Road (West Zia Rd – Siringo Rd)



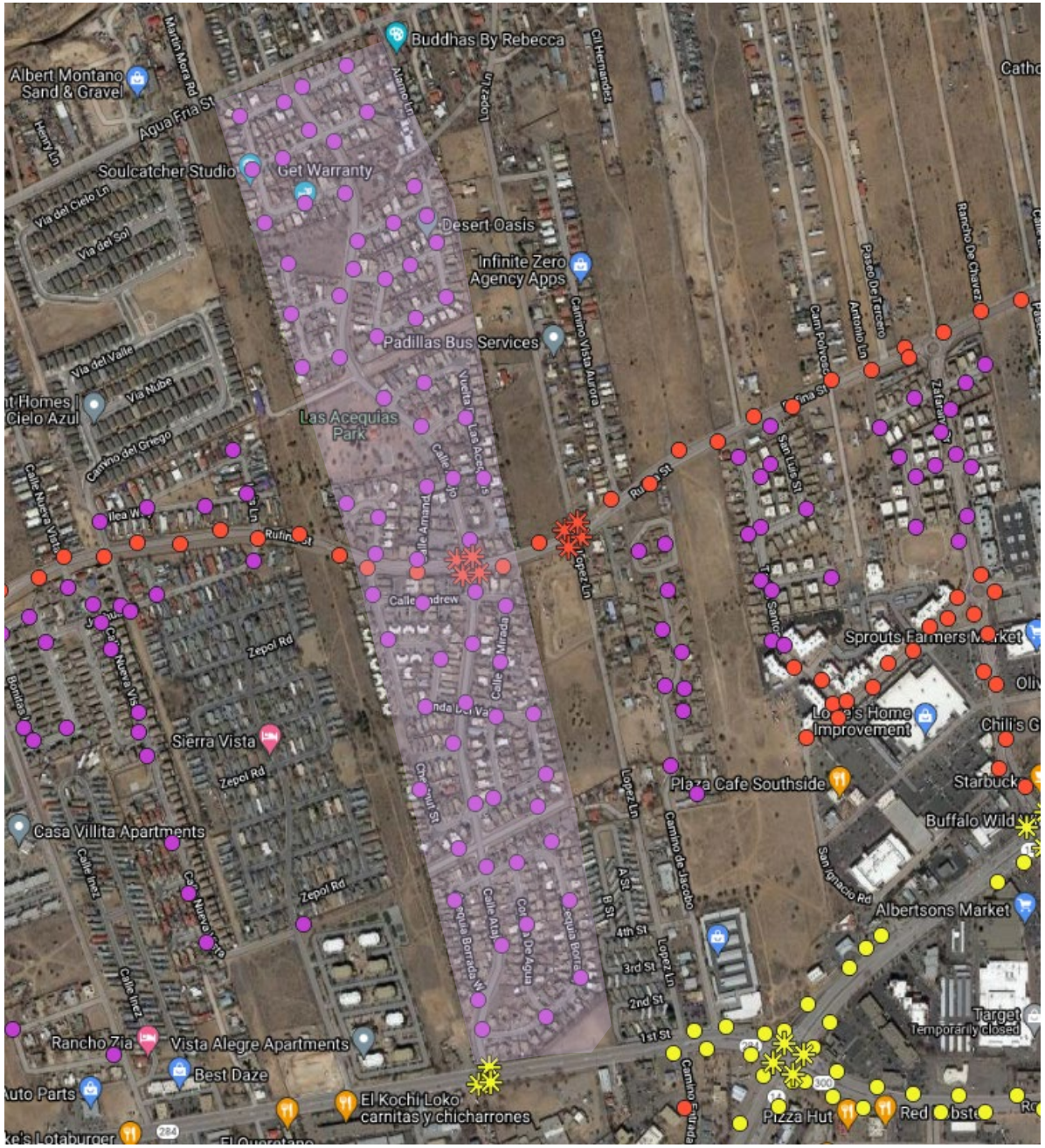
Major – Yellow dots in highlighted area

St. Michael's Dr (Gallisteo St – Arroyo Chamiso Rd)



Segment 4

Residential – Purple dots in highlighted area
Las Acequias Neighborhood



Local – Orange dots in highlighted area

Rufina St (Jemez Rd – Lopez Ln)



Major – Yellow dots in highlighted area
Cerrillos (Zafarano Dr – Richards Ave)



PUBLIC WORKS AND UTILITIES COMMITTEE NOVEMBER 8, 2021

ROADWAY AND TRAILS PROJECTS UPDATE

Romella Glorioso-Moss
Project Administrator Senior

Erick Aune
Santa Fe Metropolitan Planning Organization Director

Regina Wheeler
Public Works Department Director

THE PLANNING PROCESS

Santa Fe MPO Metropolitan Transportation Plan 2020-2045

INTEGRATING PLANS

BICYCLE MASTER PLAN

The Santa Fe MPO updated the 2012 Bicycle Master Plan on June 27, 2019. →

PEDESTRIAN MASTER PLAN

The Pedestrian Master Plan informs the 2015-2040 Metropolitan Transportation Plan to guide the development of Santa Fe's pedestrian environment. →

PUBLIC TRANSIT MASTER PLAN

The Plan's goal is to enhance viable transit options. This page holds other transit related documents as well, including safety plans, MOUs, and the teen mobility plan

SEE THE TEEN MOBILITY PLAN

FROM VISION, GOALS AND DATA TO PROJECTS

Safety: A safe and secure transportation system for motorized and non-motorized users.

Public Health: A transportation system that supports healthy lifestyles.

Social Equity: Equitable investments in transportation that enable quality of life for all residents.

Multimodal Mobility & Accessibility: An accessible, connected, and integrated transportation system.

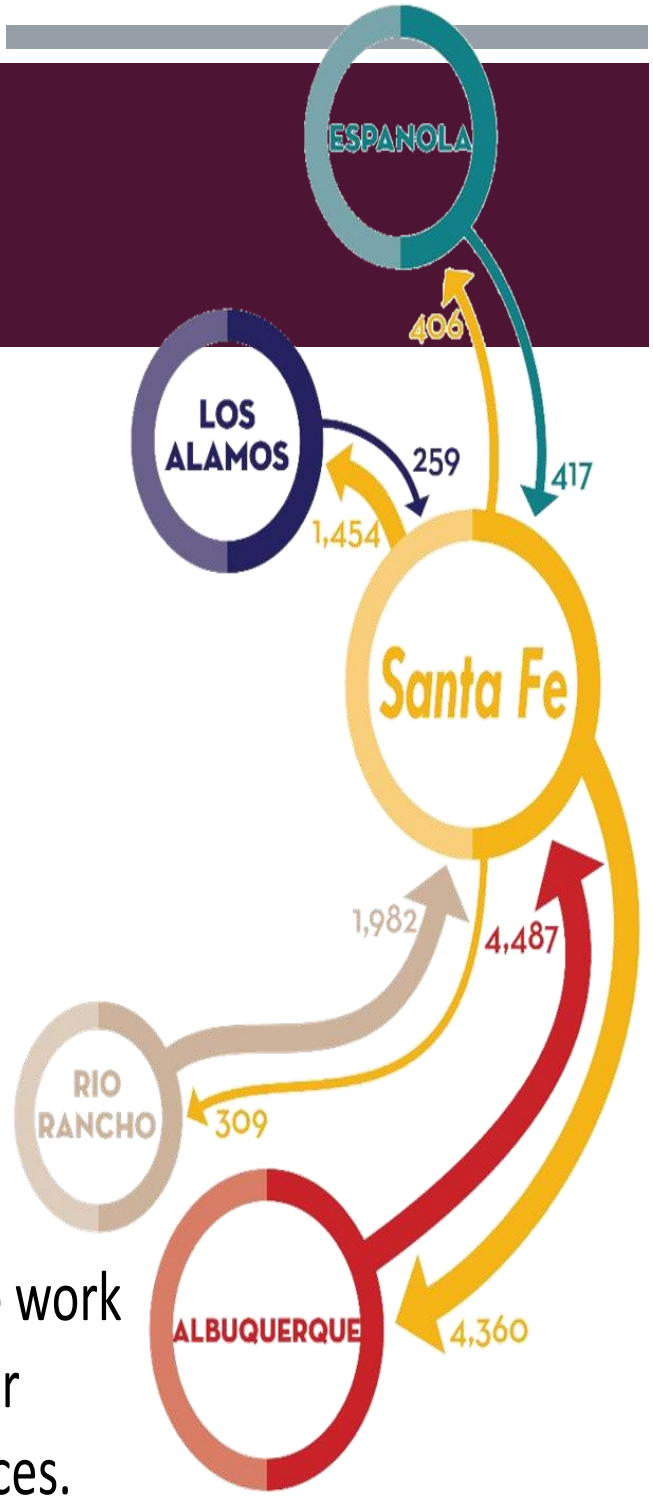
Environmental Stewardship: A transportation system that protects and enhances the natural, cultural, and built environment and mitigates climate change.

Congestion Relief & System Operations: An efficient and reliable transportation system poised to leverage emerging technologies.

Economic & Community Vitality: A transportation system that supports economic and community vitality.

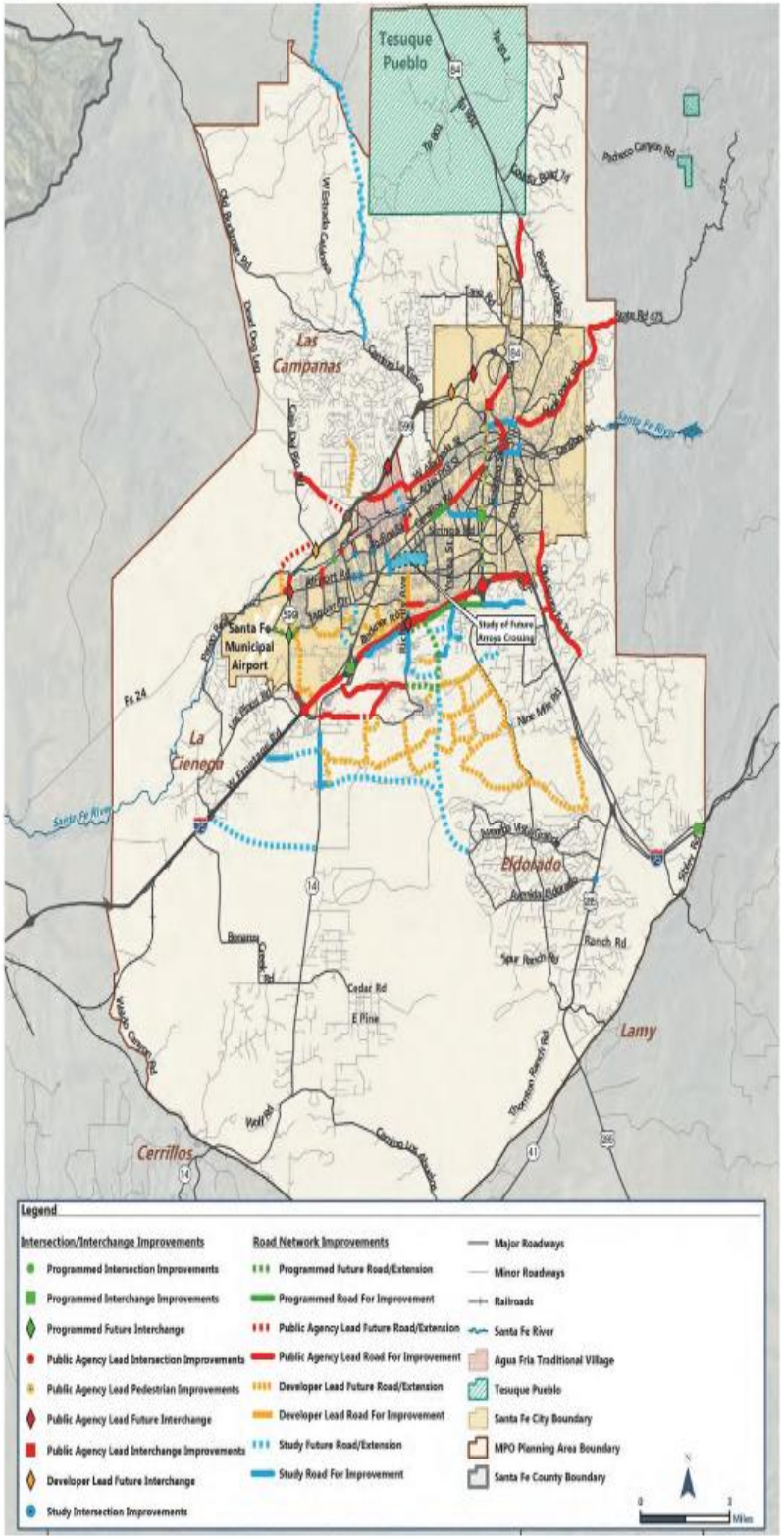
System Preservation: A well-maintained transportation system.

Partnership & Funding: Regional collaboration in transportation planning, funding, and implementation.



Daily commuter flows: Nearly 25,000 people who work in Santa Fe live outside of the city limits, and over 13,000 Santa Fe residents commute to other places.

Figure 5-3. Future Roadway Network



The Future Roadway Network Map is informed first by vision and goals then by multiple data sources including master plans, pending planned developments, population demographics, land use/zoning, traffic/growth projections, safety and volume data, and public input.

PROJECT PRIORITIZATION FRAMEWORK

With limited funding available across all transportation modes, and an active community desiring context sensitive and complete transportation improvements, the process of prioritizing projects must be comprehensive and strive to identify those projects that will most effectively move our region's transportation system toward fulfilling our vision and achieving our goals. As such, the prioritization process for each transportation project is linked to the goals, as presented in Chapter 2.

PROJECT EVALUATION

The Regional Roadway system projects represent the region's needs over the next 25 years. Each project has been evaluated based on criteria that stem from the nine MPO goals in the performance categories of:

- Safety
- Multimodal Mobility & Accessibility
- Environmental Stewardship
- Congestion Relief & System Operations
- Economic & Community Vitality
- System Preservation
- Partnership & Funding
- Public Health
- Social Equity

The intent of the roadway prioritization process is to prioritize those projects that are expected to contribute the greatest toward reaching the MPO goals.

EVALUATION CRITERIA

SAFETY

Goal: A safe and secure transportation system for motorized and non-motorized users.

Evaluation: How well does the project improve safety for all users? Does it alleviate a known issue?

The safety of the roadway system is of critical importance for all users, including pedestrians, bicyclists, transit users, and motorists, as it reduces the risk of people being seriously injured or killed in crashes. Safety improvements can range from modifying signal phasing at an intersection to eliminating conflict by providing grade separation.

Highest Score Example: A roadway project involving a new grade separated crossing at a location with a crash history showing a high occurrence of severe (injury or fatal) crashes. The project would eliminate the safety problem.

- Project will resolve a major identified safety issue
- Project will resolve an identified safety issue
- Project has no identified safety issue
- Project will have a negative impact on safety
- Project will have a major negative impact on safety

TABLE 6-1. REGIONAL ROADWAY PRIORITIES

Legend: ● = Positive impact ◑ = Partially positive impact ○ = No net impact ◐ = Partially negative impact ● = Negative impact = Bike = Pedestrian = Transit = Public Health = Social Equity

Rank	Project Name and Description	Lead Agency	Cost (2020 Dollars)	Multimodal, Public Health and Social Equity Elements	Evaluation Criteria								Time Frame/ Need
					Safety & Security	Multimodal Mobility & Accessibility	Greenhouse Gas Reduction	Congestion Relief & System Operations	Economic Vitality: Freight & Commerce	Commercial & Community Vitality	System Preservation	Partnership & Funding	
1	Cerrillos Road Reconstruction (St. Michaels Drive to St. Francis Drive): Reconstruct to add medians, drainage, bike lanes, sidewalks and transit facilities.	NMDOT	$18,000,000		●	●	○	●	○	●	◑	●	Short
2	S100440 - NM 466 (St. Michaels): Study, design, and construction of the St. Francis Drive/St. Michaels Drive interchange; pedestrian ADA improvements; pavement preservation; bridge reconstruction.	NMDOT	$15,540,000		●	●	○	●	○	◑	●	◑	Short
3	S100460 - Guadalupe Street Road Diet & Paseo de Peralta/Guadalupe Street Intersection Improvements: Reduce the roadway from 4 to 3 lanes, add bike lanes, widen sidewalks, and add additional pedestrian crossing from Paseo de Peralta (North) to Agua Fria Street. Reconfigure intersection to improve pedestrian crossings and upgrade traffic signals.	City of Santa Fe	$4,150,000		●	●	◑	○	○	●	◑	◑	Short
4	S100122 - South/East Connector: ROW acquisition, design, and construction of a new roadway.	Santa Fe County	$4,750,000		●	●	◑	●	○	○	◐	●	Short
5	S100470 - St. Michaels' Underpass; Design and construction of an underpass along the Rail Trail.	City of Santa Fe	$4,700,000		●	●	○	○	○	◑	○	●	Short
6	S100370 - Agua Fria Street/Cottonwood Drive Intersection Safety Improvements: Construct a roundabout at the intersection.	City of Santa Fe	$1,775,000		●	◑	○	◑	○	○	◑	◑	Short
7	Tierra Contenta Trail: Buffalo Grass to South Meadows Road	City of Santa Fe	$575,000		◑	●	○	○	○	●	◐	●	Short
8	S100660 - Cañada Rincon Trail: Calle Mejia to Camino Francisca	City of Santa Fe	$900,000		●	●	○	○	○	◑	◐	◑	Short
9	S100650 - Acequia Trail: Rufina to San Felipe	City of Santa Fe	$1,500,000		●	●	○	○	○	◑	◐	◑	Short
10	S100630 - Arroyo Hondo Trail Segment 2: Construct segment 2 of the Arroyo Hondo Trail 1.2 miles.	Santa Fe County	$1,400,000		●	●	○	○	○	◑	◐	◑	Short
11	S100640 - Arroyo Hondo Trail Segment 3: Construct segment 3 of the Arroyo Hondo Trail. 1.6 miles Engineering for connection to Richards Avenue.	Santa Fe County	$1,700,000		●	●	○	○	○	◑	◐	◑	Short
12	Agua Fria/South Meadows Intersection Improvements: Reconfigure intersection to include left turn bays on Agua Fria and improve pedestrian crossings and upgrade traffic signals.	City of Santa Fe	$3,150,000		◑	◑	○	●	○	○	○	◑	Short
13	S100430 - NM 599/US285 Ramp: Lengthen southbound on-ramp from NM 599 to US 84/285	NMDOT	$3,200,000		◑	○	○	◑	○	○	○	◑	Short

MPO AND CITY FUNDING AND IMPLEMENTATION

FEDERAL

- New Mexico Highway Safety Improvement Program (HSIP)
- Transportation Alternative Program/Recreational Trails Program (TAP/RTP)
- Congestion Management Air Quality (CMAQ)
- Surface Transportation Program (STP0
- National Highway Performance Program (NHPP)

STATE

- Local Transportation Project Funds
- Local Government Road Fund
- Capital Outlay

LOCAL

- Bonds (GO/GRT)
- General Fund
- Grants
- Impact Fees

MPO Transportation Improvement Program (TIP) and State Transportation Improvement Program (STIP)

Infrastructure Capital Improvement Plan (ICIP) – Anticipated Capital Projects via State Funds

Impact Fee Capital Improvement Plan (IFCIP)

OBLIGATED FUNDS (Projects with dedicated funding for a specific federal fiscal year)

ROADWAY AND TRAILS PROJECTS FY 22

PROJECT TYPE & NAME	PROJECT TERMINI	COST ESTIMATE	PROJECT STATUS	FUNDING STATUS
INTERSECTION IMPROVEMENTS				
1. Agua Fria/Cottonwood Roundabout		$2,000,000	For PS&E approval. Awaiting Utilities certification. Construction starts Spring 2022	Fully funded.
2. Agua Fria/South Meadows		$3,150,000	For PS&E approval. Awaiting 5 NMDOT certifications especially ROW. Construction starts Spring 2022.	Fully funded.
3. Camino Entrada Roundabout		$1,000,000	For construction. Awaiting PO for Construction Management Services and Construction Contractor. Construction starts as soon as PO approved.	Fully funded.
4. Rail Trail/ Paseo de Peralta, 2nd St, Siringo Rd, Rodeo Rd		$1,500,000	Requesting project quote for design.	Applying for funding.
5. Sandoval/Montezuma		$850,000	For PS&E approval. Awaiting ROW certification. Construction starts Summer 2022.	Fully funded.
ROADWAY IMPROVEMENTS				
6. Arroyo Chamisos Crossing	Cerrillos to Rodeo	$10,000,000	Phase I Location Study expected to be completed Dec. 2021	Secured funding = $5,419,222 for design and construction. As soon as design is completed, we will compete for RAISE funding.
7. Bishop's Lodge Road Reconstruction	Paseo de Peralta to Circle Drive	$6,000,000	Transportation Project Funding Agreement just received. Once approved design starts in February/March 2022.	Secured funding for design = $800,000
8. Governor Miles Reconstruction	Richards to Nizhoni	$2,750,000	Will start designing the project as soon as the Legislative Funding Agreement has been executed. Target start date: Summer 2022.	Secured funding for design = $300,000
9. Guadalupe Bridge Rehabilitation	Guadalupe St/West Alameda St	$1,000,000	For PS&E approval. Awaiting 5 NMDOT certifications. Construction will be combined with Guadalupe St Reconstruction project to reduce construction cost. Construction of this segment expected summer 2023.	Fully funded.
10. Guadalupe St. Reconstruction	Agua Fria to Paseo de Peralta	$8,000,000	For PS&E approval. Awaiting ROW certification. Only one parcel remaining for acquisition. Construction will be combined with Guadalupe Bridge Rehabilitation to reduce construction cost. Construction starts late Spring to early Summer 2022.	Fully funded.
11. Harrison Road Sidewalk & Lighting	Agua Fria to Cerrillos Rd	$700,000	60% design plan completed. Construction starts Spring 2022.	Secured funding = $400,000
12. Henry Lynch Reconstruction	Rufina to Agua Fria	$3,100,000	Transportation Project Funding Agreement just received. Once approved design starts in February/March 2022.	Secured funding = $450,000 for design.
13. Pacheco St Bicycle and Pedestrian Improvements	W San Mateo Rd to Alta Vista St	1,000,000	Awaiting for the Legislative Funding Agreement for GB's approval. Once executed, design starts Summer 2022.	Secured funding = $300,000 for design.
14. Paseo del Sol Extension	Jaguar to Jaguar	$9,000,000	Transportation Project Funding Agreement just received. Once approved design starts in February/March 2022.	Secured funding = $800,000 for design.
15. St. Michael's Drive-Rail Trail Underpass	St. Michael's Drive/ Rail Trail	$8,700,000	Awaiting PO approval. Design starts Nov. 1, 2021. Construction starts Summer 2024.	Secured funding = $4,900,000 for design, ROW acquisition & construction. At 90% design plan, we will apply for additional construction funding from CMAQ.
TRAILS				
16. Acequia Trail	Rufina St to San Felipe	3,100,000	RFP issued August 26, 2021. Proposals expected Oct. 14, 2021.	Secured funding = $300,000 for design Applying for construction funding from CMAQ.
17. Canada Rincon Trail	Calle Mejia to Camino Francisca	$1,610,605	PS&E approved based on conditional ROW certification. ROW needs to be completed by January 2022. Construction starts Spring 2022.	Fully funded.
18. Tierra Contenta Trail	Buffalo Grass to South Meadows	$2,200,000	60% design completed.	Secured funding = $700,000 for design & construction Applying for construction funding from CMAQ.
SIGNAGE PROJECT				
19. Wayfinding		$50,000	Phase A design complete.	Fully funded.
Total, Roadway & Trails Projects		$65,710,605/ $32,029,827		

ROADWAY & TRAILS PROJECT SUMMARY FY 22

19 Projects to Manage

- 4 intersection improvements
- 10 roadway improvements
- 3 trails
- 1 wayfinding signage

- 9 projects for construction beginning with Camino Entrada Roundabout (all fully funded)
- 10 engineering design
- 7 new projects (37% increase from FY 21)

- **Total Project Cost Estimate: $65.7M**
- **Secured Funding: $32M**
- **New Funding = $16.6M**

Key Aspects of the Proposed Changes



20 mph Speed Limit
All corridor alternatives are designed for a 20-mph speed limit -- reduced from the current 25 mph -- which will enhance comfort and safety for pedestrians or cyclists



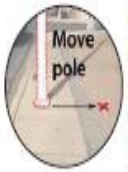
No New Right of Way
The enhancements proposed by each alternative will not require acquisition of new space outside of the existing right-of-way. Some proposals at particular intersections along the corridor may require purchase of new space.



Raised Medians
Raised medians with standard curbs will be constructed along the corridor. These medians are more visible and provide more of a "traffic calming" effect. Many existing medians will also be widened.



Wider Sidewalks
Sidewalk width along Guadalupe Street is generally 6 feet wide, but often narrows to 5 or less feet. All proposed alternatives would include sidewalks of at least 6 feet wide.



Removal of Pedestrian Obstacles
Utility poles will be relocated if they currently reduce the clear path on the sidewalk to less than 36" wide. Driveways will also be reduced or modified to improve pedestrian safety and comfort.



Improved Bicycle Facilities
Dedicated bicycle facilites and calmed traffic would result from any of the proposed alternatives. Bicycle lanes and off-street paths are proposed.

42% safety improvement in pedestrian-vehicle conflicts at intersections along the corridor

New bike lanes on each side of street, improving safety for both motorists and cyclists

ADA compliant corridor, with all sidewalks expanded to at least 6 feet wide and all curb ramps updated to ADA standards

11 driveways modified to improve safety,

Guadalupe St Reconstruction Project

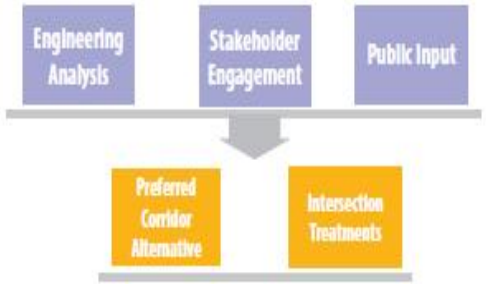
The purpose of this project is to:

- Identify a roadway typical section for the Guadalupe Street that will:
  - Improve sidewalks and ramps so to provide ADA accessibility and safely serve pedestrian traffic;
  - Improve corridor safety for all corridor users; and
  - Enhance economic development opportunities.

Project Design Elements include:

- Access management strategies and techniques;
- Enhanced street lighting; and
- Improved multimodal accommodation (pedestrian and bicycle).

Analysis and engagement with stakeholders and the public over the past 12 months has led to the development of these two key sets of recommendations.

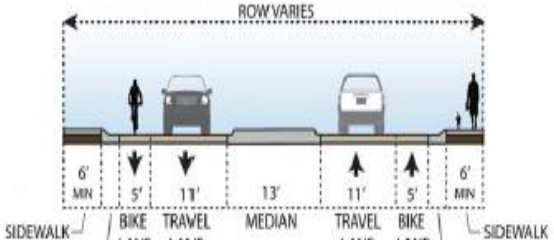


Preferred Corridor Alternative

What will Guadalupe Street look like overall?

Two Lanes + Median + Bike Lane

Today, Guadalupe Street has two travel lanes and a center turn lane, which is replaced by a median at certain intersections. This alternative would extend the center median along most of the corridor, with occassional breaks to permit left turns. Two 5-foot bike lanes would be added outside of the travel lanes. Curbs and gutters would be improved, and sidewalks would be widened to at least 6 feet wide.





GUADALUPE
Street Reconstruction

Intersection Treatments

What will each intersection look like?

DE VARGAS ST / AGUA FRIA ST



Extend Median

ALAMEDA ST



Eliminate EB Right-Turn Lane

WATER ST



Close Median

SAN FRANCISCO ST



Pedestrian Phase



JOHNSON ST



Left-Turn Bay

MCKENZIE ST / JEFFERSON ST



Extend Median

PARK AVE / CATRON ST



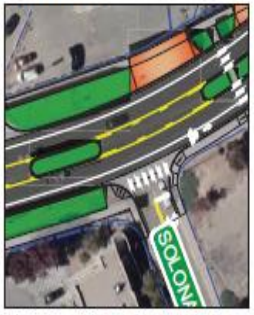
Add Median & Left-Turn Bay

JOSE ST



Full Access

SOLONA ST



Right-In/Right-Out/Left-Out

PASEO DE PERALTA



Double Southbound Left

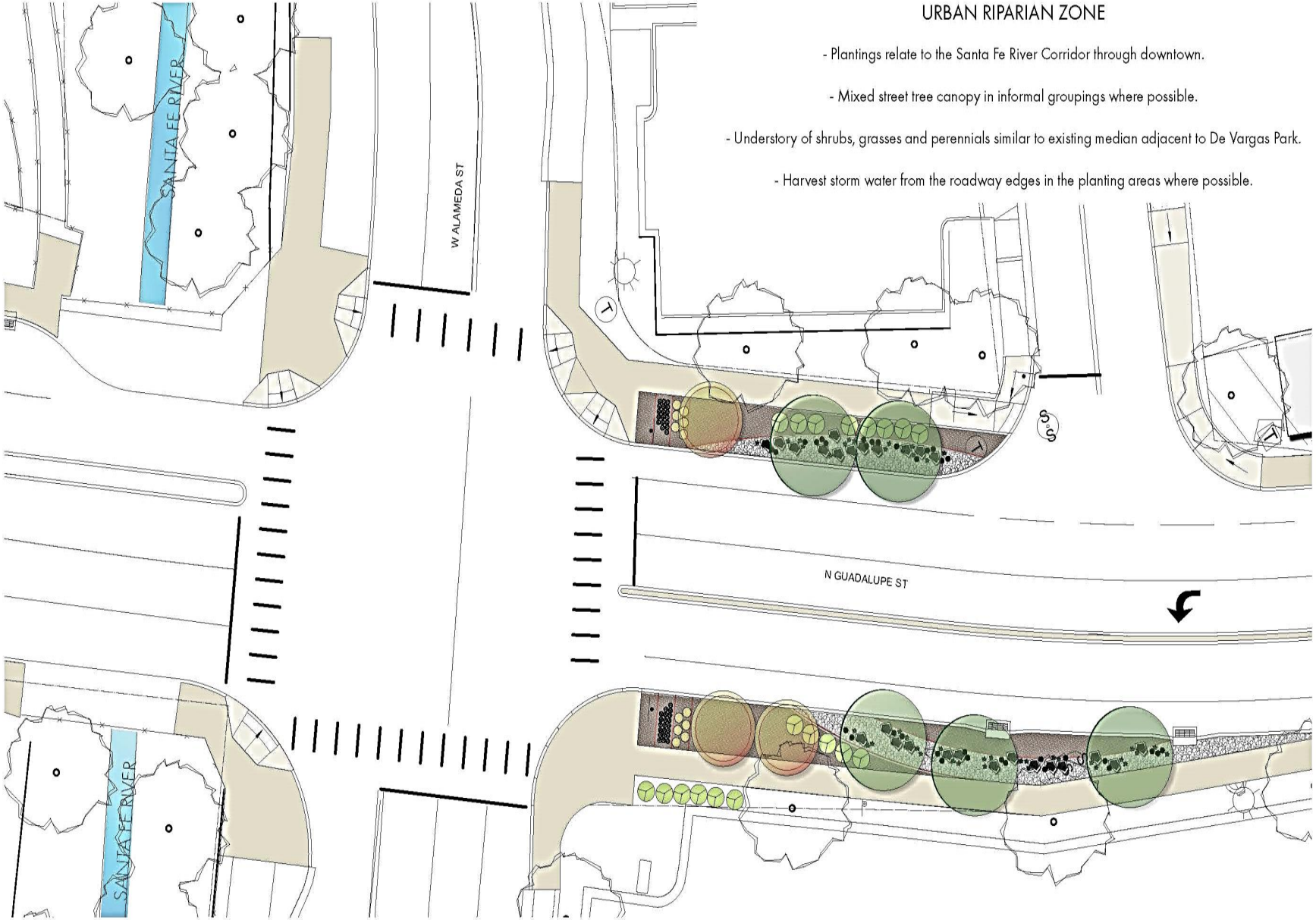
URBAN RIPARIAN ZONE

- Plantings relate to the Santa Fe River Corridor through downtown.

- Mixed street tree canopy in informal groupings where possible.

- Understory of shrubs, grasses and perennials similar to existing median adjacent to De Vargas Park.

- Harvest storm water from the roadway edges in the planting areas where possible.



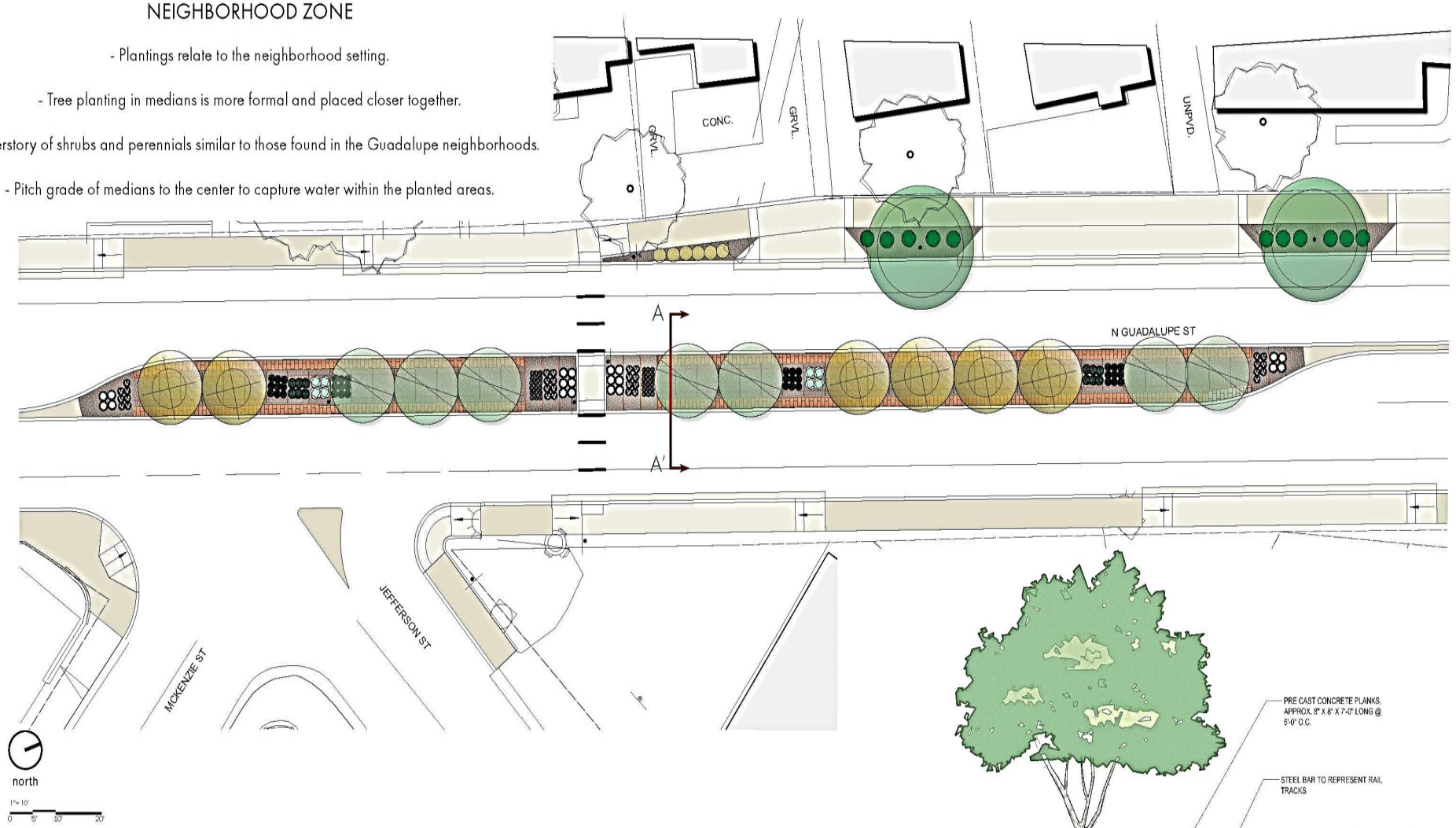
NEIGHBORHOOD ZONE

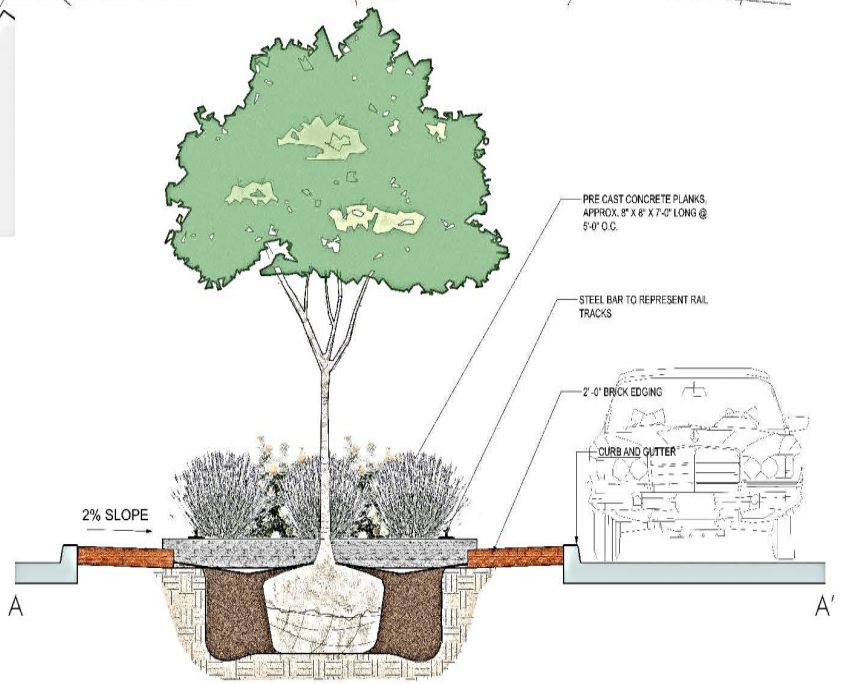
- Plantings relate to the neighborhood setting.

- Tree planting in medians is more formal and placed closer together.

- Understory of shrubs and perennials similar to those found in the Guadalupe neighborhoods.

- Pitch grade of medians to the center to capture water within the planted areas.



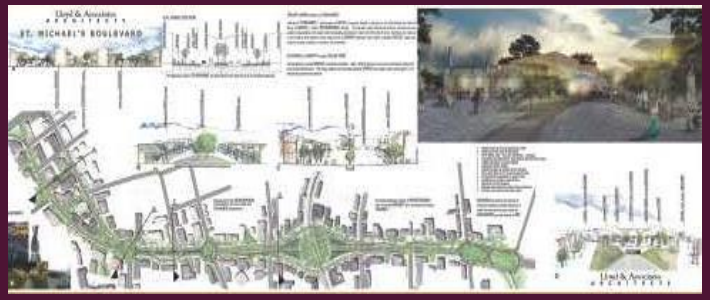


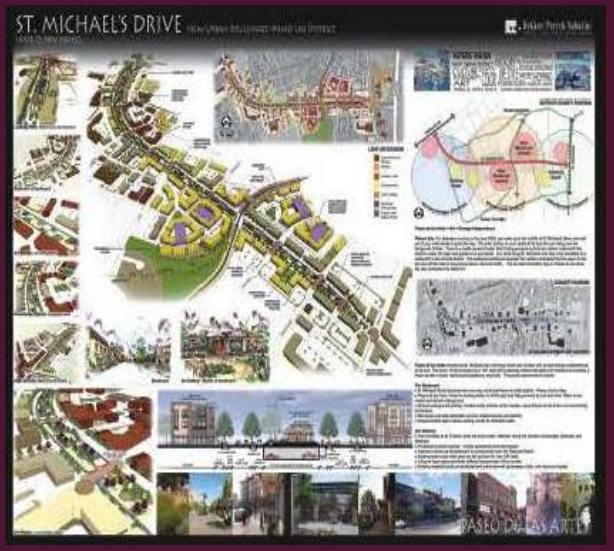
Streetscape Cross Section @ North Guadalupe Street

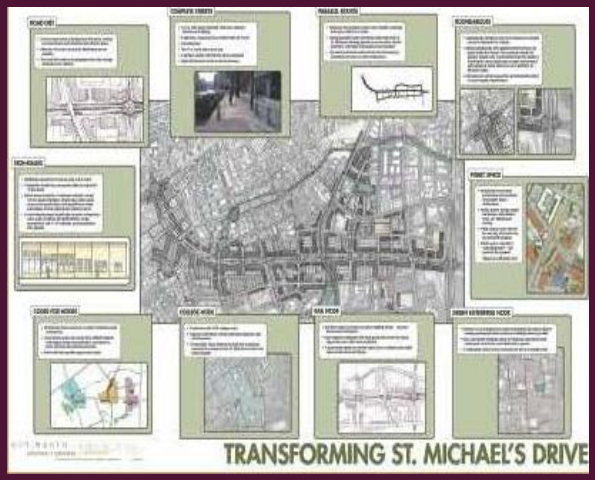
St. Michael's Drive Re-imagined

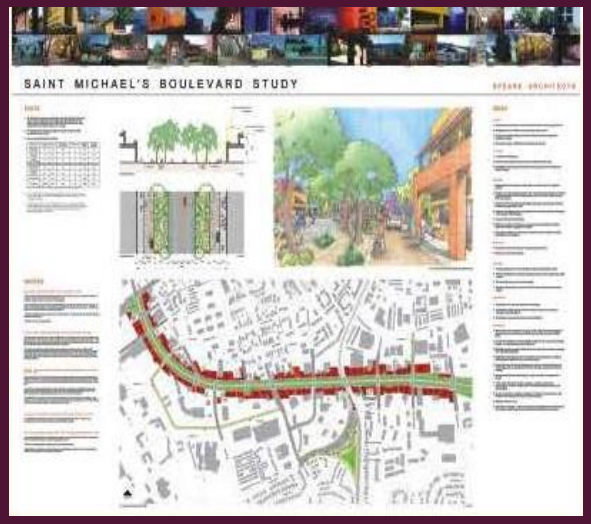
Visions for the Future







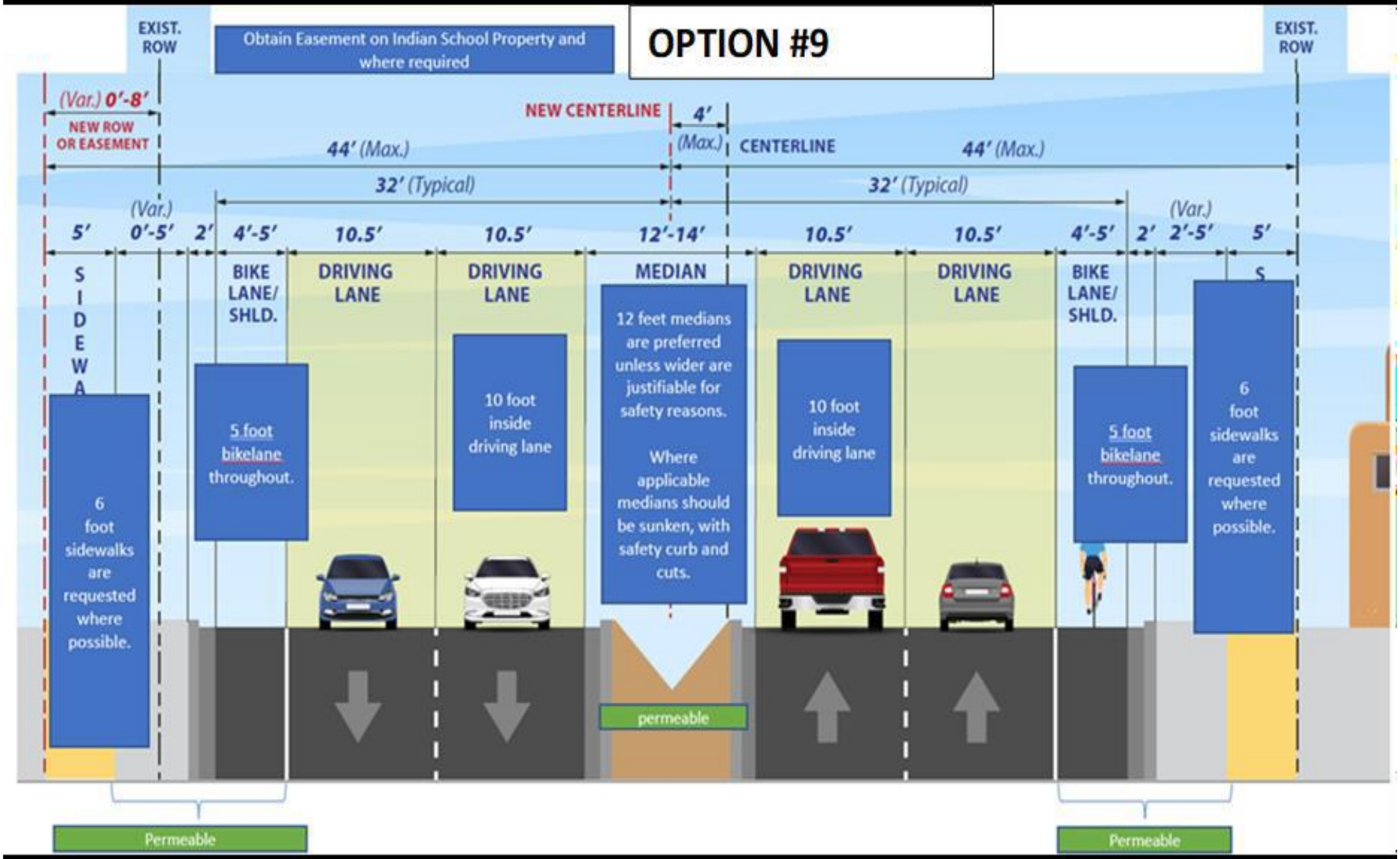








CERRILLOS ROAD RECONSTRUCTION PROJECT



QUESTIONS

ROADS AND TRAILS PROJECTS UPDATE



Romella Glorioso-Moss
Project Administrator Senior

Erick Aune
Santa Fe Metropolitan Planning Organization Director

Regina Wheeler
Public Works Department Director

ROADWAY & TRAILS PROJECT LIST FY22

PROJECT TYPE & NAME	PROJECT TERMINI	COST ESTIMATE	PROJECT STATUS	FUNDING STATUS
INTERSECTION IMPROVEMENTS				
1. Agua Fria/Cottonwood Roundabout		$2,000,000	For PS&E approval. Awaiting Utilities certification. Construction starts Spring 2022	Fully funded.
2. Agua Fria/South Meadows		$3,150,000	For PS&E approval. Awaiting 5 NMDOT certifications especially ROW. Construction starts Spring 2022.	Fully funded.
3. Camino Entrada Roundabout		$1,000,000	For construction. Awaiting PO for Construction Management Services and Construction Contractor. Construction starts as soon as PO approved.	Fully funded.
4. Rail Trail/ Paseo de Peralta, 2nd St, Siringo Rd, Rodeo Rd		$1,500,000	Requesting project quote for design.	Applying for funding.
5. Sandoval/Montezuma		$850,000	For PS&E approval. Awaiting ROW certification. Construction starts Summer 2022.	Fully funded.
ROADWAY IMPROVEMENTS				
6. Arroyo Chamisos Crossing	Cerrillos to Rodeo	$10,000,000	Phase 1 Location Study expected to be completed Dec. 2021	Secured funding = $5,419,222 for design and construction. As soon as design is completed, we will compete for RAISE funding.
7. Bishop's Lodge Road Reconstruction	Paseo de Peralta to Circle Drive	$6,000,000	Transportation Project Funding Agreement just received. Once approved design starts in February/March 2022.	Secured funding = $800,000 for design.
8. Governor Miles Reconstruction	Richards to Nizhoni	$2,750,000	Will start designing the project as soon as the Legislative Funding Agreement has been executed. Target start date: Summer 2022.	Secured funding = $300,000 for design.
9. Guadalupe Bridge Rehabilitation	Guadalupe St/West Alameda St	$1,000,000	For PS&E approval. Awaiting 5 NMDOT certifications. Construction will be combined with Guadalupe St Reconstruction project to reduce construction cost. Construction of this segment expected summer 2023.	Fully funded.
10. Guadalupe St. Reconstruction	Agua Fria to Paseo de Peralta	$8,000,000	For PS&E approval. Awaiting ROW certification. Only one parcel remaining for acquisition. Construction will be combined with Guadalupe Bridge Rehabilitation to reduce construction cost. Construction starts late Spring to early Summer 2022.	Fully funded.
11. Harrison Road Sidewalk & Lighting	Agua Fria to Cerrillos Rd	$700,000	60% design plan completed. Construction starts Spring 2022.	Secured funding = $400,000 for design and construction.
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PROJECT TYPE & NAME	PROJECT TERMINI	COST ESTIMATE	PROJECT STATUS	FUNDING STATUS
			February/March 2022.	
13. Pacheco St Bicycle and Pedestrian Improvements	W San Mateo Rd to Alta Vista St	1,000,000	Awaiting for the Legislative Funding Agreement for GB's approval. Once executed, design starts Summer 2022.	Secured funding = $300,000 for design.
14. Paseo del Sol Extension	Jaguar to Jaguar	$9,000,000	Transportation Project Funding Agreement just received. Once approved design starts in February/March 2022.	Secured funding = $800,000 for design.
15. St. Michael's Drive-Rail Trail Underpass	St. Michael's Drive/ Rail Trail	$8,700,000	Awaiting PO approval. Design starts Nov. 1, 2021. Construction starts Summer 2024.	Secured funding = $4,900,000 for design, ROW acquisition & construction. At 90% design plan, we will apply for additional construction funding from CMAQ.
TRAILS				
16. Acequia Trail	Rufina St to San Felipe	3,100,000	RFP issued August 26, 2021. Proposals expected Oct. 14, 2021.	Secured funding = $300,000 for design Applying for construction funding from CMAQ.
17. Canada Rincon Trail	Calle Mejia to Camino Francisca	$1,610,605	PS&E approved based on conditional ROW certification. ROW needs to be completed by January 2022. Construction starts Spring 2022.	Fully funded.
18. Tierra Contenta Trail	Buffalo Grass to South Meadows	$2,200,000	60% design completed.	Secured funding = $700,000 for design & construction Applying for construction funding from CMAQ.
SIGNAGE PROJECT				
19. Wayfinding		$50,000	Phase A design complete.	Fully funded.
Total, Roadway & Trails Projects		**Estimated Total Project Cost = $65,710,605 Secured Funding = $32,029,827**		

City of Santa Fe, New Mexico
Memorandum

DATE: October 22, 2021

TO: Finance Committee

VIA: Mary T. McCoy MM
MM
Finance Director

FROM: Andy Hopkins AJH
Acting Budget Officer

ITEM AND ISSUE:

Request for Approval of a Budget Amendment Resolution for the Quarter Ending September 30, 2021 (First Quarter)

BACKGROUND AND SUMMARY:

Attached is a Resolution listing increases/decreases to the FY 2021/22 operating and CIP budget. All of these amendments are included in this amendment Resolution because they result in a net increase or decrease to the various funds affected, and thus require Department of Finance and Administration/Local Government Division ("DFA/LGD") approval as part of the quarterly budget Resolution. The schedule of detail supporting these increases/decreases is presented in four sections:

A. Amendments to FY 2021/22 Budget That Have Previously Been Approved by City Council: these budget amendments have been previously approved by the Governing Body, and reflect amendments that exceed $60,000 and that result in a net increase or decrease to any funds (and do not represent re-appropriations of unspent budget amounts from the prior year); per City ordinance, such amendments require Governing Body approval. They are included in this Resolution for the purpose of summarizing all quarterly budget amendments on a single resolution to provide to the New Mexico Department of Finance and Administration/Local Government Division (DFA/LGD) for their review and approval. Presentation of these amendments on a single resolution in this way is much more efficient than the alternative of presenting a revised resolution to DFA/LGD for each and every individual budget amendment approved by City Council.

B. Amendments to FY 2021/22 Budget That Have Not Previously Been Approved by City Council: these amendments were approved by and executed under the authority of the Finance Director (if the net budgetary change to any fund was under $5,000) or the City Manager (if the net budgetary change was between $5,000 and $60,000), as per City ordinance. Also included are purely technical corrections and re-appropriations of unspent prior year budget amounts (including amounts over $60,000), which, per City ordinance,

are approved and entered based on the prior year's City Council-approved budget authority, and subsequently submitted on a quarterly basis for City Council review and approval.

C. Joint Operations (Buckman Direct Diversion & Santa Fe Solid Waste Management Agency) – Board-Approved Amendments to FY 2021/22 Budget: as the title of this section attests, these amendments reflect net changes to the Buckman Direct Diversion (BDD) and SF Solid Waste Management Agency (SFSWMA) joint operations budgets, approved and entered under the authority of the governing boards of those entities. Like the amendments outlined above, these budgetary changes are included in this Resolution for the purpose of presenting all quarterly net budgetary fund changes to DFA/LGD for its approval as required.

D. Summary of All Quarterly Amendments to FY 2021/22 Budget by Fund: this section summarizes the net changes to all City funds detailed in the previous three sections (A-C). As shown at the bottom of this section, these amendments result in a net increase to the City's overall expenditure budget of $118,097,194 and a net increase to the overall revenue budget of $72,180,004. The resulting net expenditure increase of $45,917,190 (over and above additional revenue) is supported by current budgeted revenues and/or available fund balances.

The Budget Office submits all amendments resulting in net budgetary fund changes on a quarterly basis for Finance Committee consideration and City Council approval, and subsequently submits said amendments to DFA/LGD after approval by the Governing Body.

ACTION RECOMMENDED:

Recommend these amendments to the Governing Body for approval. After City Council approval, the Resolution will be forwarded to DFA/LGD for its approval as required.

ATTACHMENTS:

Resolution
Budget Amendments
Fiscal Impact Report

CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2021-__

INTRODUCED BY:

Mayor Alan Webber

A RESOLUTION

APPROVING FIRST QUARTER BUDGET AMENDMENTS FOR FISCAL YEAR 2021/2022.

WHEREAS, a First Quarter Review of the Fiscal Year 2021/2022 Budget shows a need to address significant priorities; and

WHEREAS, those budget priorities have been addressed through budget adjustment requests, approved by either the Governing body, City Manager, or Finance Director, or other authorized entity, as permitted by the amount and type of the adjustment; and

WHEREAS, the Department of Finance and Administration, Local Government Division, requires a resolution adopted by the Governing Body on a quarterly basis to authorize the adjustments.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF SANTA FE that the Governing Body does request authorization for budget amendments as detailed on the attached Resolution Detail by Fund (see Attachment), hereby incorporated as part of this resolution.

BE IT FURTHER RESOLVED that it is respectfully requested that authorization to implement the First Quarter Budget Amendments be granted by the Local Government Division of the New Mexico Department of Finance and Administration.

PASSED, APPROVED, and ADOPTED this ___ day of _____, 2021.

_____

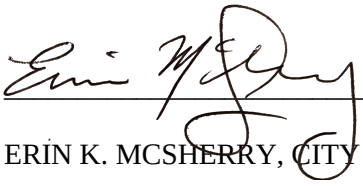
ALAN WEBBER, MAYOR

ATTEST:

_____

KRISTINE MIHELCIC, CITY CLERK

APPROVED AS TO FORM:



ERIN K. MCSHERRY, CITY ATTORNEY

_____

LOCAL GOVERNMENT DIVISION

N.M. DEPARTMENT OF FINANCE

AND ADMINISTRATION

Legislation/2021/Resolutions/First Quarter Budget Adjustments FYE22

CITY OF SANTA FE

1ST QUARTER FY 2021/22

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SUB-SECTION [A]

AMENDMENTS TO FY 2021/22 BUDGET THAT HAVE PREVIOUSLY BEEN APPROVED BY CITY COUNCIL

CITY OF SANTA FE - FIRST QUARTER FY 2021/2022
SUB-SECTION [A]: BUDGET AMENDMENTS PREVIOUSLY APPROVED BY CITY COUNCIL

Fund	*Fund Title*	*Amendment Description*	*Expenditure Increase (Decrease)*	*Revenue Increase (Decrease)*	*Budgeted Net Fund Increase (Decrease)*
Council-Approved Capital Improvements Program (CIP) Budget Amendments:					
100	General Fund	Appropriation from FY21 GRT earned in excess of budgeted estimates to provide sufficient start-up funding for the Southside Teen Center CIP project *[CC apvd. 9/8/21, #10-g]*	$ 4,000,000	$ -	$ (4,000,000)
100	General Fund	Appropriation from FY21 GRT earned in excess of budgeted estimates to cover critical arterial and residential road rehabilitation projects *[CC apvd. 8/11/21, #11-c]*	2,990,000	-	(2,990,000)
232	Impact Fees Fund	Allocation of Roads Impact Fees to the Camino Entrada Roundabout CIP project *[CC apvd. 9/29/21, #10-m]*	850,000	-	(850,000)
232	Impact Fees Fund	Allocation of Roads Impact Fees to the Arroyo de los Chamisos Crossing CIP project *[CC apvd. 9/29/21, #10-k]*	250,000	-	(250,000)
232	Impact Fees Fund	Allocation of Parks Impact Fees to the Dawson Park CIP Project *[CC apvd. 8/11/21, #11-f]*	136,059	-	(136,059)
320	CIP Facilities	Appropriation from FY21 GRT earned in excess of budgeted estimates to provide sufficient start-up funding for the Southside Teen Center CIP project *[CC apvd. 9/8/21, #10-g]*	4,000,000	4,000,000	-
325	CIP Special Projects	Appropriation of NM DFA Severance Tax Bond grant for purchase of Fire Department vehicle-mounted thermal imaging cameras *[CC apvd. 8/25/21, #10-g]*	125,000	125,000	-
325	CIP Special Projects	Appropriation of NM DFA Severance Tax Bond grant for purchase of positive pressure ventilation fans for the Fire Department *[CC apvd. 8/25/21, #10-g]*	82,600	82,600	-
330	CIP Streets & Roadways	Appropriation from FY21 GRT earned in excess of budgeted estimates to cover critical arterial and residential road rehabilitation projects *[CC apvd. 8/11/21, #11-c]*	2,990,000	2,990,000	-
330	CIP Streets & Roadways	Allocation of Roads Impact Fees to the Arroyo de los Chamisos Crossing CIP project *[CC apvd. 9/29/21, #10-k]*	250,000	250,000	-
330	CIP Streets & Roadways	Appropriation of NM DOT grant for the ongoing Agua Fria/S. Meadows Intersection CIP project *[CC apvd. 8/11/21, #10-e]*	150,208	150,208	-
355	CIP Parks and Trails	Allocation of Parks Impact Fees to the Dawson Park CIP Project *[CC apvd. 8/11/21, #11-f]*	136,059	136,059	-
500	Waste Water Management	Appropriation from available revenue for the Wastewater Aeration System project *[CC apvd. 9/29/21, #10-l]*	750,968	-	(750,968)
505	Water Management	Appropriation from available balance for priority water line replacements *[CC apvd. 9/8/21, #10-e]*	3,500,000	-	(3,500,000)
505	Water Management	Appropriation from available balance for on-call project engineering assistance services *[CC apvd. 6/9/21, #11-e]*	1,084,376	-	(1,084,376)
505	Water Management	Appropriation from available balance for consruction services on citywide Water CIP projects *[CC apvd. 7/28/21, #10-j]*	542,188	-	(542,188)
505	Water Management	Appropriation from available balance for water resource planning/modeling services per MOA with the US Bureau of Reclamation *[CC apvd. 6/9/21, #11-h]*	298,448	-	(298,448)
540	Transit Bus System	Allocation of Roads Impact Fees to the Camino Entrada Roundabout CIP project *[CC apvd. 9/29/21, #10-m]*	850,000	850,000	-

Fund	Fund Title	Amendment Description	Expenditure Increase (Decrease)	Revenue Increase (Decrease)	Budgeted Net Fund Increase (Decrease)
545	Airport	Appropriation of FAA/US DOT grant for the Airport Runway 2 Safety Area project *[CC apvd. 7/28/21, #10-i]*	607,296	607,296	-
Subtotal - Council-Approved Capital Improvements Program (CIP) Budget Amendments			***$ 23,593,202***	***$ 9,191,163***	***$ (14,402,039)***
Other Council-Approved Budget Amendments:					
100	General Fund	Appropriation from FY21 GRT earned in excess of budgeted estimates for purchase of Police body cameras *[CC apvd. 9/8/21, #10-b]*	$ 902,076	$ -	$ (902,076)
100	General Fund	Appropriation from FY21 GRT earned in excess of budgeted estimates for purchase of a street sweeper and plow to maintain Cerrillos Road and St. Michaels Drive per agreement with NM DOT *[CC apvd. 8/11/21, #11-d]*	750,000	750,000	-
100	General Fund	Appropriation from FY21 GRT earned in excess of budgeted estimates to fund the settlement agreement with the AFSCME Union in PELRB Case #106-20 *[CC apvd. 9/29/21, #10-n]*	700,000	-	(700,000)
100	General Fund	Appropriation of NM DOT overtime reimbursement grant for the End Driving While Impaired, Click it or Ticket, and Selective Traffic Enforcement Programs *[CC apvd. 7/14/21, #10-d]*	89,304	89,304	-
100	General Fund	Appropriation of SF County reimbursement grant for DWI program staff overtime *[CC apvd. 8/11/21, #10-a]*	40,000	40,000	-
223	Law Enforcement	Appropriation from FY21 GRT earned in excess of budgeted estimates to purchase three Police vehicles and associated equipment *[CC apvd. 9/8/21, #10-a]*	230,000	-	(230,000)
223	Law Enforcement	Appropriation of US Dept. of Justice Emergency Supplemental Grant for Police staff PPE purchases *[CC apvd. 7/14/21, #10-c]*	78,578	78,578	-
241	Senior Citizen Grants/Programs	Adjustment to Senior Nutrition Service Incentive Program grant budget based on final award from the Federal Agency on Aging *[CC apvd. 9/8/21, #10-d]*	(1,642)	(1,642)	-
365	½% GRT Income Fund	Appropriation from FY21 GRT earned in excess of budgeted estimates for purchase of a street sweeper and plow to maintain Cerrillos Road and St. Michaels Drive per agreement with NM DOT *[CC apvd. 8/11/21, #11-d]*	750,000	-	(750,000)
545	Airport	Appropriation of US DOT/FAA Airport Rescue Grant for Airport operational expenses *[CC Apvd. 9/8/21, #11-d]*	-	2,226,110	2,226,110
545	Airport	Appropriation of US DOT Coronavirus Response Concessions Addendum Grant to support Airport operations *[CC Apvd. 9/8/21, #11-c]*	-	30,578	30,578
Subtotal - Other Council-Approved Budget Amendments			***$ 3,538,316***	***$ 3,212,928***	***$ (325,388)***
TOTAL - Budget Amendments Previously Approved by City Council			***$ 27,131,518***	***$ 12,404,091***	***$ (14,727,427)***

CITY OF SANTA FE

1ST QUARTER FY 2021/22

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SUB-SECTION [B]

AMENDMENTS TO FY 2021/22 BUDGET THAT HAVE NOT PREVIOUSLY BEEN APPROVED BY CITY COUNCIL

CITY OF SANTA FE - FIRST QUARTER FY 2021/2022
SUB-SECTION [B]: BUDGET AMENDMENTS NOT PREVIOUSLY APPROVED BY CITY COUNCIL

Fund	*Fund Title*	*Amendment Description*	*Expenditure Increase (Decrease)*	*Revenue Increase (Decrease)*	*Budgeted Net Fund Increase (Decrease)*
100	General Fund	Appropriation from FY21 GRT earned in excess of budgeted estimates for weed control in City roadway medians	$ 53,144	$ -	$ (53,144)
100	General Fund	Appropriation from FY21 GRT earned in excess of budgeted estimates for facilitation assistance to the Community Health and Safety Task Force	50,000	50,000	-
100	General Fund	Re-appropriation of unspent prior year budget for purchase of speed alert message trailers	30,560	-	(30,560)
216	Gross Receipts Tax Fund	Transfer to General Fund from FY21 GRT earned in excess of budgeted estimates for facilitation assistance to the Community Health and Safety Task Force	50,000	-	(50,000)
221	Emergency Services	Adjustment to re-budget remaining portion of State Fire Fund grant to support Fire Department staff and operating costs	765,338	-	(765,338)
221	Emergency Services	Adjustment to re-budget remaining portion of US DHS Homeland Security grant	262,749	262,749	-
223	Law Enforcement	Adjustment to re-budget remaining portion of prior year US Dept. of Justice Edward Byrne Grants for Police equipment, training and supplies	49,607	49,607	-
223	Law Enforcement	Adjustment to NM Law Enforcement Protection Fund grant for Police staff training based on final grant award	(6,400)	(6,400)	-
231	City Drainage Fund	Re-appropriation of unspent prior year budget for ongoing storm water drainage maintenance projects	236,161	-	(236,161)
232	Impact Fees Fund	Allocation of Parks Impact Fees for engineering services related to the El Camino Real Academy trail connector project	22,500	-	(22,500)
233	Transportation Grants	Appropriation of NMHTD grant to support the Safe Routes to Schools program	50,000	50,000	-
233	Transportation Grants	Appropriation of AARP Foundation grant to support the creation of protected bike lanes on City roadways	6,000	6,000	-
240	Community Development	Re-appropriation of unspent prior year budget for the Mobile Hygiene Unit program	100,421	-	(100,421)
251	Library Fund	Re-appropriation of remaining NM GO Bond funding for purchase of Library materials and equipment	192,299	192,299	-
315	CIP Resource Conservation	Re-appropriation of unspent prior year budget for the ongoing LED/solar street lights conversion project	18,410,804	18,206,040	(204,764)
320	CIP Facilities	Adjustment to re-budget remaining portion of NM DFA grant for the ongoing Southside Teen Center CIP project	4,801,997	4,801,997	-
320	CIP Facilities	Re-appropriation of unspent prior year budget for ongoing facilities improvement/renovation CIP projects	1,505,919	-	(1,505,919)
320	CIP Facilities	Re-appropriation of unspent prior year budget for the ongoing Southside Teen Center CIP project	1,000,000	-	(1,000,000)
320	CIP Facilities	Adjustment to re-budget remaining portion of NM DFA grant to support the ongoing Water Street restroom facility project	550,000	550,000	-
320	CIP Facilities	Adjustment to re-budget remaining portion of NM DFA grant for ongoing Municipal Court Facility CIP projects	360,063	360,063	-
320	CIP Facilities	Adjustment to re-budget remaining portion of NM DFA grant for the ongoing MRC Soccer Valley CIP project	215,117	215,117	-

Fund	Fund Title	Amendment Description	Expenditure Increase (Decrease)	Revenue Increase (Decrease)	Budgeted Net Fund Increase (Decrease)
320	CIP Facilities	Re-appropriation of unspent prior year budget for the ongoing City Facilities Solarization CIP project	15,450	-	(15,450)
325	CIP Special Projects	Re-appropriation of unspent prior year budget for the ongoing Broadband Infrastructure CIP project	235,150	-	(235,150)
325	CIP Special Projects	Re-appropriation of unspent prior year budget for the ongoing Public Safety Wireless System project	176,965	-	(176,965)
325	CIP Special Projects	Adjustment to re-budget remaining portion of NMEDD grant for the ongoing Santa Fe Business Incubator CIP project	132,400	132,400	-
330	CIP Streets & Roadways	Re-appropriation of unspent prior year budget for ongoing citywide streets CIP projects	5,281,699	-	(5,281,699)
330	CIP Streets & Roadways	Adjustment to re-budget remaining portion of NM DOT grant for the ongoing Guadalupe Street Reconstruction CIP project	188,000	188,000	-
330	CIP Streets & Roadways	Adjustment to re-budget remaining portion of NM DFA grant for the ongoing Agua Fria/S Meadows Intersection CIP project	156,226	156,226	-
335	CIP Bond Acquisition	Re-appropriation of unspent prior year budget for ongoing facilities improvement/renovation CIP projects	3,501,177	-	(3,501,177)
335	CIP Bond Acquisition	Re-appropriation of unspent prior year budget for ongoing Engineering Division CIP projects	847,387	-	(847,387)
335	CIP Bond Acquisition	Re-appropriation of unspent prior year budget for the ongoing Midtown Property Plan/Site Preparation CIP project	738,953	-	(738,953)
335	CIP Bond Acquisition	Re-appropriation of unspent prior year budget for ongoing Parking Division CIP projects	546,002	-	(546,002)
335	CIP Bond Acquisition	Re-appropriation of unspent prior year budget for ongoing Streets GRT Bond CIP projects	521,870	-	(521,870)
335	CIP Bond Acquisition	Re-appropriation of unspent prior year budget for ongoing parks/trails improvements CIP projects	513,815	-	(513,815)
335	CIP Bond Acquisition	Re-appropriation of unspent prior year budget for the ongoing MRC Soccer Valley Improvements CIP project	500,000	-	(500,000)
335	CIP Bond Acquisition	Re-appropriation of unspent prior year budget for ongoing Art in Public Places CIP projects	400,000	-	(400,000)
335	CIP Bond Acquisition	Re-appropriation of unspent prior year budget for the ongoing Public Safety Wireless System CIP project	261,000	-	(261,000)
335	CIP Bond Acquisition	Re-appropriation of unspent prior year budget for ongoing GCCC facility improvements CIP projects	133,281	-	(133,281)
335	CIP Bond Acquisition	Re-appropriation of unspent prior year budget for ongoing Airport Improvements CIP projects	100,511	-	(100,511)
335	CIP Bond Acquisition	Re-appropriation of unspent prior year budget for ongoing MRC CIP projects	99,867	-	(99,867)
335	CIP Bond Acquisition	Re-appropriation of unspent prior year budget for the ongoing Metropolitan Planning Organization improvements project	97,851	-	(97,851)
335	CIP Bond Acquisition	Re-appropriation of unspent prior year budget for the ongoing City Hall Facility Improvements CIP project	40,068	-	(40,068)
335	CIP Bond Acquisition	Re-appropriation of unspent prior year budget for ongoing library facilities CIP projects	33,365	-	(33,365)
335	CIP Bond Acquisition	Re-appropriation of unspent prior year budget for ongoing Ft. Marcy facility improvements CIP projects	24,094	-	(24,094)
335	CIP Bond Acquisition	Re-appropriation of unspent prior year budget for the ongoing Urban Trail Bridges Restoration CIP project	16,455	-	(16,455)

Fund	Fund Title	Amendment Description	Expenditure Increase (Decrease)	Revenue Increase (Decrease)	Budgeted Net Fund Increase (Decrease)
335	CIP Bond Acquisition	Re-appropriation of unspent prior year budget for the ongoing Public Safety Radio System CIP project	4,065	-	(4,065)
335	CIP Bond Acquisition	Re-appropriation of unspent prior year budget for the ongoing Siler Road Facility Improvements CIP project	3,267	-	(3,267)
335	CIP Bond Acquisition	Re-appropriation of unspent prior year budget for the ongoing Siringo Road Facility Improvements CIP project	2,446	-	(2,446)
335	CIP Bond Acquisition	Re-appropriation of unspent prior year budget for the ongoing Tree Root/Paver Repairs CIP project	1,508	-	(1,508)
345	CIP Community Development	Adjustment to re-budget remaining portion of prior year NM DFA grant for the Electric Vehicles/Charge Stations CIP project	750,000	750,000	-
345	CIP Community Development	Adjustment to re-budget remaining portion of prior year NM DFA grant to support the Kitchen Angels CIP project	216,117	273,126	57,009
345	CIP Community Development	Re-appropriation of unspent prior year budget for the ongoing Diaper Change Stations CIP project	100,000	-	(100,000)
345	CIP Community Development	Adjustment to re-budget remaining portion of prior year NM DFA grant to support the La Communidad de los Ninos project	61,762	61,762	-
350	CIP Arts and Culture	Adjustment to re-budget remaining portion of NM DFA grant for the ongoing El Museo Cultural CIP project	104,390	229,740	125,350
350	CIP Arts and Culture	Adjustment to re-budget remaining portion of NM DFA grant for the ongoing Easter Seals Greenhouse CIP project	118,500	150,000	31,500
355	CIP Parks and Trails	Re-appropriation of unspent prior year budget for ongoing parks & trails CIP projects	1,346,371	-	(1,346,371)
355	CIP Parks and Trails	Adjustment to re-budget remaining portion of prior year NM DOT grant to support the ongoing Canada Rincon Trail CIP project	1,025,280	1,025,280	-
355	CIP Parks and Trails	Re-appropriation of unspent prior year budget for ongoing Stormwater CIP projects	742,515	-	(742,515)
355	CIP Parks and Trails	Adjustment to re-budget remaining portion of prior year NM DFA grant to support the SWAN Park CIP project	76,713	76,713	-
355	CIP Parks and Trails	Adjustment to re-budget remaining portion of prior year NM DOT grant to support the Acequia Trail CIP project	66,234	66,234	-
355	CIP Parks and Trails	Allocation of Parks Impact Fees for engineering services related to the El Camino Real Academy trail connector project	22,500	22,500	-
365	½% GRT Income Fund	Re-appropriation of unspent prior year budget for the Motorola radio tower site move project	273,677	-	(273,677)
365	½% GRT Income Fund	Appropriation from FY21 GRT earned in excess of budgeted estimates for AS400 system power backup and repairs needed after power outage	57,183	-	(57,183)
365	½% GRT Income Fund	Re-appropriation of unspent prior year budget for ongoing COVID-related City facilities upgrades	54,323	-	(54,323)
500	Waste Water Management	Appropriation for daily wastewater laboratory sampling per NPDES permit requirements	55,000	-	(55,000)
505	Water Management	Appropriation for architectural design services for ADA improvements to the San Mateo Road Public Utilities facility	11,373	-	(11,373)
505	Water Management	Appropriation of salary/benefits increase for a Water Resources Coordinator position to bring the position's salary into line with the appropriate pay range	5,100	-	(5,100)
510	Environmental Services	Re-appropriation of unspent prior year budget for purchase of ESD collection vehicles	1,683,993	-	(1,683,993)

Fund	Fund Title	Amendment Description	Expenditure Increase (Decrease)	Revenue Increase (Decrease)	Budgeted Net Fund Increase (Decrease)
511	Utilities Administration	Appropriation of salary/benefits increase for an Environmental Compliance Specialist position to bring the position's salary into line with the appropriate pay range	31,843	-	(31,843)
515	Railyard Properties	Re-appropriation of unspent prior year budget for ongoing Railyard Improvements CIP projects	125,863	-	(125,863)
520	Santa Fe Convention Center	Re-appropriation of unspent prior year budget for replacement of the Convention Center water heater	62,870	-	(62,870)
525	Midtown Property	Re-appropriation of unspent prior year budget for ongoing Midtown Campus maintenance/repair projects	619,646	-	(619,646)
540	Transit Bus System	Re-appropriation of unspent prior year budget for ongoing Transit CIP projects	6,426,250	-	(6,426,250)
545	Airport	Adjustment to re-budget remaining portion of NM DOT/NM DFA/US FAA grants for ongoing Airport CIP projects	11,267,188	12,057,257	790,069
550	Genoveva Chavez Community Ctr	Re-appropriation of unspent prior year budget for ongoing GCCC facility CIP projects	839,966	-	(839,966)
620	Services to Other Departments	Adjustment of ITT internal service charges to Planning & Land Use for computer hardware/mobile phone purchases and software license costs	59,117	59,117	-
620	Services to Other Departments	Adjustment of ITT internal service charges to the Public Works Administration Division for computer hardware purchases	2,500	2,500	-
620	Services to Other Departments	Adjustment of ITT internal service charges to Economic Development for mobile phone communication charges	400	400	-
TOTAL - Budget Amendments <u>Not</u> Previously Approved by City Council			***$ 69,485,825***	***$ 39,988,727***	***$ (29,497,098)***

CITY OF SANTA FE

1ST QUARTER FY 2021/22

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SUB-SECTION [C]

JOINT OPERATIONS (BUCKMAN DIRECT DIVERSION & SF SOLID WASTE MANAGEMENT AGENCY) – BOARD-APPROVED AMENDMENTS TO FY 2021/22 BUDGET

CITY OF SANTA FE - FIRST QUARTER FY 2021/2022
SUB-SECTION [C]: JOINT OPERATIONS - BOARD-APPROVED BUDGET AMENDMENTS

Fund	*Fund Title*	*Amendment Description*	*Expenditure Increase (Decrease)*	*Revenue Increase (Decrease)*	*Budgeted Net Fund Increase (Decrease)*
800	Buckman Direct Diversion	Adjustments reflecting final BDD Board-approved budget	$ 8,842,711	$ 8,842,711	$ -
800	Buckman Direct Diversion	Re-appropriation of unspent prior year budget for the ongoing BDD security access control and database migration projects	310,000	-	(310,000)
800	Buckman Direct Diversion	Appropriation from the BDD Repair & Replacement Fund for replacement of raw water lift station pump #4	253,834	253,834	-
800	Buckman Direct Diversion	Appropriation from the BDD Repair & Replacement Fund for ongoing water pump and HVAC projects	253,691	253,691	-
800	Buckman Direct Diversion	Appropriation from the BDD Repair & Replacement Fund for replacement of a BDD fleet maintenance work truck	75,402	75,402	-
801	BDD Repair & Replacement Fund	Appropriation from the BDD Repair & Replacement Fund for replacement of raw water lift station pump #4	253,834	-	(253,834)
801	BDD Repair & Replacement Fund	Appropriation from the BDD Repair & Replacement Fund for ongoing water pump and HVAC projects	253,691	-	(253,691)
801	BDD Repair & Replacement Fund	Appropriation from the BDD Repair & Replacement Fund for replacement of a BDD fleet maintenance work truck	75,402	-	(75,402)
810	SF Solid Waste Mgmt Agency	Adjustments reflecting final SFSWMA Board-approved budget	9,080,340	9,085,430	5,090
810	SF Solid Waste Mgmt Agency	Re-appropriation of unspent prior year budget for purchase of a horizontal wood grinder	742,978	-	(742,978)
810	SF Solid Waste Mgmt Agency	Appropriation from SWMA Equipment Reserve for purchase of a hydraulic excavator	115,502	115,502	-
810	SF Solid Waste Mgmt Agency	Appropriation from SWMA Equpment Reserve for purchase of a walking floor trailer for BuRRT Transfer Station	95,616	95,616	-
811	SWMA Equip Replacement Fund	Appropriation from SWMA Equipment Reserve for purchase of a hydraulic excavator	115,502	-	(115,502)
811	SWMA Equip Replacement Fund	Appropriation from SWMA Equpment Reserve for purchase of a walking floor trailer for BuRRT Transfer Station	95,616	-	(95,616)
812	SWMA Gas Collection Reserve	Adjustment reflecting final SFSWMA Board-approved budget	-	200,000	200,000
813	SWMA Cell Developmt Reserve	Adjustment reflecting final SFSWMA Board-approved budget	-	415,000	415,000
813	SWMA Cell Developmt Reserve	Appropriation for the Landfill Cells 7-9 Liner CIP project	915,732	-	(915,732)
815	SWMA Closure/Post-Closure Reserve	Adjustment reflecting final SFSWMA Board-approved budget	-	75,000	75,000
816	SWMA CIP Fund	Adjustment reflecting final SFSWMA Board-approved budget	-	375,000	375,000
TOTAL - Joint Operations - Board Approved Budget Amendments			***$ 21,479,851***	***$ 19,787,186***	***$ (1,692,665)***

CITY OF SANTA FE

1ST QUARTER FY 2021/22

~ ~ ~

SUB-SECTION [D]

SUMMARY OF ALL QUARTERLY AMENDMENTS TO FY 2021/22 BUDGET BY FUND

CITY OF SANTA FE - FIRST QUARTER FY 2021/2022
SUB-SECTION [D]: TOTAL QUARTERLY AMENDMENTS BY FUND

Fund	*Fund Title*	*Expenditure Increase (Decrease)*	*Revenue Increase (Decrease)*	*Budgeted Net Fund Increase (Decrease)*
100	General Fund	$ 9,605,084	$ 929,304	$ (8,675,780)
216	Gross Receipts Tax Fund	50,000	-	(50,000)
221	Emergency Services	1,028,087	262,749	(765,338)
223	Law Enforcement	351,785	121,785	(230,000)
231	City Drainage Fund	236,161	-	(236,161)
232	Impact Fees Fund	1,258,559	-	(1,258,559)
233	Transportation Grants	56,000	56,000	-
240	Community Development	100,421	-	(100,421)
241	Senior Citizen Grants/Programs	(1,642)	(1,642)	-
251	Library Fund	192,299	192,299	-
315	CIP Resource Conservation	18,410,804	18,206,040	(204,764)
320	CIP Facilities	12,448,546	9,927,177	(2,521,369)
325	CIP Special Projects	752,115	340,000	(412,115)
330	CIP Streets & Roadways	9,016,133	3,734,434	(5,281,699)
335	CIP Bond Acquisition	8,386,982	-	(8,386,982)
345	CIP Community Development	1,127,879	1,084,888	(42,991)
350	CIP Arts and Culture	222,890	379,740	156,850
355	CIP Parks and Trails	3,415,672	1,326,786	(2,088,886)
365	½% GRT Income Fund	1,135,183	-	(1,135,183)
500	Waste Water Management	805,968	-	(805,968)
505	Water Management	5,441,485	-	(5,441,485)
510	Environmental Services	1,683,993	-	(1,683,993)
511	Utilities Administration	31,843	-	(31,843)
515	Railyard Properties	125,863	-	(125,863)
520	Santa Fe Convention Center	62,870	-	(62,870)
525	Midtown Property	619,646	-	(619,646)
540	Transit Bus System	7,276,250	850,000	(6,426,250)
545	Airport	11,874,484	14,921,241	3,046,757
550	Genoveva Chavez Community Ctr	839,966	-	(839,966)
620	Services to Other Departments	62,017	62,017	-
800	Buckman Direct Diversion	9,735,638	9,425,638	(310,000)
801	BDD Repair & Replacement Fund	582,927	-	(582,927)
810	SF Solid Waste Mgmt Agency	10,034,436	9,296,548	(737,888)
811	SWMA Equip Replacement Fund	211,118	-	(211,118)
812	SWMA Gas Collection Reserve	-	200,000	200,000
813	SWMA Cell Developmt Reserve	915,732	415,000	(500,732)
815	SWMA Closure/Post-Closure Reserve	-	75,000	75,000
816	SWMA CIP Fund	-	375,000	375,000
QUARTERLY TOTAL - ALL FUNDS		***$ 118,097,194***	***$ 72,180,004***	***$ (45,917,190)***

FIR No. #TBD

FISCAL IMPACT REPORT

General Information:

(Check) Bill: _____ Resolution: ____X_____

Short Title(s): First Quarter Budget Amendments, Fiscal Year 2021/2022

Sponsor(s): Mayor Alan Webber

Reviewing Department(s): Finance

Staff Completing FIR: Andy Hopkins Date: 10/22/2021 Phone: 955-6177

Reviewed by City Attorney: _____ Date: _____

Reviewed by Finance Director: _____ Date: _____

Summary:

The purpose of the Resolution is to make 1st Quarter FY 2021/2022 budget amendments, increases and decreases to various funds, including adjustments for department priorities, grant adjustments, prior year encumbrances and increases supported by available revenue.

Departments Affected:

Various.

Consequences of Not Enacting Legislation:

The budget will not sufficiently reflect actual revenues and expenditures. Necessary adjustments cannot be submitted for NM DFA approval as required by the State.

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

None.

Performance and Administrative Implications:

None; staff have already performed necessary actions to comport with the purpose of the budget amendments.

Fiscal Implications:

See Resolution attachments – Resolution Detail by Fund

Fiscal Impact

_____ Check here if no fiscal impact

Expenditures

Expenditure Type	FYE 22	FYE 23	FYE 24	Require BAR (Y/N)	Recurring (R) or Non-recurring (NR)	Fund	3-Year Total Cost
Personnel and	$ †	$ 0	$ 0	N	NR	†	
Benefits*							
Capital Outlay	$ †	$ 0	$ 0	N	NR		
Contractual/	$ †	$ 0	$ 0				
Professional Services							
Operating	$ †	$ 0	$ 0			†	$ †
Total:	$ †	$ 0	$ 0				$ †

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

Expenditure Narrative:

City Council approval is required for all of the previous quarter's changes to budgeted expenditures and transfers out.

Revenue

Revenue Type	FYE 22	FYE 23	FYE 24	Recurring (R) or Non-recurring (NR)	Fund
General Fund	$ †	$ 0	$ 0	NR	
Special Revenue	$ †	$ 0	$ 0	NR	
CIP	$ †	$ 0	$ 0	NR	
Enterprise	$ †	$ 0	$ 0	NR	
Internal Service	$ †	$ 0	$ 0	NR	
Trust and Agency	$ †	$ 0	$ 0	NR	
Federal	$ †	$ 0	$ 0	NR	
Other	$ †	$ 0	$ 0	NR	†
Total	$ †	$ 0	$ 0		

Revenue Narrative:

City Council approval is required for all of the previous quarter's changes to budgeted revenues and transfers in.

† *See Attachments – Resolution Detail by Fund*

FIR No. 10363

FISCAL IMPACT REPORT

General Information:

(Check) Bill: _____ Resolution: X

Short Title(s): First Quarter Budget Amendments, Fiscal Year 2021/2022

Sponsor(s): Mayor Alan Webber

Reviewing Department(s): Finance Department

Staff Completing FIR: Andy Hopkins Date: 10/22/2021 Phone: 955-6177

Reviewed by City Attorney: _____ Date: Oct 25, 2021

Reviewed by Finance Director: _____ Date: Oct 25, 2021

Summary:
The purpose of the Resolution is to make 1st Quarter FY 2021/2022 budget amendments, increases, and decreases to various funds, including adjustments for department priorities, grant adjustments, prior year encumbrances, and increases supported by available revenue.

Departments Affected:
Various.

Consequences of Not Enacting Legislation:
The budget will not sufficiently reflect actual revenues and expenditures. Necessary adjustments cannot be submitted for NM DFA approval as required by the State.

Conflict, Duplication, Companionship, or Relationship to Other Legislation:
None identified.

Performance and Administrative Implications:
None; staff have already performed necessary actions to comport with the purpose of the budget amendments.

Fiscal Implications:
See Resolution attachments – Resolution Detail by Fund

Fiscal Impact

_____ Check here if no fiscal impact

Expenditures

Expenditure Type	FYE 22	FYE 23	FYE 24	Require BAR (Y/N)	Recurring (R) or Non-recurring (NR)	Fund	3-Year Total Cost
Personnel and Benefits*	$ †	$ 0	$ 0	N	NR	†	
Capital Outlay	$ †	$ 0	$ 0	N	NR		
Contractual/ Professional Services	$ †	$ 0	$ 0				
Operating	$ †	$ 0	$ 0			†	$ †
Total:	$ †	$ 0	$ 0				$ †

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

Expenditure Narrative:

City Council approval is required for all of the previous quarter's changes to budgeted expenditures and transfers out.

Revenue

Revenue Type	FYE 22	FYE 23	FYE 24	Recurring (R) or Non-recurring (NR)	Fund
General Fund	$ †	$ 0	$ 0	NR	
Special Revenue	$ †	$ 0	$ 0	NR	
CIP	$ †	$ 0	$ 0	NR	
Enterprise	$ †	$ 0	$ 0	NR	
Internal Service	$ †	$ 0	$ 0	NR	
Trust and Agency	$ †	$ 0	$ 0	NR	
Federal	$ †	$ 0	$ 0	NR	
Other	$ †	$ 0	$ 0	NR	†
Total	$ †	$ 0	$ 0		

Revenue Narrative:

City Council approval is required for all of the previous quarter's changes to budgeted revenues and transfers in.

† *See Attachments – Resolution Detail by Fund*

Signature: *Andy Hopkins*

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

ACTION SHEET
ITEM FROM FINANCE COMMITTEE MEETING OF 11/01/21
FOR CITY COUNCIL MEETING OF 11/10/21

CONSIDERATION OF RESOLUTION NO 2021-__. (Mayor Webber) A Resolution Approving First Quarter Budget Amendments for Fiscal Year 2021-2022. (Andy Hopkins, Acting Budget Officer: ajhopkins@santafenm.gov, 505-955-6177)

Committee	**Review:**
Introduced:	10/27/21
Finance Committee:	11/01/21
Public Works and Utilities Committee:	11/8/21
Governing Body: 11/10/21	

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
Memorandum

Date: September 21, 2021

To: Governing Body

Via: Regina Wheeler
Regina Wheeler (Sep 21, 2021 11:39 MDT)
Regina Wheeler, Public Works Department Director

From: Romella Glorioso-Moss, PhD, AICP, Project Administrator, Senior RGM

RE: Ratification of Funding Agreements

ITEM AND ISSUE:
Requesting the Governing Body to Ratify NMDOT Funding Agreements as Per Ordinance #2020-33, Section 2-4.6.B and BAR the funding.

Item A: Ratify Contract Amendments to NMDOT Contract No. D15509, Project No. S100460 Guadalupe St. Reconstruction Project extending termination date from 09/15/2021 to 03/15/2022. Approved by the City Manager on 09/13/2021.

Item B: Ratify Contract Amendments to NMDOT Contract No. D18446, Project No. S100470 St. Michael's Drive/Rail Trail Underpass increasing design funding from $284,999 to $1,069,437; and extending termination date from 03/31/2022 to 01/25/2024. Approved by the City Manager on 09/17/2021.

Item C: Approve Budget Adjustment Resolution (BAR) of $784,438 to Project ID# ENG18330E; Org./Obj. 3309980.572960.

BACKGROUND:
Two (2) NMDOT funding agreements needed to be amended:

1. NMDOT Contract No. D15509, Project No. S100460 Guadalupe St. Reconstruction Project extending termination date from 09/15/2021 to 03/15/2022; and
2. NMDOT Contract No. D18446, Project No. S100470 St. Michael's Drive/Rail Trail Underpass increasing design funding from $284,999 to $1,069,437; and extending termination date from 03/31/2022 to 01/25/2024.

Although the City requested NMDOT to amend the above contracts on August 11, 2021, the City received the documents from NMDOT just a few days before Contract No. D15509 (Item A) expires; and design funding for Contract No. D18446 (Item B) can be obligated to FY22. Consequently, both contract amendments missed to be included on the Agenda of the Governing Body's regular meeting on September 8, 2021.

To avoid the risk of losing funding for these two projects, the City Manager approved the above contracts on September 13th and 17th, respectively. As per Ordinance #2020-33, Section 2-4.6.B, the City Manager has *the authority to enter agreements seeking or accepting funds of any amount, when the deadline to seek or accept the funds occurs before the deadline to include the agreement on the agenda for the governing body next regularly scheduled meeting. Such agreements shall be subject to ratification by the governing body at the next scheduled meeting for which an agenda has not yet been posted.*

ACTION REQUESTED:
To ratify amendments to NMDOT Contract Nos. D15509 and D18446 approved by the City Manager on September 13th and 17th respectively; and approve the BAR of $784,438 to complete the design plan of St. Michael's Drive-Rail Trail Underpass Project.

ATTACHMENTS:
1) Fourth Amendment to NMDOT Contract No. D15509, Project No. S100460 Guadalupe St. Reconstruction Project
2) First Amendment to NMDOT Contract No. D18446, Project No. S100470 St. Michael's Drive/Rail Trail Underpass
3) BAR (1)
4) Summary of Contracts (2)
5) Procurement Checklist (2)
6) MOA Exemption (2)

City of Santa Fe, New Mexico

memo

Date: September 17, 2021

To: Fran Dunaway, Chief Procurement Officer

Via: Regina Wheeler
Regina Wheeler (Sep 21, 2021 11:39 MDT)
Regina Wheeler, Public Works Department Director

From: Romella Glorioso-Moss, AICP, Public Works Projects Administrator, Senior

Subject: Exemption Determination Request 13-1-98 A

Public Works – Roadway and Trails
Department respectfully request exempt determination to be approved by the City's CPO, Fran Dunaway. The Memo of Agreement is between New Mexico Department of Transportation and City of Santa Fe Public Works Department

City of Santa Fe follows the New Mexico State Procurement code.

A. *procurement of items of tangible personal property or services by a state agency or a local public body from a state agency, a local public body or external procurement unit except as otherwise provided in Sections 13-1-135 through 13-1-137 NMSA 1978;*

Amount: $ 967,200

Term: 03/15/2022

Approved Exemption

Fran Dunaway
Fran Dunaway (Oct 17, 2021 12:58 MDT)
Fran Dunaway, Chief Procurement Officer

Contract No.:	
Vendor No.:	**0000054360**
Control No.:	**S100460**
CFDA No:	**20.205- Highway Planning & Construction**

FOURTH AMENDMENT TO COOPERATIVE PROJECT AGREEMENT – DESIGN WORK

This **Fourth Amendment** is to the Cooperative Project Agreement entered into between the New Mexico Department of Transportation (Department) and City of Santa Fe (Public Entity). This Amendment is effective as of the date of the last party to sign on the signature page.

RECITALS

Whereas, the Department and the Public Entity entered into an Agreement, Contract No. D15509, on March 23, 2017; and,

Whereas, Section 22 allows for modification of the Agreement by an instrument in writing executed by the parties; and,

Whereas, the Department and the Public Entity want to extend the term of the Agreement to allow for Project completion; and,

Whereas, the parties agree to modify this Agreement.

Now, therefore, the Department and the Public Entity agree as follows:

1. **Section 19, Term**, is deleted and replaced with the following:

   19. Term.
   This Agreement is effective on March 23, 2017. This Agreement terminates on **March 15, 2022**. If a contract term extension is needed, the Public Entity must provide written request to the Region or District T/LPA Coordinator sixty (60) days prior to the expiration date to ensure timely processing of an Amendment. Upon termination, neither party shall have any obligation after said date except as stated in Sections 7 and 16 above.

2. Exhibit A is deleted and replaced with the attached Exhibit A.

All other obligations set forth in the Original Agreement shall remain in full force and effect unless expressly amended or modified by this Fourth Amendment.

The remainder of this page in intentionally left blank.

In witness whereof, each party is signing this Agreement on the date stated opposite of that party's signature.

NEW MEXICO DEPARTMENT OF TRANSPORTATION

By: _____ Date: _____
Cabinet Secretary or Designee

Reviewed and Approved as to form and legal sufficiency by the New Mexico Department of Transportation's Office of General Counsel

By: Craig C Kling Date: Sep 10, 2021
Craig C Kling (Sep 10, 2021 09:21 MDT)
Assistant General Counsel

City of Santa Fe

By: _____ Date: 9/13/2021
Jarel Lapan Hill, City Manager

ATTEST

By: _____ Date: 9/13/2021
CITY OF SANTA FE Clerk

Approved as to form and legal sufficiency by the City's Attorney Office

By: Marcos Martinez Date: Sep 13, 2021
Marcos Martinez (Sep 13, 2021 11:54 MDT)
Attorney

EXHIBIT A

2 CFR 200.331 Requirements

Federal Award Identification.

(i) Public Entity name (which must match the name associated with its unique entity identifier);	**City of Santa Fe**
(ii) Public Entity's unique entity identifier (DUNS);	**069420818**
(iii) Federal Award Identification Number (FAIN);	**Please see approved Federal Highway form.**
(iv) Federal Award Date (see §200.39 Federal award date) of award to the recipient by the Federal agency;	**Please see date on approved Federal Highway form.**
(v) Cooperative Project Agreement(Construction) Period of Performance Start and End Date;	**Please see date on approved Federal Highway form thru 3/15/2022 (End Date).**
(vi) Amount of Federal Funds Obligated by this action by the pass-through entity to the Public Entity;	**$530,600**
(vii) Total Amount of Federal Funds Obligated to the Public Entity by the pass-through entity including the current obligation;	**This award is in addition to any previous awards received by sub-recipient from NMDOT.**
(viii) Total Amount of the Federal Award committed to the Public Entity by the pass-through entity;	**The total amount of this award is in addition to any previous awards received by sub-recipient from NMDOT.**
(ix) Federal award project description, as required to be responsive to the Federal Funding Accountability and Transparency Act (FFATA);	**The proposed project identifed through the RSA is the following: Lane reduction, pedestrian improvement, bicycle improvements, signalized intersections improvements, lighting , drainage accomidations, new signing and striping. On Route FL4777 on Guadalupe street reconstruciton "road diet" from Agua Fria street to Paseo De Peralta.**
(x) Name of Federal awarding agency, pass-through entity, and contact information for awarding official of the Pass-through entity;	**FHWA, New Mexico Department of Transportation** **Sean Sandoval - 505 -660-6102, Sean.Sandoval@state.nm.us** **P.O. Box 1149 Santa Fe, NM 87501-1149**
(xi) CFDA Number and Name;	**20.205- Highway Planning & Construction**
(xii) Identification of whether the award is R&D; and	**No R&D**
(xiii) Indirect cost rate for the Federal award (including if the de minimis rate is charged per §200.414 Indirect (F&A) costs).	**N/A**

New Mexico DEPARTMENT OF TRANSPORTATION
MOBILITY FOR EVERYONE

September 9, 2021

Ms. Romella Glorioso-Moss
Projects Administrator
City of Santa Fe
P.O. Box 909
Santa Fe, New Mexico 87504

RE: Control Number: S100460

Dear Ms. Glorioso-Moss:

Enclosed for your coordination of signatures are three originals of the Cooperative Project Agreement for the project referenced above. Please return them to your Region T/LPA Coordinator. An original will be mailed to you at the time they are fully executed.

If you have any questions concerning the agreement or if I can be of further assistance, please contact me at 505-660-6102.

Sincerely,

Kimberly Perry for Sean Sandoval

Sean Sandoval
Division Director
Project Oversight Division

Concur:

Region T/LPA Coordinator

Michelle Lujan Grisham
Governor

Michael R. Sandoval
Cabinet Secretary

Commissioners

Jennifer Sandoval
Commissioner, Vice-Chairman
District 1

Bruce Ellis
Commissioner
District 2

Hilma E. Chynoweth
Commissioner
District 3

Walter G. Adams
Commissioner, Chairman
District 4

Thomas C. Taylor
Commissioner
District 5

Charles Lundstrom
Commissioner, Secretary
District 6

City of Santa Fe, New Mexico

200 Lincoln Avenue, P.O. Box 909, Santa Fe, N.M. 87504-0909
www.santafenm.gov

Alan Webber, Mayor

Councilors:
Signe I. Lindell, Mayor Pro Tem, District 1
Renee Villarreal, District 1
Michael J. Garcia, District 2
Carol Romero-Wirth, District 2
Roman "Tiger" Abeyta, District 3
Chris Rivera, District 3
Jamie Cassutt-Sanchez, District 4
JoAnne Vigil Coppler, District 4

August 11, 2021

Ms. Sharon Cruz
Tribal/Local Public Agency Coordinator
NMDOT North Region Design
1120 Cerrillos Road, PO Box 1149
Santa Fe, NM 87504

Subject: S100460 Guadalupe St. Reconstruction Cooperative Project Agreement Time Extension Request

Dear Ms. Cruz:

The City of Santa Fe ("City") is requesting a 6-month time extension to S100460 Guadalupe St. Reconstruction Cooperative Project Agreement (D15509) from September 15, 2021 to March 15, 2022. The request is necessary to complete the design phase of the project, which has been delayed due to ROW acquisition and certification process. Several ROW parcels that need to be acquired have mortgages making the process more complex and time consuming.

Attached are the Agreement Request Form and the project schedule (Gantt Chart). If you have any questions regarding this request, please contact me via e-mail at rsglorioso-moss@santafenm.gov or by phone at (505) 955-6623.

Thank you for considering our request.

Sincerely,

Romella Glorioso-Moss

Romella Glorioso-Moss, PhD, AICP
Senior Project Administrator

CITY OF SANTA FE PROCUREMENT CHECKLIST

Contractor Name: NMDOT

Procurement Title: Fourth Amendment to Cooperative Project Agreement - Design Work

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 Staff Name Romella Glorioso-Moss

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:

Romella Glorioso-Moss	Project Administrator, Senior	09/17/2022
Department Rep Printed Name (attesting that all information included)	Title	Date
Fran Delaway (Oct 17, 2021 12:58 MDT)	Chief Procurement Officer	Oct 17, 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

Real Estate Summary of Contracts, Agreements, Amendments & Leases

Section to be completed by department

1. Munis Contract # 3200847

Contractor: NMDOT Cooperative Project Agreement, CN S100460 - Design Work

Description: S100460/CIP 801B – Reconstruction of Guadalupe St. from Agua Fria to Paseo De Peralta. Road diet, reducing 4 lanes to 3 to add ADA sidewalks, bike lanes, improve signalization.

Contract ☐ Agreement ☐ Lease / Rent ☐ Amendment ☐

Term Start Date: 03/23/2017 Term End Date: 04/30/2021

☑ Approved by Council Date: 8/23/2019

Contract / Lease:

Amendment # 4 to the Original Contract / Lease # D15509

Increase/(Decrease) Amount $

Extend Termination Date to: March 15, 2022

☐ Approved by Council Date:

Amendment is for:

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

Original Contract Amount: $375,000.00 Contract # D155509 Termination Date: 09/30/2019
Amendment #1: Amount: $52,200.00 Termination Date: 10/16/2020
Reason: Additional funding and extension of termination date.
Amendment #2: Amount: $540,000 Termination Date: 04/30/2021
Amendment #3: Amount: 0 Termination Date: 09/15/2021 to complete ROW acquisition
Amendment #4: Amount: 0 Termination Date: 03/15/2022 to complete ROW acquisition

3. **Procurement History:**

Fran Delaway (Oct 17, 2021 12:58 MDT) Oct 17, 2021
Purchasing Officer Review: Date:
Comment & Exceptions: Amend # 4 to extend for 3rd year of a 4 year contract

4. **Funding Source:** 3309980 Project ST18330AS **Org / Object:** 3309980.490150/572960

Andy Hopkins (Oct 14, 2021 11:23 MDT) Oct 14, 2021 572940
Budget Officer Approval: Date:
Comment & Exceptions:

Staff Contact who completed this form: Romella Glorioso-Moss Phone # X6623

Email: rsglorioso-moss@santafenm.gov

To be recorded by City Clerk:

Clerk #

Date of Execution:

City of Santa Fe, New Mexico
memo

Date: September 17, 2021

To: Fran Dunaway, Chief Procurement Officer

Via: Regina Wheeler
Regina Wheeler (Sep 21, 2021 11:39 MDT)
Regina Wheeler, Public Works Department Director

From: Romella Glorioso-Moss, AICP, Public Works Project Administrator, Senior

Subject: Exemption Determination Request 13-1-98 A

Public Works – Roadway and Trails
Department respectfully request exempt determination to be approved by the City's CPO, Fran Dunaway. The Memo of Agreement is between New Mexico Department of Transportation and City of Santa Fe Public Works Department

City of Santa Fe follows the New Mexico State Procurement code.

A. *procurement of items of tangible personal property or services by a state agency or a local public body from a state agency, a local public body or external procurement unit except as otherwise provided in Sections 13-1-135 through 13-1-137 NMSA 1978;*

Amount: $ 1,069,437

Term: 01/25/2024

Approved Exemption

_____
Fran Dunaway, Chief Procurement Officer

Contract No.:	
Vendor No.:	**0000054360**
Control No.:	**S100470**
CFDA No:	**20.205- Highway Planning & Construction**

FIRST AMENDMENT TO
COOPERATIVE PROJECT AGREEMENT – DESIGN WORK

This **First Amendment** is to the Cooperative Project Agreement entered into between the New Mexico Department of Transportation (Department) and City of Santa Fe (Local Agency). This Amendment is effective as of the date of the last party to sign on the signature page.

RECITALS

Whereas, the Department and the Local Agency entered into an Agreement, Contract No. D18446, on February 28, 2020; and,

Whereas, Section 12 allows for modification of the Agreement by an instrument in writing executed by the parties; and,

Whereas, the Department and the Local Agency want to modify funding; and,

Whereas, the Department and the Local Agency want to extend the term of the Agreement to allow for Project completion; and,

Whereas, the parties agree to modify this Agreement.

Now, therefore, the Department and the Local Agency agree as follows:

1. **Section 1, Project Funding and Description**, is deleted and replaced by the following:

1. Funding and Project Description.

a. Funding for Design Work is as follows:

1. **FFY 2020 CONGESTION MITIGATION/AIR QUALITY-MAND (CMAQ) Funds Department's 85.44% share** $243,503
   St. Michael's Dr. Rail Trail Pedestrian Crossing/Underpass Point location at Milepost 1.(Description as per STIP database, this agreement only pertains to the Design Work portion of Project Control No.S100470 .)
2. **City's matching 14.56% share** $41,496
   For the purpose stated above.
3. **The Total Project Funding for DesignWork** $284,999

4. **FFY 2021 HWY SAFETY IMPROV PROG (HSIP) Funds**
   Department's 90% share $620,794
   St. Michael's Dr. Rail Trail Pedestrian Crossing/Underpass Point location at Milepost 1.(Description as per STIP database, this agreement only pertains to the Design Work portion of Project Control No.S100470 .)
5. **State's matching 10% share** $68,977
   For the purpose stated above.
6. **The Total Project Funding for DesignWork** $689,771

7. **FFY 2021 HWY SAFETY IMPROV PROG (HSIP) Funds**
   Department's 90% share **$85,200**
   Right of Way St. Michael's Dr. Rail Trail Pedestrian Crossing/Underpass Point location at Milepost 1.(Description as per STIP database, this agreement only pertains to the Design Work portion of Project Control No.S100470 .)
8. **State's matching 10% share** $9,467
   For the purpose stated above.
9. **The Total Project Funding for DesignWork** $ 94,667

10. **The total Project Funding** $ 1,069,437

2. **Section 4, Term**, is deleted and replaced with the following:

   4. Term.
   This Agreement is effective on February 28, 2020. This Agreement terminates on **01/25/2024**. If a contract term extension is needed, the Local Agency must provide written request to the Region or District T/LPA Coordinator sixty (60) days prior to the expiration date to ensure timely processing of an Amendment.

3. Exhibit A is deleted and replaced with the attached Exhibit A.

All other obligations set forth in the Original Agreement shall remain in full force and effect unless expressly amended or modified by this First Amendment.

The remainder of this page in intentionally left blank.

In witness whereof, each party is signing this Agreement on the date stated opposite of that party's signature.

NEW MEXICO DEPARTMENT OF TRANSPORTATION

By: _____ Date: _____
Cabinet Secretary or Designee

Reviewed and Approved as to form and legal sufficiency by the New Mexico Department of Transportation's Office of General Counsel

By: Craig C Kling (Sep 16, 2021 16:28 MDT) Date: Sep 16, 2021
Assistant General Counsel

City of Santa Fe

By: _____ Date: 9/17/2021

ATTEST

By: _____ Date: 9/17/2021
CITY OF SANTA FE Clerk

Approved as to form and legal sufficiency by the City's Attorney

By: Marcos Martinez (Sep 17, 2021 07:57 MDT) Date: Sep 17, 2021
Attorney

EXHIBIT A

2 CFR 200.331 Requirements

Federal Award Identification.

(i) Public Entity name (which must match the name associated with its unique entity identifier);	**City of Santa Fe**
(ii) Public Entity's unique entity identifier (DUNS);	**069420818**
(iii) Federal Award Identification Number (FAIN);	**Please see approved Federal Highway form.**
(iv) Federal Award Date (see §200.39 Federal award date) of award to the recipient by the Federal agency;	**Please see date on approved Federal Highway form.**
(v) Cooperative Project Agreement(Construction) Period of Performance Start and End Date;	**Please see date on approved Federal Highway form thru 1/25/2024 (End Date).**
(vi) Amount of Federal Funds Obligated by this action by the pass-through entity to the Public Entity;	**$949,497**
(vii) Total Amount of Federal Funds Obligated to the Public Entity by the pass-through entity including the current obligation;	**This award is in addition to any previous awards received by sub-recipient from NMDOT.**
(viii) Total Amount of the Federal Award committed to the Public Entity by the pass-through entity;	**The total amount of this award is in addition to any previous awards received by sub-recipient from NMDOT.**
(ix) Federal award project description, as required to be responsive to the Federal Funding Accountability and Transparency Act (FFATA);	**St. Michael's Dr. Rail Trail Pedestrian Crossing/Underpass Point location at Milepost 1.**
(x) Name of Federal awarding agency, pass-through entity, and contact information for awarding official of the Pass-through entity;	**FHWA, New Mexico Department of Transportation** **Sean Sandoval - 505 -660-6102, Sean.Sandoval@state.nm.us** **P.O. Box 1149 Santa Fe, NM 87501-1149**
(xi) CFDA Number and Name;	**20.205- Highway Planning & Construction**
(xii) Identification of whether the award is R&D; and	**No R&D**
(xiii) Indirect cost rate for the Federal award (including if the de minimis rate is charged per §200.414 Indirect (F&A) costs).	**N/A**

Form No. A-110
Rev. 02/13

New Mexico DEPARTMENT OF TRANSPORTATION

Intra-Departmental Correspondence

Date: **September 14, 2021**

To: **Michael R. Sandoval, Cabinet Secretary**

From: **Alexis Perry, District 5 Liaison**

Through: **Sean Sandoval, Project Oversight Division**
Aaron Frankland, Office of General Counsel

Subject: **Cooperative Agreement for Signature**

****

This IDC shall serve as justification for the attached Cooperative Agreement for CN: S100470. Lead Agency: City of Santa Fe to St. Michael's Dr. Rail Trail Pedestrian Crossing/Underpass Point location at Milepost 1. The Project Oversight Division (POD) is submitting this Agreement for your review and signature.

Contact Person for the City of Santa Fe: **Romella Glorioso-Moss, Projects Administrator**
Total Dollar Amount of Agreement: $1,069,437
Expiration Date of Agreement: 01/25/2024

If you have additional questions regarding the attached agreement, please contact Jacqulynn Hurtado at 505-690-6016. Thank you.

OFFICE OF GENERAL COUNSEL CONTRACT BRIEF FORM

DATE: 9/14/2021 FROM: Jacqulynn Hurtado PHONE: 505-690-6016

CONTRACTOR: City of Santa Fe
CONTROL NO: CN S100470

___NEW CONTRACT

__AMENDMENT TO EXISTING CONTRACT
_____ Scope of Work
xx___ Additional Compensation
_xx___ Time Extension
_____ Other_____

Note: For amendments, please attach a copy of the original agreement, any previous amendments, and a copy of the RFP, if applicable.

__ EXEMPT FROM PROCUREMENT PROCESS (*University; other educational institutions; other state agency, bureau; local public bodies).*

The Office of General Counsel's policy for turn around time is ten (10) working days. Please indicate below if there are extenuating circumstances which require immediate review of this agreement.

Attorney Review Comments

The attached agreement is being returned for revisions or corrections. Please call _____ at (505) 827-5431 if you have questions.

_____ Please make corrections on pages _____

_____ I have signed the agreement with the understanding that you will make the corrections indicated on the agreement submitted for review or discussed with you.

_____ Please make corrections on pages _____ and return the marked up copy to the receptionist for further review and approval.

Other comments:

Form No. A-1343
Rev 2/19
POD

New Mexico Department of Transportation
AGREEMENT REQUEST FORM (ARF)

Control No. S100470

New Agreement _____

Amendment # 2

Tribal/Local Public Agency (T/LPA) City of Santa Fe

Address P.O. Box 909, 500 Market St., Suite 200, Santa Fe, NM 87504-0909

Contact Person Romella Glorioso-Moss Title Senior Project Administrator

Phone (505) 955-6623 Email rsglorioso-moss@santafenm.gov

069420818

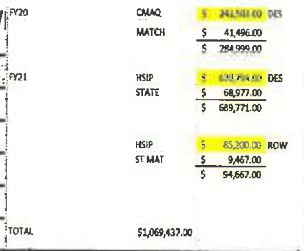
T/LPA DUNS Number: 069420818

Who Executes agreement at T/LPA (Mayor, Governor, Chairman): Mayor

Termini/ Project Description will be pulled directly from STIP database.

STIP YEAR (Design) 2020/2021 **PROPOSED WORK /**

FUNDING SOURCE	DESIGN	RIGHT OF WAY
Federal Funds	$ 933,274.00	$ 94,656.00
State Funds	$ 68,977.00	$ 9,466.00
Local Match	$ 41,496.00	$
Soft Match	$	$
Other	$	$
TOTAL AMOUNT OF		



Anticipated Begin Date 11/01/2021 Anticipated End Date 01/25/2024

What month will this project be ready to authorize Federal Funds? June 2022

You must also submit a estimated graphical project timeline (e.g., Microsoft Project, Primavera, Critical Path or Gantt chart) that provides the projected completion dates for applicable certifications for construction, right of way and design phases.

Additional Information: The original start date was delayed due to the delay in issuing the RFP. The above dates starts with the issuance of the NTP. We are on schedule. The contract will be approved by Council on Aug. 28, 2021. The PO will be approved in Sept/Oct.

T/LPA Authorized Signature Romella Glorioso-Moss Date 08/10/2021

Region T/LPA Authorized Signature Manuel Maestas Date 9/13/2021

District T/LPA Authorized Signature James Mejia Date _____

CLE T/LPA Authorized Signature Heidi Ford Date 9/14/21

By signing this Agreement Request Form, representatives are certifying the Project End Date for the requested project is true and accurate based on project scope. The Project End Date will be entered into FMIS as mandated per 2 CFR 200.309.

A project agreement **WILL NOT** be processed until this ARF is received and has all signatures.

T/LPA must submit completed Agreement Request Form and estimated project timeline to your T/LPA Region Coordinator for review.

ALL Transportation Improvement Program, 20-20.1 Amendment 2020-2024

1 Projects Listed

NMDOT ID	S100470	*MPO/TIP*	SFM 20-20.1	*Local ID*	9015.17	*Total Cost*	$4,984,999
Lead Agency	City of Santa Fe	*Contact*	City of Santa Fe 000-0000	*NMDOT*	District District 5	*County*	Santa Fe
Project Type	Safety (21)	*Air Quality*		*TCM*		*Construction*	2022 start
Project Name	St. Michael's Dr. Rail Trail Pedestrian Crossing/Underpass						
Project Limits	Point location at Milepost 1						
Description	T/LPA THE PROPOSED PROJECT IDENTIFIED THROUGH THE RSA IS THE FOLLOWING: DESIGN AND CONSTRUCT A TRAIL UNDERPASS						

Phase	Fund Source	Prior	FY2020	FY2021	FY2022	FY2023	FY2024	Future	Total
PE	CMAQ - FLEX (CQX)	-	$243,503	-	-	-	-	-	$243,503
PE	HWY SAFETY IMPROV PROG (HSIP)	-	-	$689,771	-	-	-	-	$689,771
PE	LOCAL GENERAL FUNDS (LGF)	-	$41,496	-	-	-	-	-	$41,496
PE	ROAD FUND (RF)	-	-	$68,977	-	-	-	-	$68,977
	Total Preliminary Engineering	-	$284,999	$758,748	-	-	-	-	$1,043,747
ROW	HWY SAFETY IMPROV PROG (HSIP)	-	-	$94,656	-	-	-	-	$94,656
ROW	ROAD FUND (RF)	-	-	$9,466	-	-	-	-	$9,466
	Total Right of Way	-	-	$104,122	-	-	-	-	$104,122
CON	HWY SAFETY IMPROV PROG (HSIP)	-	-	-	$3,445,573	-	-	-	$3,445,573
CON	ROAD FUND (RF)	-	-	-	$391,557	-	-	-	$391,557
	Total Construction	-	-	-	$3,837,130	-	-	-	$3,837,130
	Total Programmed	**-**	**$284,999**	**$862,870**	**$3,837,130**	**-**	**-**	**-**	**$4,984,999**

*Map Has Not Been Marked

Version History

TIP Document		*MPO Approval*	*State Approval*	*FHWA Approval*	*FTA Approval*
16-08	Amendment 2016-2020	09/29/2017	09/29/2017	09/29/2017	N/A
18-05	Amendment 2018-2022	11/29/2018	12/17/2018	04/04/2019	N/A
18-14.1	Amendment 2018-2022	03/01/2019	03/18/2019	N/A	N/A
18-21.1	Amendment 2018-2022	09/09/2019	09/11/2019	N/A	N/A
20-00	Adoption 2020-2024	07/25/2019	8/27/19	9/19/19	8/27/19
20-04.1	Amendment 2020-2024	03/03/2020	03/05/2020	N/A	N/A
20-20.1	Amendment 2020-2024	06/30/2021	07/09/2021	N/A	N/A
22-00	Adoption 2022-2026	08/26/2021	08/30/2021	*Pending*	*Pending*

Current Change Reason

SCHEDULE / FUNDING / SCOPE - Change funding years within first four years of the STIP and no change to the total project cost

Project Change(s):
Changed Exempt Category
- from "" to ", , , "

Funding Change(s):
ROAD FUND (RF)
► Add funds in FFY 21 in PE for $68,977 ROW for $9,466
- Decrease funds in FFY 22 in CON from $470,000 to $391,557
HWY SAFETY IMPROV PROG (HSIP)
► Add funds in FFY 21 in PE for $689,771 ROW for $94,656
- Decrease funds in FFY 22 in CON from $4,230,000 to $3,445,573
Total project cost stays the same $4,984,999

FY20	CMAQ	$ 243,503.00	DES	
	MATCH	$ 41,496.00		
		$ 284,999.00		
FY21	HSIP	$ 620,794.00	DES	
	STATE	$ 68,977.00		
		$ 689,771.00		
	HSIP	$ 85,200.00	ROW	
	ST MAT	$ 9,467.00		$ 949,437.00
		$ 94,667.00		
TOTAL	$ 1,069,437.00			

DESIGN		
FF	$	864,237.00
CITY	$	41,496.00
STATE	$	68,977.00
	$	974,770.00

ROW		
FF	$	85,200.00
STATE	$	9,467.00
	$	94,667.00
TOTAL	$	1,069,437.00

689,771.00
76,641.22

6/3/2021 Project Report

All Transportation Improvement Program, 20-20.1 Amendment 2020-2024 — **1 Projects Listed**

NMDOT ID: 810070 | MPO/TIP: STM 20 20.1 | Local ID: 9015 17 | Total Cost: $4,904,999
Lead Agency: City of Santa Fe | County: City of Santa Fe 000 0000 | NMDOT: District District 5 | Comp: Santa Fe
Project Type: Safety (S1) | Air Quality: | TIA: | Construction: 2022 start
Project Name: St Michael's Dr Rail Trail Pedestrian Crossing/Underpass
Project Limits: Point location at Interstate 1
Description: TTLPA THE PROPOSED PROJECT IDENTIFIED THROUGH THE RSA IS THE FOLLOWING: DESIGN AND CONSTRUCT A TRAIL UNDERPASS

Phase	Fund Source	Prior	FY2020	FY2021	FY2022	FY2023	FY2024	Future	Total
PE	CMAQ - FLEX (CQ00)	-	-	$243,503	-	-	-	-	$243,503
PE	HWY SAFETY IMPROV PROG (HSIP)	-	-	$620,794	FLR AWARD CHANGE FORM#4 THIS AMOUNT $ 620,794	-	-	-	$620,794
PE	LOCAL GENERAL FUNDS (LG01)	-	$41,496	-	-	-	-	-	$41,496
PE	ROAD FUND (RF)	-	-	$68,977	Match to correct -	-	-	-	$68,977
	Total Preliminary Engineering	-	$784,998	$759,748	TOTAL $ 620,771	-	-	-	$1,043,747
ROW	HWY SAFETY IMPROV PROG (HSIP)	-	-	$85,200	FLR AWARD CHANGE FORM#4 THIS AMOUNT $ 85,200	-	-	-	$85,200
ROW	ROAD FUND (RF)	-	-	$9,467	Match to $ 85,467.00	-	-	-	$9,467
	Total Right of Way	-	-	$94,667	TOTAL $ 85,467	-	-	-	$94,667
CON	HWY SAFETY IMPROV PROG (HSIP)	-	-	-	$3,443,573 FLR AWARD CHANGE FORM#4 THIS AMOUNT $ 3,443,573	-	-	-	$3,443,573
CON	ROAD FUND (RF)	-	-	-	$393,553 Match to $ 393,553	-	-	-	$393,553
	Total Construction	-	-	-	$3,837,126 Total $ 3,837,126	-	-	-	$3,837,126
	Total Programmed	-	$784,998	$854,415	$3,837,126	-	-	-	$5,476,999

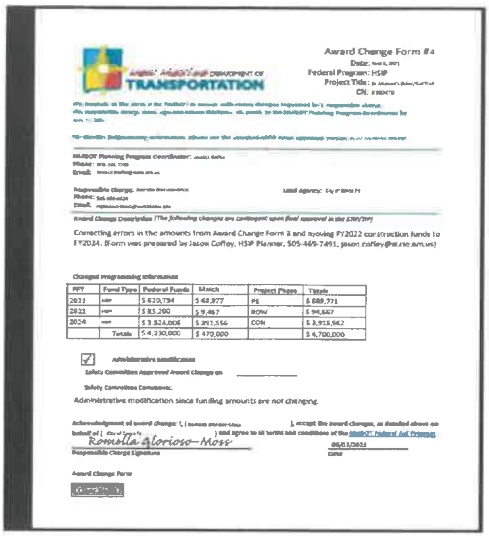
*Map Has Not Been Marked

Version History

TIP Date/Name		MPO Approval	State Approval	FHWA Approved	FTA Approved
16-08	Amendment 2016-2020	09/29/2017	09/29/2017	09/29/2017	N/A
18-05	Amendment 2018-2022	11/29/2018	12/17/2018	04/04/2019	N/A
18-14 1	Amendment 2018-2022	01/01/2019	01/18/2019	N/A	N/A
18 21 1	Amendment 2018 2022	08/08/2019	08/17/2019	N/A	N/A
20 08	Adoption 2020 2024	07/25/2019	8/7/19	9/19/19	8/22/19
20 8 1	Amendment 2020-2024	01/09/2020	04/09/2020	N/A	N/A
20 20 1	Amendment 2020-2024	Pending	Pending	N/A	N/A

Current Change Reason:
SCHEDULE / FUNDING - SCOPE - Change funding years within first four years of the RTP and no change to the total project cost

Project Change(s):



NMDOT Award Change Form #4
Date:
Federal Program: HSIP
Project Title:
CN:

Responsible Charge:
Phone:
Email:

Lead Agency: City of Santa Fe

Award Change Description (The following changes are contingent upon final approval in the STIP/TIP)

Correcting errors in the amounts from Award Change Form 3 and moving FY2022 construction funds to FY2024. (Form was prepared by Jason Coffey, HSIP Planner, 505-469-7491, jason.coffey@state.nm.us)

Changed programming information

FFY	Fund Type	Federal Funds	Match	Project Phase	Totals
2021	HSIP	$ 620,794	$ 68,977	PE	$ 689,771
2021	HSIP	$ 85,200	$ 9,467	ROW	$ 94,667
2024	HSIP	$ 3,524,006	$ 391,556	CON	$ 3,915,562
	Totals	$ 4,230,000	$ 470,000		$ 4,700,000

☑ Administrative modification

Safety Committee Approved Award Change on

Safety Committee Comments:

Administrative modification since funding amounts are not changing.

Acknowledgment of award change: I, [name printed here] on behalf of [ ], accept the award changes, as detailed above on this [ ] and agree to all terms and conditions of the NMDOT Federal Aid Program.

Rosalia Alarioso-Moss

Responsible Charge Signature

06/17/2021

Date

Award Change Form

CITY OF SANTA FE PROCUREMENT CHECKLIST

Contractor Name: NMDOT

Procurement Title: First Amendment to Cooperative Project Agreement - Design Work

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 Staff Name Romella Glorioso-Moss

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:

Romella Glorioso-Moss — Project Administrator, Senior — 09/17/2021

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

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

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

City of Santa Fe

Real Estate Summary of Contracts, Agreements, Amendments & Leases

Section to be completed by department

1. Munis Contract # 3200847

Contractor: NMDOT Cooperative Project Agreement, CN S100460 - Design Work

Description: S100460/CIP 801B – Reconstruction of Guadalupe St. from Agua Fria to Paseo De Peralta. Road diet, reducing 4 lanes to 3 to add ADA sidewalks, bike lanes, improve signalization.

Contract ☐ Agreement ☉ Lease / Rent ☐ Amendment ☐

Term Start Date: 03/23/2017 Term End Date: 04/30/2021

☑ Approved by Council Date: 8/23/2019

Contract / Lease:

Amendment # 4 to the Original Contract / Lease # D15509

Increase/(Decrease) Amount $

Extend Termination Date to: March 15, 2022

☐ Approved by Council Date:

Amendment is for:

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

Original Contract Amount: $375,000.00 Contract # D155509 Termination Date: 09/30/2019
Amendment #1: Amount: $52,200.00 Termination Date: 10/16/2020
Reason: Additional funding and extension of termination date.
Amendment #2: Amount: $540,000 Termination Date: 04/30/2021
Amendment #3: Amount: 0 Termination Date: 09/15/2021 to complete ROW acquisition
Amendment #4: Amount: 0 Termination Date: 03/15/2022 to complete ROW acquisition

3. **Procurement History:**

Purchasing Officer Review: Date:

Comment & Exceptions:

4. **Funding Source:** 3309980 Project ST18330AS **Org / Object:** 3309980.490150/572960 572940

Budget Officer Approval: Date:

Comment & Exceptions:

Staff Contact who completed this form: Romella Glorioso-Moss Phone # X6623

Email: rsglorioso-moss@santafenm.gov

To be recorded by City Clerk:

Clerk #

Date of Execution:

ITEM # 20-0042

Contract No.: D18446
Vendor No.: 0000054360
Control No.: S100470

COOPERATIVE PROJECT AGREEMENT – DESIGN

The **New Mexico Department of Transportation** (Department), and the City of Santa Fe (Local Agency) enter into this Agreement for Federal Highway Administration (FHWA) funding under NMSA 1978, Section 67-3-28. This Agreement for Project Control No.: S100470 is effective as of the date of the last party to sign it on the signature page.

1. Funding and Project Description.

a. Funding for Design Work is as follows:

1. **FFY 2020 CONGESTION MITIGATION/AIR QUALITY-MAND(CMAQ) Funds Department's 85.44% share** $243,503
   St. Michael's Dr. Rail Trail Pedestrian Crossing/Underpass Point location at Milepost 1.(Description as per STIP database, this agreement only pertains to the Design Work portion of Project Control No. S100470.)
2. City**'s matching 14.56% share** $41,496
   For the purpose stated above.
3. **The Total Project Funding for Design Work** $284,999

b. Attached as Exhibit A is a table of data on funding as required by 2 CFR 200.331.
c. The Local Agency shall provide all the work, labor, materials and services necessary to perform the Project.
d. The Local Agency is responsible for all Project costs that exceed federal funding.
e. The Local Agency must repay certain federal funding to the Department if:
   1. The Project is cancelled.
   2. An audit determines an overpayment or federal funds were used for ineligible cost items.
   3. The construction of a road on a right-of-way acquisition is not undertaken within twenty (20) years after the fiscal year in which the funds are authorized.
   4. Acquisition of right-of-way or construction of the road for a preliminary engineering project is not undertaken within ten (10) years following the fiscal year in which the project is authorized.

   The Local Agency must repay or establish a repayment plan for the federal funds within forty-five (45) days of notice from the Department.

2. Payment – Reimbursement.

The Department will reimburse the Local Agency upon receipt of reimbursement requests with supporting documentation and certification that costs have been incurred. Reimbursement requests may be submitted monthly or, at a minimum, quarterly. Expenses that are documented and determined to be eligible under 2 CFR Part 200 will be reimbursed based on the Local Agency's required Match. The final Project payment request must be submitted within thirty (30) calendar days of completion of (a) the PS&E package or (b) final payment to the contractor for Construction or Project Work and (c) prior to termination of this Agreement. The Department will not reimburse the Local Agency for costs incurred (a) prior to obligation of federal funding and the effective date of this Agreement; (b) after expiration of this Agreement; or (c) in excess of the federal funding identified in Section 1.

3. Federal, State and Department Requirements.

By entering into this Agreement, the Local Agency certifies and agrees to comply with the terms and conditions as set forth in:

a. Title 23, U.S. Code Highways and its associated regulations
b. 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. See Exhibit B.
c. 49 CFR Part 29, Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Debarment and Suspension (Grants) and Certification
d. 49 CFR Part 20, Lobbying Certification
e. The Department's policies and standards
f. The current Tribal/Local Government Handbook located at: http://dot.state.nm.us/content/dam/nmdot/TLPA/TLPA_Handbook_Final_Version_3-4-2019.pdf
g. The Federal Funding Accountability and Transparency Act (FFATA) and certain contracting requirements in regard to Office of Inspector General Reviews as identified on Exhibit B.

4. Term.
This Agreement becomes effective upon signature of all parties. The effective date is the date when the last party signed the Agreement on the signature page. This Agreement terminates on 3/31/2022. If a contract term extension is needed, the Local Agency must provide written request to the Region or District T/LPA Coordinator sixty (60) days prior to the expiration date to ensure timely processing of an Amendment. The Region or District will then have two weeks to submit to Project Oversight Division to ensure timely processing of an Amendment.

5. Termination.
The Department may terminate this agreement and request repayment under Section 1e above for the following reasons:

a. Failure to timely contract: The Local Agency, under a Design Agreement, must enter into a written agreement with an engineering consultant within three (3) months from the effective date this Agreement.
b. Inactivity: If there is no Project expenditures for twelve (12) consecutive months.
c. Failure to comply: If the Local Agency fails to comply with any provision of this Agreement.
d. Local Agency's Request: The Local Agency may seek termination in a writing to the Department, which will be fully considered.

6. Third Party Beneficiary.
This Agreement does not confirm any rights or remedies on anyone other than the Department and the Local Agency. The Department is not a party to any agreement between the Local Agency and a Project contractor at any tier.

7. New Mexico Tort Claims Act.
Neither party is responsible for liability incurred as a result of the other party's acts or omissions. Any liability incurred is subject to the immunities and limitations of the New Mexico Tort Claims Act, NMSA 1978, Section 41-4-1, et seq. This paragraph is intended only to define the liabilities between the parties and it is not intended to modify, in any way, the parties' liabilities as governed by common law or the New Mexico Tort Claims Act.

8. Appropriation.
The terms of this Agreement are contingent upon sufficient appropriations and authorizations from the New Mexico Legislature or the United States Congress when federal funds are involved. If sufficient appropriations and authorizations are not made, this Agreement terminates immediately upon written notice from the Department. The Department is not committed to expenditure of funds until they are programmed, budgeted, obligated by FHWA, encumbered, and approved for expenditure. The Department's decision on whether funds are sufficient is final.

9. Scope of this Agreement.
This Agreement constitutes the entire Agreement between the Parties. Any claimed covenant, term, condition, warranty or promise of performance not included in this document or its amendments, is not part of this Agreement and not enforceable. Performance of all duties and obligations must conform with and must not contravene any state, local, or federal statutes, regulations, rules, or ordinances.

10. Severability.
In the event that any portion of this Agreement is determined to be void, unconstitutional, or unenforceable, the remainder of this Agreement remains in full force and effect.

11. Principal Contacts and Notices.
The principal contacts for this Agreement are listed below. Except as otherwise specified, all notices must be in writing and must be given to the principal contacts listed below.

Region T/LPA Coordinator
Sharon R. Cruz
North Region T/LPA Coordinator
New Mexico Department of Transportation
P.O. Box 1149, Room 203
Santa Fe, NM 87504
Office: 505-660-3541
E-mail: sharonr.cruz@state.nm.us

District T/LPA Coordinator
Paul Brasher
T/LPA Coordinator
New Mexico Department of Transportation
P.O. Box 4127
Santa Fe, NM 87502
Office: 505-469-2194
E-mail: paul.brasher@state.nm.us

Construction Liaison Engineer
Sherman Peterson
T/LPA Construction Liaison Engineer
New Mexico Department of Transportation
1570 Pacheco St., STE. A10
Santa Fe, New Mexico
Office: 505-321-8380
E-mail: sherman.peterson@state.nm.us

Local Agency
John Romero
Engineer Supervisor
City of Santa Fe
P.O. Box 909
Santa Fe, New Mexico 87504
Office: 505-955-6672
E-mail: jjromero1@ci.santa-fe.nm.us

12. Amendment.
The terms of this Agreement may be amended by an instrument in writing executed by the parties.

The remainder of this page in intentionally left blank.

In witness whereof, each party is signing this Agreement on the date stated opposite of that party's signature.

NEW MEXICO DEPARTMENT OF TRANSPORTATION

By: _____ Date: 2/28/20
Cabinet Secretary or Designee

Reviewed and Approved as to form and legal sufficiency by the New Mexico Department of Transportation's Office of General Counsel

By: Cynthia A. Chavez Date: 10-31-19
Assistant General Counsel

CITY OF SANTA FE

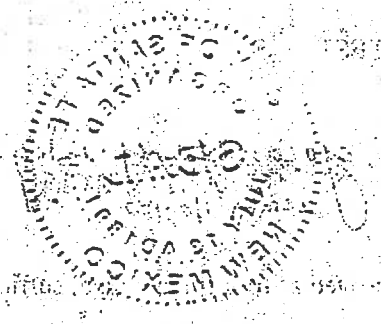
By: _____ Date: 2/3/20
Mayor

ATTEST

By: Yolanda Y. Vigil Date: 2-4-20
CITY OF SANTA FE Clerk
ccmtg 1/29/20

Approved as to form and legal sufficiency by the City's Attorney

By: _____ Date: 11/12/19
CITY OF SANTA FE Attorney



APPROVED:

MARY MCCOY, FINANCE DIRECTOR
CITY OF SANTA FE

Date: 1/30/20

EXHIBIT A

2 CFR 200.331 Requirements

Federal Award Identification.

(i) Public Entity name (which must match the name associated with its unique entity identifier);	City of Santa Fe
(ii) Public Entity's unique entity identifier (DUNS);	069420818
(iii) Federal Award Identification Number (FAIN);	Please see approved Federal Highway form.
(iv) Federal Award Date (see §200.39 Federal award date) of award to the recipient by the Federal agency;	Please see date on approved Federal Highway form.
(v) Cooperative Project Agreement(Construction) Period of Performance Start and End Date;	Please see date on approved Federal Highway form thru 3/31/2022 (End Date).
(vi) Amount of Federal Funds Obligated by this action by the pass-through entity to the Public Entity;	$243,503
(vii) Total Amount of Federal Funds Obligated to the Public Entity by the pass-through entity including the current obligation;	This award is in addition to any previous awards received by sub-recipient from NMDOT.
(viii) Total Amount of the Federal Award committed to the Public Entity by the pass-through entity;	The total amount of this award is in addition to any previous awards received by sub-recipient from NMDOT.
(ix) Federal award project description, as required to be responsive to the Federal Funding Accountability and Transparency Act (FFATA);	Federal Highway Administration (FHWA)
(x) Name of Federal awarding agency, pass-through entity, and contact information for awarding official of the Pass-through entity;	FHWA, New Mexico Department of Transportation Sean Sandoval - 505 -660-6102, Sean.Sandoval@state.nm.us P.O. Box 1149 Santa Fe, NM 87501-1149
(xi) CFDA Number and Name;	20.205- Highway Planning & Construction
(xii) Identification of whether the award is R&D; and	No R&D
(xiii) Indirect cost rate for the Federal award (including if the de minimis rate is charged per §200.414 Indirect (F&A) costs).	N/A

EXHIBIT B

Uniform Administrative Requirements and Audit
23 CFR 200, Uniform Administrative Requirements, Cost Principals, and Audit Requirements for Federal Awards, applies to each non-profit organization, each institution of higher education, and local governments as a whole when they or one of their departments receives federal funds. 2 CFR § 200 is formally OMB Circular A-133. Any non-profit organization, institution of higher education, or local government spending more than $750,000 in federal funds from all sources within a 12-month period must have an audit performed on the use of the funds. The Department defines the 12-month period as July 1 to June 30.

Federal Funding Accountability and Transparency Act (FFATA).
The FFATA requires full disclosure to the public of all entities or organizations receiving federal funds. Central to this law is www.USASpending.gov, a publically available website with searchable information on each federal grant and contract over $25,000. In addition, the Federal Subaward Reporting System (FSRS), www.FSRS.gov, was developed for reporting on executive compensation and first-tier subawards. The Local Agency is required to register with the US Contractor Registration (System for Award Management [SAM] System) and get a Data Universal Number System (DUNS) number. The Local Agency is responsible for providing their executive compensation and subaward information to the Department for entry into FSRS.gov. The Department is responsible for providing award information to USASpending. The type of information reported includes:

- Name of Local Agency receiving the award
- Amount of Award
- Funding Agency
- NAICS code for contracts or the Catalog of Federal Domestic Assistance program number for grants
- Program source
- Award title descriptive of the purpose of the funding action
- Location of the Local Agency, including the Congressional District
- Place of performance of the program or activity, including the Congressional District
- DUNS number of the Local Agency and its parent organization, if one exists
- Total compensation – If the Local Agency in the preceding year received eighty (80) percent or more of its annual gross revenues in federal awards, which exceeds $25 million annually, and the public has no access to this information under the Securities Exchange Act or the Internal Revenue Code, then the names of the top five executives of the Local Agency are also required to comply with the FFATA.
- The Department will extract as much information as possible from the Local Agency's grant application and standard reports.

Office of Inspector General Review
The Local Agency, when procuring services, shall provide to all bidders the reporting and oversight requirements that they are bound to from the time of bid submission. The following provisions must be included in all prime contracts, subcontracts, and other contracts for services for a federally-funded project:

1. **Inspector General Reviews**: Any Inspector General of a federal department or executive agency shall review, as appropriate, any concerns raised by the public about specific investments using federal funds. Any findings of such reviews not related to an ongoing criminal proceeding shall be relayed immediately to the New Mexico Department of Transportation or the agency concerned.
2. **Access of Offices of Inspector General to Certain Records and Employees**: With respect to each contract or grant awarded using federal funds, any representative of an appropriate Inspector General

appointed under the Inspector General Act of 1978, 1,5 USC App. 3 and specifically § 8G, 5 USC App. 3 (2014) is authorized to examine any records of the contractor or grantee, any of its subcontractors or sub-grantees, or any state or local agency administering such contract, that pertain to, and involve transactions relating to, the contract, subcontract, grant, or sub-grant; and to interview any officer or employee of the contractor, grantee, sub-grantee, or agency regarding such transactions. In addition, the Local Agency should do the following:

a. Allow access by the Government Accountability Office Comptroller General and his representatives to examine any records of the contractor or any of contractor's subcontractors, or any state or local agency administering such contract that directly pertain to, and involve transactions relating to, the contract or subcontract
b. Allow the Comptroller General and his representatives to interview any officer or employee of the contractor or any of contractor's subcontractors, or of any state or Local Agency administering the contract, regarding such transactions

Nothing in this section shall be interpreted to limit or restrict in any way any existing authority of an Inspector General. The Department's Office of Inspector General (OIG) has the authority to carry out all duties required. The duties are the same as those specified in Federal Law: OIG, 23 USC § 302 (1998) (the capability to carry out the duties required by law); 23 USC § 112(2) (2012) (contracting for engineering and design services); the review of Federal-aid construction contract.

S100470 AM#1 DESIGN AGREEMENT

Final Audit Report 2021-09-14

Created:	2021-09-14
By:	Jacqulynn Hurtado (jacqulynn.hurtado@state.nm.us)
Status:	Signed
Transaction ID:	CBJCHBCAABAAHcQAFNMuxctJ9IvvJ9po8rC9Pvs-mQ5J

"S100470 AM#1 DESIGN AGREEMENT" History

Document created by Jacqulynn Hurtado (jacqulynn.hurtado@state.nm.us)
2021-09-14 - 5:26:49 PM GMT- IP address: 164.64.74.20

Document emailed to Craig C Kling (craig.kling1@state.nm.us) for signature
2021-09-14 - 5:27:43 PM GMT

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2021-09-14 - 5:34:46 PM GMT- IP address: 104.47.64.254

Document e-signed by Craig C Kling (craig.kling1@state.nm.us)
Signature Date: 2021-09-14 - 5:45:04 PM GMT - Time Source: server- IP address: 164.64.74.20

Agreement completed.
2021-09-14 - 5:45:04 PM GMT

Adobe Sign

S100470 AM#1 DESIGN AGREEMENT 9.16.2021

Final Audit Report 2021-09-16

Created:	2021-09-16
By:	Jacqulynn Hurtado (jacqulynn.hurtado@state.nm.us)
Status:	Signed
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"S100470 AM#1 DESIGN AGREEMENT 9.16.2021" History

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2021-09-16 - 10:16:09 PM GMT- IP address: 104.47.65.254

Document e-signed by Craig C Kling (craig.kling1@state.nm.us)
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Agreement completed.
2021-09-16 - 10:28:32 PM GMT

Adobe Sign

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

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

DEPARTMENT / DIVISION NAME	DATE
Public Works/ Roadway and Trails	09/17/2021

ITEM DESCRIPTION	ORG	OBJECT	PROJECT	INCREASE	DECREASE
EXPENDITURES				*{enter as positive #}*	*{enter as negative #}*
WIP Design	3309980	572960	ENG18330E	784,438	
REVENUES				*{enter as negative #}*	*{enter as positive #}*
NMDOT	3309980	490150	ENG18330E	(784,438)	
				$ -	$ -

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

To budget for St. Michael's Dr-Rail Trail Underpass additional Federal funding administered through NMDOT to complete engineering design of the project.

{Complete section below if BAR results in a net change to ANY Fund}	
Fund(s) Affected	Fund Balance Increase/(Decrease)
TOTAL:	**0**

Romella Glorioso-Moss 09/17/21
Prepared By *{print name}* Date

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

Andy Hopkins (Oct 14, 2021 11:23 MDT) Oct 14, 2021
Budget Officer Date

CITY COUNCIL APPROVAL

City Council Approval Date

Agenda Item #:

Division Director Signature *{optional}* Date

Regina Wheeler (Sep 21, 2021 11:39 MDT)
Department Director Signature Date

Finance Director *{≤ $5,000}* Date

City Manager *{≤ $60,000}* Date

ACTION SHEET
ITEM FROM FINANCE COMMITTEE MEETING OF 11/01/21
FOR CITY COUNCIL MEETING OF 11/10/21

Request the Approval of NMDOT Funding Agreements as Per Ordinance #2020-33, Section 2-4.6.B and Budget Amendment Resolution funding. (Romella Glorioso-Moss, PW Project Administrator Sr. rglorioso-moss@santafenm.gov; 955-6623)

1) Ratify Contract Amendments to NMDOT Contract No. D15509, Project No. S100460 Guadalupe St. Reconstruction Project extending termination date from 09/15/2021 to 03/15/2022. Approved by the City Manager on 09/13/2021.

2) Ratify Contract Amendments to NMDOT Contract No. D18446, Project No. S100470 St. Michael's Drive/Rail Trail Underpass increasing design funding from $284,999 to $1,069,437; and extending termination date from 03/31/2022 to 01/25/2024. Approved by the City Manager on 09/17/2021.

3) Approve Budget Adjustment Resolution (BAR) of $784,438 to Project ID# ENG18330E; Org./Obj. 3309980.572960.

Committee	**Review:**
Finance Committee	– 11/01/2021
Public Works & Utilities Committee	– 11/08/2021
Governing Body	– 11/10/2021

FINANCE COMMITTEE ACTION:
Move forward with No Recommendation

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		

CITY OF SANTA FE PROCUREMENT CHECKLIST

Contractor Name: Trane US Inc. dba Trane
Procurement Title: Santa Fe Community Convention Center Air-Handler (IntelliPak) Replacement 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 TOURISM SANTA FE / Community Convention Center Staff Name Melanie Moore

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: _____

Melanie Moore	Operations Manager	10/18/2021
Department Rep Printed Name (attesting that all information included)	Title	Date
Fran Dunaway Fran Dunaway (Oct 21, 2021 14:09 MDT)	Chief Procurement Officer	Oct 21, 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: October 19, 2021

TO: Governing Body
Finance Committee
Public Works Committee

VIA: Jarel LaPan Hill, City Manager
Mary McCoy, Finance Department Director
Fran Dunaway, Chief Procurement Officer
Rich Brown, Community Development Director *Richard Brown*

FROM: Randy Randall, TOURISM Santa Fe Executive Director
Randy Randall (Oct 19, 2021 16:06 MDT)

ITEM AND ISSUE:
Santa Fe Community Convention Center Air-Handler (IntelliPak) Replacement Project; Request for approval of a Professional Goods and Services Agreement in total amount of $663,224.72 for a twelve (12) month term; Trane U.S. Inc. dba Trane 47QSWA20D0021 / SPA 00-00000-20-00099; Mark Fafard, Account Manager, msfafard@trane.com, (505)-884-2044.

BACKGROUND AND SUMMARY:
This project was previously approved by the Governing Body in March 2020, however the global onset of the COVID-19 pandemic resulted in a postponement of this project plan.

The Santa Fe Community Convention Center currently maintains four water-cooled air handler (IntelliPak) units on the rooftop which were installed in 2008. The original design specified water cooled units without providing a plumbing connection to the sewer drain for water exchange. Initially, the water was released to the storm drains which violated EPA standards and henceforth the process was terminated. As a result of not being able to exchange the water and remove solids inside the water cooling towers, the mineral buildup has deteriorated the rooftop air handler units and shortened their life span. Over the past thirteen (13) years without a proper way to change the water cycles on the recommended daily schedule, the corroded parts of the system have reduced the efficiency and compromised the reliability. Critical operating components for the current system are unreliable and no longer available. Replacing the current system with air-cooled IntelliPaks will reduce maintenance and repair, and decrease water use. The replacement air-cooled IntelliPaks are manufactured and maintained by Trane U.S. Inc. and will be purchased under the Government State Agreement. The Community Convention Center's HVAC System is currently under a Trane Tracer DDC Controls system which is also maintained and monitored by the local Trane U.S. Inc. office.

PROCUREMENT METHOD:
The amount needed to replace four (4) IntelliPaks is **$663,224.72.** The funding is currently available in Community Convention Center Capital Reserves and will be transferred to the Convention Center Equipment and Machinery NonExempt (5206600-570500).

The procurement method is the NM Statewide Price SPA 00-00000-20-00099 which expires on December 9, 2024.

CONTRACT NUMBER:
The FY22 Munis contract number is 3203059.

FUNDING SOURCE:
Fund Name/Number: Convention Center/520
Munis Org Name/Number: Operations/5206600
Munis Object Name/Number: Equipment and Machinery NonExempt (570500)

ACTION REQUESTED:
TOURISM Santa Fe respectfully requests your review and approval of this Air-Handler Replacement Project.

GSD/PD (Rev. 01/11)

State of New Mexico
General Services Department

Statewide Price Agreement

Awarded Vendor:
0000011132
Trane US Inc.
5501 San Diego Ave NE
Albuquerque, NM 87113

Email: pete.hugenroth@tranetechnologies.com
Telephone No.: 888-290-5762

Price Agreement Number: **00-00000-20-00099**

Payment Terms: **See Contract**

F.O.B.: **See Contract**

Delivery: **See Contract**

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

Invoice:

As Requested

Procurement Specialist: Michael Saavedra

Telephone No.: 505-827-0610

Email: Michael.Saavedra@state.nm.us

Title: **Total Solutions for Law Enforcement, Security, Facilities Management, Fire, Rescue Clothing, Marine Craft and Emergency Disaster Response**

Term: **March 31, 2020 thru December 9, 2024**

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

Accepted for the State of New Mexico

Valerie Pacheco for

New Mexico State Purchasing Agent

Date: 03/30/2019

Terms and Conditions

(Unless otherwise specified)

1. **General:** When the State Purchasing Agent or his/her designee issues a purchase document in response to the Vendor's quote, a binding contract is created.

2. **Variation in Quantity:** No variation in the quantity of any item called for by this order will be accepted unless such variation has been caused by conditions of loading, shipping, packing or allowances in manufacturing process and then only to the extent, if any, specified in this order.

3. **Assignment:**

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

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

4. **State Furnished Property:** State furnished property shall be returned to the State upon request in the same condition as received except for ordinary wear, tear and modifications ordered hereunder.

5. **Inspection:**

a. Final inspection and acceptance will be made at the destination. Supplies rejected at the destination for nonconformance with the terms and conditions of the agreement shall be removed at the Vendor's risk and expense, promptly after notice of rejection.

b. Final inspection and acceptance will be made at the destination. Services rejected for nonconformance with the terms and conditions of the agreement and/or requirements shall be corrected by the Vendor promptly after notice of rejection. Those services not corrected after notice shall not be paid for.

6. **Commercial Warranty:** The Vendor agrees that the supplies or services furnished under this order shall be covered by the most favorable commercial warranties the Vendor gives for such to any customer for such supplies or services. The rights and remedies provided herein shall extend to the State and are in addition to and do not limit any rights afforded to the State by any other clause of this order. **Vendor agrees not to disclaim warranties of fitness for a particular purpose of merchantability.**

7. **Packing, Shipping and Invoicing:**

a. The State's purchasing document number and the Vendor's name, user's name and location shall be shown on each packing and delivery ticket, package, bill of lading and other correspondence in connection with the shipments. The user's count will be accepted by the Vendor as final and conclusive on all shipments not accompanied by a packing ticket.

b. The Vendor's invoice shall be submitted duly certified and shall contain the following information: order number, description of supplies or services, quantities, unit price and extended totals. Separate invoices shall be rendered for each and every complete shipment.

c. Invoices must be submitted to the using agency and NOT to the State Purchasing Agent.

8. **Default:** The State reserves the right to cancel all or any part of this order without cost to the State, if the Vendor fails to meet the provisions of this order and, except as otherwise provided herein, to hold the Vendor liable for any excess cost occasioned by the State due to the Vendor's default. The Vendor shall not be liable for any excess costs if failure to perform the order arises out of causes beyond the control and without the fault or negligence of the Vendor, such causes include but are not restricted to, acts of God or the public enemy, acts of the State or Federal Government, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather and defaults of subcontractors due to any of the above, unless the State shall determine that the supplies or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit the Vendor to meet the required delivery scheduled. The

rights of the State provided in this paragraph shall not be exclusive and are in addition to any other rights now being provided by law or under this order.

9. **Non-Collusion:** In accepting these terms and conditions the Vendor certifies that the Vendor has not, either directly or indirectly, entered into action in restraint of free competitive procurement in connection with this offer submitted to the State Purchasing Agent or his/her designee.

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

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

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

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

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

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

16. **Records and Audit:** The Vendor 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 six (6) years from the date of final payment under this Price Agreement. The records shall be subject to inspection by the Agency, State Purchasing Division, Department of Finance and Administration, and for Information Technology contracts, State Chief Information Officer. The Agency shall have the right to audit billings, both before and after payment. Payment for services under this Price Agreement shall not foreclose the right of the Agency to recover excessive or illegal payments.

17. **Subcontracts:** The foregoing requirements shall be inserted into all subcontracts from the prime Vendor to the subcontractor, if such subcontracting has been approved in writing by the Procuring Agency.

New Mexico Employees Health Coverage

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

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

C. Vendor agrees to advise all of its New Mexico Employees of the availability of State publicly financed health care coverage programs by providing each of its New Mexico Employees with, as a minimum, the following web site link to additional information: https://www.bewellnm.com/.

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

(1) "New Mexico Employee" means any resident of the State of New Mexico employed by Vendor who performs the majority of the employee's work for Vendor within the State of New Mexico, regardless of

the location of Vendor's office or offices; and

(2) "offer" means to make available, without unreasonable restriction, enrollment in one or more health coverage plans and to actively seek and encourage participation in order to achieve the goals of Executive Order 2007-049. This could include State publicly financed public health coverage programs such as *Insure New Mexico!*

Statewide Price Agreement

Article I – Statement of Work
Under the terms and conditions of this Price Agreement and pursuant to the approval of the State Purchasing Agent (as can be found on the cover page of this agreement) either a particular entity or all State of New Mexico agencies, 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 herein. All orders issued hereunder will bear both an order number and this Price Agreement number. It is understood that no guarantee or warranty is made or implied by the New Mexico State Purchasing Agent, his/her designee or the user that any order for any definite quantity will be issued under this Price Agreement. The Vendor 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 Price Agreement.

Article III – Conformance With Terms and Conditions
Items and/or services furnished hereunder shall conform to the requirements, terms and conditions of the agreement and/or drawings applicable to items listed herein. 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
Vendor shall ship in accordance with the following instructions: Shipment shall be made only against specific orders which the user may place with the Vendor during the term; The Vendor shall enclose a packing list with each shipment listing the order number, price agreement number and the commercial parts number (if any) for each item; Delivery shall be made as indicated on page1. If vendor is unable to meet stated delivery the State Purchasing Agent or his/her designee must be notified.

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

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

Article VII – Indemnity Clause
Vendor shall indemnify and hold harmless the State, its officers and employees, against liability, claims, damages, losses or expenses arising out of bodily injury to persons or damage to properties caused by, or resulting from Vendor's, and/or its

employees, own negligent act or omission while Vendor, and/or its employees, perform or fails to perform its obligations and duties under the Terms and Conditions of this agreement. This save harmless and indemnification clause is subject to the immunities, provisions, and limitations of the Tort Claims Act (Section 41-4-1, et seq., N.M.S.A. 1978 comp. and Section 57-7-1 N.M.S.A. 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 or to authorize anyone not a party to the agreement to maintain a suit(s) for wrongful death(s), bodily and/ or personal injury(s) to person(s), damage(s) to property(ies) and/or any other claim(s) whatsoever pursuant to the provisions of this agreement.
Vendor shall provide all insurance necessary to employees on the work site, including but not limited to Worker'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 agreements cannot be exceeded. Vendors and end users may negotiate lower prices where in agreement to do so.

Establish a Price Agreement based on GSA Contract # **47QSWA20D002A** for **Total Solutions for Law Enforcement, Security, Facilities Management, Fire, Rescue Clothing, Marine Craft and Emergency Disaster Response**

This Price Agreement may be extended if the GSA Contract is extended, upon approval of all parties.

Contract orders shall be issued only to vendor(s) shown under this Price Agreement. Prices shall be equal to or less than the price stipulated under the above listed GSA Contract.

Agencies must verify that items being purchased, rented, etc., are listed on the above referenced GSA. Only those items listed may be placed on contract orders under this Price Agreement. A complete copy of the GSA catalog must be retained by the using agency for auditing purposes. Trade-ins are not allowed under this Price Agreement.

Vendors under this Price Agreement are required to furnish a complete copy of the GSA catalog to the using agency upon request. Vendors must certify upon request that only those products, supplies or services accepted by the federal government are included in GSA price list.

State and local government catalogs are not acceptable.

Note: all terms and conditions established in the referenced GSA and by the New Mexico State Purchasing Agent shall prevail.

The Contractor agrees to provide a utilization report to the agreement administrator in accordance with the following schedule:

Period End	Report Due
September 30	October 31
December 31	January 31
March 31	April 30
June 30	July 31

Sample Reports can be found at: http://www.generalservices.state.nm.us/statepurchasing/resourcesandinformation.aspx#Vendors

Email completed reports to: GSD.QuarterlyUsageR@state.nm.us

The periodic report shall include the gross total sales for the period subtotaled by procuring agency name. The report shall be accompanied with a check payable to the State Purchasing Division for an amount equal to three quarters of one percent (0.75%) of the total sales for the period.

This agreement is not intended to be used to procure "Open Market" items.

Item	Approx Qty	Unit	Article and Description	Unit Price
001	1	Ea.	**Total Solutions for Law Enforcement, Security, Facilities Management, Fire, Rescue Clothing, Marine Craft and Emergency Disaster Response**	

***** 1 Item Total *****

MEMORANDUM

Date: October 19, 2021

To: **Trane U.S. Inc. (dba) Trane Technologies**

Attn: **Mark Fafard, Trane U.S. Inc.**

From: Fran Dunaway, CPO, CNBM, City of Santa Fe Purchasing Division

RE: GSA Contract **GSA 47QSWA20D002A/SPA 00-00000-20-00099, Total Solutions for Law Enforcement, Security, Facilities Management, Fire, Rescue Clothing, Marine Craft and Emergency Disaster Response**

The City of Santa Fe by mutual agreement between the City and **Trane U.S. Inc.** is willing to enter into a GSA price agreement based on the following requirements:

- Provide an updated Federal Supply Schedule to include current or updated contract dates.

- *Purchases based on 13-1-129 (A)(1) NMSA 1978:* The Contractor is willing to extend their GSA pricing, terms and conditions to the City of Santa Fe at prices equal to or less than the contractor's current federal supply contract price (GSA), providing the contractor has indicated in writing a willingness to extend such contractor pricing, terms and conditions to the City of Santa Fe and the purchase order adequately identifies the contract relied upon.

Please respond by completing the information below. Check the proper box, fill in the requested information, including signature, scan and upload to the email you received with this request.

X **I agree to extend and/or renew the above referenced GSA price agreement.**

I DO NOT agree to extend and/or renew the above referenced GSA price agreement.

Mark Fafard / Service Sales
Print Name, Title

Signature

10/19/21

MFAFARD@TRANE.COM
Email Address

TRANE U.S. INC
Company Name
5501 SAN DIEGO NE
ABQ. NM. 87113

Item#_____
Munis Contract# 3203059

City of Santa Fe Contract
Santa Fe Community Convention Center Air Handler Replacement

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

IT IS MUTUALLY AGREED BETWEEN THE PARTIES:

1. **Definitions**

A. NEW EQUIPMENT LIST

Equipment	Qty	Manufacturer	Existing Model Number	Serial Number	Asset Tag
IntelliPak 105-Ton	1	Trane	SLHKD114	TBD	AHU – 1
IntelliPak 60 -Ton	1	Trane	SLHF604	TBD	AHU – 2
IntelliPak 40 -Ton	1	Trane	SXHLF404	TBD	AHU – 3
IntelliPak 40 -Ton	1	Trane	SLHF404	TBD	AHU – 4

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

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

2. **Scope of Work**

A. The Contractor shall perform the following work:

Provide Labor and Material to remove existing rooftop IntelliPak units and install new Air Cooled IntelliPak units.

SERVICE FLOWS

1) Project Manager will review all project plans with Facilities Management including:
    a. Equipment demo/install safety plans
    b. Crane lift plans
    c. Sub-contractor (Mechanical & Electrical) safety plans
    d. Contingency plans
    e. Street block off plans

2) Disconnect Electrical per NEC Code and prepare existing IntelliPak units for removal
3) With Crane (Provided) remove existing units and transport out for proper disposal per EPA requirements
4) With Crane (Provided) Install new units to mount new AIR COOLED IntelliPak units
5) With Crane (Provided) Install new IntelliPak units
    a. AHU -1 and AHU – 2 will replaced with a single Crane lift from Federal Street
        i. Please see Crane Lift Plan. (Street will require to be blocked off during crane activity)
    b. AHU – 3 and AHU – 4 will be replaced with a single Crane lift from Marcy or Grant Street
        i. Please see Crane Lift Plan. (Street will require to be blocked off during crane activity)
6) Reconnect new Air Cooled IntelliPak units to existing Ducting
7) Reconnect Electrical and controls (Re-configure controls based on new equipment)
8) Programming and graphics
9) Perform Trane Certified Startup and ensure proper Operation
10) Compressor Only warranty years 2-5
11) One year installation including parts, refrigerant, and labor warranty

3. Compensation

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

GSA 47QSWA20D002A / 00-00000-20-00099					
Labor					
	Discipline	Labor Rate	# of Techs	Hours per Tech	Discipline Total
	HVAC Field Technician-Senior	$177.11	1	120	$ 21,253.20
	Project Engineer II – Controls	$275.40	1	20	$ 5,508.00
	Project Manager – Controls	$223.17	1	10	$ 2,231.70
	Controls Technician	$172.85	1	60	$ 10,371.00
	Project Manager – Contracts	$238.41	1	80	$ 19,072.80
	Electrician	$128.98	1	160	$ 20,636.80
	Laborer	$58.74	1	240	$ 14,097.60
	Mechanical Insulator	$58.74	1	16	$ 939.84
	Plumbers & Pipefitters	$127.53	1	240	$ 30,607.20
	Ironworker - Structural	$85.77	1	560	$ 48,031.20
	Sheet Metal Worker	$136.28	1	240	$ 32,707.20
	Welders – Building	$127.53	1	20	$ 2,550.60
	Discipline Total				$ 208,007.14

Materials				
Part #	Description	GSA Price	QTY	Total
383	IntelliPak (105 tons)	$ 157,019.00	1	$ 157,019.00
383	IntelliPak (60 tons)	$ 101,684.00	1	$ 101,684.00
383	IntelliPak (40 tons)	$ 84,711.00	2	$ 169,422.00
			Material Total	$ 428,125.00

Subtotal	$ 636,132.14
Bond	$ 9,541.98
Tax @ 8.4375% On Labor	$ 17,550.60
Total Price	$ 663,224.72

The total compensation under this Agreement shall not exceed $663,224.72 including New Mexico gross receipts tax.

4. **Payment Provisions**

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

A. Acceptance - In accordance with Section 13-1-158 NMSA 1978, the City shall determine if the product or services provided meet specifications. Until

the products or services have been accepted in writing by the City, the City shall not pay for any products or services. Unless otherwise agreed upon between the City and the Contractor, within thirty (30) days from the date the City receives written notice from the Contractor that payment is requested for services or within thirty (30) days from the receipt of products, the City shall issue a written certification (by letter or email) of complete or partial acceptance or rejection of the products or services. Unless the City gives notice of rejection within the specified time period, the products or services will be deemed to have been accepted.

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

5. **Term**

THIS AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED IN WRITING BY THE CITY. This Agreement shall begin on date approved by the City, and end on December 31, 2022. The City reserves the right to renew the contract on an annual basis by mutual Agreement not exceed a total of four years in accordance with NMSA 1978, §§ 13-1-150 through 152.

6. **Default and Force Majeure**

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

7. **Termination**

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

B. Notice; City Opportunity to Cure.

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

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

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

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

8. **Amendment**

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

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

9. **Status of Contractor**

The Contractor, and Contractor's agents and employees, are independent Contractors for the City and are not employees of the City. The Contractor, and Contractor's agents and employees, shall not accrue leave, retirement, insurance, bonding, use of City vehicles, or any

other benefits afforded to employees of the City as a result of this Agreement. The Contractor acknowledges that all sums received hereunder are personally reportable by the Contractor for income tax purposes, including without limitation, self-employment tax and business income tax. The Contractor agrees not to purport to bind the City unless the Contractor has written authority to do so, and then only within the strict limits of that authority.

10. **Assignment**

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

11. **Subcontracting**

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

12. **Non-Collusion**

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

13. **Inspection of Plant**

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

14. **Commercial Warranty**

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

15. **Condition of Proposed Items**

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

16. **Records and Audit**

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

17. **Appropriations**

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

18. **Release**

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

19. **Confidentiality**

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

20. **Conflict of Interest**

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

B. The Contractor further represents and warrants that it has complied with, and, during the term of this Agreement, will continue to comply with, and that this Agreement

complies with all applicable provisions of the Governmental Conduct Act, Chapter 10, Article 16 NMSA 1978.

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

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

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

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

22. **Scope of Agreement; Merger**

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

23. **Notice**

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

24. **Equal Opportunity Compliance**

The Contractor agrees to abide by all federal and state laws, and local Ordinances, pertaining to equal employment opportunity. In accordance with all such laws, rules, and regulations, the Contractor agrees to assure that no person in the United States shall on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, or serious medical condition, spousal affiliation, sexual orientation or gender identity, be excluded from employment with or participation in, be denied the benefits of, or be otherwise

subjected to discrimination under any program or activity performed under this Agreement. If Contractor is found not to be in compliance with these requirements during the life of this Agreement, Contractor agrees to take appropriate steps to correct these deficiencies.

25. **Indemnification**

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

26. **New Mexico Tort Claims Act**

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

27. **Applicable Law**

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

28. **Limitation of Liability**

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

29. **Incorporation by Reference and Precedence**

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

In the event of a dispute under this Agreement, applicable documents will be referred to for the purpose of clarification or for additional detail in the following order of precedence: (1)

amendments to the Agreement in reverse chronological order; (2) the Agreement, including the scope of work and all terms and conditions thereof; (3) the request for proposals, including attachments thereto and written responses to questions and written clarifications; (4) the Contractor's best and final offer if such has been made and accepted by the City; and (5) the Contractor's response to the request for proposals.

30. **Workers' Compensation**

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

31. **Inspection**

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

32. **Inspection of Services**

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

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

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

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

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

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

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

E. If the Contractor fails to promptly re-perform the services or to take the

necessary action(s) to ensure future performance in conformity with the requirements of this Agreement, the City may:

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

(2) terminate the contract for default.

33. **Insurance**

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

A. Commercial General Liability insurance shall be written on an occurrence basis and be 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.

34. **Impracticality of Performance**

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

35. **Invalid Term or Condition**

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

36. **Enforcement of Agreement**

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

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

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

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

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

1) provide the City the right to continue using the product or service and fully indemnify the City against all claims that may arise out of the City's use of the product or service;

2) replace or modify the product or service so that it becomes non-infringing; or,

3) accept the return of the product or service and refund an amount equal to the value of the returned product or service, less the unpaid portion of the purchase price and any other amounts, which are due to the Contractor. The Contractor's obligation will be void as to any product or service modified by the City to the extent such modification is the cause of the claim.

38. **Survival**

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

39. **Disclosure Regarding Responsibility**

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

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

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

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

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

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

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

The City may, without cause, order the Contractor, in writing, to suspend, delay or interrupt the work in whole or in part for such period of time as the City may determine. The contract sum and contract time shall be adjusted for increases in cost and/or time associated with

Contractor's compliance therewith. Upon receipt of such notice, Contractor shall leave the jobsite and any equipment in a safe condition prior to departing. Contractor must assert rights to additional compensation within thirty (30) days after suspension of work is lifted and return to work is authorized. Any compensation requested for which entitlement is granted and the contract sum adjusted, shall have profit included (for work completed) and for cost only (not profit) for Contractor costs incurred directly tied to the suspension itself and not otherwise covered by Contract remedy. Any change in Total Compensation must be reflected in an Amendment executed pursuant to Section 8 of this Agreement.

41. **Notification**

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

To the City:

Randy Randall
TOURISM Santa Fe
PO Box 909
Santa Fe, New Mexico 87504
Phone: 505-955-6209

To the Contractor:

Mark Fafard, Account Manager
Trane U.S. Inc. dba Trane
5501 San Diego Ave NE
Albuquerque, NM 87113
Phone: 505-884-2044
Service Phone: 505-341-7934

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

To the Contractor:

Trane U.S. Inc. dba Trane
5501 San Diego Ave NE
Albuquerque, NM 87113
Phone 505-884-2044
Service Phone: 505-341-7934

42. **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.

43. **Succession**

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

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

CITY OF SANTA FE:

_____
ALAN WEBBER
MAYOR

_____
Date:

CONTRACTOR:
Trane U.S. Inc. dba Trane

Karen M. Campbell
Karen M. Campbell
Sr. Contract Manager

10/20/21
Date:

CRS #01509460000
License #352815

ATTEST:

_____
KRISTINE BUSTOS MIHELCIC, CITY CLERK

CITY ATTORNEY'S OFFICE:

Marcos Martinez
Marcos Martinez (Oct 18, 2021 09:07 MDT)
_____
SENIOR ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

_____
MARY MCCOY, FINANCE DIRECTOR

5206600/570500
Org.Name/Org.# AJH
AJH

City of Santa Fe

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

BUSINESS REGISTRATION

Business Name: THE TRANE COMPANY
DBA: THE TRANE COMPANY

Business Location: 5501 SAN DIEGO AVE NE
ALBUQUERQUE, NM 87113

CRS Number: 01509460000

Owner: MICHAEL LEMAC

License Number: 225513

License Type: Business License - Renewable

Issued Date: May 25, 2021

Classification: Out of Jurisdiction Business License

Expiration Date: May 25, 2022

Fees Paid: $10.00

THE TRANE COMPANY
5501 SAN DIEGO AVE NE
ALBUQUERQUE, NM 87113

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

Real Estate Summary of Contracts, Agreements, Amendments & Leases

Section to be completed by department

1. Munis Contract # **3203059**

Contractor: **Trane US Inc. dba Trane**

Description: **Santa Fe Community Convention Center Air Handler (IntelliPak) Replacement Project**

Contract [◉] Agreement [ ] Lease / Rent [ ] Amendment [ ]

Term Start Date: **FY'22** Term End Date: **12/31/2022**

[ ] Approved by Council Date: _____

Contract / Lease:

Amendment # _____ to the Original Contract / Lease # _____

Increase/(Decrease) Amount $ _____

Extend Termination Date to: _____

[ ] Approved by Council Date: _____

Amendment is for:

2. **HISTORY** of Contract, Amendments & Lease / Rent - Please Elaborate (option: attach spreadsheet if multiple amendments)
Request for approval of a Goods and Services Agreement with Trane U.S. Inc. dba Trane $663,224.72 for the Replacement of (4) Rooftop Air- Handler (IntelliPak) Units. This project was previously approved by the Governing Body in March 2020 but was postponed due to the global COVID-19 pandemic. The previous contract expired in December 2020, as such a new contract has been executed for this project.

3. Procurement History: **GSA 47QSWA20D0021 / SPA 00-00000-20-00099**

Fran Dunaway (Oct 21, 2021 14:09 MDT) Oct 21, 2021

Purchasing Officer Review: Date:

Comment & Exceptions: Utilizing SWPA/GSA as procurement method for issuance of contract. 12/31/2022 w/option to renew up to 4 years

4. Funding Source: **Santa Fe Community Convention Center** Org / Object: **Operations**

Andy Hopkins (Oct 21, 2021 12:02 MDT) Oct 21, 2021 **5206600-570500**

Budget Officer Approval: Date:

Comment & Exceptions: _____

Staff Contact who completed this form: **Melanie K Moore** Phone # **505-955-6219**

Email: **mkmoore@santafenm.gov**

To be recorded by City Clerk:

Clerk # _____

Date of Execution: _____

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 4/7/2021

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 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
MARSH & MCLENNAN COMPANIES
1166 Avenue of the Americas
New York NY 10036
ATTN: 212-345-6000

CONTACT NAME: Kevin Mashavejian
PHONE (A/C, No, Ext): (212) 345 7115 FAX (A/C, No):
E-MAIL ADDRESS: Kevin.Mashavejian@marsh.com

INSURER(S) AFFORDING COVERAGE	NAIC #
COMPANY A: National Union Fire Insurance Company of Pittsburgh, PA	19445
COMPANY B: Travelers Indemnity Co of America	25666
COMPANY C: Travelers Property Casualty Co of Amer	25674

INSURED
Trane U.S. Inc.
5501 San Diego Ave NE
Albuquerque, NM 87113
United States

COVERAGES **CERTIFICATE NUMBER:** 593362 **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			GL 6547064	4/17/2021	4/17/2022	EACH OCCURRENCE	$7,500,000.00
	CLAIMS-MADE X OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	$1,000,000.00
	X Contractual Liability						MED EXP (Any one person)	$10,000.00
	X Time Element Pollution Liability						PERSONAL & ADV INJURY	$7,500,000.00
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$7,500,000.00
	X POLICY PRO-JECT LOC						PRODUCTS - COMP/OP AGG	$7,500,000.00
	OTHER:							$
A	AUTOMOBILE LIABILITY			CA 6890217 (AOS)	4/17/2021	4/17/2022	COMBINED SINGLE LIMIT (Ea accident)	$5,000,000.00
A	X ANY AUTO			CA 7030880 (VA)	4/17/2021	4/17/2022	BODILY INJURY (Per person)	
A	ALL OWNED AUTOS / SCHEDULED AUTOS			CA 7030879 (MA)	4/17/2021	4/17/2022	BODILY INJURY (Per accident)	
	HIRED AUTOS / NON-OWNED AUTOS						PROPERTY DAMAGE (Per accident)	
	PHYSICAL DAMAGE/SELF			APD - Self Insured				$
	UMBRELLA LIAB OCCUR						EACH OCCURRENCE	
	EXCESS LIAB CLAIMS-MADE						AGGREGATE	
	DED RETENTION $							$
B	WORKERS COMPENSATION			UB-8M35413A-21-51-K (AOS)	4/17/2021	4/17/2022	X PER STATUTE OTH-ER	
B	AND EMPLOYERS' LIABILITY Y/N			UB-9L048059-21-51-D (MN)	4/17/2021	4/17/2022		
C	ANY PROPRIETOR/PARTNER/EXECUTIVE	N/A		UB-8M370386-21-51-R (AZ,MA,OR,WI)	4/17/2021	4/17/2022	E.L. EACH ACCIDENT	$3,000,000.00
C	OFFICER/MEMBER EXCLUDED? (Mandatory in NH)			TWXJ-UB-7434L45A-21 (OH)	4/17/2021	4/17/2022	E.L. DISEASE - EA EMPLOYEE	$3,000,000.00
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - POLICY LIMIT	$3,000,000.00

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

Please see page 2 for additional information.

CERTIFICATE HOLDER

Santa Fe Community Convention Center
201 West Marcy St.
Santa Fe, NM 87501
United States

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
Marsh USA, Inc.
BY: Kevin Mashavejian

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Trane U.S. Inc. dba Trane
5501 San Diego Ave NE
Albuquerque, NM 87113
Phone: (505) 884-2044
Service Contact: (505) 341-7934

October 14, 2021

Melanie Moore
Director of Facilities
Santa Fe Civic Center
201 West Marcy Street
SANTA FE, NM 87501 U.S.A.

Site Address:
Santa Fe Civic Center
201 West Marcy Street
SANTA FE, NM 87501
United States

PROJECT NAME: Santa Fe Convention Center IntelliPak Replacement
GSA 47QSWA20D002A /SPA 00-00000-20-00099

We are pleased to offer you this proposal for performance of the following services for the Equipment listed. Services will be performed using Trane's Exclusive Service Procedure to ensure you get full benefit of our extensive service experience, coupled with the distinct technical expertise of an HVAC Equipment manufacturing leader. Our innovative procedure is environmentally and safety conscious, and aligns expectation of work scope while providing efficient and productive delivery of services.

NEW EQUIPMENT LIST

Equipment	Qty	Manufacturer	Existing Model Number	Serial Number	Asset Tag
IntelliPak 105-Ton	1	Trane	SLHKD114	TBD	AHU – 1
IntelliPak 60 -Ton	1	Trane	SLHF604	TBD	AHU – 2
IntelliPak 40 -Ton	1	Trane	SXHLF404	TBD	AHU – 3
IntelliPak 40 -Ton	1	Trane	SLHF404	TBD	AHU – 4

SCOPE OF SERVICE

Provide Labor and Material to remove existing IntelliPak units and install new Air Cooled IntelliPak units.

SERVICE FLOWS

- Project Manager will review all project plans with Facilities Management including:
  - Equipment demo/install safety plans
  - Crane lift plans
  - Sub-contractor (Mechanical & Electrical) safety plans
  - Contingency plans
  - Street block off plans
- Disconnect Electrical per NEC Code and prepare existing IntelliPak units for removal
- With Crane (Provided) remove existing units and transport out for proper disposal per EPA requirements
- With Crane (Provided) Install new units to mount new AIR COOLED IntelliPak units
- With Crane (Provided) Install new IntelliPak units
  - AHU -1 and AHU – 2 will replaced with a single Crane lift from Federal Street
    - Please see Crane Lift Plan. (Street will require to be blocked off during crane activity)
  - AHU – 3 and AHU – 4 will be replaced with a single Crane lift from Marcy or Grant Street
    - Please see Crane Lift Plan. (Street will require to be blocked off during crane activity)
- Reconnect new Air Cooled IntelliPak units to existing Ducting
- Reconnect Electrical and controls (Re-configure controls based on new equipment)
- Programming and graphics
- Perform Trane Certified Startup and ensure proper Operation
- Compressor Only warranty years 2-5
- One year installation including parts, refrigerant, and labor warranty

PRICING AND ACCEPTANCE

GSA 47QSWA20D002A / 00-00000-20-00099					
Labor					
	Discipline	Labor Rate	# of Techs	Hours per Tech	Discipline Total
	HVAC Field Technician-Senior	$177.11	1	120	$ 21,253.20
	Project Engineer II – Controls	$275.40	1	20	$ 5,508.00
	Project Manager – Controls	$223.17	1	10	$ 2,231.70
	Controls Technician	$172.85	1	60	$ 10,371.00
	Project Manager – Contracts	$238.41	1	80	$ 19,072.80
	Electrician	$128.98	1	160	$ 20,636.80
	Laborer	$58.74	1	240	$ 14,097.60
	Mechanical Insulator	$58.74	1	16	$ 939.84
	Plumbers & Pipefitters	$127.53	1	240	$ 30,607.20
	Ironworker - Structural	$85.77	1	560	$ 48,031.20
	Sheet Metal Worker	$136.28	1	240	$ 32,707.20
	Welders – Building	$127.53	1	20	$ 2,550.60
	Discipline Total				$ 208,007.14
	Materials				
Part #	Description		GSA Price	QTY	Total
383	IntelliPak (105 tons)		$ 157,019.00	1	$ 157,019.00
383	IntelliPak (60 tons)		$ 101,684.00	1	$ 101,684.00
383	IntelliPak (40 tons)		$ 84,711.00	2	$ 169,422.00
				Material Total	$ 428,125.00
			Subtotal		$ 636,132.14
			Bond		$ 9,541.98
			Tax @ 8.4375% On Labor		$ 17,550.60
			Total Price		**$ 663,224.72**

CLARIFICATIONS

1. Applicable taxes are not included and will be added to the invoice.
2. Any service not listed is not included.
3. Work will be performed during normal Trane business hours.
4. This proposal is valid for 30 days from the date listed above

I appreciate the opportunity to earn your business, and look forward to helping you with all of your service needs. Please contact me if you have any questions or concerns.

Sincerely,

Mark S Fafard
Account Manager - Services
Cell: (505) 681-1899

In addition to any other amounts then due hereunder, if this Agreement is terminated or cancelled prior to its scheduled expiration, Customer shall pay to Company the balance of any amounts billed to but unpaid by Customer and, if a "Service Project" is included in the Agreement, the Cancellation Fee set forth in "Exhibit A" Cancellation Schedule attached hereto and incorporated herein, which Cancellation Fee represents unbilled labor, non-labor expenses and parts materials and components. Subject only to a prior written agreement signed by Trane, payment is due upon receipt of invoice in accordance with Section 6 of the attached Terms and Conditions – Quoted Service.

CUSTOMER ACCEPTANCE

_____
Authorized Representative

_____
Printed Name

_____
Title

_____
Purchase Order

_____
Acceptance Date

Trane's License Number: 352815



TRANE'S SAFETY STANDARD

Trane is committed to providing a safe work environment for all employees and to preventing accidents in its business operations. To accomplish our objectives Trane has instituted safety programs, procedures and training that incorporate a progressive approach to injury prevention.

PROVEN SAFETY SUCCESS

Trane's safety culture in North America is unparalleled in the building services industry and has demonstrated proven results via continuous reduction of injury rates.

TRANE INJURY RATES V. INDUSTRY COMPETITORS

Since 2003 the US Bureau of Labor Statistics records reflect Trane's Total Recordable Rate (TRIR) and Days away from work (DAFW) rate have been significantly lower than HVAC repair and maintenance contractors and Specialty Trade contractors (construction).Trane's safety culture in America is unparalleled in the building services industry and has demonstrated proven results via continuous reduction of injury rates.

Trane's incident (OSHA) rates are consistently 50-70% below the industry average. This outstanding safety achievement is the end result of the rigorous team oriented approach to our safety program that creates accountability and empowerment in all employees and management and fuels our institutional safety culture. This is the key to our continual improvement.

SAFETY TOOLS, TRAINING & EXPERTISE

Trane's service and contracting technicians are not only among the most skilled in the industry they are also extensively trained in safe work procedures. Our technicians receive safety training, equipment, tools, procedures, and management support to identify jobsite hazards and take appropriate measures to prevent personal injuries. The resources available to Trane technicians include:

- Safety Training – 20 hrs per year, including classroom and web-based platforms.
- -Topics include, but are not limited to, Lockout/Tagout, Confined Space Entry, Hazard Communication, Respiratory Protection, Hearing Conservation, Excavations, Scaffolding, Rigging, Powered Industrial Truck operation, Ladders, Vehicle Safety, Fire Protection, PPE, Emergency Response, First Aid / CPR.
- Electrical Safety – NFPA 70E compliant – electrical PPE; flame-resistant clothing; training.
- Fall Protection – full complement of fall arrest and fall restraint equipment for each technician.
- Ergonomics – custom-designed for HVAC field technicians, includes training, material handling equipment and procedures.
- Smith System Safe Driving Program – Trane's safety Managers are certified instructors; safety Managers train technicians; 1-800 "How's My Driving?" stickers are located on the back of service vehicles.
- USDOT compliance – technicians scheduled within Material of Trade and Hours of Service limits and are fully qualified under Department of Transportation rules for driving commercial motor vehicles with GVWR >10,000 and 26,000 lbs.
- Refrigerant Management – Service technicians are trained to manage refrigerant in accordance with U.S. EPA rules using a sophisticated electronic tracking system developed by Trane.
- Empowerment - Technicians are empowered with full management support to address safety hazards as they see fit. If ever in doubt about how to do a job or task safely, the technician is required to ask a qualified person for assistance before proceeding with work.

MANAGEMENT LEADERSHIP AND COMMITMENT

Accident prevention is a primary responsibility of management at Trane. Trane's safety culture is based on the following management principles:

- Leadership at the local level manages the local organization's safety performance.
- Management is financially accountable for safety performance.
- Local management is actively engaged in risk reduction activities and training and manages safety performance outcomes.
- Management clearly communicates to all Trane employees their safety expectations and strongly enforces compliance with those expectations.
- Employees are held accountable when they fail to meet safety expectations.

Local management and supervisory personnel at the local level are responsible for implementation of the following safety program elements:

- The Safety Management System developed by Trane – developed in accordance with OHSAS 18001.
- Audits and Inspections – Supervisors, Middle and Upper Managers must conduct field inspections. Corporate Safety conducts detailed compliance and management systems audits.
- Company safety compliance programs – ensure that they are fully implemented.
- Safety and environmental performance – tracked using a Balanced Scorecard with leading and lagging indicators and metrics.
- Subcontractor Qualification – implement this process to promote safety and safety plan compliance on multi-employer job sites.
- Six Sigma and Lean – use these productivity tools to enhance safety on job sites.
- Drug and Alcohol Policy – mandatory DOT required for-cause and post-accident testing after recordable injuries and property damage.
- Motor Vehicle Records Search – annual checking of driving records of employees driving company vehicles.

JOBSITE SAFETY EQUALS CUSTOMER VALUE

At Trane safety is part of our culture for every employee. What this means to our customers is fewer job site accidents and the delays and liability concerns that come along with them. What this means to our staff is greater confidence in the practices and procedures they use on the job and the pride that comes from working for one of the premier service organizations in the world. Tighter safety standards and fewer accidents can also lead to better on-time project completion and higher quality results.

When you use Trane Building Services to install, maintain or upgrade your building systems you will take full advantage of our superior safety program, low incident rates and subcontractor safety management procedures. These help you manage project risk more effectively than you could using multiple contractors or even a single prime contractor with a less impressive safety record.



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

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

DEPARTMENT / DIVISION NAME	DATE
Tourism Santa Fe / Community Convention Center	10/20/2021

ITEM DESCRIPTION	ORG	OBJECT	PROJECT	INCREASE	DECREASE
EXPENDITURES				*{enter as positive #}*	*{enter as negative #}*
Equipment and Machinery - Non Exempt	5206600	570500		663,225	
REVENUES				*{enter as negative #}*	*{enter as positive #}*
				$ 663,225	$ -

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

The contract shall provide labor and material to remove existing rooftop InteliPak units and install and update to new Air Cooled IntelliPak Unit. Funding will come from CCC Capital Reserves.

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

Fund(s) Affected	Fund Balance Increase/(Decrease)
520	(663,225)
TOTAL:	**(663,225)**

Valerie Romero — Prepared By *{print name}* — 10/20/2021 — Date

Melanie Moore (Oct 21, 2021 09:27 MDT) — Oct 21, 2021 — Date

Division Director Signature *{optional}*

Randy Randall (Oct 21, 2021 08:28 MDT) — Oct 21, 2021 — Date

Department Director Signature

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

CITY COUNCIL APPROVAL

City Council Approval Date

Agenda Item #:

Andy Hopkins — Andy Hopkins (Oct 21, 2021 09:25 MDT) — Oct 21, 2021 — Budget Officer — Date

N/A — Finance Director *{≤ $5,000}* — Date

N/A — City Manager *{≤ $60,000}* — Date

SFCCC Air_Handler Replacement Project - BAR

Final Audit Report 2021-10-21

Created:	2021-10-21
By:	Valerie Romero (veromero@ci.santa-fe.nm.us)
Status:	Signed
Transaction ID:	CBJCHBCAABAACVG0emyWWLKhhu_diYihFwKBZj98WS_f

"SFCCC Air_Handler Replacement Project - BAR" History

Document created by Valerie Romero (veromero@ci.santa-fe.nm.us)
2021-10-21 - 2:22:43 PM GMT

Document emailed to Randy Randall (rrandall@santafenm.gov) for signature
2021-10-21 - 2:26:24 PM GMT

Email viewed by Randy Randall (rrandall@santafenm.gov)
2021-10-21 - 2:28:29 PM GMT

Document e-signed by Randy Randall (rrandall@santafenm.gov)
Signature Date: 2021-10-21 - 2:28:46 PM GMT - Time Source: server

Document emailed to Andy Hopkins (ajhopkins@santafenm.gov) for signature
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Email viewed by Andy Hopkins (ajhopkins@santafenm.gov)
2021-10-21 - 3:21:25 PM GMT- IP address: 104.47.64.254

Document e-signed by Andy Hopkins (ajhopkins@santafenm.gov)
Signature Date: 2021-10-21 - 3:25:03 PM GMT - Time Source: server

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2021-10-21 - 3:25:04 PM GMT

Email viewed by Melanie Moore (mkmoore@santafenm.gov)
2021-10-21 - 3:27:09 PM GMT

Document e-signed by Melanie Moore (mkmoore@santafenm.gov)
Signature Date: 2021-10-21 - 3:27:39 PM GMT - Time Source: server

Agreement completed.
2021-10-21 - 3:27:39 PM GMT

POWERED BY Adobe Sign

ACTION SHEET
ITEM FROM FINANCE COMMITTEE MEETING OF 11/01/21
FOR CITY COUNCIL MEETING OF 11/10/21

Request for approval of Budget Adjustment Resolution (BAR) in the amount $663,224.72 for the Santa Fe Community Convention Center Air-Handler (IntelliPak) Replacement Project for a twelve (12) month term; Trane U.S. Inc. dba Trane 47QSWA20D0021 / SPA 00-00000-20-00099. (Randy Randall, TOURISM Director, rrandall@santafenm.gov, 505-955-6209).

Committee	**Review**
Finance Committee –	11/1/2021
Public Works and Utilities Committee:	11/08/2021
Governing Body – 11/10/2021	

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		

CITY OF SANTA FE OTHER METHOD PROCUREMENT CHECKLIST

Contractor Name: PNC Equipment Finance, LLC

Procurement Title: PWD PARK MRC PNC EQUIPTMENT LEASE

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

Department Requesting/Staff Member: Public Works Department-Parks Division

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

REQUIRED DOCUMENTS FOR APPROVAL BY PURCHASING*

YES	N/A	
☒	☐	Approved Procurement Checklist (by Purchasing)
☒	☐	Departments Recommendation of Award Memo addressed to Finance
☐	☒	State Price Agreement
☒	☐	Cooperative Agreement
☐	☒	Sole Source Request and Determination Form
☐	☒	Contractors Exempt Letter
☐	☒	Purchasing Officers approval for exempt procurement
☐	☒	BAR
☐	☒	FIR
☒	☐	Contract, Agreement or Amendment
☒	☐	Current Business Registration and CRS numbers on contract or agreement
☒	☐	Summary of Contracts and Agreements form
☒	☐	Certificate of Insurance
☐	☐	Other: _____

Melissa A. McDonald, Acting Parks Division Director
Department Rep Printed Name and Title

Melissa McDonald
Department Rep Signature attesting that all information included

Fran Dunaway
Fran Dunaway (Oct 25, 2021 08:52 MDT)
Purchasing Officer attesting that all information is reviewed

REQUIRED DOCUMENTS FOR OTHER METHOD FILE*

YES	N/A	
☐	☒	State Price Agreement
☒	☐	Cooperative Agreement
☐	☒	Sole source Request and Determination Form
☐	☒	Contractors Exempt Letter
☐	☒	Purchasing Officers approval of exempt procurement
☐	☒	Copies of all Sole Source submittals

*

☐ ☒ Other: _____

AWARD*

YES N/A

☒ ☐ Fully executed Memo to Committees from the Department with recommendation of award
☐ ☐ Other: _____

CONTRACT*

YES N/A

☒ ☐ Copy of Executed Contract
☒ ☐ Copy of all required documentation
☐ ☐ Other: _____

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

Create a separate file folder which may contain any documents with trade secrets or other competitively sensitive, confidential or proprietary information.

Melissa A. McDonald, Acting Parks Division Director
Department Rep Printed Name and Title

Melissa A McDonald
Department Rep Signature attesting that all information included

*

City of Santa Fe, New Mexico

memo

DATE: October 4, 2021

TO: Finance Committee/Public Works Committee/Governing Body

VIA: Regina A. Wheeler, Public Works Department Director RW
FROM: Melissa A. McDonald, Acting Parks Division Director MMc

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ITEM AND ISSUE

Request for approval of a four-year equipment lease agreement in the total amount of $367,186.56 inclusive of NMGRT with PNC Equipment Finance, LLC. for golf carts at Marty Sanchez Links de Santa Fe golf course; (Melissa McDonald, Acting Parks Division Director, mamcdonald@santafenm.gov, 505-955-6840)

BACKGROUND AND SUMMARY

The Marty Sanchez Links de Santa Fe golf cart fleet of 75 carts is in need of replacement. It is standard industry practice to replace the fleet every four years due to wear-and-tear and battery decline. The carts are provided via an equipment lease and with this new lease, PNC Equipment will provide all new carts. This company has provided the cart leasing services at the golf course for the past 4 years with excellent service.

The cart battery selected is a Samsung SDI lithium battery. Lithium batteries are considered green energy, meaning they are eco-friendly and do not give off any harmful fumes when the cart is charging. The lithium golf cart batteries hold a higher voltage during use than lead batteries. This equals more torque for the motor and allows the controller and electronics to run at their optimal efficiency. This coupled with our pending solar array installation aligns us with our sustainability goals for energy reduction and lower carbon emissions.

With COVID related delays, we anticipate the earliest we will receive these carts is spring 2022, so execution of this lease in a timely fashion is critical to secure the new carts in time for the 2022 season.

This lease agreement #3203029 includes a multi-year allocation, which pays $7,649.72 per month over 48 months.

FY22	$45,898.32 (assumes 6 months)
FY23	$91,796.64
FY24	$91,796.64
FY25	$91,796.64
FY26	$45,808.32 (assumes 6 months)

LEASE NUMBER:

The assigned FY22 Munis contract number is 3203029 (PNC Lease Number 98995658-1)

FUNDING SOURCE:

Munis Org Name/Number: 5300271
Munis Object Name/Number: 562600

PNC EQUIPMENT FINANCE

Dated as of July 5, 2021

Lease Number 98995658-1

City of Santa Fe
Course Name: Marty Sanchez Links de Santa Fe Golf Course
205 Caja del Rio Road
Santa Fe, NM 87507

Dear Customer:

Enclosed are the necessary documents needed to complete your lease transaction. Please review, sign and return the following:

- Lease Agreement – Please have the Authorized Signor execute the documents and provide their title.
  Certificate of Acceptance – **At the point of delivery, fill out this form and return the original to us. We will be unable to disburse funds until we receive this signed form.**

- Resolution-Certificate of Incumbency – List your Authorized Representative(s) and their title(s) in the body of the Resolution. Have the Authorized Representatives provide their names, title and signatures(s) on the lines which appear under the Authorized Representative Signature Section near the bottom of the Resolution. Finally, have the Secretary or appropriate Trustee attest to the information of the Authorized Representative(s) by signing and printing his/her name, title and date on the **last** signature line provided. **The person who validates the signature should not sign the Lease Agreement.** The Resolution must reflect the title(s) of the individual(s) who have authorization to sign the documents.

- Insurance Request Form – Fill in your insurer's information and sign. Please contact your insurer, prior to delivery, to obtain a certificate of insurance. Please enclose the certificate with the signed documentation or have the insurer fax the certificate directly to me.

- Customer Information – Please complete and return.

- Tax Notification – Please complete and return.

Thank you for choosing PNC Equipment Finance, LLC for your financing needs. We appreciate your business. If I can be of assistance, please contact me at brian.sauermelch@pnc.com.

Sincerely,

Brian Sauermelch

Commercial Transaction Coordinator

PNC EQUIPMENT FINANCE

AMENDMENT TO LEASE AGREEMENT

This Amendment ("**Amendment**"), dated and effective as of September 10, 2021 is to that certain Lease Agreement Number 98995658-1 ("**Lease**") between City of Santa Fe, with its principal place of business at 205 Caja del Rio Road, Santa Fe, NM 87507("**Lessee**"), and PNC EQUIPMENT FINANCE, LLC, with an address at 655 Business Center Drive, Suite 250 Horsham, PA 19044 ("**Lessor**").

In consideration of the mutual covenants contained herein and other valuable consideration received, and with the intent to be legally bound, the parties amend the Lease as follows:

9. **INDEMNITY.** The second and third sentences of Section 9 are hereby amended to read as follows: "To the extent permitted by law in the future if not permitted under New Mexico law as of the date of this Lease, Lessee agrees to reimburse Lessor for and defend Lessor against any claims for such losses, damages, penalties, claims, injuries, or expenses. This indemnity, if ever applicable, continues even after this Lease has expired, for acts or omission that occurred during the Lease Term."

12. **INSURANCE.** The first three sentences of Section 12 are hereby amended to read as follows: "Lessee agrees to (a) keep the Equipment fully insured against loss, naming Lessor as loss payee, and (b) obtain a Commercial General Liability insurance policy covering bodily injury, personal injury and property damage in amounts not less than $1,000,000 per occurrence and $2,000,000 in the aggregate, naming Lessor as additional insured, until Lessee has met all their obligations under this Lease. Lessor is under no duty to tell Lessee if Lessee's insurance coverage is adequate. Lessee shall notify Lessor of any proposed cancellation at least 30 days prior to the date set for cancellation."

22. **MISCELLANEOUS.** The last sentence of Section 22 which reads as follows is hereby removed: "To the extent permitted by law, Lessor may charge Lessee a fee of $250.00 to cover Lessor's documentation and investigation costs."

All other terms and conditions of the Lease shall remain unchanged and in full force and effect. Any defined terms used herein shall have the meanings contained in the Lease.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed as of the date above written.

CITY OF SANTA FE	PNC EQUIPMENT FINANCE, LLC
	
Mayor Alan Webber	Authorized Signature
	Lauren Thompson
Printed Name	Printed Name
	Operations Manager Sr.
Title	Title

Lease Agreement

Dated as of July 5, 2021

Lease Number: 98995658-1

Lessor: PNC Equipment Finance, LLC
655 Business Center Drive
Horsham, Pennsylvania 19044

Lessee: LESSEE FULL LEGAL NAME
City of Santa Fe
205 Caja del Rio Road
Santa Fe, NM 87507

FEDERAL TAX ID
856000168

Equipment Description:

Quantity	Description	Serial No.
75	(75) E-Z-GO RXV Elite	

Together with all attachments, tooling, accessories, appurtenances, and additions thereto.

Lease Term is for 48 months, with Rent payments due Monthly in the amount of $7,054.50 plus applicable tax, beginning _____.

Lessee shall pay Rent payments exclusively from legally available funds in U.S. currency to Lessor in the amounts and on the dates set forth herein, without notice or demand.

TERMS AND CONDITIONS

1. **LEASE.** Subject to the terms of this Lease, Lessee agrees to lease from Lessor the equipment (the "Equipment") described above when Lessor accepts this Lease. Lessee agrees to be bound by all the terms of this Lease.
2. **DELIVERY AND ACCEPTANCE OF EQUIPMENT.** Acceptance of the Equipment occurs upon delivery. When Lessee receives the Equipment, Lessee agrees to inspect it and to verify by telephone or in writing such information as Lessor may require. Delivery and installation costs are Lessee's responsibility. If Lessee signed a purchase contract for the Equipment, by signing this Lease Lessee assigns its rights, but none of its obligations under the purchase contract, to Lessor.
3. **RENT.** Lessee agrees to pay Lessor Rent (plus applicable taxes) in the amount and frequency stated above. If Lessee's Rent payments are due in Advance, Lessee's first Rent payment is due on the date Lessee accepts the Equipment under the Lease. Lessor will advise Lessee as to (a) the due date of each Rent payment, and (b) the address to which Lessee must send payments. Rent is due whether or not Lessee receives an invoice from Lessor. Lessee will pay Lessor any required advance rent when Lessee signs this Lease. Lessee authorizes Lessor to change the Rent by not more than 15% due to changes in the Equipment configuration, which may occur prior to Lessor's acceptance of this Lease. Restrictive endorsements on checks Lessee sends to Lessor will not reduce Lessee's obligations to Lessor.
   NON-APPROPRIATION OF FUNDS. Lessee intends to remit all Rent and other payments to Lessor for the full Lease Term if funds are legally available. In the event Lessee is not granted an appropriation of funds at any time during the Lease Term for the Equipment subject to this Lease and operating funds are not otherwise available to Lessee to pay the Rent and other payments due and to become due under this Lease, and there is no other legal procedure or available funds by or with which payment can be made to Lessor, and the non-appropriation did not result from an act or omission by Lessee, Lessee shall have the right to return the Equipment as provided herein and terminate this Lease on the last day of the fiscal period for which appropriations were received without penalty or expense to Lessee, except as the portion of Rent for which funds shall have been appropriated and budgeted. At least 30 days prior to the end of Lessee's fiscal year, Lessee's chief executive officer (or legal counsel) shall certify in writing that (a) funds have not been appropriated for the upcoming fiscal period, (b) such non-appropriation did not result from any act or failure to act by Lessee, and (c) Lessee has exhausted all funds legally available for the payment of Rent.
4. **UNCONDITIONAL OBLIGATION. LESSEE AGREES THAT IT IS UNCONDITIONALLY OBLIGATED TO PAY ALL RENT AND ANY OTHER AMOUNTS DUE UNDER THIS LEASE IN ALL FISCAL YEARS IN WHICH FUNDS HAVE BEEN APPROPRIATED NO MATTER WHAT HAPPENS, EVEN IF THE EQUIPMENT IS DAMAGED OR DESTROYED, IF IT IS DEFECTIVE OR IF LESSEE HAS TEMPORARY OR PERMANENT LOSS OF ITS USE. LESSEE IS NOT ENTITLED TO ANY REDUCTION OR SET-OFF AGAINST RENT OR OTHER AMOUNTS DUE UNDER THIS LEASE FOR ANY REASON WHATSOEVER.**
5. **DISCLAIMER OF WARRANTIES. THE EQUIPMENT IS BEING LEASED TO LESSEE IN "AS IS" CONDITION. LESSEE AGREES THAT LESSOR HAS NOT MANUFACTURED THE EQUIPMENT AND THAT LESSEE HAS SELECTED THE EQUIPMENT BASED UPON LESSEE'S OWN JUDGMENT. LESSEE HAS NOT RELIED ON ANY STATEMENTS LESSOR OR ITS EMPLOYEES HAVE MADE. LESSOR HAS NOT MADE AND DOES NOT MAKE ANY EXPRESS OR IMPLIED REPRESENTATIONS OR WARRANTIES WHATSOEVER, INCLUDING WITHOUT LIMITATION, THE EQUIPMENT'S MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, SUITABILITY, DESIGN, CONDITION, DURABILITY, OPERATION, QUALITY OF MATERIALS OR WORKMANSHIP, OR COMPLIANCE WITH SPECIFICATIONS OR APPLICABLE LAW.** Lessee is aware of the name of the Equipment manufacturer. If the manufacturer has provided Lessor with a warranty, Lessor assigns its rights to such warranty to Lessee and Lessee may enforce all warranty rights directly against the manufacturer of the Equipment. Lessee agrees to settle any dispute regarding performance of the Equipment directly with the manufacturer of the Equipment.

6. **TITLE AND SECURITY INTEREST.** Unless otherwise required by the laws of the state where Lessee is located, Lessor shall have title to the Equipment during the Lease Term.
7. **USE, MAINTENANCE AND REPAIR.** Lessee will not move the Equipment from the Equipment Location without Lessor's advance written consent. Lessee will give Lessor reasonable access to the Equipment Location so that Lessor can check the Equipment's existence, condition and proper maintenance. Lessee will use the Equipment in the manner for which it was intended, as required by all applicable manuals and instructions, and keep it eligible for any manufacturer's certification and/or standard full service maintenance contract. At Lessee's own cost and expense, Lessee will keep the Equipment in good repair, condition and working order, ordinary wear and tear excepted. Lessee will not make any permanent alterations to the Equipment and will remove any alterations or markings from the Equipment before returning to Lessor.
8. **TAXES.** Unless a proper exemption certificate is provided, applicable sales and use taxes will be added to the Rent. Lessee agrees to pay Lessor, when invoiced, all taxes (including any sales, use and personal property taxes), fines, interest and penalties relating to this Lease and the Equipment (excluding taxes based on Lessor's net income). Lessee agrees to file any required personal property tax returns and, if Lessor asks, Lessee will provide Lessor with proof of payment. Lessor does not have to contest any tax assessments.
9. **INDEMNITY.** Lessor is not responsible for any injuries, damages, penalties, claims or losses, inducing legal expenses, incurred by Lessee or any other person caused by the transportation, installation, manufacture, selection, purchase, lease, ownership, possession, modification, maintenance, condition, operation, use, return or disposition of the Equipment. To the extent permitted by law, Lessee agrees to reimburse Lessor for and defend Lessor against any claims for such losses, damages, penalties, claims, injuries, or expenses. This indemnity continues even after this Lease has expired, for acts or omissions that occurred during the Lease Term.
10. **IDENTIFICATION.** Lessee authorizes Lessor to insert or correct missing information on this Lease, including serial numbers and any other information describing the Equipment.
11. **LOSS OR DAMAGE.** Lessee is responsible for any loss of the Equipment from any cause at all, whether or not insured, from the time the Equipment is shipped to Lessee until it is returned to Lessor. If any item of Equipment is lost, stolen or damaged, Lessee will promptly notify Lessor of such event. Then, at Lessor's option, Lessee will either (a) repair the Equipment so that it is in good condition and working order, eligible for any manufacturer's certification, or (b) pay Lessor an amount equal to the Net Book Value (as defined herein) of the lost, stolen or damaged Equipment. If Lessee has satisfied their obligations herein, Lessor will forward to Lessee any insurance proceeds which Lessor receives for lost, damaged, or destroyed Equipment. If Lessee is in default, Lessor will apply any insurance proceeds Lessor receives to reduce Lessee's obligations pursuant to this Lease.
12. **INSURANCE.** Lessee agrees to (a) keep the Equipment fully insured against loss, naming Lessor as loss payee, and (b) obtain a general public liability insurance policy covering both personal injury and property damage in amounts not less than Lessor may tell Lessee, naming Lessor as additional insured, until Lessee has met all their obligations under this Lease. Lessor is under no duty to tell Lessee if Lessee's insurance coverage is adequate. The policies shall state that Lessor is to be notified of any proposed cancellation at least 30 days prior to the date set for cancellation. Upon Lessor's request, Lessee agrees to provide Lessor with evidence of insurance acceptable to Lessor. If Lessee does not provide Lessor with evidence of proper insurance within ten days of Lessor's request or Lessor receives notice of policy cancellation, Lessor may (but Lessor is not obligated to) obtain insurance on Lessor's interest in the Equipment at Lessee's expense. Lessee will pay all insurance premiums and related charges.
13. **DEFAULT.** Lessee will be in default under this Lease if any of the following happens: (a) Lessor does not receive any Rent or other payment due under this Lease within ten days after its due date, (b) Lessee fails to perform or observe any other promise or obligation in this Lease and does not correct the default within ten days after Lessor sends Lessee written notice of default, (c) any representation, warranty or statement Lessee has made in this Lease shall prove to have been false or misleading in any material respect, (d) any insurance carrier cancels or threatens to cancel any insurance on the Equipment, (e) the Equipment or any part of it is abused, illegally used, misused, lost, destroyed, or damaged beyond repair, (f) a petition is filed by or against Lessee under any bankruptcy or insolvency laws, or (g) Lessee defaults on any other agreement between it and Lessor (or Lessor's affiliates).
14. **REMEDIES.** Upon the occurrence of a default, Lessor may, in its sole discretion, do any or all of the following: (a) provide written notice to Lessee of default, (b) as liquidated damages for loss of a bargain and not as a penalty, declare due and payable, the present value of (i) any and all amounts which may be then due and payable by Lessee to Lessor under this Lease, plus (ii) all Rent payments remaining through the end of the then current fiscal year, discounted at the higher of 3% or the lowest rate allowed by law plus the Fair Market Value (as defined herein) of the Equipment (collectively, the "Net Book Value") and (c) require Lessee to immediately return the Equipment to Lessor. Lessor has the right to require Lessee to make the Equipment available to Lessor for repossession during reasonable business hours or Lessor may repossess the Equipment, so long as Lessor does not breach the peace in doing so, or Lessor may use legal process in compliance with applicable law pursuant to court order to have the Equipment repossessed. Lessee will not make any claims against Lessor or the Equipment for trespass, damage or any other reason. If Lessor takes possession of the Equipment Lessor may (a) sell or lease the Equipment at public or private sale or lease without notice, and/or (b) exercise such other rights as may be allowed by applicable law. Although Lessee agrees that Lessor has no obligation to sell the Equipment, if Lessor does sell the Equipment, Lessor will reduce the Net Book Value by the amounts Lessor receives. Lessee will immediately pay Lessor the remaining Net Book Value. Lessee agrees (a) to pay all of the costs Lessor incurs to enforce Lessor's rights against Lessee, including attorney's fees, and (b) that Lessor will retain all of Lessor's rights against Lessee even if Lessor does not choose to enforce them at the time of Lessee's default.
15. **LESSEE'S OPTION AT END OF LEASE.** Notwithstanding anything contained in the Lease to the contrary, so long as no default shall have occurred and be continuing, Lessee may, at Lessee's option, purchase the Equipment leased pursuant to this Lease on an "as is, where is" basis, without representation or warranty, express or implied, at the end of the Lease Term at a price equal to the Fair Market Value thereof, plus applicable taxes. Fair Market Value shall be the retail in-place value of the Equipment as determined solely by Lessor. This purchase option as applicable shall only be available if Lessee gives Lessor 90 days' prior written notice of Lessee's irrevocable intent to exercise such option and Lessor and Lessee shall have agreed to all terms and conditions of such purchase prior to the expiration date of the Lease Term. Until the Equipment is returned as required below, all terms of the Lease shall remain in full force and effect including the obligation to pay Rent calculated on a monthly basis.
16. **RETURN OF EQUIPMENT.** If (a) default occurs, (b) a non-appropriation of funds occurs as provided herein, or (c) Lessee does not exercise its purchase option at the end of the Lease Term, Lessee will immediately return the Equipment to any location(s) in the continental United States and aboard any carriers(s) Lessor may designate. The Equipment must be properly packed for shipment in accordance with the manufacturer's recommendations or specifications, freight prepaid and insured, maintained in accordance with this Lease, and in "Average Saleable Condition." "Average Saleable Condition" means that all of the Equipment is immediately available for use by a third party buyer, user or lessee, other than Lessee named in this Lease, without the need for any repair or refurbishment. Lessee will pay

Lessor for any missing or defective parts or accessories. Lessee will continue to pay Rent calculated on a monthly basis until the Equipment is received and accepted by Lessor.

17. **LESSEE'S REPRESENTATIONS AND WARRANTIES.** Lessee hereby represents and warrants to Lessor that as of the date of this Lease, and throughout the Lease Term: (a) Lessee is the entity indicated in this Lease; (b) Lessee is a state or a fully constituted political subdivision or agency of the State in which Lessee is located; (c) Lessee is duly organized and existing under the constitution and laws of the state in which they are located; (d) Lessee is authorized to enter into and carry out Lessee's obligations under this Lease, any documents relative to the acquisition of the Equipment and any other documents required to be delivered in connection with this Lease (collectively, the "Documents"); (e) the Documents have been duly authorized, executed and delivered by Lessee in accordance with all applicable laws, rules, ordinances, and regulations, the Documents are valid, legal, binding agreements, enforceable in accordance with their terms and the person(s) signing the Documents have the authority to do so, are acting with the full authorization of Lessee's governing body, and hold the offices indicated below their signature, each of which are genuine; (f) the Equipment is essential to the immediate performance of a governmental or proprietary function by Lessee within the scope of Lessee's authority; (g) Lessee intends to use the Equipment for the entire Lease Term for such function and shall take all necessary action to include in Lessee's annual budget any funds required to fulfill Lessee's obligations for each fiscal year during the Lease Term; (h) Lessee has complied fully with all applicable law governing open meetings, public bidding and appropriations required in connection with this Lease and the acquisition of the Equipment; (i) Lessee's obligations to remit Rent under this Lease constitutes a current expense and not a debt under applicable state law and no provision of this Lease constitutes a pledge of Lessee's tax or general revenues, and any provision which is so constructed by a court of competent jurisdiction is void from the inception of this lease; and (j) all financial information Lessee has provided to Lessor is true and accurate and provides a good representation of Lessee's financial condition.
18. **LESSEE'S PROMISES.** In addition to the other provisions of this Lease, Lessee agrees that during the term of this Lease (a) Lessee will promptly notify Lessor in writing if it moves its principal office or changes its name or legal structure, (b) Lessee will provide to Lessor such financial information as may reasonably request from time to time, and (c) Lessee will take any action Lessor reasonably requests to protect Lessor's rights in the Equipment and to meet Lessee's obligations under this Lease.
19. **ASSIGNMENT. LESSEE WILL NOT SELL, TRANSFER, ASSIGN, PLEDGE, SUB-LEASE OR PART WITH POSSESSION OF THE EQUIPMENT OR FILE OR PERMIT A LIEN TO BE FILED AGAINST THE EQUIPMENT.** Lessee will not attach any of the Equipment to any real estate.
20. **ASSIGNMENT BY LESSOR.** This Lease, and the rights of Lessor hereunder and in and to the Equipment, may be assigned and reassigned in whole or in part to one or more assignees by Lessor or its assigns at any time without the necessity of obtaining the consent of Lessee Upon an assignment, Lessee agrees to make all payments as designated in the assignment, notwithstanding any claim, defense, setoff or counterclaim whatsoever (whether arising from a breach of this Lease or otherwise) that Lessee may from time to time have against Lessor or Lessor's assigns.
21. **COLLECTION EXPENSES, OVERDUE PAYMENT.** Lessee agrees that Lessor can, but does not have to, take on Lessee's behalf any action which Lessee fails to take as required by this Lease, and Lessor's expenses will be in addition to that of the Rent which Lessee owes Lessor. If Lessor receives any payment from Lessee after the due date, Lessee shall pay Lessor on demand as a late charge 5% of such overdue amount, limited, however, to the maximum amount allowed by law.
22. **MISCELLANEOUS.** This Lease contains the entire agreement and supersedes any conflicting provision of any equipment purchase order or any other agreement. **TIME IS OF THE ESSENCE IN THIS LEASE.** If a court finds any provision of Lease to be unenforceable, the remaining terms of this Lease shall remain in effect. **THIS LEASE IS A "FINANCE LEASE" AS DEFINED IN ARTICLE 2A OF THE UNIFORM COMMERCIAL CODE.** Lessee authorizes Lessor (or Lessor's agent) to (a) obtain credit reports, (b) make such other credit inquires as Lessor may deem necessary, and (c) furnish payment history information to credit reporting agencies. To the extent permitted by law, Lessor may charge Lessee a fee of $250.00 to cover Lessor's documentation and investigation costs.
23. **NOTICES.** All of Lessee's written notices to Lessor must be sent by certified mail or recognized overnight delivery service, postage prepaid, to Lessor at Lessor's address stated in this Lease, or by facsimile transmission to Lessor's facsimile telephone number, with oral confirmation of receipt. All of Lessor's notices to Lessee may be sent first class mail, postage prepaid, to Lessee's address stated in this Lease. At any time after this Lease is signed, Lessee or Lessor may change an address or facsimile telephone number by giving notice to the other of the change.
24. **ANTI-MONEY LAUNDERING/INTERNATIONAL TRADE COMPLIANCE.** Lessee represents, warrants and covenants to Lessor, as of the date of this Lease, the date of each advance of proceeds under the Lease, the date of any renewal, extension or modification of this Lease, and at all times until this Lease has been terminated and all amounts thereunder have been indefeasibly paid in full, that: (a) no Covered Entity (i) is a Sanctioned Person; (ii) has any of its assets in a Sanctioned Jurisdiction or in the possession, custody or control of a Sanctioned Person; (iii) does business in or with, or derives any of its operating income from investments in or transactions with, any Sanctioned Jurisdiction or Sanctioned Person; (b) the proceeds of this Lease will not be used to fund any unlawful activity; (c) the funds used to repay the Lease are not derived from any unlawful activity; (d) each Covered Entity is in compliance with, and no Covered Entity engages in any dealings or transactions prohibited by, any laws of the United States, including but not limited to any Anti-Terrorism Laws; and (e) no Equipment is or will become Embargoed Property. Lessee covenants and agrees that (a) it shall immediately notify Lessor in writing upon the occurrence of a Reportable Compliance Event; and (b) if, at any time, any Equipment becomes Embargoed Property, in addition to all other rights and remedies available to Lessor, upon request by Lessor, Lessee shall provide substitute Equipment acceptable to Lessor that is not Embargoed Property.

As used herein: "**Anti-Terrorism Laws**" means any laws relating to terrorism, trade sanctions programs and embargoes, import/export licensing, money laundering, or bribery, all as amended, supplemented or replaced from time to time; "**Compliance Authority**" means each and all of the (a) U.S. Treasury Department/Office of Foreign Assets Control, (b) U.S. Treasury Department/Financial Crimes Enforcement Network, (c) U.S. State Department/Directorate of Defense Trade Controls, (d) U.S. Commerce Department/Bureau of Industry and Security, (e) U.S. Internal Revenue Service, (f) U.S. Justice Department, and (g) U.S. Securities and Exchange Commission; "**Covered Entity**" means Lessee, its affiliates and subsidiaries, all other obligors, all owners of the foregoing, and all brokers or other agents of Lessee acting in any capacity in connection with this Lease; "**Embargoed Property**" means any property (a) in which a Sanctioned Person holds an interest; (b) beneficially owned, directly or indirectly, by a Sanctioned Person; (c) that is due to or from a Sanctioned Person; (d) that is located in a Sanctioned Jurisdiction; or (e) that would otherwise cause any actual or possible violation by Lessor of any applicable Anti-Terrorism Law if Lessor were to obtain an encumbrance on, lien on, pledge of or security interest in such property or provide services in consideration of such property; "**Reportable Compliance Event**" means (1) any Covered Entity becomes a Sanctioned Person, or is indicted, arraigned, investigated or custodially detained, or receives an inquiry from regulatory or law enforcement officials, in connection

with any Anti-Terrorism Law or any predicate crime to any Anti-Terrorism Law, or self-discovers facts or circumstances implicating any aspect of its operations with the actual or possible violation of any Anti-Terrorism Law; (2) any Covered Entity engages in a transaction that has caused or may cause Lessor to be in violation of any Anti-Terrorism Laws, including a Covered Entity's use of any proceeds of the Lease to fund any operations in, finance any investments or activities in, or, make any payments to, directly or indirectly, a Sanctioned Jurisdiction or Sanctioned Person; or (3) any Equipment becomes Embargoed Property; "**Sanctioned Jurisdiction**" means a country subject to a sanctions program maintained by any Compliance Authority; and "**Sanctioned Person**" means any individual person, group, regime, entity or thing listed or otherwise recognized as a specially designated, prohibited, sanctioned or debarred person or entity, or subject to any limitations or prohibitions (including but not limited to the blocking of property or rejection of transactions), under any order or directive of any Compliance Authority or otherwise subject to, or specially designated under, any sanctions program maintained by any Compliance Authority.

25. **USA PATRIOT ACT NOTICE.** To help the government fight the funding of terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify and record information that identifies each lessee that opens an account. What this means: when the Lessee opens an account, Lessor will ask for the business name, business address, taxpayer identifying number and other information that will allow the Lessor to identify Lessee, such as organizational documents. For some businesses and organizations, Lessor may also need to ask for identifying information and documentation relating to certain individuals associated with the business or organization.
26. **WAIVERS. LESSOR AND LESSEE EACH AGREE TO WAIVE, AND TO TAKE ALL REQUIRED STEPS TO WAIVE, ALL RIGHTS TO A JURY TRIAL.** To the extent Lessee is permitted by applicable law, Lessee waives all rights and remedies conferred upon a lessee by Article 2A (Sections 508-522) of the Uniform Commercial Code. To the extent Lessee is permitted by applicable law, Lessee waives any rights they now or later may have under any statute or otherwise which requires Lessor to sell or otherwise use any Equipment to reduce Lessor's damages, which requires Lessor to provide Lessee with notice of default, intent to accelerate amounts becoming due or acceleration of amounts becoming due, intent to sale the Equipment at a public or private sale, or which may otherwise limit or modify any of Lessor's rights or remedies. Lessor will not be liable for specific performance of this Lease or for any losses, damages, delay or failure to deliver Equipment.
27. **IMPORTANT INFORMATION ABOUT PHONE CALLS.** By providing telephone number(s) to Lessor, now or at any later time, Lessee authorizes Lessor and its affiliates and designees to contact Lessee regarding Lessee account(s) with Lessor or its affiliates, whether such accounts are Lessee individual accounts or business accounts for which Lessee is a contact, at such numbers using any means, including but not limited to placing calls using an automated dialing system to cell, VoIP or other wireless phone number, or leaving prerecorded messages or sending text messages, even if charges may be incurred for the calls or text messages. Lessee consents that any phone call with Lessor may be monitored or recorded by Lessor.

IMPORTANT: READ BEFORE SIGNING. THE TERMS OF THIS LEASE SHOULD BE READ CAREFULLY BECAUSE ONLY THOSE TERMS IN WRITING ARE ENFORCEABLE. TERMS OR ORAL PROMISES WHICH ARE NOT CONTAINED IN THIS WRITTEN AGREEMENT MAY NOT BE LEGALLY ENFORCED. THE TERMS OF THIS LEASE MAY ONLY BE CHANGED BY ANOTHER WRITTEN AGREEMENT BETWEEN LESSEE AND LESSOR. LESSEE AGREES TO COMPLY WITH THE TERMS AND CONDITIONS OF THIS LEASE. LESSEE AGREES THAT THE EQUIPMENT WILL BE USED FOR BUSINESS PURPOSES ONLY AND NOT FOR PERSONAL, FAMILY OR HOUSEHOLD PURPOSES.

LESSEE CERTIFIES THAT ALL THE INFORMATION GIVEN IN THIS LEASE AND LESSEE'S APPLICATION WAS CORRECT AND COMPLETE WHEN THIS LEASE WAS SIGNED. THIS LEASE IS NOT BINDING UPON LESSOR OR EFFECTIVE UNLESS AND UNTIL LESSOR EXECUTES THIS LEASE. THIS LEASE WILL BE GOVERNED BY THE LAWS OF THE STATE OF THE LESSEE.

City of Santa Fe
("**Lessee**")
X _____
Authorized Signature
ALAN WEBBER
Print Name
MAYOR
Title:

_____
Date

205 Caja del Rio Road
Santa Fe, NM 87507

Attest:

_____
Kristine Bustos Mihelcic, City Clerk

City Attorney's Office:
Marcos Martinez
Marcos Martinez (Sep 20, 2021 11:31 MDT)
Senior Assistant City Attorney

Approved for Finances:

_____
Mary McCoy, Finance Director

PNC Equipment Finance, LLC
("**Lessor**")
X _____
Authorized Signature
Lauren Thompson
Print Name
Operations Manager Sr.
Title:

655 Business Center Drive
Horsham, PA 19044

CERTIFICATE OF ACCEPTANCE

Lease Number: 98995658-1

In compliance with the terms, conditions and provisions of Lease Agreement # 98995658-1 ("**Lease**") by and between the undersigned **City of Santa Fe** ("**Lessee**") and PNC Equipment Finance, LLC ("**Lessor**"), Lessee hereby:

1. certifies and warrants that all Equipment described in the Lease referenced above ("**Equipment**") is delivered, inspected and fully installed, and operational as of the Acceptance Date as indicated below;

2. accepts all the Equipment for all purposes under the Lease and all attendant documents as of the date of return of this Certificate to Lessor ("**Acceptance Date**"); and

3. restates and reaffirms, as of such Acceptance Date, each of the representations, warranties and covenants heretofore given to Lessor in the Lease.

Lessor is hereby authorized to insert serial numbers on the Lease.

City of Santa Fe
("Lessee")

X Melissa McDonald
Authorized Signature

MELISSA A. MCDONALD
Print Name

Parks Division Director
Title:

10-4-21
Date

205 Caja del Rio Road
Santa Fe, NM 87507

RESOLUTION AND CERTIFICATE OF INCUMBENCY
Lease Number 98995658-1

Lessee: **City of Santa Fe**

WHEREAS, Lessee, a body politic and corporate duly organized and existing as a political subdivision, municipal corporation or similar public entity of the State or Commonwealth (the "State") is authorized by the laws of the State to purchase, acquire and lease certain equipment and other property for the benefit of the Lessee and its inhabitants and to enter into contracts with respect thereto; and

WHEREAS, pursuant to applicable law, the governing body of the Lessee ("Governing Body") is authorized to acquire, dispose of and encumber real and personal property, including, without limitation, rights and interest in property, leases and easements necessary to the functions or operations of the Lessee.

WHEREAS, the Governing Body hereby finds and determines that the execution of one or more Lease Agreements or lease schedules ("Leases") in the principal amount not exceeding the amount stated above for the purpose of acquiring the property ("Equipment") to be described in the Leases is appropriate and necessary to the functions and operations of the Lessee.

WHEREAS, PNC Equipment Finance, LLC ("Lessor") shall act as Lessor under said Leases.

NOW, THEREFORE, Be It Ordained by the Governing Body of the Lessee:

Section 1. Either one of the Mayor Alan Webber OR _____ (each an "Authorized Representative") acting on behalf of the Lessee, is hereby authorized to negotiate, enter into, execute, and deliver one or more Leases in substantially the form set forth in the document presently before the Governing Body, which document is available for public inspection at the office of the Lessee. Each Authorized Representative acting on behalf of the Lessee is hereby authorized to negotiate, enter into, execute, and deliver such other documents relating to the Lease as the Authorized Representative deems necessary and appropriate. All other related contracts and agreements necessary and incidental to the Leases are hereby authorized.

Section 2. By a written instrument signed by any Authorized Representative, said Authorized Representative may designate specifically identified officers or employees of the Lessee to execute and deliver agreements and documents relating to the Leases on behalf of the Lessee.

Section 3. The aggregate original principal amount of the Leases shall not exceed the amount stated above and shall bear interest as set forth in the Leases and the Leases shall contain such options to purchase by the Lessee as set forth therein.

Section 4. The Lessee's obligations under the Leases shall be subject to annual appropriation or renewal by the Governing Body as set forth in each Lease and the Lessee's obligations under the Leases shall not constitute general obligations of the Lessee or indebtedness under the Constitution or laws of the State.

Section 5. This resolution shall take effect immediately upon its adoption and approval.

SIGNATURES AND TITLES OF AUTHORIZED REPRESENTATIVES: AUTHORIZED LEASE SIGNORS ONLY

Name Alan Webber	Title Mayor	Signature
Name	Title	Signature

ADOPTED AND APPROVED on this _____, 20__.

Section 7. I, the undersigned Secretary/Clerk identified below, does hereby certify that I am the duly elected or appointed and acting Secretary/Clerk of the above Lessee, a political subdivision duly organized and existing under the laws of the State where Lessee is located, that I have the title stated below, and that, as of the date hereof, the individuals named below are the duly elected or appointed officers of the Lessee holding the offices set forth opposite their respective names.

The undersigned Secretary/Clerk of the above-named Lessee hereby certifies and attests that the undersigned has access to the official records of the Governing Body of the Lessee, that the foregoing resolutions were duly adopted by said Governing Body of the Lessee at a meeting of said Governing Body and that such resolutions have not been amended or altered and are in full force and effect on the date stated below.

LESSEE: **City of Santa Fe**

_____ [SEAL]
Signature of Secretary/Clerk of Lessee

Print Name: Kristine Mihelcic-Bustos
Official Title: City Clerk
Date:

PNC EQUIPMENT FINANCE

Request for Insurance

July 5, 2021

City of Santa Fe
Course Name: Marty Sanchez Links de Santa Fe Golf Course
205 Caja del Rio Road
Santa Fe, NM 87507
Lease Number: 98995658-1

RE: Insurance Coverage Requirements for Equipment Financing Transaction between
PNC Equipment Finance, LLC and City of Santa Fe dba Marty Sanchez Links de Santa Fe Golf Course

Before funding your transaction, PNC Equipment Finance, LLC requires evidence of appropriate insurance coverage on the equipment described in your transaction documents. Please forward this request to your insurance company, agent or broker as soon as possible and ask for the evidence of insurance to be sent to the address below.

PNC Equipment Finance, LLC will have an insurable interest in the following equipment:

Quantity	Description	Serial No.
75	(75) E-Z-GO RXV Elite	

As a condition to entering into the equipment financing transaction, PNC Equipment Finance, LLC requires the following at all times during the term of the transaction:

1. All of the equipment must be insured for its full insurable value on a 100% replacement cost basis.

2. PNC Equipment Finance, LLC must be named as lender loss payee under a property insurance policy insuring all risks to the equipment, including fire, theft, and other customary coverage under an "extended coverage" endorsement, with a deductible not to exceed $10,000 per occurrence.

3. PNC Equipment Finance, LLC must receive evidence that a comprehensive general liability insurance policy is in place with a minimum coverage of $1,000,000. PNC Equipment Finance, LLC must be named as an additional insured under the liability policy.

4. Each property insurance policy must contain a lender's loss payable clause, or special endorsement, in which the insurer agrees that any loss will be payable in accordance with the policy terms, notwithstanding any act or negligence of the insured.

5. Each policy must provide for 30 days' written notice to PNCEF prior to any cancellation, non-renewal or amendment of the policy.

The evidence of insurance can consist of a Certificate of Insurance naming PNC Equipment Finance, LLC as follows:

PNC Equipment Finance, LLC, and its successors and assigns, as lender loss payee
Attn: Insurance Department
655 Business Center Drive, Suite 250
Horsham, PA 19044

When completed, the evidence of insurance should be provided to the following address:

PNC Equipment Finance, LLC
655 Business Center Drive, Suite 250
Horsham, PA 19044

PNC EQUIPMENT FINANCE

Customer Information

Lease # 98995658-1

Please provide the following information. By providing such information, you will enable us to ensure prompt payment of your vendor and the correct processing of your lease transaction.

Thank you.

Lessee Information

Full Business Legal Name: City of Santa Fe		Federal Tax ID Number: 856000168	
Invoices should be directed to: City of Santa Fe		Attention: Melissa A. McDonald	
Address 205 Caja del Rio Road		City: Santa Fe	State: NM Zip: 87507

Preferred Method of Payment: (Please check)

[x] Monthly Invoice (Mail)	
Invoices should be directed to: Melissa McDonald	Attention:
Address 205 Caja del Rio Road	City: 205 Caja del Rio Road
[x] Monthly Invoice (Email)	Email: mamcdonald@santafenm.gov
Billing Contact: Melissa A. McDonald	

Contact Information

In order to verify receipt of equipment and review terms and conditions of the lease, please provide contact information for one or more staff that can assist in this process.

Contact 1: Melissa A. McDonald	Phone: 505-303-9502
Email: mamcdonald@santafenm.gov	
Contact 2:	Phone:
Email:	

I hereby attest the above information is accurate.

Signature X Melissa McDonald	Date 10-4-21

Email:

PNC EQUIPMENT FINANCE

Notification of Tax Treatment

PNC Equipment Finance, LLC a Delaware limited liability company ("**PNC**"), is required to collect and remit sales/use tax in the taxing jurisdiction where your equipment will be located. If you select that you are exempt by marking one of the checkboxes below, you must provide a valid exemption certificate. If you do not provide this certificate *prior* to the booking of your transaction, you will be responsible for sales tax on all accrued payments.

- If tax has been remitted up front and financed into your lease payment, your account will not be marked sales tax exempt if you provide an exemption certificate after your transaction has been booked.
- If your tax is remitted on a monthly basis, your lease may be marked sales tax exempt for the remaining payments left to be invoiced if you provide a valid exemption certificate after your transaction has been booked.
- In the event we do not receive a valid sales tax exemption certificate prior to the date your lease commences, you will be charged sales/use tax.

Personal property tax returns will be filed as required by local law. In the event that any tax abatements or special exemptions are available on the equipment you will be leasing from us, please notify us as soon as possible and forward the related documentation to us. This will ensure that your leased equipment will be reported correctly.

Please indicate below if your lease is subject to tax or whether a valid exemption exists.

Sales Tax

☐ I agree that my lease is subject to sales/use tax.
☒ I am exempt from sales/use tax and I have attached a completed exemption certificate to PNC.
☐ I am claiming a partial exemption from tax. I have attached a completed exemption certificate or other documented proof of this partial exemption.
☐ I agree that my business is subject to sales/use tax and I have attached a completed resale certificate. This certificate indicates that I will be responsible for collection and remittance of sales/use tax based on the subsequent re-rental of the property.

If applicable to the tax rates in your state, are you outside the city limits or in an unincorporated area?

☒ Inside city limits ☐ Outside city limits ☐ Unincorporated area

Property Tax

☐ I have a valid abatement or property tax exemption (documentation attached).
☐ Location: State _____
Taxing District _____

Additional comments:

_____

_____

_____

Lease Number 98995658-1

Lessee: City of Santa Fe

Signature: X

Print Name: Alan Webber

Title: Mayor

Date:

PLEASE COMPLETE AND SIGN FORM

PNC EQUIPMENT FINANCE

PO BOX 931034 CLEVELAND OH 44193-0004

INVOICE

INVOICE NUMBER	INVOICE DATE
98995658-1	07/05/2021
CONTRACT NUMBER	**DUE DATE**
98995658-1	Upon Receipt

City of Santa Fe
ATTN:

BILLING SUMMARY	
DOCUMENTATION FEE	250.00 USD

TOTAL AMOUNT DUE: $250.00

PNC Equipment Finance, LLC (USD)
PO BOX 931034
CLEVELAND OH 44193-0004

City of Santa Fe (LESSEE) and PNC Equipment Finance, LLC (LESSOR) ADDENDUM

This agreement incorporates the additional terms and conditions in the addendum between PNC EQUIPMENT FINANCE, LLC (LESSOR) and the CITY OF SANTA FE (LESSEE).

NEW MEXICO TORT CLAIMS ACT

Any liability incurred by the LESSEE 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 LESSEE 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.

APPROPRIATIONS

The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the LESSEE for the performance of this Agreement. If sufficient appropriations and authorization are not made by the LESSEE, this Agreement shall terminate upon written notice being given by the LESSEE to LESSOR. The LESSEE's decision as to whether sufficient appropriations are available shall be accepted by LESSOR and shall be final.

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, LESSOR 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.

Signature Lines required:

City of Santa Fe: (LESSEE)

_____
Alan Webber, Mayor

Date:_____

Attest:

_____
Kristine Bustos Mihelcic, City Clerk

Lessor:
PNC Equipment Finance, LLC.

Lauren Thompson Operations Manager Sr.
Name & Title

Date: 10/1/2021

City Attorney's Office:

Marcos Martinez
Marcos Martinez (Oct 20, 2021 08:11 MDT)

Senior Assistant City Attorney

Approved for Finances:

Mary McCoy, Finance Director

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 10/4/2021

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 Arthur J. Gallagher & Co. Insurance Brokers of CA, Inc. LIC #0726293 18201 Von Karman, Suite 200 Irvine CA 92612	**CONTACT NAME:** **PHONE (A/C, No, Ext):** 949-349-9857 **FAX (A/C, No):** 949-349-9957 **E-MAIL ADDRESS:**
INSURED City of Santa Fe Bradley Fluetsch P.O. Box 909 Santa Fe NM 87504	**INSURER(S) AFFORDING COVERAGE** / **NAIC #** **INSURER A :** The Travelers Indemnity Company of CT — 25682 **INSURER B :** Safety National Casualty Corporation — 15105 **INSURER C :** Travelers Property Casualty Co of America — 25674 **INSURER D :** **INSURER E :** **INSURER F :**

COVERAGES **CERTIFICATE NUMBER:** 1714420114 **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: X POLICY [ ] PRO-JECT [X] LOC [ ] OTHER:	Y		ZLP-15N80223	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 	$ 1,050,000 $ 300,000 $ $ 1,050,000 $ 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 X $50,000 SIR			810-2C410241	7/1/2021	7/1/2022	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident) 	$ 1,050,000 $ $ $ $
C	X **UMBRELLA LIAB** X OCCUR **EXCESS LIAB** [ ] CLAIMS-MADE [ ] DED X RETENTION $ 10,000			ZUP-15N80235	7/1/2021	7/1/2022	EACH OCCURRENCE AGGREGATE 	$ 3,000,000 $ 3,000,000 $
B	**WORKERS COMPENSATION AND EMPLOYERS' LIABILITY** Y / N ANYPROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? [ ] **(Mandatory in NH)** If yes, describe under DESCRIPTION OF OPERATIONS below	N / A		SP4065357	7/1/2021	7/1/2022	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

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

Certificate holder is included as Additional Insured as respects:

Certificate holder is named as Additional Insured and Loss Payee as respect (75) E-Z-GO RXV Elite

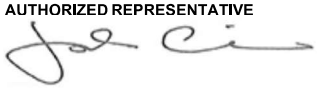
CERTIFICATE HOLDER

PNC Equipment Finance, LLC
655 Buisness Center Drive
Horsham, PA 19044

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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MEMORANDUM OF INSURANCE

DATE
15-Sep-2021

This Memorandum is issued as a matter of information only to authorized viewers for their internal use only and confers no rights upon any viewer of this Memorandum. This Memorandum does not amend, extend or alter the coverage described below. This Memorandum may only be copied, printed and distributed within an authorized viewer and may only be used and viewed by an authorized viewer for its internal use. Any other use, duplication or distribution of this Memorandum without the consent of Marsh is prohibited. "Authorized viewer" shall mean an entity or person which is authorized by the insured named herein to access this Memorandum via https://marshdigital.marsh.com/marshconnect/viewMOI.action?clientId=3535836. The information contained herein is as of the date referred to above. Marsh shall be under no obligation to update such information.

PRODUCER	COMPANIES AFFORDING COVERAGE
Marsh USA Inc. ("Marsh")	Co. **A** See List Below
INSURED The PNC Financial Services Group, Inc., Including subsidiaries Three PNC Plaza 225 Fifth Avenue, 4th Floor, Pittsburgh Pennsylvania 15222 United States	Co. **B** Co. **C** Co. **D** Co. **E** Co. **F**

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 MEMORANDUM 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

CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE	POLICY EXPIRATION DATE	LIMITS (LIMITS IN USD UNLESS OTHERWISE INDICATED)	
A	**GENERAL LIABILITY** Commercial General Liability Occurrence	GL 6547175	01-Sep-2021	01-Sep-2022	GENERAL AGGREGATE	10,000,000
					PRODUCTS - COMP/OP AGG	INCLUDED
					PERSONAL AND ADV INJURY	5,000,000
					EACH OCCURRENCE	5,000,000
					FIRE DAMAGE (ANY ONE FIRE)	5,000,000
					MED EXP (ANY ONE PERSON)	2,500
A A A	**AUTOMOBILE LIABILITY** Any Auto	CA 7030987 (AOS) CA 7030988 (VA) CA 7030989 (MA)	01-Sep-2021 01-Sep-2021 01-Sep-2021	01-Sep-2022 01-Sep-2022 01-Sep-2022	COMBINED SINGLE LIMIT	5,000,000
					BODILY INJURY (PER PERSON)	
					BODILY INJURY (PER ACCIDENT)	
					PROPERTY DAMAGE	
A	**EXCESS LIABILITY** Umbrella Form	XEU G27891342 007	01-Sep-2021	01-Sep-2022	EACH OCCURENCE	10,000,000
					AGGREGATE	10,000,000
A	**WORKERS COMPENSATION / EMPLOYERS LIABILITY**	WC Policies - Various: See Below	01-Sep-2021	01-Sep-2022	WORKERS COMP LIMITS	Statutory
					EL EACH ACCIDENT	1,000,000
					EL DISEASE - POLICY LIMIT	1,000,000
					EL DISEASE - EACH EMPLOYEE	1,000,000
A	Excess Workers' Comp/Emp Liab $500,000 SIR Per Accident	XWC 1647289 (OH)	01-Sep-2021	01-Sep-2022	EL Each Accident EL Disease - Policy Limit EL Disease - Each Employee	$1,000,000 $1,000,000 $1,000,000

The Memorandum of Insurance serves solely to list insurance policies, limits and dates of coverage. Any modifications hereto are not authorized.

MEMORANDUM OF INSURANCE

DATE
15-Sep-2021

This Memorandum is issued as a matter of information only to authorized viewers for their internal use only and confers no rights upon any viewer of this Memorandum. This Memorandum does not amend, extend or alter the coverage described below. This Memorandum may only be copied, printed and distributed within an authorized viewer and may only be used and viewed by an authorized viewer for its internal use. Any other use, duplication or distribution of this Memorandum without the consent of Marsh is prohibited. "Authorized viewer" shall mean an entity or person which is authorized by the insured named herein to access this Memorandum via https://marshdigital.marsh.com/marshconnect/viewMOI.action?clientId=3535836. The information contained herein is as of the date referred to above. Marsh shall be under no obligation to update such information.

PRODUCER
Marsh USA Inc.
("Marsh")

INSURED
The PNC Financial Services Group, Inc., Including subsidiaries
Three PNC Plaza
225 Fifth Avenue, 4th Floor, Pittsburgh
Pennsylvania 15222
United States

ADDITIONAL INFORMATION

WITH RESPECT TO THE GENERAL LIABILITY POLICY:

Policy No. GL 6547175
National Union Fire Insurance Company of Pittsburgh PA

You are an ADDITIONAL INSURED (as applicable) if required in your contract or agreement with The PNC Financial Services Group, Inc. or its subsidiaries.

This insurance is primary and non-contributory if required in your contract or agreement with The PNC Financial Services Group, Inc. or its subsidiaries.

The Insuring Company will waive its right of recovery if The PNC Financial Services Group, Inc. or its subsidiaries has waived its rights of recovery in your contract or agreement that is executed before such loss.

WITH RESPECT TO THE AUTOMOBILE LIABILITY POLICIES:

Following is a description of the policies applicable to this coverage:

Policy No. CA 7030987
National Union Fire Insurance Company of Pittsburgh, PA
States Covered: AL, DE, FL, GA, IL, IN, KS, KY, MD, MI, MN, MO, NC, NJ, OH, PA, SC, TN, TX, WI, WV

Policy No. CA 7030988
National Union Fire Insurance Company of Pittsburgh, PA
States Covered: VA

Policy No. CA 7030989
National Union Fire Insurance Company of Pittsburgh, PA
States Covered: MA

You are an ADDITIONAL INSURED (as applicable) if required in your contract or agreement with The PNC Financial Services Group, Inc. or its subsidiaries.

This insurance is primary and non-contributory if required in your contract or agreement with The PNC Financial Services Group, Inc. or its subsidiaries.

The Insuring Company will waive its right of recovery if The PNC Financial Services Group, Inc. or its subsidiaries has

waived its rights of recovery in your contract or agreement that is executed before such loss.

WITH RESPECT TO THE UMBRELLA LIABILITY POLICY:

Policy No. XEU G27891342 007
ACE Property and Casualty Insurance Company

WITH RESPECT TO THE WORKERS' COMPENSATION POLICIES:

Following is a description of the policies applicable to this coverage:

Policy No. WC 016393334
AIU Insurance Company
States Covered: AL, AR, AZ, CO, CT, DC, DE, FL, GA, IA, ID, IL, IN, KS, KY, LA, MD, ME, MI, MN, MO, MS, MT, NC, NE, NH, NJ, NM, NV, OK, PA, RI, SC, TN, TX, UT, VA, WV

Policy No. WC 016393332
AIU Insurance Company
States Covered: CA

Policy No. WC 016393335
AIU Insurance Company
States Covered: NY

Policy No. WC 016393336
Illinois National Insurance Company
States Covered: OR

Policy No. WC 016393333
AIU Insurance Company
States Covered: WA, WI, WY

The Insuring Company will waive its right of recovery if The PNC Financial Services Group, Inc. or its subsidiaries has waived its rights of recovery in your contract or agreement that is executed before such a loss.

WITH RESPECT TO THE EXCESS WORKERS' COMPENSATION POLICY (OH):

Policy No. XWC 1647289
National Union Fire Insurance Company of Pittsburgh, PA

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https://online.marsh.com/marshconnectpublic/marsh2/public/moi?client=3535836

For any questions, contact Sam Baliga (sam.baliga@marsh.com).

The Memorandum of Insurance serves solely to list insurance policies, limits and dates of coverage. Any modifications hereto are not authorized.

Click here for a printer-friendly version of this document.

Memorandum of Insurance

This memorandum is issued as a matter of information only to authorized viewers for their internal use only and confers no rights upon any viewer of this Memorandum. This Memorandum does not amend, extend or alter the coverage described below. This Memorandum may only be copied, printed and distributed within an authorized viewer and may only be used and viewed by an authorized viewer for its internal use. Any other use, duplication, or distribution of this Memorandum without consent is prohibited. "Authorized viewer" shall mean an entity or person which is authorized by the insured named herein to access this Memorandum. The information contained herein is valid as of today's date, and shall be updated upon any material policy changes and upon each policy's renewal.

BROKER
Beecher Carlson Insurance Services, LLC
6 Concourse Parkway, Suite 2300
Atlanta, GA 30328

INSURED
The PNC Financial Services Group. Inc. including subsidiaries
Three PNC Plaza
225 Fifth Avenue, 4th Floor
Pittsburgh, PA 15222
United States

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 memorandum 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.

Type of Insurance	Policy Number	Effective Date	Expiration Date	Limits	
Commercial "All Risk" Property, Including Business Interruption	Various (See Below)	05/01/2021	05/01/2022	Subject to Policy terms, conditions, sub-limits and deductibles	Amount not to exceed $10,000,000

WITH RESPECT TO THE PROPERTY POLICIES:
Following is a description of the policies applicable to this coverage:

Primary $10 Million:

Lexington Insurance Company (AIG) – Policy Number 018257183 (12.5%)
Everest Indemnity Insurance Company – Policy Number RP5P000045-211 (5%)
Starr Surplus Lines Insurance Company – Policy Number SLSTPTY11454821 (15%)
Westport Insurance Company (Swiss Re) – Policy Number NAP 0452269-07 (5%)
National Fire & Marine Insurance Company (Berkshire) – Policy Number 42-PRP-301273-05 (10%)
ACE American Insurance Company (Chubb) – Policy Number CX D38078586 004 (15%)
Continental Casualty Company (CNA) – Policy Number RMP- 6073041002 (5%)
Liberty Mutual Fire Insurance Company – Policy Number MJ2-L9L-451868-041 (12.5%)
Endurance American Specialty Insurance Company (Sompo) – Policy Number GPF10011058804 (20%)

YOU ARE LOSS PAYEE or MORTGAGEE (as applicable) if required in your contract or agreement with The PNC Financial Services Group, Inc. or its subsidiaries.

This Insurance is primary and non-contributory, if required in your contract or agreement with The PNC Financial Services Group, Inc., or its subsidiaries.

The Insurance Company will waive its rights of recovery in your contract or agreement that is executed before such a loss.

All Risk Property Limit includes flood coverage subject to terms and conditions of the policy.

All Risk Property Limit includes coverage while in the course of construction subject to terms and conditions of the policy.

All Risk Property Deductible = $2,500,000 per occurrence; however, other deductibles may apply per the policy terms and conditions.

For any questions, contact Judith Boich (jboich@beechercarlson.com) regarding Property coverage. The Memorandum of Insurance serves solely to list insurance policies, limits and dates of coverage. Any modification hereto is unauthorized.

City of Santa Fe

Real Estate Summary of Contracts, Agreements, Amendments & Leases

Section to be completed by department

1. Munis Contract # **3203029**

Contractor: **PNC, LLC**

Description: **Equipment Lease for Golf Carts**

Contract ☐ Agreement ☐ Lease / Rent ☉ Amendment ☐

Term Start Date: **1-14- 2022** Term End Date: **1-14-2026**

☑ Approved by Council Date: **pending**

Contract / Lease:

Amendment # _____ to the Original Contract / Lease # _____

Increase/(Decrease) Amount $ _____

Extend Termination Date to: _____

☐ Approved by Council Date: _____

Amendment is for:

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

3. Procurement History: **Equiptment Lease**

Fran Delaway (Oct 25, 2021 08:52 MDT) Oct 25, 2021

Purchasing Officer Review: Date:

Comment & Exceptions: Use of a CES contract for issuance of a lease agreement

4. Funding Source: **530 (MRC)** Org / Object: **5300271 / 562600**

Andy Hopkins (Oct 8, 2021 09:31 MDT) Oct 8, 2021

Budget Officer Approval: Date:

Comment & Exceptions: _____

Staff Contact who completed this form: **Melissa A. McDonald** MAM Phone # **505-303-9502**

Email: **mamcdonald@santafenm.gov**

To be recorded by City Clerk:

Clerk # _____

Date of Execution: _____

GB PWD PARK MRC PNC EQUIP LEASE

Final Audit Report 2021-10-08

Created:	2021-10-08
By:	Megan Lujan (mmlujan@ci.santa-fe.nm.us)
Status:	Canceled / Declined
Transaction ID:	CBJCHBCAABAAgtdAUWfII23hw6gchEu8OI7n3pBAaaHr

"GB PWD PARK MRC PNC EQUIP LEASE" History

Document created by Megan Lujan (mmlujan@ci.santa-fe.nm.us)
2021-10-08 - 2:08:01 PM GMT- IP address: 63.232.20.2

Document emailed to Andy Hopkins (ajhopkins@santafenm.gov) for signature
2021-10-08 - 2:10:23 PM GMT

Email sent to mamcdonald@santafenm.go bounced and could not be delivered
2021-10-08 - 2:10:31 PM GMT

Email viewed by Andy Hopkins (ajhopkins@santafenm.gov)
2021-10-08 - 3:16:51 PM GMT

Document e-signed by Andy Hopkins (ajhopkins@santafenm.gov)
Signature Date: 2021-10-08 - 3:31:34 PM GMT - Time Source: server

Document emailed to Fran Dunaway (fadunaway@santafenm.gov) for signature
2021-10-08 - 3:31:37 PM GMT

Email sent to mamcdonald@santafenm.go bounced and could not be delivered
2021-10-08 - 3:31:46 PM GMT

Email viewed by Fran Dunaway (fadunaway@santafenm.gov)
2021-10-08 - 4:26:47 PM GMT

Document declined by Fran Dunaway (fadunaway@santafenm.gov)
2021-10-08 - 4:31:40 PM GMT

Region 4 Education Service Center (ESC)

Contract # R210201

for

Golf, Utility and Hospitality Carts

with

E-Z-GO Division of Textron Inc.

Effective: October 1, 2021

E-Z-GO and Cushman

Golf, Utility and Hospitality Carts, Parts, Accessories, Supplies and Related Services

Overview

Contract Documentation

Utility Vehicles

Personnel Transportation Vehicles

Industrial Vehicles

Sustainability

FAQs

U.S. Communities and National IPA, both wholly-owned subsidiaries of OMNIA Partners, have come together as OMNIA Partners, Public Sector. All public sector participants already registered with National IPA or U.S. Communities continue to have access to all contracts, with certain exceptions, in the portfolio and do not need to re-register to use a legacy National IPA, legacy U.S. Communities, or new OMNIA Partners contract. U.S. Communities and National IPA remain separate legal entities and lead agency contracts completed under each brand are effective and available for use through the contract's approved term. In the event we believe re-registration is necessary for any reason, OMNIA Partners will let you know.

Golf, Utility and Hospitality Carts

Region 4 ESC - TX

Contract Number: R210201

October 1, 2021 through September 30, 2024
Option to renew for two (2) additional one-year periods through September 30, 2026.

Executive Summary

- Executive Summary
- Pricing
- Due Diligence

Master Agreement Documents

- Official Signed Contract
- Contract Award Documents

Response Evaluation

- Supplier Response to RFP
- Evaluation Documents

Solicitation Process

- Original RFP Document
- RFP Questions and Answers
- Proof of Publication
- RFP Request List
- Historically Underutilized Business Outreach
- RFP Opening Documents

Golf, Utility and Hospitality Carts, Parts, Accessories, Supplies and Related Services

Region 4 ESC - TX

Contract Number: R161101

January 1, 2017 through December 31, 2019
Option to renew for two (2) additional one-year periods through December 31, 2021
RENEWED THROUGH December 31, 2021

Executive Summary

- Executive Summary
- Pricing
- Due Diligence

Master Agreement Documents

- Official Signed Contract
- New Jersey LFN Packet
- Board Recommendation and Approval
- Contract Award Letter
- Contract Amendment 1
- Contract Renewal 1
- Contract Renewal 2
- Contract Update 1
- Contract Update 2
- Contract Update 3
- Contract Update 4

Response Evaluation

- Supplier Response to RFP
- Supplier Response to RFP - Additional Information
- Evaluation Documents

Solicitation Process

- Original RFP Document
- Proof of Publication
- RFP Response Receipt List and Opening Sign-In Sheet

REQUEST CONTRACT INFORMATION





Contact Information

Brittney Booz
National Accounts Manager

Email: bbooz@Textron.com
Phone: 706-755-5553

SUPPLIER WEBSITE

The following documents comprise the executed contract between the Region 4 Education Service Center and E-Z-GO Division of Textron Inc. effective October 1, 2021:

I. Vendor Contract and Signature Form
II. Supplier's Response to the RFP, incorporated by reference

APPENDIX A

CONTRACT

This Contract ("Contract") is made as of _____, 202X by and between E-Z-GO Division of Textron Inc ("Contractor") and Region 4 Education Service Center ("Region 4 ESC") for the purchase of Golf, Utility and Hospitality Carts("the products and services").

RECITALS

WHEREAS, Region 4 ESC issued Request for Proposals Number R210201_ for _Golf, Utility and Hospitality Carts_ ("RFP"), to which Contractor provided a response ("Proposal"); and

WHEREAS, Region 4 ESC selected Contractor's Proposal and wishes to engage Contractor in providing the services/materials described in the RFP and Proposal;

WHEREAS, both parties agree and understand the following pages will constitute the Contract between the Contractor and Region 4 ESC, having its principal place of business at 7145 West Tidwell Road, Houston, TX 77092.

WHEREAS, Contractor included, in writing, any required exceptions or deviations from these terms, conditions, and specifications; and it is further understood that, if agreed to by Region 4 ESC, said exceptions or deviations are incorporated into the Contract.

WHEREAS, this Contract consists of the provisions set forth below, including provisions of all attachments referenced herein. In the event of a conflict between the provisions set forth below and those contained in any attachment, the provisions set forth below shall control.

WHEREAS, the Contract will provide that any state and local governmental entities, public and private primary, secondary and higher education entities, non-profit entities, and agencies for the public benefit ("Public Agencies") may purchase products and services at prices indicated in the Contract upon the Public Agency's registration with OMNIA Partners.

1) Term of agreement. The term of the Contract is for a period of three (3) years unless terminated, canceled or extended as otherwise provided herein. Region 4 ESC shall have the right to renew the Contract for two (2) additional one-year periods or portions thereof. Region 4 ESC shall review the Contract prior to the renewal date and notify the Contractor of Region 4 ESC's intent renew the Contract. Contractor may elect not to renew by providing three hundred sixty-five days' (365) notice to Region 4 ESC. Notwithstanding the expiration of the initial term or any subsequent term or all renewal options, Region 4 ESC and Contractor may mutually agree to extend the term of this Agreement. Contractor acknowledges and understands Region 4 ESC is under no obligation whatsoever to extend the term of this Agreement.

2) Scope: Contractor shall perform all duties, responsibilities and obligations, set forth in this agreement, and described in the RFP, incorporated herein by reference as though fully set forth herein.

3) Form of Contract. The form of Contract shall be the RFP, the Offeror's proposal and Best and Final Offer(s).

4) Order of Precedence. In the event of a conflict in the provisions of the Contract as accepted by Region 4 ESC, the following order of precedence shall prevail:

   i. This Contract
   ii. Offeror's Best and Final Offer
   iii. Offeror's proposal
   iv. RFP and any addenda

5) Commencement of Work. The Contractor is cautioned not to commence any billable work or provide any material or service under this Contract until Contractor receives a purchase order for such work or is otherwise directed to do so in writing by Region 4 ESC.

6) Entire Agreement (Parol evidence). The Contract, as specified above, represents the final written expression of agreement. All agreements are contained herein and no other agreements or representations that materially alter it are acceptable.

7) Assignment of Contract. No assignment of Contract may be made without the prior written approval of Region 4 ESC. Contractor is required to notify Region 4 ESC when any material change in operations is made (i.e. bankruptcy, change of ownership, merger, etc.).

8) Novation. If Contractor sells or transfers all assets or the entire portion of the assets used to perform this Contract, a successor in interest must guarantee to perform all obligations under this Contract. Region 4 ESC reserves the right to accept or reject any new party. A change of name agreement will not change the contractual obligations of Contractor.

9) Contract Alterations. No alterations to the terms of this Contract shall be valid or binding unless authorized and signed by Region 4 ESC.

10) Adding Authorized Distributors/Dealers. Contractor is prohibited from authorizing additional distributors or dealers, other than those identified at the time of submitting their proposal, to sell under the Contract without notification and prior written approval from Region 4 ESC. Contractor must notify Region 4 ESC each time it wishes to add an authorized distributor or dealer. Purchase orders and payment can only be made to the Contractor unless otherwise approved by Region 4 ESC. Pricing provided to members by added distributors or dealers must also be less than or equal to the Contractor's pricing.

11) TERMINATION OF CONTRACT

   a) Cancellation for Non-Performance or Contractor Deficiency. Region 4 ESC may terminate the Contract if purchase volume is determined to be low volume in any 12-month period. Region 4 ESC reserves the right to cancel the whole or any part of this Contract due to failure by Contractor to carry out any obligation, term or condition of the contract. Region 4 ESC may issue a written deficiency notice to Contractor for acting or failing to act in any of the following:

      i. Providing material that does not meet the specifications of the Contract;
      ii. Providing work or material was not awarded under the Contract;
      iii. Failing to adequately perform the services set forth in the scope of work and specifications;
      iv. Failing to complete required work or furnish required materials within a reasonable amount of time;

v. Failing to make progress in performance of the Contract or giving Region 4 ESC reason to believe Contractor will not or cannot perform the requirements of the Contract; or
vi. Performing work or providing services under the Contract prior to receiving an authorized purchase order.

Upon receipt of a written deficiency notice, Contractor shall have ten (10) days to provide a satisfactory response to Region 4 ESC. Failure to adequately address all issues of concern may result in Contract cancellation. Upon cancellation under this paragraph, all goods, materials, work, documents, data and reports prepared by Contractor under the Contract shall immediately become the property of Region 4 ESC.

b) Termination for Cause. If, for any reason, Contractor fails to fulfill its obligation in a timely manner, or Contractor violates any of the covenants, agreements, or stipulations of this Contract Region 4 ESC reserves the right to terminate the Contract immediately and pursue all other applicable remedies afforded by law. Such termination shall be effective by delivery of notice, to the Contractor, specifying the effective date of termination. In such event, all documents, data, studies, surveys, drawings, maps, models and reports prepared by Contractor will become the property of the Region 4 ESC. If such event does occur, Contractor will be entitled to receive just and equitable compensation for the satisfactory work completed on such documents.

c) Delivery/Service Failures. Failure to deliver goods or services within the time specified, or within a reasonable time period as interpreted by the purchasing agent or failure to make replacements or corrections of rejected articles/services when so requested shall constitute grounds for the Contract to be terminated. In the event Region 4 ESC must purchase in an open market, Contractor agrees to reimburse Region 4 ESC, within a reasonable time period, for all expenses incurred.

d) Force Majeure. If by reason of Force Majeure, either party hereto shall be rendered unable wholly or in part to carry out its obligations under this Agreement then such party shall give notice and full particulars of Force Majeure in writing to the other party within a reasonable time after occurrence of the event or cause relied upon, and the obligation of the party giving such notice, so far as it is affected by such Force Majeure, shall be suspended during the continuance of the inability then claimed, except as hereinafter provided, but for no longer period, and such party shall endeavor to remove or overcome such inability with all reasonable dispatch.

The term Force Majeure as employed herein, shall mean acts of God, strikes, lockouts, or other industrial disturbances, act of public enemy, orders of any kind of government of the United States or the State of Texas or any civil or military authority; insurrections; riots; epidemics; landslides; lighting; earthquake; fires; hurricanes; storms; floods; washouts; droughts; arrests; restraint of government and people; civil disturbances; explosions, breakage or accidents to machinery, pipelines or canals, or other causes not reasonably within the control of the party claiming such inability. It is understood and agreed that the settlement of strikes and lockouts shall be entirely within the discretion of the party having the difficulty, and that the above requirement that any Force Majeure shall be remedied with all reasonable dispatch shall not require the settlement of strikes and lockouts by acceding to the demands of the opposing party or parties when such settlement is unfavorable in the judgment of the party having the difficulty.

e) Standard Cancellation. Region 4 ESC may cancel this Contract in whole or in part by providing written notice. The cancellation will take effect 30 business days after the other party receives the notice of cancellation. After the 30th business day all work will cease following completion of final purchase order.

12) Licenses. Contractor shall maintain in current status all federal, state and local licenses, bonds and permits required for the operation of the business conducted by Contractor. Contractor

shall remain fully informed of and in compliance with all ordinances and regulations pertaining to the lawful provision of services under the Contract. Region 4 ESC reserves the right to stop work and/or cancel the Contract if Contractor's license(s) expire, lapse, are suspended or terminated.

13) Survival Clause. All applicable software license agreements, warranties or service agreements that are entered into between Contractor and Region 4 ESC under the terms and conditions of the Contract shall survive the expiration or termination of the Contract. All Purchase Orders issued and accepted by Contractor shall survive expiration or termination of the Contract.

14) Delivery. Conforming product shall be shipped within 7 days of receipt of Purchase Order. If delivery is not or cannot be made within this time period, the Contractor must receive authorization for the delayed delivery. The order may be canceled if the estimated shipping time is not acceptable. All deliveries shall be freight prepaid, F.O.B. Destination and shall be included in all pricing offered unless otherwise clearly stated in writing.

15) Inspection & Acceptance. If defective or incorrect material is delivered, Region 4 ESC may make the determination to return the material to the Contractor at no cost to Region 4 ESC. The Contractor agrees to pay all shipping costs for the return shipment. Contractor shall be responsible for arranging the return of the defective or incorrect material.

16) Payments. Payment shall be made after satisfactory performance, in accordance with all provisions thereof, and upon receipt of a properly completed invoice.

17) Price Adjustments. Should it become necessary or proper during the term of this Contract to make any change in design or any alterations that will increase price, Region 4 ESC must be notified immediately. Price increases must be approved by Region 4 ESC and no payment for additional materials or services, beyond the amount stipulated in the Contract shall be paid without prior approval. All price increases must be supported by manufacturer documentation, or a formal cost justification letter. Contractor must honor previous prices for thirty (30) days after approval and written notification from Region 4 ESC. It is the Contractor's responsibility to keep all pricing up to date and on file with Region 4 ESC. All price changes must be provided to Region 4 ESC, using the same format as was provided and accepted in the Contractor's proposal.

    Price reductions may be offered at any time during Contract. Special, time-limited reductions are permissible under the following conditions: 1) reduction is available to all users equally; 2) reduction is for a specific period, normally not less than thirty (30) days; and 3) original price is not exceeded after the time-limit. Contractor shall offer Region 4 ESC any published price reduction during the Contract term.

18) Audit Rights. Contractor shall, at its sole expense, maintain appropriate due diligence of all purchases made by Region 4 ESC and any entity that utilizes this Contract. Region 4 ESC reserves the right to audit the accounting for a period of three (3) years from the time such purchases are made. This audit right shall survive termination of this Agreement for a period of one (1) year from the effective date of termination. Region 4 ESC shall have the authority to conduct random audits of Contractor's pricing at Region 4 ESC's sole cost and expense. Notwithstanding the foregoing, in the event that Region 4 ESC is made aware of any pricing being offered that is materially inconsistent with the pricing under this agreement, Region 4 ESC shall have the ability to conduct an extensive audit of Contractor's pricing at Contractor's

sole cost and expense. Region 4 ESC may conduct the audit internally or may engage a third-party auditing firm. In the event of an audit, the requested materials shall be provided in the format and at the location designated by Region 4 ESC.

19) Discontinued Products. If a product or model is discontinued by the manufacturer, Contractor may substitute a new product or model if the replacement product meets or exceeds the specifications and performance of the discontinued model and if the discount is the same or greater than the discontinued model.

20) New Products/Services. New products and/or services that meet the scope of work may be added to the Contract. Pricing shall be equivalent to the percentage discount for other products. Contractor may replace or add product lines if the line is replacing or supplementing products, is equal or superior to the original products, is discounted similarly or greater than the original discount, and if the products meet the requirements of the Contract. No products and/or services may be added to avoid competitive procurement requirements. Region 4 ESC may require additions to be submitted with documentation from Members demonstrating an interest in, or a potential requirement for, the new product or service. Region 4 ESC may reject any additions without cause.

21) Options. Optional equipment for products under Contract may be added to the Contract at the time they become available under the following conditions: 1) the option is priced at a discount similar to other options; 2) the option is an enhancement to the unit that improves performance or reliability.

22) Warranty Conditions. All supplies, equipment and services shall include manufacturer's minimum standard warranty and one (1) year labor warranty unless otherwise agreed to in writing.

23) Site Cleanup. Contractor shall clean up and remove all debris and rubbish resulting from their work as required or directed. Upon completion of the work, the premises shall be left in good repair and an orderly, neat, clean, safe and unobstructed condition.

24) Site Preparation. Contractor shall not begin a project for which the site has not been prepared, unless Contractor does the preparation work at no cost, or until Region 4 ESC includes the cost of site preparation in a purchase order. Site preparation includes, but is not limited to: moving furniture, installing wiring for networks or power, and similar pre-installation requirements.

25) Registered Sex Offender Restrictions. For work to be performed at schools, Contractor agrees no employee or employee of a subcontractor who has been adjudicated to be a registered sex offender will perform work at any time when students are or are reasonably expected to be present. Contractor agrees a violation of this condition shall be considered a material breach and may result in the cancellation of the purchase order at Region 4 ESC's discretion. Contractor must identify any additional costs associated with compliance of this term. If no costs are specified, compliance with this term will be provided at no additional charge.

26) Safety measures. Contractor shall take all reasonable precautions for the safety of employees on the worksite and shall erect and properly maintain all necessary safeguards for protection of workers and the public. Contractor shall post warning signs against all hazards created by its operation and work in progress. Proper precautions shall be taken pursuant to state law

and standard practices to protect workers, general public and existing structures from injury or damage.

27) Smoking. Persons working under the Contract shall adhere to local smoking policies. Smoking will only be permitted in posted areas or off premises.

28) Stored materials. Upon prior written agreement between the Contractor and Region 4 ESC, payment may be made for materials not incorporated in the work but delivered and suitably stored at the site or some other location, for installation at a later date. An inventory of the stored materials must be provided to Region 4 ESC prior to payment. Such materials must be stored and protected in a secure location and be insured for their full value by the Contractor against loss and damage. Contractor agrees to provide proof of coverage and additionally insured upon request. Additionally, if stored offsite, the materials must also be clearly identified as property of Region 4 ESC and be separated from other materials. Region 4 ESC must be allowed reasonable opportunity to inspect and take inventory of stored materials, on or offsite, as necessary. Until final acceptance by Region 4 ESC, it shall be the Contractor's responsibility to protect all materials and equipment. Contractor warrants and guarantees that title for all work, materials and equipment shall pass to Region 4 ESC upon final acceptance.

29) Funding Out Clause. A Contract for the acquisition, including lease, of real or personal property is a commitment of Region 4 ESC's current revenue only. Region 4 ESC retains the right to terminate the Contract at the expiration of each budget period during the term of the Contract and is conditioned on a best effort attempt by Region 4 ESC to obtain appropriate funds for payment of the contract.

30) Indemnity. Contractor shall protect, indemnify, and hold harmless both Region 4 ESC and its administrators, employees and agents against all claims, damages, losses and expenses arising out of or resulting from the actions of the Contractor, Contractor employees or subcontractors in the preparation of the solicitation and the later execution of the Contract. Any litigation involving either Region 4 ESC, its administrators and employees and agents will be in Harris County, Texas.

31) Marketing. Contractor agrees to allow Region 4 ESC to use their name and logo within website, marketing materials and advertisement. Any use of Region 4 ESC name and logo or any form of publicity, inclusive of press releases, regarding this Contract by Contractor must have prior approval from Region 4 ESC.

32) Certificates of Insurance. Certificates of insurance shall be delivered to the Region 4 ESC prior to commencement of work. The Contractor shall give Region 4 ESC a minimum of ten (10) days' notice prior to any modifications or cancellation of policies. The Contractor shall require all subcontractors performing any work to maintain coverage as specified.

33) Legal Obligations. It is Contractor's responsibility to be aware of and comply with all local, state, and federal laws governing the sale of products/services and shall comply with all laws while fulfilling the Contract. Applicable laws and regulation must be followed even if not specifically identified herein.

OFFER AND CONTRACT SIGNATURE FORM

The undersigned hereby offers and, if awarded, agrees to furnish goods and/or services in strict compliance with the terms, specifications and conditions at the prices proposed within response unless noted in writing.

Company Name: E-Z-GO Division of Textron Inc.

Address: 1451 Marvin Griffin Rd

City/State/Zip: Augusta, GA 30906

Telephone No.: 401-457-2327

Email Address: mwilliams@textron.com

Printed Name: Maryellen Williams

Title: Contracts Administrator

Authorized signature: Maryellen Williams

Accepted by Region 4 ESC:

Contract No. R210201

Initial Contract Term October 1, 2021 to September 30, 2024

Margaret L. Bass

Region 4 ESC Authorized Board Member

6/29/2021

Date

Margaret S. Bass

Print Name

Linda Tinnerman

Region 4 ESC Authorized Board Member

6/29/2021

Date

Linda Tinnerman

Print Name

Appendix B

TERMS & CONDITIONS ACCEPTANCE FORM

Signature on the Offer and Contract Signature form certifies complete acceptance of the terms and conditions in this solicitation and draft Contract except as noted below with proposed substitute language (additional pages may be attached, if necessary). The provisions of the RFP cannot be modified without the express written approval of Region 4 ESC. If a proposal is returned with modifications to the draft Contract provisions that are not expressly approved in writing by Region 4 ESC, the Contract provisions contained in the RFP shall prevail.

Check one of the following responses:

☐ Offeror takes no exceptions to the terms and conditions of the RFP and draft Contract.

(*Note: If none are listed below, it is understood that no exceptions/deviations are taken.)*

☒ Offeror takes the following exceptions to the RFP and draft Contract. All exceptions must be clearly explained, reference the corresponding term to which Offeror is taking exception and clearly state any proposed modified language, proposed additional terms to the RFP and draft Contract must be included:

(*Note: Unacceptable exceptions may remove Offeror's proposal from consideration for award. Region 4 ESC shall be the sole judge on the acceptance of exceptions and modifications and the decision shall be final.*

If an offer is made with modifications to the contract provisions that are not expressly approved in writing, the contract provisions contained in the RFP shall prevail.)

Section/Page	Term, Condition, or Specification	Exception/Proposed Modification	Accepted (For Region 4 ESC's use)
14/4	7 Days Delivery	7 days should be switched to 6-8 weeks	Agreed
17/4	Additional Services	Notwithstanding the foregoing, the parties agree that Offeror may, at time of quote, issue an additional fee of up-to three hundred and fifty (350) United States Dollars for set-up and local delivery. Exact amount will depend on the specific order and destination. When applicable, Region 4 ESC shall include such additional fee in the Purchase Order.	Agreed

City of Santa Fe, New Mexico
Memorandum

DATE: **October 27, 2020**

TO: **Governing Body**

VIA: **Jarel LaPan Hill, City Manager**
Mary McCoy, Finance Department Director MM
Fran Dunaway, Chief Procurement Officer

FROM: **Bradley Fluetsch, CFA, Planning and Investment Officer** BJF

ITEM AND ISSUE:

RFP# 21/34/P Comprehensive Insurance Claims Admin Broker Services in the amount of $271,936.00 for Comprehensive Insurance claims Broker services.

Bradley Fluetsch, CFA, Planning and Investment Officer
(O) 505-955-6885 (M) 505-231-8753
bjfluetsch@santafenm.gov

Request for approval of this Professional Service Agreement in the total amount of $271,936 for comprehensive insurance claims admin broker services; AJ Gallagher.

BACKGROUND AND SUMMARY:
The City is self-insured with a comprehensive insurance program of various coverages and retention limits. The City retains an Insurance Broker to shop for various coverages as needed, provide expert advice on policies, coverages and limits, and various other activities to assist staff with the implementation of the self-insurance program.

PROCUREMENT METHOD:
Procurement for this for this Professional Service Contract was by RFP 21/34/P

CONTRACT NUMBER:
The FY20 Munis contract number is 3202153

FUNDING SOURCE:
The funding source for the Insurance Broker fee comes from the Risk Management Fund, fund 600, Risk Management/6001750; Professional Contracts 510300.

The funding source is:
Fund Name/Number: Risk Management/ Fund 600
Munis Org Name/Number: Risk Management/6001750
Munis Object Name/Number: Professional Contracts/510300

ACTION REQUESTED:
The Finance Department respectfully requests your review and approval.

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 **Arthur J. Gallagher & Co.**, (AJ Gallagher) 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 perform the following services-for the City:

A. Act as an independent insurance advisor to the City and proactively provide ongoing unbiased professional advice and recommendations that benefit the City and its members. Meet with City Risk Management staff, City committees, and/or staff of City departments as requested.

B. Proactively provide ongoing review and analysis. Of the City's insurance programs and make any appropriate recommendations for coverage changes or new coverages. Provide early warning of rate and coverage changes or renewal problems and annually provide a comprehensive report that reviews all City insurance programs.

C. Assure that insurance policies are placed in a timely manner, without lapses in coverage period, with reputable and financially responsible insurers. Advise in writing of any changes to insurance policy within 14 days.

D. Review policy and other documents in detail within 14 days of receipt of the documents to check for wording an accuracy of each policy, binder, certificate, endorsement or other document received from the insurers to ensure the intended coverage is provided, and all coverage, terms, and conditions, and other wording is complete and accurate, and in compliance with financial arrangements and administrative procedures acceptable to the City.

E. When more than one market is approached for a line of coverage, provide the City with copies of declination letters and all premium quotations received with a summary of coverages explaining deficiencies or benefits of the quote compared to the recommended insurance program.

F. Issue certificates of insurance within three (3) business days following the date of request.

G. Comply with all State and Federal laws and regulations pertaining to insurance brokers-licensed
in the State of New Mexico.

H. Make available consultation services as well as loss control services as requested by the City. Assist in analyzing loss exposures from existing and new operations and determine the appropriate risk management alternatives; including types, availability, cost; and extent of coverages that should be considered. Provide oversight and ensure compliance of third party administrators assigned to handle the City's accounts.

2. Compensation.

A. The City shall pay to the Contractor in full payment for services satisfactorily Performed, such compensation not to exceed ($271,936.00), excluding gross receipts tax. The New Mexico gross receipts tax levied on the amounts payable under this Agreement totaling $22,944.60 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 ($294,880.60 . 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.**

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 sixty five thousand dollars ($65,000.00) for FY 2021-2022

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 sixty six thousand nine hundred and fifty dollars ($66,950.00) for FY 2022-2023

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 sixty eight thousand nine hundred fifty nine dollars ($68,959.00) for FY 2023-2024

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 seventy one thousand twenty seven dollars ($71,027.00) for FY 2024-2025,

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, 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'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:
Bradley Fluetsch, CFA, Planning and Investment Officer
P.O. Box 909
Santa Fe, NM 87504
(O) 505-955-6885 (M) 505-231-8753
bjfluetsch@santafenm.gov

To the Contractor:
Arthur J. Gallagher (AJ Gallagher)
Nasreen Kopecky, Account Executive
18201 Von Karman #200
(O) 949-349-9857 (M) 949-235-0169
nasreen_kopecky@ajg.com

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:
AJ GALLAGHER

Maria King

Maria King
NAME

Area President
TITLE

DATE: 10/27/2021

Fed I.D.# 94-3015711

Registration #

ATTEST:

KRISTINE BUSTOS MIHELCIC, CITY CLERK

CITY ATTORNEY'S OFFICE:

Marcos Martinez
Marcos Martinez (Oct 25, 2021 08:21 MDT)

SENIOR ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

MARY MCCOY, FINANCE DIRECTOR

6001750.555300
Org. Name/Org#.

AJH
AJH



City of Santa Fe

Cost Proposal

Response to RFP #21/34/P
Insurance Brokerage Services and Claims Adjustment

May 27, 2021

Gallagher

Insurance | Risk Management | Consulting

Appendix C – Cost Response

Fee Structure

i) *Describe in detail all fees to be charged, including allocated loss expense. Please quote the service fee on a flat rate basis, as well as a per claim basis. The fee structure shall be quoted for a four year contract with annual amounts quoted for each year. Annual amounts shall include applicable gross receipts taxes.*

Our fee is flat with an annual 3% increase and only applies to brokers services. We are not responding to the claims administration price.

ii) *Discuss the additional cost, if any, if a new claims administrator is selected and open claims are transferred to the new administrator for processing to their conclusion.*

Discuss any additional cost for report modifications, specialization, etc.

As per our discussion during the pre-proposal conference, we will not be managing a claims administration program. Claim services will be continued to be provided by your selected insurance carrier. This applies to items g) to i), below.

See completed Cost Response Form on the following page.

©2021 Arthur J. Gallagher & Co.

APPENDIX C

COST RESPONSE FORM

APPENDIX C
COST RESPONSE FORM

Fee Structure

i) Describe in detail all fees to be charged, including allocated loss expense. Please quote the service fee on a flat rate basis, as well as a per claim basis. The fee structure shall be quoted for a four year contract with annual amounts quoted for each year. Annual amounts shall include applicable gross receipts taxes.
ii) Discuss the additional cost, if any, if a new claims administrator is selected and open claims are transferred to the new administrator for processing to their conclusion.

Discuss any additional cost for report modifications, specialization, etc.

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: July 1, 2021 thru June 30, 2022 Price:$ 65,000

Option Year 2: July 1, 2022 thru June 30, 2023 Price:$ 66,950

Option Year 3: July 1, 2023 thru June 30, 2024 Price:$ 68,959

Option Year 4: July 1, 2024 thru June 30, 2025 Price:$ 71,027

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 10/4/2021

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
Arthur J. Gallagher Risk Management Services, Inc.
300 S. Riverside Plaza, Suite 1500
Chicago IL 60606

CONTACT NAME: Direct All Inquiries to Email
PHONE (A/C, No, Ext): **FAX (A/C, No):**
E-MAIL ADDRESS: Chi_Certificates@ajg.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Arch Insurance Company	11150
INSURER B : ACE Property & Casualty Insurance Co	20699
INSURER C : Arch Indemnity Insurance Company	30830
INSURER D :	
INSURER E :	
INSURER F :	

INSURED ARTHJGA113
Arthur J. Gallagher & Co. and its subsidiaries
The Gallagher Centre
2850 West Golf Road
Rolling Meadows IL 60008

COVERAGES **CERTIFICATE NUMBER:** 1204375641 **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 [ ] PRO-JECT [X] LOC OTHER:	Y		41GPP4938414	10/1/2021	10/1/2022	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG 	$ 2,000,000 $ 1,000,000 $ 10,000 $ 2,000,000 $ 4,000,000 $ 4,000,000 $
A A	**AUTOMOBILE LIABILITY** X ANY AUTO OWNED AUTOS ONLY [ ] SCHEDULED AUTOS X HIRED AUTOS ONLY [X] NON-OWNED AUTOS ONLY			41CAB4938314 (AOS) 41CAB4939014 (MA)	10/1/2021 10/1/2021	10/1/2022 10/1/2022	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident) 	$ 5,000,000 $ $ $ $
B	X **UMBRELLA LIAB** X OCCUR **EXCESS LIAB** CLAIMS-MADE DED X RETENTION $ 25,000			XEU G46820149 005	10/1/2021	10/1/2022	EACH OCCURRENCE AGGREGATE 	$ 25,000,000 $ 25,000,000 $
A C	**WORKERS COMPENSATION AND EMPLOYERS' LIABILITY** Y / N ANYPROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? N **(Mandatory in NH)** If yes, describe under DESCRIPTION OF OPERATIONS below	N / A		41WCI4938114 (AOS) 44WCI0501914 (NY, TX, CA, KY, MO)	10/1/2021 10/1/2021	10/1/2022 10/1/2022	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

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
General Liability:
General Aggregate Per Location Subject to $10 Mil Policy aggregate.
County of San Bernardino, its officers, employees, agents, volunteers, Vendors, and subcontractors are shown as an Additional Insured on the General Liability policy per form 00 GL0596 00 04 10 attached as required by written contract pursuant to and subject to the policy's terms, definitions, conditions and exclusions.

CERTIFICATE HOLDER

County of San Bernardino
222 W Hospitality Lane, Third Floor
San Bernardino CA 92415

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

© 1988-2015 ACORD CORPORATION. All rights reserved.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BLANKET ADDITIONAL INSURED

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE FORM
LIQOUR LIABILITY FORM
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE FORM

SECTION II – WHO IS AN INSURED is amended to include as an additional insured the person or organization who is required under a written contract with you to be included as an insured under this policy, but only with respect to liability arising out of your operations or premises owned by or rented to you.

All other terms and conditions of this policy remain unchanged.

Endorsement Number:

Policy Number: 41GPP4938414

Named Insured: ARTHUR J GALLAGHER & COMPANY

This endorsement is effective on the inception date of this Policy unless otherwise stated herein:

Endorsement Effective Date: 10/01/2021

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 10/4/2021

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
Arthur J. Gallagher Risk Management Services, Inc.
300 S. Riverside Plaza, Suite 1500
Chicago IL 60606

CONTACT NAME: Direct All Inquires via E-mail
PHONE (A/C, No, Ext): 312-704-0100 **FAX (A/C, No):** 312-803-7443
E-MAIL ADDRESS: certrequests@ajg.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Lexington Insurance Company	19437
INSURER B : XL Specialty Insurance Company	37885
INSURER C : Underwriters at Lloyd's London	15792
INSURER D :	
INSURER E :	
INSURER F :	

INSURED ARTHJGA113
Arthur J. Gallagher & Co. and its subsidiaries
The Gallagher Centre
2850 West Golf Road
Rolling Meadows IL 60008

COVERAGES **CERTIFICATE NUMBER:** 198620403 **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	
	COMMERCIAL GENERAL LIABILITY						EACH OCCURRENCE	$
	☐ CLAIMS-MADE ☐ OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	$
							MED EXP (Any one person)	$
							PERSONAL & ADV INJURY	$
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$
	☐ POLICY ☐ PRO-JECT ☐ LOC						PRODUCTS - COMP/OP AGG	$
	☐ OTHER:							$
	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident)	$
	☐ ANY AUTO						BODILY INJURY (Per person)	$
	☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	☐ HIRED AUTOS ONLY ☐ NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	$
								$
	☐ **UMBRELLA LIAB** ☐ OCCUR						EACH OCCURRENCE	$
	☐ **EXCESS LIAB** ☐ CLAIMS-MADE						AGGREGATE	$
	☐ DED ☐ RETENTION $							$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y / N						☐ PER STATUTE ☐ OTH-ER	
	ANYPROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? ☐ **(Mandatory in NH)**	N / A					E.L. EACH ACCIDENT	$
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	$
							E.L. DISEASE - POLICY LIMIT	$
A	Errors & Omissions			016030323	9/29/2021	10/1/2022	Per Claim/Aggregate	$12,000,000
B	Excess Errors & Omissions			ELU177899-21	9/29/2021	10/1/2022	Per Claim/Aggregate	$10,000,000
C	Excess Errors & Omissions			B1262FI0121921	9/29/2021	10/1/2022	Per Claim/Aggregate	$13,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Coverage extends to:
Arthur J. Gallagher Insurance Brokers of California, Inc.
18201 Von Karman Avenue, Suite 200
Irvine, CA 92612

CERTIFICATE HOLDER

County of San Bernardino
222 W Hospitality Lane, Third Floor
San Bernardino CA 92415

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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CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 10/4/2021

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 Arthur J. Gallagher Risk Management Services, Inc. 300 S. Riverside Plaza, Suite 1500 Chicago IL 60606	**CONTACT NAME:** **PHONE (A/C, No, Ext):** 312-704-0100 **FAX (A/C, No):** 312-803-7443 **E-MAIL ADDRESS:**
INSURED ARTHJGA113 Arthur J. Gallagher & Co. and its subsidiaries 2850 West Golf Road Rolling Meadows, IL 60008	**INSURER(S) AFFORDING COVERAGE** / **NAIC #** **INSURER A :** Indian Harbor Insurance Company / 36940 **INSURER B :** **INSURER C :** **INSURER D :** **INSURER E :** **INSURER F :**

COVERAGES **CERTIFICATE NUMBER:** 194073647 **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	
	COMMERCIAL GENERAL LIABILITY						EACH OCCURRENCE	$
	☐ CLAIMS-MADE ☐ OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	$
							MED EXP (Any one person)	$
							PERSONAL & ADV INJURY	$
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$
	☐ POLICY ☐ PRO-JECT ☐ LOC						PRODUCTS - COMP/OP AGG	$
	OTHER:							$
	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident)	$
	☐ ANY AUTO						BODILY INJURY (Per person)	$
	☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	☐ HIRED AUTOS ONLY ☐ NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	$
								$
	☐ **UMBRELLA LIAB** ☐ OCCUR						EACH OCCURRENCE	$
	☐ **EXCESS LIAB** ☐ CLAIMS-MADE						AGGREGATE	$
	☐ DED ☐ RETENTION $							$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y / N						☐ PER STATUTE ☐ OTH-ER	
	ANYPROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? ☐ **(Mandatory in NH)**	N / A					E.L. EACH ACCIDENT	$
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	$
							E.L. DISEASE - POLICY LIMIT	$
A	Cyber Liability			MTP903416503	5/1/2021	5/1/2022	Aggregate/per claims	$2,000,000

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

Coverage extends to:
Arthur J. Gallagher Insurance Brokers of California, Inc.
18201 Von Karman Avenue, Suite 200
Irvine, CA 92612

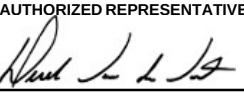
CERTIFICATE HOLDER

County of San Bernardino
222 W Hospitality Lane, Third Floor
San Bernardino CA 92415

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: ARTHUR J GALLAGHER
DBA: ARTHUR J GALLAGHER RISK MANAGEMENT SERVICES INC

Business Location: 400 KIVA COURT
SANTA FE , NM 87505

CRS Number: 02961263001

Owner: Carolyn Nykaza

License Number: 227520

License Type: Business License - Renewable

Issued Date: March 31, 2021

Classification: Business Registration - Standard

Expiration Date: March 31, 2022

Fees Paid: $35.00

ARTHUR J GALLAGHER
2850 GOLF RD 7
ROLLING MEADOWS, IL 60008

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
Summary of Contracts, Agreements, & Amendments

Section to be completed by department for each contract or contract amendment

1 **FOR:** ORIGINAL CONTRACT (●) or CONTRACT AMENDMENT ( )

2 Name of Contractor Arthur J. Gallagher & Co.

3 Complete information requested ( ) Plus GRT (●) Inclusive of GRT

Original Contract Amount: $65,000 (3% increase annually)

Termination Date: 06-30-2025

( ) Approved by Council Date: _____

( ) or by City Manager Date: _____

Contract is for:

Amendment # _____ to the Original Contract# _____

Increase/(Decrease) Amount $ _____

Extend Termination Date to: _____

( ) Approved by Council _____

( ) or by City Manager Date: _____

Amendment is for:

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

Amount $ _____ of original Contract# _____ Termination Date: _____

Reason: _____

Amount $ _____ amendment # _____ Termination Date: _____

Reason: _____

Amount $ _____ amendment # _____ Termination Date: _____

Reason: _____

Amount $ _____ amendment # _____ Termination Date: _____

Reason: _____

Total of Original Contract plus all amendments: $ 439,689.17

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

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

RFP# 21/34/P Date: 10/25/2021

RFQ ☐ _____ Date: _____

Sole Source ☐ _____ Date: _____

Other _____

6 **Procurement History:** First year of 4 year contract

example: (First year of 4 year contract)

Yodel M. Catanach
Yodel M. Catanach (Oct 29, 2021 13:48 MDT)

Purchasing Officer Review

Comments or Exceptions: RFP 21//34/P

7 **Funding Source:** Gen-Liab-Third Party Admin **Org/Obj** 60001750.555300

Andy Hopkins
Andy Hopkins (Oct 29, 2021 10:00 MDT)

Budget Officer Approval

Comments or Exceptions: _____

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

_____

(Memo may be attached to explain detail.)

9 **Staff Contact who completed this form:** Melanie Lovato

Phone # 505-490-1693

10 **Certificate of Insurance attached.** (if original Contract) ☐

Submit to City Attorney for review/signature
Forward to Finance Director for review/signature
Return to originating Department for Committee(s) review or forward to City Manager for review and approval (depending on dollar level).

To be recorded by City Clerk:

Contract # _____

Date of contract Executed (i.e., signed by all parties): _____

Note: If further information needs to be included, attach a separate memo.

Comments:

CITY OF SANTA FE PROCUREMENT CHECKLIST

Contractor Name: AJ GALLAGHER & CO.

Procurement Title: _____

Procurement Method: State Price Agreement ☐ *Cooperative* ☐ *Sole Source* ☐ *Other* ☐ *Contract Extension*___

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

Department Requesting Finance Staff Name Melanie Lovato/Brad Fluetsch

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: _____

Melanie Lovato	Risk Analyst	10-25-21
Department Rep Printed Name (attesting that all information included)	Title	Date
Yodel M. Catanach Yodel M. Catanach (Oct 29, 2021 13:48 MDT)	Chief Procurement Officer	Oct 29, 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: September 17, 2021

TO: Fran Dunaway, Chief Procurement Officer
City of Santa Fe

FROM: Melanie Lovato, Procurement Manager
Risk Management

SUBJECT: Evaluation Committee Report, Comprehensive Insurance Claim Admin Broker Service RFP # 21/34/P

In accordance with the Request for Proposals for Comprehensive Insurance Claim Admin Broker Service issued May 6, 2021, One responses were submitted from the following Offeror: Arthur J. Gallagher and evaluated by the committee.

Summary of Evaluation Committee Activity

The Evaluation Committee members are as follows:

Bradley Fluetsch, City of Santa Fe
Barbara Lujan, City of Santa Fe
Chris Ryan, City of Santa Fe

This Evaluation Committee Report summarizes all criteria used in scoring the responses:

- June 08, 2021: Evaluation Committee met to review Evaluation Committee duties and RFP process, and to receive Offeror technical proposal(s).
- June 11, 2021: Evaluation Committee met to score proposals for AJ Gallagher
- June 23, 2021: Evaluation Committee met to score cost proposals

Section IV.B, Technical Specifications

Section IV.B.1, Organizational Experience (200 Total Points)

	AJ Gallagher
Offeror Points	**200**

Organizational Experience

Specifications:

Offeror must:

a) 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 Insurance. All insurance provided to private sector will also be considered. Offerors shall have five years' experience in administration of property, liability, auto and workers'

b) Provide a brief description of the firm, state whether your firm is local, regional, national or international. Include information on any affiliations and/or subsidiaries.

c) State the location of the offices from which the work will be done if your firm is awarded the contract, the number of partners, managers, seniors, supervisors and other professional staff employed by these offices.

d) Describe the range of activities performed by the offices from which the work will be performed (i.e., insurance sales, administration of other types of programs, general management services.

e) Provide a brief resume and certificate of insurances of all key personnel Offeror proposes to use in performance of the resulting contract, should Offeror be awarded. Key personnel is identified as the primary point of contact, the lead adjuster, client relation contact, or any other staff that regularly communicate with City staff. Offeror must include key personnel education, work experience, relevant certifications/licenses, and specifically discuss the individual's experience in managing a claims administration program of the size and scope of the program described herein. Indicate the names of claims supervisors who will be assigned to City of Santa Fe's program. Indicate whether the supervisors are licensed by the State.

f) Indicate the number and level of examiners to be assigned as a ration of open indemnity claims per examiner. Indicate the minimum qualification of examiners.

g) List the names and addresses of law firms you use for litigation of cases.

i) Discuss the extent of services to be rendered by staff of your firm for litigated cases, negotiations of compromise and release settlements, and subrogation actions.

ii) Discuss the procedures to be utilized in determining when outside legal counsel is required.

h) Investigative Services

i) Discuss the extent of investigative services to be provided to City of Santa Fe by the staff of your firm. Describe the procedures to be utilized in determining when an outside investigative firm is required.

i) Medical Services

i) Discuss the recommended panel of medical experts, including specialists who may be utilized to review and/or provide treatment. Describe medical control procedures to be utilized by your firm.

j) Transition Program

i) Describe the recommended process to be implemented with regard to transition of open claims to a new claims administrator. Include a time frame for implementation of the program from the date of award of contract.

k) Record Keeping

i) Describe record keeping procedures to be utilized for all aspects of the claims administration program.

l) Experience of Firm

i) Discuss experience of your firm relative to administration of claim programs.

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. In addition, points will be awarded based on Offeror's candid and well-thought-out response to successes and failures, as well as the ability of the Offeror to learn from its failures and grow from its successes.

[Offeror Name]

The Evaluation Committee awarded AJ Gallagher 200 points based on the Offeror's response. AJ Gallagher provided a thorough response of a) through l) in this Section.

Section IV.B.2, Organizational References (200 Total Points)

	AJ Gallagher
Offeror Points	**132**

Organizational References

Specifications:

Offeror must provide a list of a minimum of three (3) references from similar projects/programs performed for private, city, state or large local government clients in the state of New Mexico within the last three (3) years.

Offeror shall include the following Business Reference information as part of its proposals:

a) Client name;

b) Project description;

c) Project dates (starting and ending);

d) Technical environment (i.e., Software applications, Internet capabilities, Data communications, Network, Hardware);

e) Staff assigned to reference engagement that will be designated for work per this RFP; and

f) Client project manager name, telephone number, fax number and e-mail address.

Evaluation Factors:

Points will be awarded based upon an evaluation of the responses to a series of questions on the Organizational Reference Questionnaire (Appendix E). Offeror will be evaluated on references that show positive service history, successful execution of services and evidence of satisfaction by each reference. References indicating significantly similar services/scopes of work and comments provided by a submitted reference will add weight and value to a recommendation during the evaluation process. Points will be awarded for each individual response up to 1/3 of the total points for this category. Lack of a response will receive zero (0) points.

AJ Gallagher

The Evaluation Committee awarded AJ Gallagher 132 points based on the Offeror's response. Two references were received.

Section IV.B.4, MANDATORY SPECIFICATIONS (400 Total Points)

	AJ Gallagher
Offeror Points	**400**

Mandatory Specifications

Specifications:

a. The agent or broker must secure letters from all insurance companies represented stating that they are authorized to be their representative. These letters must be included with the Proposal.

b. The agent or broker and company submitting a proposal must be licensed in the State of New Mexico to do business for all lines being proposed. Must provide documentation with proposal.

c. All specimen policies and endorsements must be provided with the proposal.

d. The agent or broker must have been in the insurance business for at least twenty years. A complete listing including contact information must be included in the proposal for all current public entity clients.

e. Explain in depth all (not contracted) property appraisal, risk management, claims management, safety and loss control and coverage review resources offered by the agency or brokerage firm.

f. The agent or broker shall have Errors and Omissions coverage of at least $10,000,000 and must furnish Errors and Omissions certificate for not less than this amount as part of this proposal.

g. Agent and Broker must detail within their proposal documents, statements showing how they meet the above qualifications; and in addition, they must list the insurance companies they would use in handling the City account. It is the obligation of the agents and companies to furnish with their proposal sufficient information about this company to enable the City to reach a decision on the reliability and financial stability of each company.

h. The use of any wholesaler(s) must be fully disclosed in the proposal. The use of any owned wholesaler(s) is strictly not permitted. The individual signing this proposal must provide a complete list of any and all current public entity clients that utilize wholesaler(s) and disclose their firm's relationship with the wholesaler(s).

i. All Offerors are required to submit written evidence that the carrier will write the insurance for which the proposal is submitted. The Offerors may further be required to submit written statements as to the financial responsibility and resources of the insurance company.

Evaluation Factors:

a) Meets all legal, licensing requirements and submits requested documents from various insurance companies it represents. 100 Points
b) All specimen policies and endorsements must be provided with the proposal. 100 points
c) The agent or broker must have been in the insurance business for at least twenty years. A complete listing including contact information must be included in the proposal for all current public entity clients. 100 points.
d) Perceived quality of insurance companies underwriting various policies. 100 points

All other mandatory specifications (E-L) are included in the above scoring points.

AJ Gallagher

The Evaluation Committee awarded AJ Gallagher 400 points based on the Offeror's response. AJ Gallagher provided a response to all the criteria in Section IV.B.4 a through e. The Offeror met all legal and licensing requirements. They submitted the requested documents from various insurance companies it represents as well as the policies and endorsements. AJ Gallagher has been in business for at least 20 years and provided a complete listing of their current public entity clients.

Section IV. C, Business Specifications

Section IV.C.1, Letter of Transmittal (Pass/Fail)

	AJ Gallagher
Pass/Fail	**Pass**

Specifications:

The Offeror's proposal must be accompanied by the Letter of Transmittal Form located in APPENDIX D. 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.

Pass/Fail only. No points assigned.

Evaluation Factors:

Pass/Fail only. No points Assigned.

Section IV.C.2, Signed Campaign Contribution Disclosure Form (Pass/Fail)

	AJ Gallagher
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.

Pass/Fail only. No points assigned

Evaluation Factors:

Pass/Fail only. No points Assigned.

Section IV.C.3, Costs (200 Total Points)

	AJ Gallagher
Offeror Points	**200**

Specifications: Offerors must complete the Cost Response Form in APPENDIX C. Cost will be measured by Proposed Flat Fee per Case.

The evaluation of each Offeror's cost proposal will be conducted using the following formula based on the proposed annual compensation:

Lowest Responsive Offeror's Cost

---------- X Available Award Points

Each Offeror's Cost

Evaluation Factors:

[Insert Evaluation Factor, **including cost formula**, if applicable, from RFP here]

AJ Gallagher

The Evaluation Committee awarded AJ Gallagher 200 points based on the Offeror's response. $65,000 divided by $65,000 equals one times two hundred points.

Section IV.C.4, NM Preferences

	AJ Gallagher
NM Business Preference	**60**
NM Veterans Preference	

Specifications:

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.

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%.

AJ Gallagher

Offeror submitted NM Resident Business/Veteran Business Certificate. Offeror was awarded 60 Points.

Comprehensive Insurance Claim Admin Broker Services
RFP # 21/34/P **Evaluation Summary**

	AJ Gallagher
Section IV.B 1. Technical Specifications Organizational Experience (200 Points)	200
Section IV.B 2. Technical Specifications Organizational References (200 Points)	132
Section IV.B 4. Technical Specifications Mandatory Specification (400 Points)	400
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 (200 Points)	200
Section IV.C 4. Business Specifications New Mexico Resident Business Preference	
Section IV.C 4. Business Specifications New Mexico Resident Veteran Preference	60
TOTAL POINTS AWARDED	992

Evaluation Committee Recommendation

Based on the Evaluation Committee's evaluation of the proposals submitted, as detailed above, the committee respectfully recommends awarding contract to perform the scope of work as outlined in the Comprehensive Insurance Claim Admin Broker Service RFP #21/34/P to AJ Gallagher subject to agreement between the Risk and the selected Offerors. Awarding contract to the recommended Offeror(s) is in the best interest and is most advantageous to the State, the Agency, and Agency clients.

Committee Signature Approval

Brad Flwatach

Name — Date

Evaluation Committee Member

Barbara Lujan
Barbara Lujan (Sep 18, 2021 08:08 MDT)

Name — Date

Evaluation Committee Member

Christopher W. Ryan
Christopher W. Ryan (Sep 20, 2021 06:58 MDT)

Name — Date

Evaluation Committee Member

Melanie Lovato
Melanie Lovato (Sep 29, 2021 11:20 MDT)

Sep 29, 2021

Name — Date

Procurement Manager

Chief Procurement Officer Signature Approval

Fran Dunaway
Fran Dunaway (Sep 29, 2021 09:11 MDT)

Sep 29, 2021

Fran Dunaway — Date

Chief Procurement Officer

City of Santa Fe

9-15-21-RFP 21-34-P Evaluation Committee Report-signed

Final Audit Report 2021-09-29

Created:	2021-09-29
By:	Megan Lujan (mmlujan@ci.santa-fe.nm.us)
Status:	Signed
Transaction ID:	CBJCHBCAABAArKYK1RWVh3usiwOe_OtXXCB7N21oddmd

"9-15-21-RFP 21-34-P Evaluation Committee Report-signed" History

Document created by Megan Lujan (mmlujan@ci.santa-fe.nm.us)
2021-09-29 - 2:59:27 PM GMT

Document emailed to Fran Dunaway (fadunaway@santafenm.gov) for signature
2021-09-29 - 3:01:35 PM GMT

Email viewed by Fran Dunaway (fadunaway@santafenm.gov)
2021-09-29 - 3:10:44 PM GMT- IP address: 104.47.65.254

Document e-signed by Fran Dunaway (fadunaway@santafenm.gov)
Signature Date: 2021-09-29 - 3:11:11 PM GMT - Time Source: server- IP address: 63.232.20.2

Agreement completed.
2021-09-29 - 3:11:11 PM GMT

POWERED BY Adobe Sign

Signature: Mary McCoy

Email: mtmccoy@santafenm.gov

Signature: Bradley Fluetsch (Oct 29, 2021 09:53 MDT)

Email: bjfluetsch@santafenm.gov

ACTION SHEET
ITEM FROM FINANCE COMMITTEE MEETING OF 11/01/21
FOR CITY COUNCIL MEETING OF 11/10/21

Request for approval of a Professional Service Contract for Comprehensive Insurance Claims Administrative Broker Services in the amount of $271,936.00; Arthur J. Gallagher. (Bradley Fluetsch, CFA, Planning and Investment Officer (O) 505-955-6885 (M) 505-231-8753, bjfluetsch@santafenm.gov)

Committee	**Review**
Finance Committee:	11/01/2021
Public Works and Utilities Committee:	11/08/2021
Governing Body: 11/10/2021	

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
Memorandum

DATE: **October 27, 2020**

TO: **Governing Body**

VIA: **Jarel LaPan Hill, City Manager**
Mary McCoy, Finance Department Director MM
Fran Dunaway, Chief Procurement Officer

FROM: **Bradley Fluetsch, CFA, Planning and Investment Officer** BjF

ITEM AND ISSUE:
RFP# 21/33/P - Workers Comp & General Liability TPA Services in the amount of $768,434.23 for Workers Compensation and General Liability third party administrative services.

Bradley Fluetsch, CFA, Planning and Investment Officer
(O) 505-955-6885 (M) 505-231-8753
bjfluetsch@santafenm.gov

Request for approval of this Professional Service Agreement in the total amount of $768,434.23 for third party administrative services of the City's Workers Compensation and General Liability self-insured programs; CCMSI.

BACKGROUND AND SUMMARY:
The City of Santa Fe runs a self-insurance program for both Workers Compensation and General Liability. The City contracts for "Third Party Administration" of claims filed against the City under both programs. The TPA accepts claims, investigates the circumstance, adjudicates and finally resolves claim. If the claim exceeds the City's self-insurance retention limit, the claims is passed to the General Liability carrier. If the claim cannot be resolved by the TPA, typically a lawsuit is filed. TPA works with both General Liability insurance carrier or the City Attorney's Office in order to resolve all claims.

PROCUREMENT METHOD:
Procurement for this for this Professional Service Contract was by RFP 21/33/P

CONTRACT NUMBER:
The FY20 Munis contract number is 3201698.

FUNDING SOURCE:
This is where you identify the funding source. Please include the Fund Name and the Fund Number, the Munis Org Name and the Org Number, and the Munis Object Name and the Munis Object Number. For example:

The funding source is:
Fund Name/Number: Risk Management/ Fund 600 and Workers Compensation Fund/Fund 610
Munis Org Name/Number: Risk Management/6001750 and Workers Compensation/6100231
Munis Object Name/Number: Gen Liability-Third Party Admin/555300 and Professionals Services 510300

ACTION REQUESTED:
The Finance Department respectfully requests your review and approval.

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 **Cannon Cochran Management Services, Inc**, (CCMSI) 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 perform the following work:

A. Self-insured Workers' Compensation Claims Administration.

1) Review all claim and loss reports received from City during the term of this Agreement and process each claim or loss report in accordance with applicable statutory and administrative regulations.
2) Conduct an investigation of each reported claim or loss under subparagraph (1) above (hereinafter referred to as a "qualified claim or loss") to the extent deemed necessary by Contractor in the performance of its obligations hereunder.
3) Arrange for independent investigators or medical or other experts to the extent deemed necessary by Contractor in connection with processing any qualified claim or loss.
4) Pay medical and death benefits, temporary and permanent disability compensation and other losses and expenses, but only if in the sole judgment of Contractor, such payment would be prudent for the City and the anticipated amount thereof does not exceed the limit specified or the City specifically approves or directs such action in writing.
5) Perform reasonable and necessary administrative and clerical work in connection with qualified claims or losses including the preparation of checks bearing the name of City and drawn on the account or accounts established pursuant to paragraph 2(D) below.
6) Maintain a file for each qualified claim or loss which shall become the property of City and which shall be available for review by the City at any reasonable time.
7) Notify excess insurers of all qualified claims or losses with values that may exceed the City's retention, providing such insurers with necessary information on the current status of those claims or losses, unless relieved of this obligation by the City, pursuant to paragraph 2(A) below.
8) The Contractor's control supervisor shall review all open claims, at least monthly to make certain that claims and expense reserves are accurately set at the ultimate expected cost (no step reserving).

9) The Contractor shall assist the City Attorney with selection of counsel to defend qualified claims or losses, if requested by the City.
10) The Contractor shall assist the City's counsel, if requested, in preparing the defense of litigated cases, negotiating settlements and pursuing subrogation or contribution actions.
11) In the event of a fatality resulting from an on-the-job injury, personal contact with the family is required as soon as possible to explain benefits.
12) Personal contact with the claimant or claimant's family is required within 24 hours of receipt of a claim indicating an injury requiring hospitalization or immediate surgery.
13) All indemnity lost time claims shall be handled to conclusion by the same adjuster. The control supervisor may assign lost time claims to a telephone claims representative if the injury has stabilized and is of a type which requires a long term rehabilitation or healing process (or for other good reason with which is documented in the file).
14) In person statements are required from every claimant receiving weekly benefits or settlements. Telephonically recorded statements are acceptable in unusual circumstances.
15) Medical only claims will be handled by the control office, however, if a medical only claim develops into a lost time injury, the case will be reassigned to a lost time adjuster. The control supervisor may alter this procedure if warranted but must indicate the exceptional reason in the claim file. Copies of correspondence indicating status of claim must be provided to the city claims administrator.
16) Monitor the treatment programs recommended for employees by physicians, specialists and other health care providers by reviewing all reports prepared by them and maintaining such contact with these providers as may be appropriate in the sole judgment of the Contractor.
17) As the City directs, assist in interpreting medical reports to consider the circumstances under which an ill or injured employee could return to work in the shortest period of time.
18) Assist the City in arranging for rehabilitation or retraining of employees in appropriate cases.
19) Maintain a current estimate of the expected total cost of each qualified claim or loss that considers indemnity, medical and expense components and is based on facts known at the estimation date, but is not trended or actuarially developed.
20) Utilize computer programs to furnish to the City selected loss and information reports either monthly, quarterly or annually which are entitled:
    i. Composite claim summary, with graphs by division yearly and monthly
    ii. Accident trend report, with graphs by division monthly
    iii. Loss analysis report, with graphs by division monthly
    iv. State reports, as needed
    v. Accumulated report monthly
    vi. Injury codes to identify body part and type
    vii. Number system of claims to identify type
    viii. Program access City staff
    ix. Indexing

x. Check register monthly

These reports shall contain such information as incident date, condensed incident description, department, other identifiers, payments made, estimated future costs and total expected costs of claims or losses, as well as summary and other data deemed relevant by the Contractor, but not IBNR (incurred but not reported) claims or actuarially developed loss values.

21. Annually report federal, state and local 1099 information under the City's tax identification numbers, when the City has provided all required IRS authorizations, for vendor payments issued by the Contractor on bank accounts owned by the City, but not for payment authorizations when the Contractor does not issue the checks.

21) Provide narrative reports of major or litigated claims, if requested by the City.

22) Provide claim forms and other forms believed by the Contractor to be appropriate for the efficient operation of the self-insurance program.

23) Return to the City all claim files upon termination of the contract at the City's expense.

B. Medical Control:

1) The control supervisor shall establish reasonable and customary fees negotiated with providers for service to employees including doctor visits, therapy and other injury related costs. The control supervisor shall direct all appointments after work hours when possible in accordance with the New Mexico Workers' Compensation Act.

2) Assist the City, where State rules and regulations permit, in the selection of a panel of physicians or other providers of health care to initially treat employees and a panel of medical specialists to provide long-term or specialty care.

3) Consult with the City in order to develop ways of using medical facilities and providers more effectively.

C. Employee Consulting:

1) As the City directs, provide information to ill or injured employees regarding the benefits available under the self-insurance program and counsel any such employees who wish to obtain the assistance of third parties in dealing with problems arising out of work-related illnesses or injuries.

2) If the City requests, consult with employee groups in regard to specific aspects of the self-insurance program.

3) Assist the City in developing policies and procedures to ensure that an employee's return to work or reassignment is consistent with any findings of an appropriate state administrative agency.

D. Program Development, upon the City's request:

1) Consult with the City on the establishment and coordination of necessary procedures and practices to meet any applicable state requirements and the needs of the City.

2) Participate in the orientation of the City's personnel who are directly or indirectly involved in the processing of qualified claims or losses.

3) Provide information on changes or proposed changes in certain legislation, regulations or rules affecting the responsibility of the City.

4) Review the development of the self-insurance program periodically with representatives of the City in order to identify problems and recommend corrective action.

E. Contractor shall furnish appropriate renewal application forms and, upon the City's written request, shall file all periodic reports and renewal applications required by state administrative agencies to maintain the City's self-insurance program.

F. Contractor shall not provide any risk control services.

G. Contractor may subcontract to its affiliated corporations various services to be provided under this agreement. It is understood, however, that Contractor will be responsible for the performance of all services to be provided to the City hereunder in accordance with this agreement, including any subcontracted services.

H. Claim Administration.

1) Claim Management and Administration. In compliance with its Best Practices, CCMSI will manage and administer all claims of the Client that occur during the period of this Agreement. All claim payments shall be made with Client funds. CCMSI will act on behalf of Client in handling, monitoring, investigating, overseeing and adjusting all such actual and alleged claims.

2) Claim Settlement. CCMSI will settle claims of the Client with Client funds in accordance with reasonable limits and guidelines established with the Client.

3) Claim Reserves. CCMSI will recommend reserves for unpaid reported claims and unpaid claim expenses.

4) Allocated Claim Expenses. CCMSI will pay all Allocated Claim Expenses with Client Funds. Allocated Claim Expenses are charges for services provided in connection with specific claims by persons or firms which are eligible claim expenses under the Client's program. Notwithstanding the foregoing, Allocated Claim Expenses will include all expenses incurred in connection with the investigation, adjustment, settlement or defense of Client claims, even if such expenses are incurred by CCMSI. Allocated Claim Expenses will include, but not be limited to, charges for:

(a) Independent medical examinations of claimants;

(b) Managed care expenses, which include the services provided by comp me TM, CCMSI's proprietary managed care program. Examples of managed care expenses includes but is not limited to PPO net works, utilization review, nurse case management, medical bill audits and medical bill review;

(c) Fraud detection expenses, such as surveillance, which include the services provided by fire, CCMSI's proprietary Special Investigation Unit (SIU), and other related expenses associated with the detection, reporting and prosecution of fraudulent claims, including legal fees;

(d) Attorneys, experts and special process servers;

(e) Court costs, fees, interest and expenses;

(f) Depositions, court reporters and recorded statements;

(g) Independent adjusters and appraisers;

(h) Index bureau and OFAC (Office of Foreign Assets Control) Charges;

(i) MMSEA/SCHIP compliance charges;

(j) Electronic Data Interchanges, EDI, charges if required by

State law;
(k) CCMSI personnel, at their customary rate or charge, but only with respect to claims outside the State and only if such customary rate is communicated to the Client prior to incurring such cost;
(I) Actual reasonable expenses incurred by CCMSI employees outside the State for meals, travel, and lodging in conjunction with claim management;
(m) Police, weather and fire report charges that are related to claims being administered under Client's program;
(n) Charges associated with accident reconstruction, cause and origin investigations, etc.;
(o) Charges for medical records, personnel documents, and other documents necessary for adjudication of claims under Client's program;
(p) Charges associated with Medicare Set-Aside Allocations;
(q) Other expenses normally recognized as ALAE by industry standards.
I. Subrogation. CCMSI will monitor claims for subrogation
J. Provision of Reports. CCMSI agrees to provide reports to the Client as upon request.
K. Risk Management Services. CCMSI will provide the Client with additional Risk Management Services not contemplated in the Agreement upon mutual agreement of the parties.
L. Managed Care Services. CCMSI will provide the Client with managed care services (Comp MC) upon mutual agreement of the parties. The Schedule of Managed Care Services to be provided is attached hereto as Exhibit "A".

2. Compensation.

A. The City shall pay to the Contractor in full payment for services satisfactorily Performed, such compensation not to exceed $768,434.23), excluding gross receipts tax. The New Mexico gross receipts tax levied on the amounts payable under this Agreement totaling $64,836.64 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 ($833,270.87). 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.**

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 eighty three thousand six hundred seventy six dollars and fifty six cents ($183,676.56) for FY 2021-2022

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 eighty nine thousand one hundred eighty six dollars and eighty six cents ($189,186.86) for FY 2022-2023

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 ninety four thousand eight hundred sixty two dollars and forty seven cents ($194,862.47) for FY 2023-2024

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 two hundred thousand seven hundred and eight dollars and thirty four cents ($200,708.34) for FY 2024-2025,

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, 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'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:
Bradley Fluetsch, CFA, Planning and Investment Officer
P.O. Box 909
Santa Fe, NM 87504
(O) 505-955-6885 (M) 505-231-8753
bjfluetsch@santafenm.gov

To the Contractor:
Cannon Cochran Management Service Inc. (CCMSI)
Courtney Barela, Account Manager
5700 Pasadena Ave Suite 102
Albuquerque, NM 87113
(O) 505-837-8738
cbarela@ccmsi.com

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:
CCMSI

Rodney J. Golden
RODNEY J. GOLDEN
Chief Operating Officer
DATE: 10/28/21
CRS# 02-498336-00-5

Registration # 1200046454

ATTEST:

_____
KRISTINE BUSTOS MIHELCIC, CITY CLERK

CITY ATTORNEY'S OFFICE:
Marcos Martinez
Marcos Martinez (Oct 25, 2021 08:22 MDT)
SENIOR ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

_____
MARY MCCOY, FINANCE DIRECTOR
GL-6001750.555300
WC-6100231.510300 AJH
AJH
Org. Name/Org#.

Cost Proposal to:



The City of Santa Fe

AND Risk Management & Safety
Workers Compensation & General Liability TPA Services

RFP# 21/33/P

Cannon Cochran Management Services, Inc.
4300 San Mateo, NE, Suite A300
Albuquerque, NM 87110
Phone: 505-837-8700
800-635-0679
Fax: 505-888-6794

Contact: Louise Carpenter, Regional Claims Manager
lcarpenter@ccmsi.com

May 2021

CCMSI®

www.ccmsi.com

APPENDIX C COST RESPONSE FORM

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: July 1, 2021 thru June 30, 2022 Price:$ 183,676.56 (See below for breakdown)

Option Year 2: July 1, 2022 thru June 30, 2023 Price:$ 189,186.86 (See below for breakdown)

Option Year 3: July 1, 2023 thru June 30, 2024 Price:$ 194,862.47 (See below for breakdown)

Option Year 4: July 1, 2024 thru June 30, 2025 Price:$ 200,708.34 (See below for breakdown)

Fixed Fee Information	**Year 1**	**Year 2**	**Year 3**	**Year 4**
Fixed Fee Annual Amount	$183,676.56	$189,186.86	$194,862.47	$200,708.34
Fixed Fee Per Month Rate	$15,306.38	$15,765.57	$16,238.54	$16,725.70
Monthly Rate Fee for WC/GL	$4591.91-WC $10714.47-GL	$4729.67-WC $11035.90-GL	$4871.56-WC $11366.98-GL	$5017.71-WC $11707.99-GL
Split Determination	30%-WC, 70%-GL	30%-WC, 70%-GL	30%-WC, 70%-GL	30%-WC, 70%-GL

Per Claim Billing Info				
Index	$12.30	$12.30	$12.30	$12.30
EDI First Submission	$10.00	$10.00	$10.00	$10.00
EDI Subsequent Submissions	$5.00	$5.00	$5.00	$5.00
CMS (Medicare)	$25.00	$25.00	$25.00	$25.00
NCM Per Hourly Rate	$85.00	$85.00	$85.00	$85.00
NCM Mileage	Per Gov Rate	Per Gov Rate	Per Gov Rate	Per Gov Rate
NCM Expenses	Actual	Actual	Actual	Actual
Vendor Case Management	ALE	ALE	ALE	ALE
Bill Review Fee	$7.50 per bill	$7.50 per bill	$7.50 per bill	$7.50 per bill
Bill State Reporting Fee	$1.50 per reportable bill	$1.50 per reportable bill	$1.50 per reportable bill	$1.50 per reportable bill
Bill Review Savings	30%	30%	30%	30%
PBM Savings	30%	30%	30%	30%
Subrogation	25% of Recovery	25% of Recovery	25% of Recovery	25% of Recovery
SIU	ALE	ALE	ALE	ALE
Clear/Legal X	See Below	See Below	See Below	See Below
Special Reports	$125 per hour	$125 per hour	$125 per hour	$125 per hour

Plus Gross Receipts Tax

SCHEDULE OF CLEAR SERVICES AND FEES

Service	Description	Service Fee
Legal Bill Review / Audit Services	Review and audit all legal invoices submitted by Client-approved law firms for adjudication in compliance with Client's Defense Counsel Billing Guidelines and Generally Accepted Legal Billing Principles.	**PAID TO BOTTOMLINE TECHNOLOGIES, INC.** 1.95% of the gross monetary total of each invoice submitted and audited (inclusive of law firm fees, costs and disbursements).
Management Fee for administration of Legal Bill Review Program, administration and integration of data reporting and data transfer, development and delivery of Performance Reports, and maintenance of technology interface	Integration and interface of legal bill review / audit software with CCMSI's claim system necessary to review and adjudicate legal invoices electronically. Periodic standard reports will be developed and produced summarizing Program's overall savings results. Metrics will be applied to analyze the overall performance of law firms. A Bill Analysis Report (BAR) will be generated for each legal invoice reviewed. The BAR will be included with each check to the appropriate law firm and include details and supporting documentation for any deductions applied to the original billing.	**PAID TO CCMSI** 0.25% of the gross monetary total of each invoice submitted and audited (inclusive of law firm fees, costs and disbursements).

Note: Fees relative to legal bill review services will appear on the transaction register payable to "CLEAR", CCMSI's proprietary legal bill review program.

Guarantee: If Legal Bill Review savings achieved for Client is less than the 2.20% total service fee incurred on an annual basis, the Client will be refunded the difference between the service fee incurred and the amount actually saved on invoices. Therefore, service fees will never exceed the savings achieved for Client on an annual basis. Bottomline Technologies, Inc. and CCMSI service fees are paid as ALAE to the applicable claim file as described in section B. 1.(d)17) of this Agreement.

CCMSHOL-01 SSHOCK

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 8/4/2021

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 Mesirow Insurance Services, Inc. 353 N Clark St 11th Floor Chicago, IL 60654	CONTACT NAME: PHONE (A/C, No, Ext): (312) 595-6200 FAX (A/C, No): E-MAIL ADDRESS:	
	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A : Continental Casualty Company	20443
INSURED CCMSI Holdings, Inc 2 East Main Street, Suite 208 Towne Centre Building Danville, IL 61832	INSURER B : National Fire Insurance Company of Hartford	20478
	INSURER C : Contractors Bonding and Insurance Company	37206
	INSURER D : Great American E & S Insurance Company	37532
	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			6079556217	11/17/2020	11/17/2021	EACH OCCURRENCE	$ 1,000,000
	CLAIMS-MADE X OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 100,000
							MED EXP (Any one person)	$ 15,000
							PERSONAL & ADV INJURY	$ 1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$ 2,000,000
	X POLICY PRO-JECT LOC						PRODUCTS - COMP/OP AGG	$ 2,000,000
	OTHER:							$
B	AUTOMOBILE LIABILITY			6079556220	11/17/2020	11/17/2021	COMBINED SINGLE LIMIT (Ea accident)	$ 1,000,000
	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	X UMBRELLA LIAB X OCCUR			6079556248	11/17/2020	11/17/2021	EACH OCCURRENCE	$ 10,000,000
	EXCESS LIAB CLAIMS-MADE						AGGREGATE	$ 10,000,000
	DED X RETENTION $ 10,000							$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y/N	N/A		6079556234	11/17/2020	11/17/2021	X PER STATUTE / OTH-ER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) N						E.L. EACH ACCIDENT	$ 1,000,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	$ 1,000,000
							E.L. DISEASE - POLICY LIMIT	$ 1,000,000
D	E&O			TER2861265	7/31/2021	7/31/2022	SIR $150,000	10,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
The following are included as Additional Insured with respect to General Liability when required by written Contract:
1. City of Santa Fe

CERTIFICATE HOLDER

City of Santa Fe
ATTN: Risk Management
PO Box 909
Santa Fe, NM 87504

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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CCMSHOL-01 LCOZAD

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 7/30/2021

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 Mesirow Insurance Services, Inc. 353 N Clark St 11th Floor Chicago, IL 60654	CONTACT NAME: Samantha Shock PHONE (A/C, No, Ext): (312) 837-4403 FAX (A/C, No): E-MAIL ADDRESS: Samantha.Shock@alliant.com	
	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A : AXIS Insurance Company	37273
INSURED CCMSI Holdings, Inc. 2 East Main Street, Suite 208 Towne Centre Building Danville, IL 61832	INSURER B : Lloyd's of London	00000
	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	
	COMMERCIAL GENERAL LIABILITY						EACH OCCURRENCE	$
	☐ CLAIMS-MADE ☐ OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	$
							MED EXP (Any one person)	$
							PERSONAL & ADV INJURY	$
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$
	☐ POLICY ☐ PRO-JECT ☐ LOC						PRODUCTS - COMP/OP AGG	$
	OTHER:							$
	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident)	$
	☐ ANY AUTO						BODILY INJURY (Per person)	$
	☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	☐ HIRED AUTOS ONLY ☐ NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	$
								$
	☐ UMBRELLA LIAB ☐ OCCUR						EACH OCCURRENCE	$
	☐ EXCESS LIAB ☐ CLAIMS-MADE						AGGREGATE	$
	☐ DED ☐ RETENTION $							$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y/N						☐ PER STATUTE ☐ OTH-ER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? ☐ (Mandatory in NH)	N/A					E.L. EACH ACCIDENT	$
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	$
							E.L. DISEASE - POLICY LIMIT	$
A	Primary Cyber Liab			P-001-000013265-04	11/17/2020	11/17/2021	Limit	10,000,000
B	Excess Cyber Liab			ESJ0223589255	11/17/2020	11/17/2021	over Primary Cyber	10,000,000

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

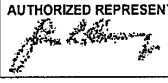
CERTIFICATE HOLDER

CCMSI Holdings, Inc.
2 East Main Street, Suite 208
Towne Centre Building
Danville, IL 61832

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: CCMSI
DBA: CCMSI

Business Location: 5700 PASADENA AVE NE 102
ALBUQUERQUE, NM 87113

CRS Number: 0249833600 5

Owner: CCMSI

License Number: 222022

License Type: Business License - Renewable

Issued Date: May 09, 2021

Classification: Out of Jurisdiction Business License

Expiration Date: May 09, 2022

Fees Paid: $10.00

CCMSI
5700 PASADENA AVE NE 102
ALBUQUERQUE, NM 87113

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
Summary of Contracts, Agreements, & Amendments

Section to be completed by department for each contract or contract amendment

1 **FOR:** ORIGINAL CONTRACT ◯ or CONTRACT AMENDMENT ◯

2 Name of Contractor Cannon Cochran Management Services, Inc.

3 Complete information requested

◉ Plus GRT

◯ Inclusive of GRT

Original Contract Amount: $833,270.85

Termination Date: 06-30-2025

◯ Approved by Council Date: _____

◯ or by City Manager Date: _____

Contract is for:

Amendment # _____ to the Original Contract# _____

Increase/(Decrease) Amount $ _____

Extend Termination Date to: _____

◯ Approved by Council _____

◯ or by City Manager Date: _____

Amendment is for:

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

☐ Plus GRT

☐ Inclusive of GRT

Amount $ _____ of original Contract# _____ Termination Date: _____

Reason: _____

Amount $ _____ amendment # _____ Termination Date: _____

Reason: _____

Amount $ _____ amendment # _____ Termination Date: _____

Reason: _____

Amount $ _____ amendment # _____ Termination Date: _____

Reason: _____

Total of Original Contract plus all amendments: $ _____

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

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

RFP# 21/33/P Date: 10/25/2021

RFQ ☐ _____ Date: _____

Sole Source ☐ _____ Date: _____

Other _____

6 **Procurement History:** First year of 4 year contract

example: (First year of 4 year contract)

Yodel M. Catanach
Yodel M. Catanach (Oct 29, 2021 13:45 MDT)

Purchasing Officer Review

Comments or Exceptions: RFP 21/33/P

7 **Funding Source:** Gen-Liab-Third Party Admin & Professinal Services **Org/Obj** 60001750.555300 & 6100231.510300

Andy Hopkins
Andy Hopkins (Oct 29, 2021 09:59 MDT)

Budget Officer Approval

Comments or Exceptions: _____

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

_____

(Memo may be attached to explain detail.)

9 **Staff Contact who completed this form:** Melanie Lovato

Phone # 505-490-1693

10 **Certificate of Insurance attached.** (if original Contract) ☐

Submit to City Attorney for review/signature
Forward to Finance Director for review/signature
Return to originating Department for Committee(s) review or forward to City Manager for review and approval (depending on dollar level).

To be recorded by City Clerk:

Contract # _____

Date of contract Executed (i.e., signed by all parties): _____

Note: If further information needs to be included, attach a separate memo.

Comments:

CITY OF SANTA FE PROCUREMENT CHECKLIST

Contractor Name: Cannon Cochran Management Services, Inc

Procurement Title: _____

Procurement Method: State Price Agreement ☐ *Cooperative* ☐ *Sole Source* ☐ *Other* ☐ *Contract Extension* ___

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

Department Requesting Finance Staff Name Melanie Lovato/Brad Fluetsch

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	
☒ X	☐	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: _____

Melanie Lovato	Risk Analyst	10/25/21
Department Rep Printed Name (attesting that all information included)	Title	Date
Yodel M. Catanach Yodel M. Catanach (Oct 29, 2021 13:45 MDT)	Chief Procurement Officer	Oct 29, 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: September 28, 2021

TO: Fran Dunaway, Chief Procurement Officer
City of Santa Fe

FROM: Melanie Lovato, Procurement Manager
Risk and Safety

SUBJECT: Evaluation Committee Report, Workers Compensation General Liability TPA RFP # 21/33/P

In accordance with the Request for Proposals for Workers Compensation General Liability TPA issued May 6, 2021, two responses were submitted from the following Offerors: CCMSI and CorVel and evaluated by the committee.

Summary of Evaluation Committee Activity

The Evaluation Committee members are as follows:

Brad Fluetsch, City of Santa Fe
Barbara Lujan, City of Santa Fe
Chris Ryan, City of Santa Fe

This Evaluation Committee Report summarizes all criteria used in scoring the responses:

- June 2, 2021: Evaluation Committee met to review Evaluation Committee duties and RFP process, and to receive Offeror technical proposal(s).
- June 08, 2021: Evaluation Committee met to score proposals for CCMSI and CorVel

Section IV.B, Technical Specifications

Section IV.B.1, Organizational Experience (200 Total Points)

		CCMSI	CorVel
Offeror Points		**200**	**200**

Specifications:

Offeror must:

a) provide a brief description of relevant corporate experience with city or state government and private sector. 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 workers compensation and general liability claim adjuster/servicer on behalf of the City. All workers compensation and general liability claim adjuster/servicers that are provided to private sector will also be considered;

b) provide a brief resume of all key personnel Offeror proposes to use in performance of the resulting contract, should Offeror be awarded. Key personnel is identified as the primary point of contact, the lead adjuster, client relation contact for both workers compensation and general liability if different. Offeror must include key personnel education, work experience, relevant certifications/licenses, and special training.

c) describe at least two claims, and the process that was followed, with difficult results and how the claim was successfully resolved in the interest of the client.

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. In addition, points will be awarded based on Offeror's candid and well-thought-out response to successes and failures, as well as the ability of the Offeror to learn from its failures and grow from its successes.

CCMSI

The Evaluation Committee awarded CCMSI 200 points based on the Offeror's response. CCMSI provided a thorough description of what was requested, relevant corporate experience with City or State government and private sector.

CorVel

The Evaluation Committee awarded CorVel 200 points based on the Offeror's response. Short work relations on references. References did not state work comp general liability third party administrative services.

Section IV.B.2, Organizational References (200 Total Points)

	CCMSI	CorVel
Offeror Points	**100**	**60**

Specifications:

Offeror must provide a list of a minimum of three (3) references from similar projects/programs performed for private, city, state or large local government clients in the state of New Mexico within the last three (3) years.

Offeror shall include the following Business Reference information as part of its proposals:

a) Client name;

b) Project description;

c) Project dates (starting and ending);

d) Technical environment (i.e., Software applications, Internet capabilities, Data communications, Network, Hardware);

e) Staff assigned to reference engagement that will be designated for work per this RFP; and

f) Client project manager name, telephone number, fax number and e-mail address.

Offeror is required to submit APPENDIX E, Organizational Reference Questionnaire ("Questionnaire"), to the business references it lists. **The business references must submit the Questionnaire directly to the designee identified in APPENDIX E. The business references must not return the completed Questionnaire to the Offeror.** It is the Offeror's responsibility to ensure the completed forms are submitted on or before the date indicated in Section II. A, Sequence of Events, for inclusion in the evaluation process.

Organizational References that are not received or are not complete, may adversely affect the Offeror's score in the evaluation process. Offerors are encouraged to specifically request that their Organizational References provide detailed comments.

Evaluation Factors:

Points will be awarded based upon an evaluation of the responses to a series of questions on the Organizational Reference Questionnaire (Appendix E). Offeror will be evaluated on references that show

positive service history, successful execution of services and evidence of satisfaction by each reference. References indicating significantly similar services/scopes of work and comments provided by a submitted reference will add weight and value to a recommendation during the evaluation process. Points will be awarded for each individual response up to 1/3 of the total points for this category. Lack of a response will receive zero (0) points.

CCMSI

The Evaluation Committee awarded CCMSI 100 points based on the Offeror's response. CCMSI had three of the requested references respond therefor they were awarded 100 points however the references supplied were positive and similar services of scope.

CorVel

The Evaluation Committee awarded CorVel 60 points based on the Offeror's response. CorVel has received the requested references however the references were short and not related to all the required scope of work.

Section IV.B.3, MANDATORY SPECIFICATIONS (400 Total Points)

	CCMSI	CorVel
Offeror Points	**200**	**100**

Evaluation Factors:

The City cannot represent more than five percent of total claims processed, annually. Scoring Criteria. Firms less than five percent will score a total of 100 and every one percent above five percent is a deduction of five points.

The City's prior loss runs be incorporated in data set. Scoring Criteria. Firms that can incorporate 100 percent of the data will be awarded 100 points. If zero loss run data can be incorporated the firm will receive no points.

The City would like a comparison of claim resolutions, total claims made, percent denied, percent paid, percent that went to lawsuit. Scoring Criteria: There are various scenarios that appear better or worse and the 100 points will be allocated accordingly.

The City would like a comparison of total claims made by category (Workers Comp, General Liability) verses total claims paid by category. 100 points will be allocated relative to other Offerors.

CCMSI

The Evaluation Committee awarded CCMSI 200 points based on the Offeror's response. The committee could not find data in CCMSI response for the comparison of claim resolutions, total claims made, percent denied, percent paid, percent that went to lawsuit. There also was not any comparison of total claims made by category (Workers Comp, General Liability) verses total claims paid by category.

CorVel

The Evaluation Committee awarded CorVel 100 points based on the Offeror's response.CorVel cannot incorporate the City's data loss runs. The committee could not find data in CorVel response for the comparison of claim resolutions, total claims made, percent denied, percent paid, percent that went to lawsuit. There also was not any comparison of total claims made by category (Workers Comp, General Liability) verses total claims paid by category.

Section IV. C, Business Specifications

Section IV.C.1, Financial Stability (See Table 1)

	CCMSI	CorVel
Pass/Fail	**Pass**	**Pass**

Specifications:

Offerors must submit copies of the most recent years independently audited financial statements and the most current 10K, as well as financial statements for the preceding three years, if they exist. The submission must include the audit opinion, the balance sheet, and statements of income, retained earnings, cash flows, and the notes to the financial statements. If independently audited financial statements do not exist, Offeror must state the reason and, instead, submit sufficient information (e.g. D & B report).

Evaluation Factors:

Pass/Fail only. No points Assigned.

Section IV.C.2, Letter of Transmittal (Pass/Fail)

	CCMSI	CorVel
Pass/Fail	**Pass**	**Pass**

Specifications:

Letter of Transmittal Form

The Offeror's proposal must be accompanied by the Letter of Transmittal Form located in APPENDIX D. 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.3, Signed Campaign Contribution Disclosure Form (Pass/Fail)

	CCMSI	CorVel
Pass/Fail	**Pass**	**Pass**

Specifications:

Criteria 6: Campaign Contribution Disclosure Form

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.4, Oral Presentation (100 Total Points)

	CCMSI	CorVel
Offeror Points	**100**	**100**

Evaluation Factors:

Points will be awarded based on the quality, organization and effectiveness of communication of the information presented, as well as the professionalism of the presenters and technical knowledge of the proposed staff. Prior to Oral Presentation, Agency will provide the Offeror a presentation agenda. (If no Oral Presentations are held all Offerors will receive the maximum amount of total points for this Evaluation Factor).

Evaluation Committee did not require an Oral Presentation therefore both Offerors received the total points for this category.

Section IV.C.5, Costs (200 Total Points)

	CCMSI	CorVel
Offeror Points	**200**	**0**

Specifications:

Offerors must complete the Cost Response Form in APPENDIX C. Cost will be measured by Proposed Flat Fee per Case.

Evaluation Factors:

The evaluation of each Offeror's cost proposal will be conducted using the following formula based on the proposed annual compensation:

Lowest Responsive Offeror's Cost

---------- X Available Award Points

Each Offeror's Cost

CCMSI

The Evaluation Committee awarded CCMSI 200 points based on the calculations using the above formula.

$183,676.56 divided by $183,676.56 equals one times two hundred equals two hundred

CorVel

The Evaluation Committee awarded CorVel 0 points based on the calculations using the above formula. CorVel did not provide the per claim cost estimate based on the City's loss runs, therefore, a total cost cannot be calculated.

Section IV.C.6, NM Preferences

	CCMSI	CorVel
NM Business Preference	**0**	**0**
NM Veterans Preference		

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.

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%.

CCMSI

Offeror submitted NM Resident Business/Veteran Business Certificate, however, Offeror is not within the Santa Fe municipal Limits. Offeror was awarded 0 Points.

CorVele

Offeror submitted NM Resident Business/Veteran Business Certificate, however, Offeror is not within the Santa Fe municipal Limits. Offeror was awarded 0 Points.

Workers Compensation General Liability TPA
RFP # 21/33/P **Evaluation Summary**

	CCMSI	CorVel
Section IV.B 1. Technical Specifications Organizational Experience (200 Points)	200	200
Section IV.B 2. Technical Specifications Organizational References (100 Points)	100	60
Section IV.B 3. Technical Specifications Oral Presentation (100 Points)	100	100
Section IV.B 4. Technical Specifications Mandatory Specification (400 Points)	200	100
Section IV.C 1. Business Specifications Letter of Transmittal (Pass/Fail)	pass	pass
Section IV.C 2. Business Specifications Signed Campaign Disclosure Form (Pass/Fail)	pass	pass
Section IV.C 3. Business Specifications Cost (200 Points)	200	0
Section IV.C 4. Business Specifications New Mexico Resident Business Preference 5%	0	0
Section IV.C 4. Business Specifications New Mexico Resident Veteran Preference 10%	0	0
TOTAL POINTS AWARDED	**800**	**460**

Evaluation Committee Recommendation

Based on the Evaluation Committee's evaluation of the proposals submitted, as detailed above, the committee respectfully recommends awarding contracts to perform the scope of work as outlined in the Workers Compensation and General Liability TPA services RFP #21/33/P to the one proposal receiving the highest scores along the natural point-break; CCMSI; subject to agreement between the Finance Department, Risk Management and the selected Offeror. Awarding a contract to the recommended Offeror is in the best interest and is most advantageous to the City of Santa Fe.

Committee Signature Approval

Brad Fluetsch — Sep 29, 2021

Bradley Fluetsch — Date
Evaluation Committee Member

Barbara Lujan — Sep 29, 2021

Barbara J. Lujan — Date
Evaluation Committee Member

Christopher W. Ryan — Sep 29, 2021

Christopher Ryan — Date
Evaluation Committee Member

Melanie lovato — Sep 28, 2021

Melanie Lovato — Date
Procurement Manager

Chief Procurement Officer Signature Approval

Yodel M. Catanach — Oct 29, 2021
Yodel M. Catanach (Oct 29, 2021 13:45 MDT)

Fran Dunaway Or CPO Designee — Date
Chief Procurement Officer
City of Santa Fe

09-28-2021

Signature: Melanie lovato
Melanie lovato (Sep 28, 2021 14:49 MDT)

Email: mylovato@santafenm.gov

Signature: Brad Fluetsch

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

Signature: Barbara Lujan
Barbara Lujan (Sep 29, 2021 08:30 MDT)

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

Signature: Christopher W. Ryan
Christopher W. Ryan (Sep 29, 2021 09:01 MDT)

Email: cwryan@santafenm.gov

Signature: Mary McCoy

Email: mtmccoy@santafenm.gov

Signature: Bradley Fluetsch (Oct 29, 2021 09:44 MDT)

Email: bjfluetsch@santafenm.gov

ACTION SHEET
ITEM FROM FINANCE COMMITTEE MEETING OF 11/01/21
FOR CITY COUNCIL MEETING OF 11/10/21

Request for approval of a Professional Services Contract for Workers Comp & General Liability Third Party Administrative Services in the amount of $768,434.23; Cannon Cochran Management Services. (Bradley Fluetsch, CFA, Planning and Investment Officer (O) 505-955-6885 (M) 505-231-8753, bjfluetsch@santafenm.gov)

Committee	**Review**
Finance Committee:	11/01/2021
Public Works and Utilities Committee:	11/08/2021
Governing Body: 11/10/2021	

FINANCE COMMITTEE ACTION:
Approved on Discussion

FUNDING SOURCE:

SPECIAL CONDITIONS OR AMENDMENTS-
Staff to provide additional information-

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

01/13/21

The initial contract period is Fiscal Years 2021-2025. The bids for this project were opened on June 24, 2021 and were subsequently evaluated for completeness and accuracy. The base bids are $163,971.00 and $166,293.00 for Allied 360 Construction. and Sub Surface Contracting respectively and were very similar in pricing for certain types of work. TLC was the highest bidder at $244,863.15.

Sub Surface Contracting has had the current On-Call Contract with the Wastewater Division for the past four years.

The Wastewater Division has verified with Los Alamos County that Allied 360 Construction has satisfactorily completed some of the type work outlined in the Bid.

TLC Inc. had the on-call contract with the Wastewater Division in the past prior to Sub Surface. TLC is also lower in pricing for some specialty work items like pipe bursting, trenchless spot repairs and major sewer line replacements and they have a larger work force to call upon.

For these reasons, it was decided to award and utilize all three (3) Contractors

A summary of the bids is provided below:

Bidders	**Total Bid without NMGRT**
Allied 360 Construction	$163.971.00
Sub Surface Contracting, Inc.	$166,293.00
TLC Plumbing & Utility	$244,863.15

CONTRACT NUMBER:
The FY22 Munis contract number:
Sub Surface Contracting # 3203056
Allied 360 # 3203057
TLC # 3203058

FUNDING SOURCE:
The funding source is:
Waste Water Operating Collections and Operations
FY 2022
Fund Name/Number: Waste Water Enterprise Fund/ 505
Munis Org Name/Number: Operations 5000367; Collections 5000362
Munis Object Name/Number: Repair & Maint. System Equip. / 520150

Funds for this work are available in Business Unit, Line Item 5000362-520150 (Collections) in the amount of $150,000.00 including NMGRT and Business Unit, Line Item 5000367-520150 (Operations) in the amount of $50,000.00

RECOMMENDATION:

The Wastewater Division recommends:

- Review and approval of award of contracts to Sub Surface Contracting, Inc., Allied 360 Construction and TLC Plumbing & Utility for Bid # ‘21/46/B for the FY 21/22 Publicly Owned

Treatment Works (POTW) On-Call Repair, Replacement, Extension and Rehabilitation of Sewer Collection System Price Agreement, CIP #962 for a total amount of $200,000.00 inclusive of NMGRT for FY2021-22.

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

(Rev. 4/20)

City of Santa Fe
Central Purchasing Office

Price Agreement

Awarded Contractor(s): 1) Allied 360 Construction, LLC. 2) Sub Surface Contracting, Inc. 3) TLC Plumbing, Inc. *(see page 15 for contact info)*	**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: Publicly Owned Treatment Works (POTW) On-Call Repair, Replacement, Extension and Rehabilitation of Sewer Collection System Price Agreement CIP #962

This Price Agreement is to be awarded pursuant to the respective Invitation to Bid (ITB) 21/46/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 if there 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 X - 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 X-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/her designee and the Contractor upon written notice by either party to the other. An amendment to this Price Agreement shall not affect any outstanding orders issued prior to the effective date of the amendment as mutually agreed upon, and as published by the City's Chief procurement Officer or his/her designee. Amendments affecting price adjustments and/or the extension of a price agreement expiration date are not allowed unless specifically provided in the bid and price agreement specifications.

Article VII – Indemnity Clause
Contractor shall indemnify and hold harmless the 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 or to authorize anyone not a party to the agreement to maintain a suit(s) for wrongful death(s), bodily and/ or personal injury(s) to person(s), damage(s) to property(ies) and/or any other claim(s) whatsoever pursuant to the provisions of this agreement.

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

Article VIII – Issuance or Work Orders
Only written signed Work 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 New Mexico Department of Work Force Solutions for this project/WO.

Item#_____
Munis Contract#_____

CITY OF SANTA FE

CAPITAL IMPROVEMENTS PROGRAM

AGREEMENT BETWEEN
CITY AND CONTRACTOR

PUBLICLY OWNED TREATMENT WORKS (POTW) ON-CALL REPAIR, REPLACEMENT, EXTENSION AND REHABILITATION OF SEWER COLLECTION SYSTEM PRICE AGREEMENT CIP #962

THIS AGREEMENT is made and entered into by and between the **CITY OF SANTA FE, NEW MEXICO**,hereinafter referred to as the "City," and **ALLIED 360 CONSTRUCTION, LLC., SUB SURFACE CONTRACTING, INC. AND TLC PLUMBING, INC.**, hereinafter referred to as the "Contractor(s)" and is effective as of the date set forth below upon which it is executed by the Parties.

IT IS AGREED BETWEEN THE PARTIES:

1. **Scope of Work.**
   A. The Contractor shall perform the following work:

      1) The City of Santa Fe Public Utilities Department Publicly Owned Treatment Works (POTW) On-call repair, replacement, extension and rehabilitation of sewer collection system Price Agreement and work related to those systems. This procurement will be based on a vendor supplying pricing through an established cost schedule (attached). The price agreement will contain the contractor's commitment to offer services and willingness to respond 'on-call 'to the requests when such requests are originated and authorized by the City of Santa Fe.

      The work under this contract is located in the City of Santa Fe at various sites throughout the City. The scope of work consists of furnishing all mobilization, labor, material, equipment and services, unless otherwise specified, for on-call emergency service and for routine work for the City of Santa Fe Sanitary Sewer Treatment Facility and Sanitary Sewer Collection System and appurtenances. Work to include repair, replacement, extension and rehabilitation of the sewer collection system to include trenching, excavation, backfill and compaction at excavation site, cleaning of loose debris, soil density testing, and any other incidental items necessary for the safety, health and welfare of the general public and to complete Work authorized under a Work Oder and in accordance with the drawings, specifications, and other Contract Documents.

   B. The Work to install fully functioning, warrantied sewer lines and manholes and other work issued by a Work Order includes, but is not limited to the following:

      1. Installation of all specified sewer lines, sewer manholes and service connections, etc.
      2. Earthwork, grading and compaction for the restoring the driving surface over disturbed

areas.

3. Coordination with Public Service Company of New Mexico (PNM) as required
4. Coordination with the New Mexico Gas Company as required
5. Coordination with Century Link as required
6. Coordination with New Mexico NM811 and/or contracting with utility location providers as required.
7. Coordination with the City's Wastewater Division for periodic review of system installations.
8. Any other related work associated with this work, as drawn and specified in the WO.
9. Provide all required materials testing.
10. Provide 12 month Contractor's warranty on installed sewer collection systems, parts and labor.
11. Provide Manufacturer's warranties on miscellaneous parts and labor.

C. The Contractor shall be responsible for adherence to the Contract Documents, Work Orders, 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 before signing each WO.
- The Contractor shall be responsible for all permits, fees, and State and/or City inspections associated with the construction.

D. The Contractor shall perform all the work required by the Wastewater Management Division, as required, on each Work Order (WO) in the Contract Documents (attached) for the City of Santa Fe Public Utilities Department Publicly Owned Treatment Works (POTW) On-call Repair, Replacement, Extension and Rehabilitation of Sewer Collection System Price Agreement.

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

F. 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 "as-built" information. City shall furnish two (2) sets of all paper "blue-line" print "approved" drawings for use in accomplishing specified mark-up. Final "as-built" drawings shall be delivered to City by Contractor upon completion of the work.

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

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

I. Incorporation by Reference. All exhibits, addenda, schedules of ITB 21/46/B attached hereto and all certificates, work order documents, drawings, as-builts and other instruments contemplated to be delivered hereunder are hereby expressly made a part of this Agreement as fully as thoughset forth herein, and all references to this Agreement herein or in 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 BASED UPON THE ATTACHED PRICE SHEETS, DELIVERABLES, MILESTONES, AND COMPLETED WORK ORDERS (WO) including gross receipts tax.

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.

The parties do not intend for the Contractor to continue to provide services without compensation when the total compensation amount is reached. 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. 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 receivedby the City no later than fifteen (15) days after the termination of the Fiscal Year in which the services were delivered. Invoices received after such date WILL NOT BE PAID.)

E. The 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 thedate 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 theContractor 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 dateof 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. 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.

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.

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:

The Project Manager shall draft a written Change Request for review and approval by the City Manager to include:

1. the name of the person requesting the change;
2. a summary of the required change;
3. the start date for the change;
4. the reason and necessity for change;
5. the elements to be altered; and
6. the impact of the change.

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. 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.

18. 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.

19. 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 tocorrect these deficiencies.

20. 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.

21. 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.

22. 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.

23. 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-ownedautomobiles, 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.

24. 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

25. 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.

26. New Mexico Tort Claims Act

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

27. 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.

28. 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.

29. 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
Wastewater Management Division
73 Paseo Real
Santa Fe, New Mexico 87507
(505) 955-4650

To the Contractor(s):

1) Allied 360 Construction, LLC
Contact: Patrick Herrera, Managing Member/Owner
P.O. Box 1913
Espanola, NM 87532
Ph: (505) 470-5779
Email: patrickherrera@ymail.com

2) Sub-Surface Contracting, Inc.
Contact: Neal J. Keiper / Owner-President
27 Paseo de River
Santa Fe, NM 87507
Ph: (505) 473-1000
Email:

3) TLC Plumbing, Inc.
Contact: Eddie Padilla, Chief Dev. Officer
5000 Edith Blvd. NE
Albuquerque, NM 87107
Ph: (505) 761-9696
Email:

30. 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:_____

ATTEST:

KRISTINE BUSTOS MIHELCIC,
CITY CLERK

CITY ATTORNEY'S OFFICE:

Marcos Martinez
Marcos Martinez (Jul 28, 2021 09:10 MDT)
SENIOR ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

MARY MCCOY, FINANCE DIRECTOR
5000362.520150; 5000367.520150
Org. Name/Org#.

CONTRACTOR:
TLC PLUMBING, INC.

NAME: Eddie C. Padilla

TITLE: Chief Development Officer

DATE: 8/23/21

CRS# 02-226090-000
BRN# 222153

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 BUSTOS MIHELCIC,
CITY CLERK

CITY ATTORNEY'S OFFICE:

Marcos Martinez
Marcos Martinez (Jul 28, 2021 09:10 MDT)
SENIOR ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

MARY MCCOY, FINANCE DIRECTOR
5000362.520150; 5000367.520150
Org. Name/Org#.

CONTRACTOR:

SUB SURFACE CONTRACTING, INC.

NAME:

TITLE: PRESIDENT

DATE: 8-26-21

CRS# 02-104256-000
BRN# 46991

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:

HLA

ALAN WEBBER, MAYOR

DATE:

ATTEST:

KRISTINE BUSTOS MIHELCIC,
CITY CLERK

CITY ATTORNEY'S OFFICE:

Marcos Martinez
Marcos Martinez (Jul 28, 2021 09:10 MDT)
SENIOR ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

MARY MCCOY, FINANCE DIRECTOR
5000362.520150; 5000367.520150
Org. Name/Org#.

CONTRACTOR:
Allied 360 Construction, LLC.

NAME: Patrick Herrera
TITLE: Managing Member
DATE: 9/16/2021

CRS# 03-147576000-0
BRN# 231055

CITY OF SANTA FE
PURCHASING OFFICE
200 Lincoln Ave Room 122 Santa Fe, NM 87505
Fran Dunaway, CPO
21/46/B POTW On Call Repair and Replacement

	AWARDED ITEMS	1) Allied 360 Construction, LLC	2) Sub Surface Contracting, Inc.	3) TLC Plumbing, Inc.
ITEM #	ITEM & DESCRIPTION	PRICES	PRICES	PRICES
1	Point Repair, 6" to 8" pipe, remove and replace, 0' to 6 ' in depth including PVC pipe	$4,200.00	$3,550.00	$6,345.00
2	Point Repair, 6" to 8" pipe, remove and replace, 6' to 10' in depth including PVC pipe	$4,400.00	$4,650.00	$9,235.00
3	Point Repair, 6" to 8" pipe, remove and replace, 10' to 16' in depth including PVC pipe	$5,000.00	$8,300.00	$7,365.00
4	Point Repair Additional Cost for remove and replace, greater than 16' depth for 6" to 8" pipe including PVC pipe	$197.00	$1,685.00	$220.00
5	Point Repair, 10" to 15" pipe, remove and replace, 0' to 6 ' in depth including PVC pipe	$5,700.00	$4,450.00	$7,500.00
6	Point Repair, 10" to 15" pipe, remove and replace, 6' to 10' in depth including PVC pipe	$5,200.00	$6,700.00	$10,390.00
7	Point Repair, 10" to 15" pipe, remove and replace, 10' to 16' in depth including PVC pipe	$6,200.00	$9,350.00	$13,945.00
8	Point Repair Additional Cost for excavation greater than 16' depth for 10" to 15" pipe including PVC pipe	$239.00	$1,875.00	$220.00
9	Point Repair, 18" to 24" pipe, remove and replace, 0' to 6' in depth including PVC pipe	$7,600.00	$4,975.00	$11,250.00
10	Point Repair, 18" to 24" pipe, remove and replace, 6' to 10' in depth including PVC pipe	$8,600.00	$7,100.00	$13,255.00
11	Point Repair, 18" to 24" pipe, remove and replace, 10' to 16' in depth including PVC pipe	$9,500.00	$10,500.00	$16,810.00
12	Point Repair Additional Cost for excavation greater than 16' depth for 18" to 24" pipe including PVC pipe	$347.00	$1,875.00	$220.00
13	8" diameter SDR 26 PVC sewer pipe, furnish & place in open trench, complete in place.	$105.00	$75.00	$43.95
14	10" diameter SDR 26 PVC sewer pipe, furnish & place in open trench, complete in place.	$115.00	$85.00	$58.90
15	12" diameter SDR 26 PVC sewer pipe, furnish & place in open trench, complete in place.	$130.00	$95.00	$75.65
16	15" diameter SDR 26 PVC sewer pipe, furnish & place in open trench, complete in place.	$167.00	$105.00	$100.50
17	18" diameter SDR 26 PVC sewer pipe, furnish & place in open trench, complete in place.	$196.00	$125.00	$138.45
18	24" diameter SDR 26 PVC sewer pipe, furnish & place in open trench, complete in place.	$250.00	$140.00	$229.85
19	Trenching, Backfilling & Compaction for 8" to 10" diameter sewer pipe, 0' to 6' in depth, pipe not included, complete.	$25.00	$65.00	$64.20
20	Trenching, Backfilling & Compaction for 8" to 10" diameter sewer pipe, 6' to 10' in depth, pipe not included, complete.	$35.00	$85.00	$74.90
21	Trenching, Backfilling & Compaction for 8" to 10" diameter sewer pipe, 10' to 16' in depth, pipe not included, complete.	$47.00	$125.00	$109.20
22	Additional Cost for Trenching, Backfilling & Compaction greater than 16' depth for 8" to 10" pipe	$45.00	$255.00	$18.20
23	Trenching, Backfilling & Compaction for 12" to 15" diameter sewer pipe, 0' to 6' in depth, pipe not included, complete.	$60.00	$75.00	$64.20
24	Trenching, Backfilling & Compaction for12" to 15" diameter sewer pipe, 6' to 10' in depth, pipe not included, complete.	$75.00	$90.00	$74.90
25	Trenching, Backfilling & Compaction for 12" to 15" diameter sewer pipe, 10' to 16' in depth, pipe not included, complete.	$95.00	$140.00	$109.20
26	Additional Cost for Trenching, Backfilling & Compaction greater than 16' depth for 12" to 15" pipe	$110.00	$265.00	$19.85
27	Trenching, Backfilling & Compaction for 18" to 24" diameter sewer pipe, 0' to 6' in depth, pipe not included, complete.	$110.00	$80.00	$64.20

CITY OF SANTA FE
PURCHASING OFFICE
200 Lincoln Ave Room 122 Santa Fe, NM 87505
Fran Dunaway, CPO
21/46/B POTW On Call Repair and Replacement

	AWARDED ITEMS	**1) Allied 360 Construction, LLC**	**2) Sub Surface Contracting, Inc.**	**3) TLC Plumbing, Inc.**
ITEM #	ITEM & DESCRIPTION	PRICES	PRICES	PRICES
28	Trenching, Backfilling & Compaction for18" to 24" diameter sewer pipe, 6' to 10' in depth, pipe not included, complete.	$112.00	$95.00	$74.90
29	Trenching, Backfilling & Compaction for 18" to 24" diameter sewer pipe, 10' to 16' in depth, pipe not included, complete.	$125.00	$165.00	$136.50
30	Additional Cost for Trenching, Backfilling & Compaction greater than 16' depth for 18" to 14" pipe	$125.00	$275.00	$21.85
31	Pipe Displacement (bursting) 6" to 8" from M.H. to M.H.	$227.00	$498.00	$70.00
32	Pipe Displacement (bursting) 8" to 8" from M.H. to M.H.	$255.00	$585.00	$70.00
33	Pipe Displacement (bursting) 8" to 10" from M.H. to M.H.	$300.00	$610.00	$85.00
34	Traffic Control Residential –per Work Zone –per Day	$1,800.00	$1,220.00	$80.00
35	Traffic Control Non-Residential Major Collectors and Arterials – per Work Zone –per Day	$2,000.00	$1,395.00	$530.00
36	Asphalt Removal, Disposal & Replacement including 6" Base Course and 4" Asphalt	$2,250.00	$17,000.00	$7,550.00
37	Curb/Gutter Removal, Disposal and Replacement	$31.00	$80.00	$65.30
38	Sidewalk Removal, Disposal and Replacement	$41.00	$225.00	$98.45
39	New Manhole, 4' Diameter, type "C" or "E", 6' deep or less, including removal, disposal and restoration of surface, complete in place. Asphalt is separate bid item	$6,800.00	$6,500.00	$12,115.00
40	New Manhole, 4' Diameter, type "C" or "E", over 6' to 10' deep, including removal, disposal and restoration of surface, complete in place. Asphalt is separate bid item	$7,800.00	$8,500.00	$14,360.00
41	New Manhole, 4' Diameter, type "C" or "E", over 10' to 16' deep, including removal, disposal and restoration of surface, complete in place. Asphalt is separate bid item	$1,400.00	$12,000.00	$18,815.00
42	Additional Cost for depth greater than 16' depth for 4' Diameter Manhole	$1,100.00	$975.00	$560.00
43	New 12 inch thick Concrete Manhole Collar where none exists in Dirt Road or Easement area	$2,200.00	$1,550.00	$1,700.00
44	MH Wall Rehabilitation	$100.00	$600.00	$330.00
45	MH Inverts & Shelf Rehabilitation	$2,100.00	$2,400.00	$3,600.00
46	MH Inverts & Base Replacement	$6,200.00	$4,450.00	$20,370.00
47	Sewer Service Connection as part of a Point Repair/Open Trench	$4,250.00	$950.00	$4,320.00
48	Sewer Service Connection- as part of a Pipe Burst 0 to 6' in Depth including Asphalt Replacement.	$9,700.00	$1,450.00	$4,320.00
49	Sewer Service Connection- as part of a Pipe Burst 6' to 10' in Depth including Asphalt Replacement	$1,100.00	$1,825.00	$4,320.00
50	Sewer Service Connection- as part of a Pipe Burst 10' and Greater in Depth including Asphalt Replacement	$395.00	$4,800.00	$430.00
51	MH Cleaning (i.e. debris, roots, etc.)	$4,400.00	$1,275.00	$3,000.00
52	Adjust Existing MH F&C (from grade to 24" deep) including Concrete Collar (City Furnished F&C)	$4,200.00	$2,400.00	$3,800.00
53	Adjust Existing MH F&C (from 24" and deeper) including Concrete Collar(City Furnished F&C & Barrels)	$2,200.00	$2,850.00	$4,255.00
54	Easement Clearance and Grading for Access & Repair Work	$47.00	$250.00	$10.00
55	Rip Rap & Wire Mattress –New Installation	$5,000.00	$675.00	$800.00
56	Gabion Basket –New Installation	$1,100.00	$710.00	$650.00
57	4 to 6 inch Sewer Service Connection to Existing Manhole, 0 to 8 feet Deep -Core Drill	$1,200.00	$1,800.00	$3,415.00
58	4 to 6 inch Sewer Service Connection to Existing Manhole, Greater than 8 feet Deep -Core Drill	$2,400.00	$2,300.00	$340.00
59	Rock Excavation	$65.00	$375.00	$140.00
60	Select Fill Material-Delivered	$3,200.00	$1,295.00	$2,730.00

CITY OF SANTA FE
PURCHASING OFFICE
200 Lincoln Ave Room 122 Santa Fe, NM 87505
Fran Dunaway, CPO
21/46/B POTW On Call Repair and Replacement

	AWARDED ITEMS	**1) Allied 360 Construction, LLC**	**2) Sub Surface Contracting, Inc.**	**3) TLC Plumbing, Inc.**
ITEM #	ITEM & DESCRIPTION	PRICES	PRICES	PRICES
61	Smoke Testing-Supervisor	$14,000.00	$4,800.00	$10,000.00
62	Smoke Testing-Helper	$8,000.00	$3,600.00	$4,240.00
63	Smoke Testing Traffic Control Allowance	$5,000.00	$5,000.00	$5,000.00
64	Materials Testing - Allowance	$2,000.00	$2,000.00	$2,000.00
65	Street Cut Permits - Allowance	$2,000.00	$2,000.00	$2,000.00
	Total Base Bid Incl: allowances, mobilization, Demobilization, labor, materials, equipment, bonding, insurance, etc.	**$163,971.00**	**$166,293.00**	**$244,863.15**

GENERAL CONDITIONS
& SPECIAL CONDITIONS

City of Santa Fe

Real Estate Summary of Contracts, Agreements, Amendments & Leases

Section to be completed by department

1. Munis Contract # **3203058**

Contractor: **TLC**

Description: **(POTW) On-Call Repair, Replacement, Extension and Rehabilitation of Sewer Collection System Price Agreement, CIP #962**

Contract [◉] Agreement [○] Lease / Rent [○] Amendment [○]

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

[☑] Approved by Council Date: **Pending**

Contract / Lease: Up to $200,000 inclusive

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: 21/46/B**

Fran Dunaway (Oct 25, 2021 09:44 MDT) Oct 25, 2021

Purchasing Officer Review: Date:

Comment & Exceptions: COSF Price Agreement award from issuance ITB #21/46/B

4. **Funding Source: Waste Water** **Org / Object: 5000367.520150; 500036**

Andy Hopkins (Oct 22, 2021 15:41 MDT) Oct 22, 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: _____

TLCPLUM-01 CMONTOYA

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 10/20/2021

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: PHONE (A/C, No, Ext): (505) 828-4000 FAX (A/C, No): (866) 487-3972 E-MAIL ADDRESS:
INSURED TLC Company Inc dba TLC Plumbing and Utility 5000 Edith Blvd NE Albuquerque, NM 87107	INSURER(S) AFFORDING COVERAGE — NAIC # INSURER A : Westfield Insurance Company — 24112 INSURER B : Westfield National Insurance Company — 24120 INSURER C : Associated Builders & Contractors of NM Merit Shop Workers Com 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 X OTHER: BI/PD Ded $5,000	X	X	CMM 1466277	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 $ 500,000 $ 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	CMM 1466277	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	X UMBRELLA LIAB [X] OCCUR EXCESS LIAB [ ] CLAIMS-MADE DED [X] RETENTION $ 0			CMM 1466277	7/1/2021	7/1/2022	EACH OCCURRENCE AGGREGATE	$ 9,000,000 $ 9,000,000
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	EWC008469	12/31/2020	12/31/2021	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	Installation Floater			CMM 1466277	7/1/2021	7/1/2022	Builders Risk	12,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
City Wide Water Utility Construction & Repair Price Agreement, CIP #3057

CERTIFICATE HOLDER

City of Santa Fe
Wastewater Division
Attn Stan Holland
73 Paeso Real
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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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PRIMARY AND NONCONTRIBUTORY - OTHER INSURANCE CONDITION

This endorsement modifies insurance provided under the following:

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

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

Primary And Noncontributory Insurance

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

(1) The additional insured is a Named Insured under such other insurance; and

(2) You have agreed in writing in a contract or agreement that this insurance would be primary and would not seek contribution from any other insurance available to the additional insured.

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Policy #1466277

COMMERCIAL GENERAL LIABILITY

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

WESTFIELD Signature SERIES

COMMERCIAL GENERAL LIABILITY CONTRACTORS ENDORSEMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE FORM

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

SCHEDULE

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

A. Expected or Intended Injury
- Reasonable force

B. Liquor Liability Coverage Extension

C. Non-Owned Watercraft
- Increased to 80 feet

D. Non-Owned Aircraft

E. Damage To Property - Borrowed Equipment

F. Damage To Premises Rented To You

G. Personal And Advertising Injury
- Contractual Personal and Advertising Injury
- Exclusions

H. Supplementary Payments
- Bail Bonds - $2,500
- Loss of Earnings - $1,000

I. Additional Insureds - Automatic Status
- State or Governmental Agency or Subdivision or Political Subdivision Controling Interest
- Managers or Lessors of Premises
- Mortgagee, Assignee or Receiver
- Owners or Other Interests From Whom Land Has Been Leased
- Co-Owners of Insured Premises
- Lessor of Leased Equipment

J. Who Is An Insured broadened
- Joint Ventures / Partnership / Limited Liability Company
- Health Care Professionals (Incidental Medical Malpractice)
- Individual Owners of Building are Insured's
- Newly Formed or Acquired Entities

K. Knowledge and Notice of Occurrence

L. Other Insurance Condition Amended

M. Unintentional Failure To Disclose Hazards

N. Waiver of Transfer Of Rights Of Recovery Against Others To Us - Automatic Status

O. Liberalization

P. Definitions
- Bodily Injury redefined
- Insured Contract redefined
- Expanded Personal and Advertising Injury definition

A. EXPECTED OR INTENDED INJURY

Under **SECTION 1, COVERAGES, COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE** exclusion **a.** is replaced with the following:

a. Expected Or Intended Injury

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

B. LIQUOR LIABILITY COVERAGE EXTENSION

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

C. NON-OWNED WATERCRAFT

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

(a) Less than 80 feet long; and

D. NON-OWNED AIRCRAFT

Under **SECTION 1, COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY,** Item **2. Exclusions g. Aircraft, Auto or Watercraft,** the following is added:

(6) An aircraft you do not own provided that:

(a) The pilot in command holds a currently effective certificate issued by the duly constituted authority of the United States of America or Canada, designating that person as a commercial or airline transport pilot;

(b) It is rented with a trained, paid crew; and

(c) It does not transport persons or cargo for a charge.

E. DAMAGE TO PROPERTY - BORROWED EQUIPMENT

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

j. Damage To Property

(1) Property you own, rent or occupy;

(2) Premises you sell, give away or abandon, if the "property damage" arises out of any part of those premises;

(3) Property loaned to you;

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

(5) That particular part of any real property on which you or any contractors or subcontractors working directly or indirectly on your behalf are performing operations, if the "property damage" arises out of those operations; or

(6) That particular part of any real property that must be restored, replaced, or repaired because "your work" was incorrectly performed on it.

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

(i) "property damage" to tools or equipment loaned to you if the tools or equipment are not being used to perform operations at the time of loss; or

(ii) "property damage" (other than damage by fire) to premises rented to you or temporarily occupied to you with the permission of the owner or to the contents of premises rented to you for a period of seven (7) or fewer consecutive days. A separate limit of insurance applies to Damage To Premises Rented To You as described in **Section III - Limits Of Insurance.**

Paragraph **(2)** of this exclusion does not apply if the premises are "your work" and were not occupied, rented or held for rental by you beyond one year from the date "your work" was completed.

Paragraph **(2)** of this exclusion does not apply if the premises are "your work" and were never occupied, rented or held for rental by you.

Paragraphs **(3)**, **(4)**, **(5)** and **(6)** of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraph **(6)** of this exclusion does not apply to "property damage" included in the "products-completed operations hazard."

F. DAMAGE TO PREMISES RENTED TO YOU

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

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

G. PERSONAL AND ADVERTISING INJURY

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

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

q. 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.

r. Fines or Penalties

Fines or penalties levied or imposed by a governmental entity because of discrimination.

H. SUPPLEMENTARY PAYMENTS

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

b. Up to $2,500 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the "Bodily Injury" Liability Coverage applies. We do not have to furnish these bonds.

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

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

I. ADDITIONAL INSUREDS - AUTOMATIC STATUS

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

1. Currently in effect or becoming effective during the term of the policy; and

2. Executed prior to the "bodily injury", "property damage" or "personal injury and advertising injury", but

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

a. State or Governmental Agency or Subdivision or Political Subdivisions

A state or governmental agency or subdivision or political subdivision subject to the following provisions:

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

(a) The existence, repair maintenance, erection, construction, or removal of advertising signs, awnings canopies, cellar entrances, coal holes, driveways, manholes, marquees, hoist away openings, sidewalk vaults, street bannera, or decorations and similar exposures; or

(b) The construction, erection, or removal of elevators.

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

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

b. Managers or Lessors of Premises

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

This insurance does not apply to:

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

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

c. Mortgagee, Assignee or Receiver

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

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

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

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

This insurance does not apply to:

(1) Any "occurrence" which takes place after you cease to lease that land; or

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

e. Co-owner of Insured Premises

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

f. Lessor of Equipment

Any person or organization from whom you lease equipment. Such person or organization are insureds only with respect to their liability arising out of the maintenance, operation or use by you of equipment leased to you by such person or organization.

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

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

This insurance does not apply:

(1) To any "occurrence" which takes place after the equipment lease expires; or

(2) To "bodily injury", "property damage", or "personal and advertising injury" arising out of the sole negligence of such additional insured.

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

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

4. Other Insurance

b. Excess Insurance

(1) This insurance is excess over:

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

J. WHO IS AN INSURED BROADENED

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

f. Joint Ventures / Partnership / Limited Liability Company Coverage

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

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

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

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

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

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

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

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

a. To any "occurrence" or offense which takes place after you cease to be a tenant in the premises; or

b. To structural alterations, new construction or demolition operations performed by or on behalf of the building owner.

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

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

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

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

K. KNOWLEDGE AND NOTICE OF OCCURRENCE

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

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

(1) You, if you are an individual;

(2) A partner, if you are a partnership;

(3) An "executive officer" or insurance manager, if you are a corporation; or

(4) A manager, if you are a limited liability company.

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

(1) You, if you are an individual;

(2) A partner, if you are a partnership;

(3) An "executive officer" or insurance manager, if you are a corporation; or

(4) A manager, if you are a limited liability company.

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

L. OTHER INSURANCE CONDITION AMENDED

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

4. Other Insurance

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

a. **Primary Insurance**

This insurance is primary and noncontributory except when **b.** below applies.

b. **Excess Insurance**

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

(1) That is Fire, Extended Coverage, Builders Risk, Installation Risk or similar coverage for your work;

(2) That is Fire insurance for premises rented to you or temporarily occupied by you with permission of the owner; or

(3) If the loss arises out of the maintenance or use of aircraft, "autos," or watercraft to the extent not subject to Exclusion **g.** of **Section I - Coverage A.**

(4) If the loss is caused by the sole negligence of any additional insured, owner, lessee, or contractor.

When this insurance is excess, we will have no duty under Coverage **A** or **B** to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit." If no other defends, we will undertake to do so, but we will be entitled to the other insured's rights against all those other insurers.

When this insurance is excess over other insurance, we will pay only our share of the amount of loss, if any, that exceeds the sum of:

(1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and

(2) The total of all deductibles and self-insured amounts under all that other insurance.

We will share the remaining loss, if any with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the limits of insurance shown in the declarations of this Coverage Part.

M. UNINTENTIONAL FAILURE TO DISCLOSE HAZARDS

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

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

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

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

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

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

O. LIBERALIZATION

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

P. DEFINITIONS

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

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

Under **SECTION V - DEFINITIONS, Item 9.** is deleted and replaced with the following:

9. "Insured Contract" means:

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

b. A sidetrack agreement;

c. Any easement or license agreement;

d. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;

e. An elevator maintenance agreement;

f. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for "bodily injury" or "property damage" to a third person or organization.

Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

Paragraph **f.** does not include that part of any contract or agreement:

(1) That indemnifies an architect, engineer, or survey or 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; or

(2) Under which the insured if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services including those listed in **(1)** above and supervisory, inspection, architectural or engineering, activities.

Under **SECTION V - DEFINITIONS,** Item 14. the following is added to the definition of "Personal and advertising injury":

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

(1) Not done intentionally by or at the direction of:

(a) The insured; or

(b) Any "executive officer", director, stockholder, partner, member or manager (if you are a limited liability company) of the insured;

(2) Not directly or indirectly related to the employment, prospective employment, past employment or termination of employment of any person or persons by any insured.

POLICY NUMBER: 1466277 COMMERCIAL GENERAL LIABILITY

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

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

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

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

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

1. Your acts or omissions; or

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

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

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and

2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

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

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

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

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

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

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

1. Required by the contract or agreement; or

2. Available under the applicable Limits of Insurance shown in the Declarations;

whichever is less.

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

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POLICY NUMBER: 1466277 COMMERCIAL GENERAL LIABILITY

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED - OWNERS, LESSEES OR CONTRACTORS - COMPLETED OPERATIONS

This endorsement modifies insurance provided under the following:

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

SCHEDULE

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

A. **Section II - Who Is An Insured** is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury" or "property damage" caused, in whole or in part, by "your work" at the location designated and described in the schedule of this endorsement performed for that additional insured and included in the "products-completed operations hazard".

However:

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

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

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

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

whichever is less.

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

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Policy #1466277

COMMERCIAL AUTO

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PRIMARY AND NONCONTRIBUTORY INSURANCE

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

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

SECTION IV - BUSINESS AUTO CONDITIONS, B. General Conditions, 5. Other Insurance, item c. is replaced by the following:

c. Regardless of the provisions of Paragraph **a.** above, this Coverage Form's Liability Coverage is primary and we will not seek contribution from any other insurance for any liability assumed under an "insured contract" that requires liability to be assumed on a primary noncontributory basis.

CA 70 75 10 08

POLICY NUMBER: CMM 1466277 INTERLINE

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EARLIER NOTICE OF CANCELLATION PROVIDED BY US

This endorsement modifies insurance provided under the following:

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

SCHEDULE

Number of Days' Notice 030

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

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

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

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Policy #1466277

COMMERCIAL AUTO

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

WESTFIELD Signature SERIES

BUSINESS AUTO ENDORSEMENT

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

SCHEDULE

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

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

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

- Audio, Visual and Data Electronic Equipment Coverage Added Limits - CA 99 80
- Auto Loan/Lease Gap Coverage - CA 20 71
- Drive Other Car Coverage - Broadened Coverage For Named Individuals - (Executive Officers/Spouses) - CA 99 10
- Employee Hired Autos - CA 20 54
- Employees As Insureds - CA 99 33
- Hired Auto Physical Damage (Refer to Auto Declarations page)
- Rental Reimbursement Coverage - CA 99 23
- Waiver of Transfer of Rights of Recovery (Waiver of Subrogation)

A. WHO IS AN INSURED BROADENED

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

d. Any legally incorporated subsidiary of yours in which you own more than 50% of the voting stock on the effective date of this endorsement.

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

CA 70 77 04 13

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

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

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

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

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

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

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

B. SUPPLEMENTAL PAYMENTS

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

(2) Up to $5,000 for cost of bail bonds (including bonds for related traffic law violations) required because of an "accident" we cover. We do not have to furnish these bonds.

(4) All reasonable expenses incurred by the "insured" at our request, including actual loss of earnings up to $500 per day because of time off from work.

C. COVERAGE EXTENSIONS

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

a. Transportation Expenses

We will pay up to $100 per day to a maximum of $1,800 for transportation expense incurred by you because of the total theft of a covered "auto" of the private passenger type. We will pay only for those covered "autos" for which you carry either Comprehensive or Specified Causes of Loss Coverage. We will pay for transportation expenses incurred during the period beginning 48 hours after the theft and ending, regardless of the policy's expiration, when the covered "auto" is returned to use or we pay for its "loss".

The following is added to Item 4. **Coverage Extensions:**

c. Personal Effects

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

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

D. ADDITIONAL COVERAGES

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

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

6. **Fire Department Service Charge**

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

(a) Assumed by contract or agreement prior to loss; or

(b) Required by local ordinance.

No deductible applies to this additional coverage.

F. AIRBAG COVERAGE - ACCIDENTAL DISCHARGE

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

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

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

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

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

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

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

(1) You, if you are an individual;

(2) A partner, if you are a partnership; or

(3) An executive officer or insurance manager, if you are a corporation.

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

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

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

G. UNINTENTIONAL FAILURE TO DISCLOSE HAZARDS

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

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

H. WORLDWIDE COVERAGE

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

(5) Anywhere in the world, if:

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

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

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

I. DEFINITIONS

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

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

POLICY NUMBER: 1466277 COMMERCIAL AUTO

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

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

This endorsement modifies insurance provided under the following:

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

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

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

Named Insured:
Endorsement Effective Date:

SCHEDULE

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

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

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Midwest Employers Casualty Company
A BERKLEY COMPANY®

Endorsement

Endorsement Effective: 12/31/2020
Policy No.: EWC008469
Named Insured: Associated Builders & Contractors, Inc., New Mexico Chapter

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Waiver of Subrogation by Written Contract Endorsement

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

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

Countersigned

MIDWEST EMPLOYERS CASUALTY COMPANY

Authorized Representative

Secretary

President

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

City of Santa Fe

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

BUSINESS REGISTRATION

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

Business Location: 5000 EDITH BLVD NE
ALBUQUERQUE, NM 87107

CRS Number: 02226090000

Owner: DALE ARMSTRONG

License Number: 222153

License Type: Business License - Renewable

Issued Date: December 31, 2020

Classification: Out of Jurisdiction Contractor - Plumbing

Expiration Date: December 31, 2021

Fees Paid: $10.00

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

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

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

TO BE POSTED IN A CONSPICUOUS PLACE

City of Santa Fe

Real Estate Summary of Contracts, Agreements, Amendments & Leases

Section to be completed by department

1. Munis Contract # **3203056**

Contractor: **Sub Surface**

Description: **(POTW) On-Call Repair, Replacement, Extension and Rehabilitation of Sewer Collection System Price Agreement, CIP #962**

Contract [◉] Agreement [○] Lease / Rent [○] Amendment [○]

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

[☑] Approved by Council Date: **Pending**

Contract / Lease: Up to $200,000 inclusive

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: 21/46/B**

Fran Dunaway (Oct 25, 2021 09:44 MDT) Oct 25, 2021

Purchasing Officer Review: Date:

Comment & Exceptions: COSF Price Agreement ITB #21/46/B multi-award

4. **Funding Source: Waste Water** **Org / Object: 5000367.520150; 500036**

Andy Hopkins (Oct 22, 2021 15:41 MDT) Oct 22, 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: _____

SUBSURF-01 DONISCHUK

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 7/13/2021

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
INSURER B : Builders Trust of New Mexico	
INSURER C :	
INSURER D :	
INSURER E :	
INSURER F :	

INSURED
Sub Surface Contracting Inc
27A Paseo De River St
Santa Fe, NM 87507

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

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
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:	X		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)

SEE ATTACHED ACORD 101

CERTIFICATE HOLDER

City of Santa Fe
Wastewater Division
Attn: Stan Holland
73 Paseo Real
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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AGENCY CUSTOMER ID: SUBSURF-01 DONISCHUK

LOC #: 1

ADDITIONAL REMARKS SCHEDULE

AGENCY	License # 0757776	NAMED INSURED
HUB International Insurance Services (SOW)		Sub Surface Contracting Inc 27A Paseo De River St Santa Fe, NM 87507
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:
Where required by written contract or agreement, the City of Santa Fe, Wastewater Division, City Representative, other parties reasonably requested in writing by the City of Santa Fe, and their officials, members, officers, employees, and agents are included as additional insured with respects to general liability, on a pirmary & non-contributory basis.

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ADDITIONAL INSURED - OWNERS, LESSEES OR CONTRACTORS - AUTOMATIC STATUS WHEN REQUIRED IN CONSTRUCTION AGREEMENT WITH YOU **CG-2033R(6-13)**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

1. Section II - Who Is An Insured is amended to include as an additional insured:

a. Any person or organization for whom you are performing operations when you and such person or organization have agreed in writing in a contract or agreement that such person or organization be added as an additional insured on your policy; and

b. Any other person or organization you are required to add as an additional insured under the contract or agreement described in paragraph a above.

Such person or organization is an additional insured only with respect to liability for *bodily injury, property damage* or *personal and advertising injury* caused, in whole or in part, by:

a. Your acts or omissions; or

b. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured.

However the insurance afforded to such additional insured:

a. Only applies to the extent permitted by law; and

b. Will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

A person's or organization's status as an additional insured under this endorsement ends when your operations for that additional insured are completed.

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

This insurance does not apply to:

a. *Bodily injury, property damage* or *personal and advertising injury* arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:

(1) The preparing, approving or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or

(2) Supervisory, inspection, architectural or engineering activities.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the *occurrence* which caused the *bodily injury* or *property damage* involved the rendering of or the failure to render any professional architectural, engineering or surveying services.

b. *Bodily injury* or *property damage* occurring after:

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

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

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

The most we will pay on behalf of the additional insured is the amount of insurance:

a. Required by the contract or agreement you have entered into with the additional insured; or

b. Available under the applicable Limits of Insurance shown in the Declarations;

whichever is less.

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

PRIMARY AND NONCONTRIBUTORY - OTHER INSURANCE CONDITION **CG-2001R(4-13)**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

PRODUCTS-COMPLETED OPERATIONS LIABILITY COVERAGE FORM

RESIDENTIAL CARE FACILITY LIABILITY COVERAGE PART

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

Primary And Noncontributory Insurance

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

(1) The additional insured is a Named Insured under such other insurance; and

(2) You have agreed in writing in a contract or agreement that this insurance would be primary and would not seek contribution from any other insurance available to the additional insured.

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 - Specialty

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

Real Estate Summary of Contracts, Agreements, Amendments & Leases

Section to be completed by department

1. Munis Contract # **3203057**

Contractor: **Allied 360**

Description: **(POTW) On-Call Repair, Replacement, Extension and Rehabilitation of Sewer Collection System Price Agreement, CIP #962**

Contract [x] Agreement [ ] Lease / Rent [ ] Amendment [ ]

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

[x] Approved by Council Date: **Pending**

Contract / Lease: Up to $200,000 inclusive

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: 21/46/B**

Fran Delaway (Oct 25, 2021 09:44 MDT) Oct 25, 2021

Purchasing Officer Review: Date:

Comment & Exceptions: COSF Price Agreement -multi award 21/46/B

4. **Funding Source: Waste Water** **Org / Object: 5000367.520150; 500036**

Andy Hopkins (Oct 22, 2021 15:41 MDT) Oct 22, 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): 08/20/2021

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
Brown & Brown Insurance of New Mexico, Inc.
1660 Old Pecos Trail Suite D
Santa Fe NM 87505

CONTACT NAME: Venessa Vigil-Kim
PHONE (A/C, No, Ext): (575) 758-2249 **FAX (A/C, No):**
E-MAIL ADDRESS: vkim@bbnm.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : The Cincinnati Insurance Company	10677
INSURER B : New Mexico Employer's Assurance Company	13674
INSURER C :	
INSURER D :	
INSURER E :	
INSURER F :	

INSURED
Allied 360 Construction LLC
PO Box 1913
Espanola NM 87532

COVERAGES **CERTIFICATE NUMBER:** 20/21 WC & 21/22 PKG **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: [X] POLICY [ ] PRO-JECT [ ] LOC [ ] OTHER:			EPP0495694	07/02/2021	07/02/2022	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 $ 500,000 $ 10,000 $ 1,000,000 $ 2,000,000 $ 2,000,000
A	AUTOMOBILE LIABILITY [X] ANY AUTO [ ] OWNED AUTOS ONLY [ ] SCHEDULED AUTOS [ ] HIRED AUTOS ONLY [ ] NON-OWNED AUTOS ONLY			EBA0495694	07/02/2021	07/02/2022	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	$ $
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		0102290.101	11/25/2020	11/25/2021	[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

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

RE: On-Call Contract

CERTIFICATE HOLDER

City of Santa Fe Wastewater Division Attn. Stan Holland
73 Paseo Real
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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City of Santa Fe

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

BUSINESS REGISTRATION

Business Name: ALLIED 360 CONSTRUCTION LLC
DBA: ALLIED 360 CONSTRUCTION LLC

Business Location: 1709 W SHADOWOOD LANE
ESPANOLA, NM 87532

CRS Number: 03147576000

Owner: patrick herrera

License Number: 231055

License Type: Business License - Renewable

Issued Date: September 08, 2021

Classification: Out of Jurisdiction Contractor - General

Expiration Date: September 08, 2022

Fees Paid: $10.00

ALLIED 360 CONSTRUCTION LLC
1709 W Shadowood LN
ESPANOLA, NM 87532

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. ; TLC; Allied 360

Procurement Title: (POTW) On-Call Repair, Replacement, Extension and Rehabilitation of Sewer Collection System Price Agreement, CIP #962

Procurement Method: State Price Agreement ☐ *Cooperative* ☐ *Sole Source* ☐ *Other* ☐ _____

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

Department Requesting Public Utilities Dept

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
☐	X	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
X	☐	Certificate of Insurance
☐	☐	All documentation presented to Committees
☐	☐	Other: _____

stan holland

Public Utilities Dept / WWMD/ Stan Holland stan holland (Oct 18, 2021 16:23 MDT)

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

Fran Dunaway

Fran Dunaway (Oct 25, 2021 09:44 MDT)

Chief Procurement Officer Oct 25, 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.

*

Signature: Michael Dozier (Oct 18, 2021 16:26 MDT)

Email: mldozier@santafenm.gov

Signature: Shannon Jones (Oct 18, 2021 17:10 MDT)

Email: swjones@santafenm.gov

GENERAL CONDITIONS

1. DEFINITIONS

Wherever used in any of the Contract Documents, the following terms shall have the meanings indicated which shall be applicable to both the singular and plural thereof unless another meaning is clearly specified:

ADDENDA - Written or graphic instruments issued prior to the execution of the Contract Agreement which modify or interpret the Contract Documents, Drawings and Specifications, by additions, deletions, clarifications or corrections.

ARCHITECT/ENGINEER (A/E) – New Mexico registered architect or registered professional engineer or the Architect's or professional engineer's designated representative, who is working directly under the direct supervision of the architect or professional engineer. For design/build delivery projects, the Architect/Engineer (A/E) shall mean the New Mexico licensed architect or registered professional engineer who is retained by or teamed with the Contractor to develop the design and construction plans for the project.

BID - The offer or proposal of the Bidder submitted on the prescribed form setting forth the prices for the Work to be performed.

BIDDER - Any person, firm or corporation submitting a Bid for the Work.

BONDS - Bid, Performance, and Labor and Materials Payment Bonds and other instruments of security, furnished by the Contractor and the Contractor's surety in accordance with the Contract Documents.

CALENDAR DAY – Each and every day shown on the calendar, Beginning and ending at midnight.

CHANGE ORDER - A written order to the Contractor authorizing an addition, deletion or revision in the Work within the general scope of the Contract Documents, or authorizing an adjustment in the Contract Price or Contract Time.

CITY - City of Santa Fe, New Mexico.

CONSULTING ENGINEER – New Mexico registered professional engineer, or the designated representative, who is working under the direct supervision of the consulting engineer, who has designed the technical aspects of this project for the City of Santa Fe.

CONTRACT DOCUMENTS - The Construction Contract and those additional documents identified and incorporated by reference therein.

CONTRACT PRICE - The total monies payable to the Contractor under the terms and conditions of the Contract Documents and as specifically set forth in the Construction Contract.

CONTRACT TIME - The time period stated in the Contract Documents for the completion and acceptance of the Work by the Project Manager. This time may be defined as a specified fixed date, given number of work days, or a given number of calendar days

CONTRACTOR - The person, firm or corporation possessing the proper New Mexico Contractors license (s) with whom the City has executed the Construction Contract.

ENGINEER - The City of Santa Fe Wastewater Management Division Engineer, or designated representative, assigned to manage the project contract. Engineer shall mean New Mexico registered professional engineer.

EXTRA WORK – 1) an item of work ordered under the contract for which there is no unit bid price, or 2) when the character of the work as altered differs materially in kind or nature from that involved or included in the original proposed construction, or 3) when, in the progress of the work, if subsurface or latent physical conditions are encountered at the site differing materially from those indicated in the contract or of unknown physical conditions of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in the work provided for in the contract are encountered at the site any of which will require the Contractor to significantly alter the method, prosecution and progress of the work, or 4) when the original contract quantity of a major item is adjusted by more than twenty-five percent (25%).

FIELD ORDER - A written order effecting a change in the Work which does not involve an adjustment in the Contract Price or an extension of the Contract Time, issued by the Project Manager to the Contractor during performance of the Work.

HOLIDAYS – Holidays will be observed as follows unless otherwise provided by the City Council:
New Years Day
Martin Luther King Jr.'s Birthday
Presidents Day (observed the day following Thanksgiving Day)
Memorial Day
Independence Day (4th of July)
Labor Day
Santa Fe Fiesta (1/2 day)
Columbus Day
Veteran's Day
Thanksgiving Day
Christmas Day

NOTICE OF AWARD - The written notice of the acceptance of the Bid from the City to the successful Bidder.

NOTICE TO PROCEED - Written communication issued by the City to the Contractor authorizing the Contractor to proceed with the Work and establishing the date of commencement of the Work.

PLANS - The part of the Contract Documents which show the characteristics and scope of the Work to be performed and which have been prepared or approved by the City.

PROJECT - The undertaking for which the Work is to be performed as provided in the Contract Documents.

PROJECT MANAGER - The person designated by the City or its Engineer to be responsible for supervising the performance of the Work by the Contractor and compliance with the Contract Documents.

SHOP DRAWINGS - All drawings, diagrams, illustrations, brochures, schedules and other data which are prepared by the Contractor, a Subcontractor, manufacturer, supplier or distributor, which illustrate how specific portions of the Work shall be fabricated, performed or installed.

SPECIFICATIONS - Written descriptions of a technical nature of materials, equipment, construction systems, standards and workmanship.

SUBCONTRACTOR - An individual, firm or corporation approved by the City and having a direct contract with the Contractor or with any other Subcontractor for the performance of a part of the Work at the site.

SUBSTANTIAL COMPLETION - That date as certified by the Project Manager when the construction of the Project or a specified part thereof is sufficiently completed, in accordance with the Contract Documents, so that the Project or specified part can be utilized for the purposes for which it is intended.

SUPPLIER - Any person or organization who supplies materials or equipment for the Work, including that fabricated to a special design, but who does not perform labor at the site.

WORK - All labor necessary to produce the construction or services required by the Contract Documents, and all materials and equipment incorporated or to be incorporated in the Project as more specifically described in the Contract Agreement.

WORKING DAY - Each day, exclusive of Saturdays, Sundays, and holidays, as set out in Subsection 1 HOLIDAYS, on which work can be effectively prosecuted for six hours or more. The determination of whether a working day will be charged will be made by the Project Manager or Engineer at the beginning of the work day. No time will be charged if the weather improves after a non-working day has been declared, unless the contractor chooses to perform work, and only if that work is performed for six (6) hours or more. No time will be charged for work done to preserve and protect existing work during non-working days. A working day will be charged when work is effectively prosecuted for six (6) hours or more on any contract item that requires inspection or testing by the City on a Saturday, Sunday or holiday. The contractor may elect to observe a national holiday in lieu of observing the City holiday, as defined in HOLIDAYS in which case, for the purpose of assessing working days, the city holiday will no longer be considered a holiday.

WRITTEN NOTICE - Any notice to any party of the Construction Contract relative to any part of this Contract Agreement in writing and considered delivered and the service thereof completed, when posted by certified or registered mail to the said party at the said party's last given address, or delivered in person to said party or the said party's authorized representative on the Work.

2. ADDITIONAL INSTRUCTIONS AND DETAIL DRAWINGS

The Contractor may be furnished additional instructions and detail drawings, by the Project Manager, as necessary to carry out the Work required by the Contract Documents.

Additional drawings and instructions thus supplied to the Contractor by the Project Manager will become a part of the Contract Documents. The Contractor shall carry out the Work in accordance with the additional detail drawings and instructions.

3. SCHEDULES, REPORTS AND RECORDS

The Contractor shall submit to the Project Manager such schedule of quantities and costs, progress schedules, reports, estimates, records and other data where applicable in a format approved by the Project Manager for the Work to be performed. The construction schedule shall be submitted to the Engineer before the Pre-construction meeting.

With each such partial payment application, the Contractor shall submit to the Project Manager updated construction progress schedule showing the order in which the Contractor proposes to carry on the Work, including dates at which the Contractor will start the various parts of the Work, estimated date of completion of each part and, as applicable:

A. The dates at which special detail drawings will be required; and

B. Respective dates for submission of Shop Drawings, the beginning of manufacture, the testing and the installation of materials, supplies and equipment.

The Contractor shall also submit to the Project Manager prior to commencing the Work, a schedule of payments that Contractor anticipates it will earn during the course of the Work.

The Contractor shall provide a two-week advance written notice to the Project Manager on any planned road closures with the dates and times of the length of the anticipated closure.

4. PLANS AND SPECIFICATIONS

The intent of the Plans and Specifications is that the Contractor shall furnish all labor, materials (except for materials specified to be furnished by the City), tools, equipment, and transportation necessary for the proper execution of the Work in accordance with the Contract Documents and all incidental work necessary to complete the Work in an acceptable and professional manner, ready for use, occupancy or operation by the City. The original set of plans will be kept at the Wastewater Treatment Plant during the construction of this project.

5. SHOP DRAWINGS

The Contractor shall provide Shop Drawings as may be necessary for the prosecution of the Work as required by the Contract Documents. The Engineer, Project Manager or the Project Manager's designated representative, shall promptly review all Shop Drawings. The approval of the Engineer, Project Manager or the Project Manager's designated representative of any Shop Drawing shall not release the Contractor from responsibility for deviations from the Contract Documents. The approval of any Shop Drawing which substantially deviates from the requirement of the Contract Documents shall be evidenced by a Change Order.

When submitted for the Engineer or Project Manager's review, Shop Drawings shall bear the Contractor's certification that the Contractor has reviewed, checked and approved the Shop Drawings and that they are in conformance with the requirements of the Contract Documents.

Portions of the Work requiring a Shop Drawing or sample submission shall not begin until the Shop Drawing or submission has been approved by the Engineer, Project Manager or the Project Manager's designated representative. A copy of each approved Shop Drawing and each approved sample shall be kept in good order by the Contractor at the site and shall be available to the Project Manager upon request.

6. MATERIALS, SERVICES AND FACILITIES

It is understood that, except as otherwise may be specifically stated in the Contract Documents, the Contractor shall provide and pay for the costs and associated taxes for all materials (except for materials specified to be furnished by the City), labor, tools, equipment, water, light, power, transportation, supervision, temporary construction of any nature, and all other services and facilities of any nature whatsoever necessary to execute, complete, and deliver the Work within the Contract Time.

Materials and equipment shall be so stored as to insure the preservation of their quality and fitness for the Work. Stored materials and equipment to be incorporated in the Work shall be located so as to facilitate prompt inspection.

Manufactured articles, materials, and equipment shall be applied, installed, connected, erected, used, cleaned and conditioned as directed by the manufacturer.

Materials, supplies and equipment furnished by the Contractor shall be in accordance with samples submitted by the Contractor and approved by the Engineer or Project Manager.

Materials, supplies or equipment to be incorporated into the Work shall not be purchased by the Contractor or any Subcontractor, subject to a chattel mortgage or under a conditional sale contract or other agreement by which an interest is retained by the seller.

7. INSPECTION AND TESTING

The Owner may hire and pay for an independent testing company and testing laboratory to complete verification testing for work completed by the Contractor. The Contractor shall be responsible for quality control of all work for the project and is responsible for ensuring that all work is completed in accordance with the Contract Documents including associated compliance testing. Any costs associated with quality control of completing the required work in the contract documents including compliance testing shall be considered incidental to the cost of completing the work.

Inspections, tests or approvals by the Engineer or Project Manager, or others shall not relieve the Contractor from the Contractor's obligations to perform the Work in accordance with the requirements of the Contract Documents.

The Engineer, Project Manager and the Project Manager's representatives will at all times have access to the Work. In addition, authorized representatives and agents of any participating Federal or State agency shall be permitted to inspect all work, materials, payrolls, records of personnel, invoices of materials, and other relevant data and records. The Contractor will provide proper facilities for such access and observation of the Work and also for any inspection, or testing thereof.

If any Work is covered contrary to the written instructions of the Engineer, Project Manager or the Project Manager's representatives, it must, if requested by the Engineer, Project Manager or the Project Manager's representatives, be uncovered for the Engineer, Project Manager or the Project Manager's representative's observation and replaced at the Contractor's sole expense.

If the Engineer or Project Manager considers it necessary or advisable that covered Work be inspected or tested by others, the Contractor, at the Engineer or Project Manager's request, will

uncover, expose or otherwise make available for observation, inspection or testing as the Engineer or Project Manager may require, that portion of the Work in question, furnishing all necessary labor, materials, tools, and equipment. If it is found that such Work is defective, the Contractor will bear all the expenses of such uncovering, exposure, observation, inspection and testing and of satisfactory reconstruction.

8. PATENTS

The Contractor shall pay all applicable royalties and license fees. The Contractor shall defend all suits or claims for infringement of any patent rights and save the City harmless from loss on account thereof, except that the City shall be responsible for any such loss when a particular process, design, or the product of a particular manufacturer or manufacturers is specified, however, if the Contractor has reason to believe that the design, process or product specified is an infringement of a patent, the Contractor shall be responsible for such loss unless the Contractor promptly provides such information to the Project Manager.

9. SURVEYS, PERMITS, REGULATIONS

The City shall furnish all boundary surveys and establish all base lines for locating the principal component parts of the Work together with a suitable number of bench marks adjacent to the Work as shown in the Contract Documents. From the information provided by the City, unless otherwise specified in the Contract Documents, the Contractor shall develop and make all detail surveys needed for construction such as slope stakes, batter boards, stakes for pile locations and other working points, lines, elevations and cut sheets.

The Contractor shall carefully preserve benchmarks, reference points and stakes. When it becomes necessary by reason of construction to remove or obliterate any triangulation station benchmark, corner, monument, stake, witness mark or other survey reference mark, it shall be the duty of the Contractor to cause, at the Contractor's sole expense, the mark to be re-established by a registered surveyor in accordance with New Mexico State Statute 61-23-28.

Unless otherwise stated in the Contract Documents or agreed to in writing by the City all permits and licenses necessary for the prosecution of the Work shall be secured and paid for by the Contractor. Licenses and easements for permanent structures or permanent changes in existing facilities shall be secured and paid for by the City, unless otherwise specified. The Contractor shall give all notices and comply with all laws, ordinances, rules and regulations bearing on the conduct of the Work as drawn and specified. If the Contractor observes that the Contract Documents are at variance therewith, he shall promptly notify the Project Manager in writing, and any necessary changes shall be adjusted as provided in Section 14, Changes in the Work.

10. PROTECTION OF WORK, PROPERTY AND PERSONS

The Contractor will be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. Contractor will take all necessary precautions for the safety of, and will provide the necessary protection to prevent damage, injury or loss to all employees on the Work and other persons who may be affected thereby, all the Work and all materials or equipment to be incorporated therein, whether in storage on or off the site, and other property at the site or adjacent thereto, including trees, shrubs, lawns, landscaping, irrigation systems, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.

The Contractor will comply with and provide all notices required by all applicable laws, ordinances, rules, regulations and orders of every public body having jurisdiction over the Contractor, the City or the Project. Contractor will erect and maintain, as required by the conditions and progress of the Work, all necessary safeguards for safety and protection. Contractor will notify owners of adjacent utilities when prosecution of the Work may affect them. The Contractor will remedy all damage, injury or loss to any property caused, directly or indirectly, in whole or in part, by the Contractor, any Subcontractor or anyone directly or indirectly employed by any of them or anyone for whose acts any of them be liable, except damage or loss attributable to the fault of the Contract Documents or to the acts or omissions of the City or the Engineer or Project Manager, or any one employed by either of them or anyone for whose acts they may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of the Contractor.

In emergencies affecting the safety of persons or the Work or property at the site or adjacent thereto, the Contractor, without special instruction or authorization from the Engineer or Project Manager or City, shall act to prevent threatened damage, injury or loss. Contractor will give the Engineer orProject Manager prompt written notice of any significant changes in the Work or deviations from the Contract Documents caused thereby, and a Change Order shall thereupon be issued covering the changes and deviations involved.

11. PROTECTION OF UTILITY RIGHTS-OF-WAY AND SERVICES

Where the Contractor's operations are adjacent to railways or utilities or are adjacent to other properties, damage to which may result in considerable expense, loss or inconvenience, work shall not commence until the Contractor has made all arrangements necessary to protect these facilities.

The Contractor shall cooperate with the owners of underground or overhead utility lines in their removal and rearrangement operations in their removal or relocation in order to eliminate duplication of effort by utility owners and to prevent interruption of service.

If water or utility services are interrupted due to accidental breakage or as a result of being exposed or unsupported during the Contractor's operations, the Contractor shall provide continuous repair work until the service is restored. No work shall be commenced around fire hydrants until provision for service has been approved by the local fire authority.

The contractor agrees and recognizes that there are ongoing operations of City facilities at and around the project site. It shall be the responsibility of the Contractor to coordinate work with said City facility operations.

12. PERSONAL LIABILITY OF PUBLIC OFFICIALS

In carrying out the provisions of these specifications or in exercising powers or authority granted to them by or within the scope of the contract, there shall be no liability upon the City's Engineer, Project Manager, or their authorized representatives, either personally or as officials of the City, it being understood and agreed that in such matters they act solely as agents and representatives of the City

13. CHANGES IN THE WORK

The City may at any time, as the need arises, order changes within the scope of the Work without invalidating the Construction Contract. If such changes increase or decrease the amount due under

the Contract Documents, or in the time required for performance of the Work, an equitable adjustment shall be authorized by Contract Change Order.

The Engineer or Project Manager, also, may at any time, by issuing a Field Order, make changes in the details of the Work. The Contractor shall proceed with the performance of any changes in the Work so ordered by the Engineer or Project Manager, unless the Contractor believes that such Field Order entitles the Contractor to a change in Contract Price or Time, or both, in which event the Contractor shall give the Engineer or Project Manager written notice thereof within seven (7) days after the receipt of the ordered change. Thereafter the Contractor shall document the basis for the change in Contract Price or Time within thirty (30) days. The Contractor shall not execute such changes pending the receipt of an executed Change Order or further instruction from the City.

14. CHANGES IN CONTRACT PRICE

The Contract Price may be changed only by a Change Order. The value of any Work covered by a Change Order or of any claim for increase or decrease in the Contract Price shall be determined by one or more of the following methods in the order of precedence listed below:

A. Unit prices previously approved.
B. An agreed lump sum.
C. The actual cost for labor, direct overhead, materials, supplies, equipment, and other services necessary to complete the work covered by the Change Order. In addition there shall be added an amount to be agreed upon but not to exceed fifteen (15) percent of the actual cost of such Work to cover the cost of bonds, insurance, and profit.

15. TIME FOR COMPLETION AND LIQUIDATED DAMAGES

The date of beginning and the time for completion of the Work are essential conditions of the Contract Documents and it is important that the Work be vigorously pursued to completion. The cost to the City of the administration of the contract, including engineering, inspection and supervision, will be increased as the time occupied in completing the work is increased. The operation of City facilities is subject to detriment and inconvenience when full use cannot be made of an incomplete project.

The Contractor will proceed with the Work at such rate of progress to insure full completion of the Work within the Contract Time. It is expressly understood and agreed, by and between the Contractor and the City, that the Contract Time for the completion of the Work described herein is a reasonable time, and that in submitting a bid on the Project and executing the Construction Contract the Contractor has taken into consideration the average climatic and economic conditions and other factors prevailing in the locality where the Work is to be performed.

Should the Contractor fail to complete the Work within the Contract Time, or such extension of contract time as has been granted by the City, then the Contractor agrees to the following schedule of liquidated damages representing inconvenience and monetary damage to the City and the operation of its facilities:

Original Contract Amount			
From More Than	To And Including	Charge Per Calendar Day	Charge Per Work Day
$ 0	$ 100,000	$ 250	$ 350
$ 100,000	$ 500,000	$ 600	$ 600
$ 500,000	$ 1,000,000	$ 800	$ 1,100
$ 1,000,000	$ 2,000,000	$ 1,150	$ 1,600
$ 2,000,000	$ 4,000,000	$ 1,350	$ 1,900
$ 4,000,000	$ 8,000,000	$ 1,725	$ 2,450
$ 8,000,000	$ *no limit*	$ 1,925	$ 2,750

If the Contractor is delayed at any time in the progress of the Work by any act or neglect of the City or the Project Manager, or by changes in the Work, or by labor disputes, fire, unusual delay in transportation, unusually severe weather conditions, adverse soil conditions, unavoidable casualties, delays specifically authorized by the City, or by causes beyond the Contractor's control, avoidance, or mitigation, and without the fault or negligence of the Contractor or subcontractor or supplier at any tier, then the Contract Time shall be extended by Change Order for such reasonable time as the City may, in its sole discretion, determine that such event has delayed the critical path of the Work or overall completion of the Work after considering the advice of the Project Manager, if the Contractor complies with the notice and documentation requirements set forth below.

Any claim for extension of time shall be made in writing to the Project Manager and City, not more than 10 calendar days from the beginning of the delay. The notice shall indicate the cause of the delay, the anticipated length of the delay, and the probable effect of such delay upon the progress of the Work. If the cause of the delay is continuing, the Contractor must give written notice every month at the same time it submits the updated progress narrative report to the Project Manager. Within thirty days after the elimination of any such delay, the Contractor shall submit further documentation of the delay and a formal Change Order request for an extension of time for such delay. The written request for time extension shall state the cause of the delay, the number of days extension requested, and such analysis and documentation of the schedule of the project and other documentation to demonstrate a delay in the critical path of the Work or the overall project completion. If the Contractor does not comply with the notice and documentation requirements set forth above, the claim for delay shall be waived by the Contractor.

Except as otherwise provided below, extensions of time shall be the Contractor's sole remedy for any and all delays. No payment or compensation of any kind shall be made to the Contractor for damages because of hindrance in the orderly progress of the Work or delay from any cause in the progress of the Work, when such hindrance or delay is the result, directly or indirectly, of the Contractor's action or inaction or the action or inaction of the Contractor's agents, representatives or subcontractors or when such delay was foreseeable or avoidable. In the event that a hindrance or delay in the orderly progress of the Work was not, directly or indirectly, the result of the Contractor's action or inaction, and when such delay was not foreseeable or avoidable, the City may pay the Contractor for any additional costs or expenses directly incurred as a result of the delay that cannot reasonably be avoided or reduced, which the Contractor demonstrates to the satisfaction of the City. Except as provided above, Contractor expressly agrees not to make, and hereby waives any claim for damages on account of any delay, obstruction, or hindrance for any cause whatsoever, including but not limited to the aforesaid causes and agrees that Contractor's sole right and remedy in the case of any delay shall be an extension of the time fixed for completion of the contract. Without limitation, the City's exercise of its rights under the changes clause, regardless of the extent or number of such changes, shall not under any circumstances be construed

as compensable delays, it being acknowledged that the Contract Price includes and anticipates any and all delays whatsoever from any cause, whether such delays be avoidable or unavoidable.

16. CORRECTION OF WORK

The Contractor shall promptly remove from the premises all Work rejected by the Engineer or Project Manager for failure to comply with the Contract Documents, whether incorporated in the Project or not, and the Contractor shall promptly replace and re-execute the Work in accordance with the Contract Documents and without any expense to the City and shall bear the expense of making good all Work of other Contractors destroyed or damaged by such removal or replacement.

All removal and replacement Work shall be done at the Contractor's sole expense. If the Contractor does not take action to remove such rejected Work within ten (10) days after receipt of Written Notice, the City may remove or correct such Work and store the materials at the sole expense of the Contractor. If at the time the City removes or corrects such Work and stores materials and any amount of the Contract Price is then due and owing to the Contractor, the City may deduct from the amount owed to the Contractor, the costs incurred by the City for such removal, correction and storage.

17. SUSPENSION OF WORK, ORDERED BY THE ENGINEER

If the performance of all or any portion of the work is suspended or delayed by the Engineer in writing for an unreasonable period of time (not originally anticipated, customary, or inherent to the construction industry) and the Contractor believes that additional compensation or contract time is due as a result of such suspension or delay, the Contractor shall submit to the Engineer in writing a request for adjustment within seven (7) calendar days of receipt of the notice to resume work. The request shall set forth the reasons and support for such adjustment.

Upon receipt of the request, the Engineer will evaluate the Contractor’s request. If the Engineer agrees that the cost or time required for the performance of the contract has increased as a result of such suspension and was caused by conditions beyond the control of and not the fault of the Contractor, its suppliers, or its subcontractors at any approved tier, and not caused by weather, the Engineer will make an adjustment (excluding profit) and the City will modify the contract in writing accordingly.

No contract adjustment will be allowed unless the Contractor has submitted the request for adjustment within the time prescribed.

No contract adjustment will be allowed under this section to the extent that performance would have been suspended or delayed by other causes, or for which an adjustment is provided for or excluded under other terms or conditions of this contract.

18. DEFAULT OF CONTRACT

The Contractor is in default of the Contract if the Contractor:

A. Fails to begin work under the contract within the time specified in the “Notice to Proceed,” or:

B. Fails to perform the work with sufficient supervision, workmen, equipment, or materials to assure the prompt completion of said work, or:

C. Performs the work unsuitably or neglects or refuses to remove materials or to perform new such work as may be rejected as unacceptable and unsuitable, or:

D. Discontinues the prosecution of the work, or:

E. Fails to resume work which has been discontinued within a specified (minimum 14 calendar days) time after notice to do so, or:

F. Becomes insolvent or is declared bankrupt or commits any acts of bankruptcy or insolvency, or:

G. Allows a final judgment, in a suit filed in connection with this contract, to stand against him unsatisfied for a period of thirty (30) calendar days, or:

H. Makes an assignment, in connection with this contract, for the benefit of creditors, or:

I. For any other cause, except as provided in the Construction Contract, fails to carry on the work in an acceptable manner.

The Project Manager will give notice in writing to the Contractor and the Contractor's surety of such delay, neglect, or apparent default and will specify those provisions which have been violated and the corrective measures to be taken. If the Contractor or surety, within a period of ten (10) calendar days after such notice, does not proceed in accordance therewith, then the City may, upon written notification from the Engineer of the fact of such delay, neglect, or apparent default, and the Contractor's failure to comply with such notice, have full power and authority without violating the contract to declare the Contractor in default and take the prosecution of the work out of the hands of the Contractor and demand compliance by the surety of the terms, conditions and obligations contained in the Performance Bond executed by the surety and Contractor.

Upon the default of the Contractor as set forth above, the surety shall take charge of said work and complete the contract at its own expense pursuant to the terms of said contract, receiving, however, any balance of funds due and owing Contractor in the hands of the City under said contract. In the event the surety fails to take charge of the project upon the demand of the City to do so, the City may undertake to complete the project with its won forces, or may procure a completing contractor to finish the work. All costs and charges thereby incurred by the City, together with the cost of completing the work under contract, will be deducted from the contract funds, which are due or may become due the defaulting Contractor. lf such expense exceeds the sum which would have been payable under the contract, then the defaulting Contractor and the surety shall be jointly and severally liable for the amount of such excess expense.

19. TERMINATION OF CONTRACT – NO FAULT OF CONTRACTOR

After ten (10) days from delivery of a Written Notice to the Contractor from the Project Manager, the City may, without cause and without prejudice to any other right or remedy, elect to abandon the Project and terminate the Construction Contract. In such case, the Contractor shall be paid for all Work executed in conformance with the Contract Documents and any expense sustained plus reasonable profit.

20. PAYMENTS TO CONTRACTOR

Payments to the Contractor by the City shall be as specified in the Construction Contract, and as specified in the Special Conditions.

Prior to Substantial Completion, the City, with the approval of the Project Manager and with the concurrence of the Contractor, may use any completed or substantially completed portions of the Work. Such use shall not constitute an acceptance of such portions of the Work.

The City shall have the right to enter the premises where the work is being performed for the purpose of doing work not covered by the Contract Documents. This provision shall not be construed as relieving the Contractor of the sole responsibility for the care and protection of the Work, or the restoration of any damaged Work except such as may be caused by agents or employees of the City.

Upon completion and acceptance of the Work, the Project Manager shall issue a certificate attached to the final payment request that the Work has been accepted by the Project Manager under the conditions of the Contract Documents. The entire balance found to be due the Contractor, except such sums as may be lawfully withheld by the City, shall be paid to the Contractor within thirty (30) days of completion and acceptance of the Work.

21. ACCEPTANCE OF FINAL PAYMENT AS RELEASE

The acceptance by the Contractor of final payment shall be and shall operate as a release to the City of all claims and all liability to the Contractor other than claims in stated amounts as may be specifically excepted by the Contractor for all things done or furnished in connection with this Work and for every act and neglect of the City and others relating to or arising out of this Work. Any payment, however, final or otherwise, shall not release the Contractor or the Contractor's sureties from any obligations under the Contract Documents or the Performance Bond and Labor and Materials Payment Bond.

22. ASSIGNMENTS

Neither the Contractor nor the City shall sell, transfer, assign or otherwise dispose of the Construction Contract or any portion thereof, or of their right, title, or interest therein, or their obligations thereunder, without written consent of the other party.

23. SUBCONTRACTING

The Contractor may utilize the services of specialty Subcontractors on those parts of the Work which, under normal contracting practices, are performed by specialty Subcontractors. The City must approve the use of any Subcontractor.

The Contractor shall not award Work to Subcontractor(s), in excess of fifty percent (50%) of the Contract Price, without prior written approval of the City.

At the Pre-construction conference, the Contractor shall submit a list of all subcontractors and material suppliers to be utilized on the Project. For design/build delivery projects, the Contractor shall list the Architect/Engineer and the manufacturer for the building or pre-engineered structure on the Bid Form. The Contractor shall also comply with provisions of the Contractors Fair Practice Act.

The Contractor shall be fully responsible to the City for the acts and omissions of the Contractor's Subcontractors, and of persons either directly or indirectly employed by them, as the Contractor is for the acts and omissions of persons directly employed by the Contractor.

The Contractor shall cause appropriate provisions to be inserted in all subcontracts relative to the Work to bind Subcontractors to the Contractor by the terms of the Contract Documents insofar as applicable to the Work of Subcontractors and to give the Contractor the same power as regards terminating any subcontract that the City may exercise over the Contractor under any provision of the Contract Documents.

The Contractor shall cause appropriate provisions to be inserted in all subcontracts that require Contractor to make prompt payment in accordance with the Retainage Act (NMSA 1978, 57-28-1, etseq.)

Nothing contained in this Contract Agreement shall create any contractual relation between any Subcontractor and the City.

24. DUTIES OF THE CONTRACTOR

The Contract Documents contain the provisions required for the construction of the Project. Information obtained from an officer, agent or employee of the City or any other person shall not affect the risks or obligations assumed by the Contractor or relieve Contractor from fulfilling any of the conditions of the Contract. The Contract requires performance of services entirely at the Contractor's risk and Contractor has agreed to indemnify the City from all claims, demands and actions, arising from the Contractor's actions, errors or omissions.

The Contractor will supervise and direct all work to be performed pursuant to this Agreement. Contractor will be solely responsible for the means, methods, techniques, sequences and procedures of construction. The Contractor will employ and maintain at the project site a qualified superintendent who shall have been designated in writing by the Contractor as the Contractor's representative at the site. The superintendent shall have full authority to act on behalf of the Contractor and all communications given to the superintendent shall be as binding as if given to the Contractor. The superintendent shall be present on the site at all times as required to perform adequate supervision and coordination of the services provided pursuant to this Agreement.

Construction Surveying will be provided by the Contractor.

25. JOB SITE ADMINISTRATION

Except as provided in the Instructions to Bidders, the outdoor storage and staging yard must be obtained by the contractor at his/her sole expense. The Contractor shall erect a security fence to enclose the storage and staging area and be responsible for orderly use of the storage sites and clean up of all areas affected by the project to the original condition. Construction materials and equipment such as tools, scaffolds, forms and excess material not in use shall be stored or stacked in neat order at the contractor's storage site.

Services performed pursuant to this Agreement are not to interfere with the city's normal operation and maintenance. All areas affected by this project are to be kept continually clean and free of debris. Areas where welding is occurring are to be shielded to prevent flying sparks and debris.

Contractor shall be responsible for all areas of the site used by the Contractor, subcontractors, suppliers or other involved in performance of the services to be performed in the Contract. Contractor shall have the right to exclude all persons who have no purpose or function related to the performance or inspection of the services, except personnel employed by the city or other governmental agencies. Contractor may require all persons on the site of the work to observe all regulations the Contractor requires of the Contractor's employees. Contractor will exert full control

over the site and personnel with respect to use, safety and preservation of property and the existing facilities, except for controls as reserved to City or others.

Contractor shall at all times keep the site free from accumulation of waste materials or rubbish caused by Contractors operations. At the completion of the services to be performed in the Contract, Contractor shall remove Contractor's waste materials and rubbish from and about the project, as well as all Contractor's tools construction equipment, machinery, and surplus materials, and shall clean all surfaces.

Volatile, hazardous or dangerous wastes shall be properly stored and disposed of daily in covered metal containers. The Contractor shall promptly remove all spilled or splattered materials from surfaces to prevent marring, staining, or their damage. All wastes shall be disposed in compliance with applicable anti-pollution laws and local ordinances. Adequate clean-up will be evaluated prior to all applications for progress payment.

The Contractor shall be responsible for and shall pay all landfill disposal fees related to this project.

26. PROJECT MANAGER'S AUTHORITY

The Project Manager or the Project Manager's designated representative shall act as the City's representative, acting under the direction and supervision of the Engineer, during the performance of the Work in connection with the Project. He shall decide questions which may arise as to quality and acceptability of materials furnished and Work performed. He shall interpret the intent of the Contract Documents in a fair and unbiased manner. The Project Manager, will make visits to the site and determine if the Work is proceeding in accordance with Contract Documents.

The Contractor will be held strictly to the intent of the Contract Documents in regard to the quality of materials, workmanship and execution of the Work. Inspections may be made at the factory or fabrication plant of the source of material supply.

The Project Manager will not be responsible for the construction means, controls, techniques, sequences, procedures, or construction safety.

The Project Manager shall promptly make decisions relative to interpretation of the Contract Documents.

27. CLAIMS FOR ADJUSTMENT – DISPUTE RESOLUTION

The Contractor may make claims for additional compensation or time extension only when the Engineer disallows time extension requests which have been properly submitted by the Contractor, or for disputes alleging that work requested to be performed is extra work.

The Contractor is barred from filing claims after the Engineer has determined the work ordered is extra work.

To make a claim, the Contractor shall notify the Engineer, through the Project Manager, in writing of the intention to make a claim for such additional compensation before the Contractor begins the work on which the Contractor bases the claim, or in the case of Termination of Contract – No fault of Contractor, within thirty (30) days of the effective termination date.

If the timely notification is not given, and the Project Manager is not afforded proper facilities by the Contractor for keeping strict account of actual cost as required, then the Contractor hereby

waives claims for such additional compensation. Such notification by the Contractor, and the fact that the Project Manager has kept account of the cost as previously stated, shall not in any way be construed as proving or substantiating the validity of the claim. If the claim, after review by the Project Manager and Engineer is found to be just, the Engineer shall originate a change order and submit the change order for approval.

All notifications of claim shall be made in writing to the Engineer, through the Project Manager, who shall either accept or deny the claim within thirty (30) calendar days.

If the claim is denied, or if the Contractor and the Owner cannot negotiate a satisfactory basis of payment or time extension, then the Contractor may proceed with litigation in a court of competent jurisdiction. Any action or suit commenced in the courts of the State of New Mexico shall be brought in the First Judicial District and any action or suit commenced in a federal court shall be brought in the United States District Court for the District of New Mexico.

28. LAND AND RIGHT-OF-WAY

Prior to issuance of Notice to Proceed, the City shall obtain all land and right-of-way necessary for carrying out and for the completion of the Work to be performed pursuant to the Contract Documents, unless otherwise specifically provided in the Contract Documents.

The City shall provide to the Contractor information which delineates and describes the lands owned and rights-of-way acquired.

The Contractor shall provide at the Contractor's own expense and without liability to the City any additional land and access thereto that the Contractor may desire for temporary construction facilities, or for storage of materials.

29. GUARANTY

The Contractor shall guarantee all materials and equipment furnished and Work performed for a period of one (1) year from the date of acceptance of final payment of the Contract Price. The Contractor warrants and guarantees for a period of one (1) year from the date of acceptance of final payment of the Contract Price of the Work that the completed Work is free from all defects due to faulty materials or workmanship and the Contractor shall promptly make such corrections as may be necessary by reason of such defects including the repairs of any damage to other parts of the system resulting from such defects. The City will give notice of observed defects with reasonable promptness. In the event that the Contractor should fail to make such repairs, adjustments, or other Work that may be made necessary by such defects, the City may do so and charge the Contractor the cost thereby incurred. The Performance Bond shall remain in full force and effect through the guarantee period.

The Contractor shall provide the City with all certificates of long term guaranty or warranty regarding mechanical equipment, structural systems, paint, coating or finish.

30. MISCELLANEOUS

TAXES - Contractor shall be responsible for the payment of all applicable taxes levied on the Contract Price paid under this Agreement, including but not limited to the State of New Mexico gross receipts tax.

INDEPENDENT CONTRACTOR - The nature of the Contractor to the City shall be that of an independent contractor. The Contractor, and all employees and subcontractors of the Contractor, shall not be deemed agents, employees or servants of City. This Agreement shall not be construed as a joint venture or partnership between the parties hereto. The City will not withhold taxes, F.I.C.A. or the like from the payment for the Work. Nothing in this Agreement burdens the City with the duties of an employer concerning Contractor, or any employee or subcontractor of the Contractor, under any state workers' compensation laws, any state or federal occupational health and safety laws or any other state or federal laws. The Contractor and all employees or subcontractors of Contractor shall not participate in any of the "fringe benefits" generally made available by the City to its officers or employees. The City shall not provide the Contractor office space, clerical help, supplies or the like. The Contractor shall not have the benefit of an expense account, but the City shall reimburse the Contractor for extraordinary expenses incurred by Contractor in connection with the performance of the Construction hereunder, where the City agrees in advance to do so.

CONTRACTOR'S AUTHORITY - Contractor shall not enter into any agreement with any person which binds, or is intended to bind, City to any duty or obligation unless the City has given Contractor prior written consent to represent the City in such matter. Nor shall Contractor make representations to any person which indicate that Contractor is acting on behalf of the City, without the City's prior written authorization.

CONTRACTOR'S RIGHT TO CONDUCT BUSINESS - Nothing in the Contract Agreement or Contract Documents shall preclude or limit the Contractor from pursuing unrelated business opportunities; provided, however, that Contractor shall at all times during the term of the Contract Agreement, maintain the ability to perform its obligations hereunder in a professional and timely manner. Nor shall City limit or interfere with the Contractor's ability to manage its business or employees.

SANITARY, HEALTH, AND SAFETY PROVISIONS - The Contractor shall provide and maintain in a neat sanitary condition such accommodations for the use of the Contractor's employees as may be necessary to comply with the requirements of the State and local Boards of Health or of other bodies having jurisdiction.

Attention is directed to Federal, State and local laws, rules and regulations concerning construction safety and health standards.

The Contractor shall provide on site, for the duration of the work, restroom facilities for the use of the Contractor's employees.

CLEAN AIR AND WATER POLLUTION CONTROL ACTS - During the performance of this Agreement, the Contractor and all Subcontractors shall comply with the requirements of the Clean Air Act, as amended, 42 USC 1857 et seq., the Federal Water Pollution Control Act, as amended, 33 USE 1251 et seq., and regulations of the Environmental Protection Agency (EPA) with respect thereto, at 40 CFR Part 15, as amended.

Any facility to be utilized in the performance of any non-exempt contract or subcontract is not to be listed on the list of Violating Facilities issued by the EPA pursuant to 40 CFR 15.20.

Contractor will comply with all the requirements of Section 114 of the Clean Air Act, as amended, 42 USE 1857c-8 and Section 308 of the Federal Water Pollution Control Act, as amended, 33 USC 1318, relating to inspection, monitoring entry, reports and information, as well as all other

requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder.

Contractor and all subcontractors will notify the City of any notification received from the Direct, Office of Federal Activities, EPS, indicating that a facility utilized, or to be utilized for performance of the obligations under the Contract, is under consideration to be listed on the EPA list of Violating Facilities.

Contractor will include, or cause to be included, the criteria and requirements in Section 25.6 of these General Conditions to the Agreement in every subcontract, and Contractor will take such action as the owner, or any governmental authority with jurisdiction, may direct as means of enforcing such provisions.

SPECIAL CONDITIONS

1. AMERICANS WITH DISABILITIES ACT COMPLIANCE:

The Contractor will comply with all relevant provisions of the Americans with Disabilities Act, as well as with the New Mexico Human Rights Act, and all other applicable local, state and federal laws governing the rights of the disabled.

2. WAGE RATE DETERMINATION:

Issuance of the following wage rate determination is done pursuant to Section 13-4-11 N.M.S.A. 1978, as amended, or such successor statute and with duly adopted rules and regulations properly registered with the Supreme Court, as required by law, and other statutes pertaining to public works in New Mexico.

Each certified payroll shall have the correct Wage Rate Decision Number printed clearly on the first page. The Contractor and all Subcontractors shall also submit certified payrolls. Prior to the issuance of a Certificate of Payment, the Contractor shall determine that a certified payroll has been submitted to the State Labor Commission as provided for by State law and that all other provisions applicable to and relating to the payment of wages to artisans, draftsmen, and laborers has been abided by and that said payments have been made in accordance with established scales as furnished by the State Labor Commission for this particular contract. In addition, the Contractor will not be allowed to split an individual worker(s) time/wages between crafts/laborer classifications.

3. SCHEDULE OF VALUES

Before the Application for Payment, the Contractor shall submit to the Engineer 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 Engineer may require. This schedule of values, once mutually agreed upon between the Engineer and the Contractor shall become the basis for the Contractor's Applications for Progress Payments.

4. APPLICATION FOR PROGRESS PAYMENT:

Contractor shall submit (but not more often than once a month), to the Project Manager for review an Application for Progress Payment filled out and accompanied by such supporting documentation as is required by the Contract Documents and also as the Project Manager may reasonably require. The City shall have seven (7) days to review the Application for Progress Payment either to accept or reject. If application is accepted then City shall have twenty-one (21) days from day of receipt to process payment. If application is rejected, Contractor has to resubmit a new Application for Progress Payment. Once application is resubmitted the twenty-one (21) day timeframe is reinstated. These Applications for Progress Payments shall be on the basis of estimates made by Contractor and shall be as specified in the Contract Agreement. If payment is requested on the basis of materials and equipment not incorporated in the Work, but delivered and suitably stored at the site or at another location agreed to in writing, the Application for Progress Payment shall also be accompanied by such data, satisfactory to City as will establish City's title to the material and equipment and protect City's interest therein, including applicable insurance. Each subsequent Application for Progress Payment shall include an affidavit of Contractor stating

that all previous payments received on account of the work have been applied to discharge in full all of Contractor's obligations reflected in prior Applications for Progress Payment. All Applications for Progress Payment shall be submitted on an Application and Certification for Payment form as approved by the Project Manager. Contractor shall obtain from all suppliers of services and materials a release and waiver of all liens. Such releases and waivers shall be submitted with the Contractor's Application for Progress Payment.

5. CONTRACTOR'S WARRANTY OF TITLE

Contractor warrants and guarantees that title to all work, materials and equipment covered by an Application for Progress Payment, whether incorporated in the Project or not, will pass to City at the time of payment free and clear of all liens, claims, security interests and encumbrances.

6. WARRANTY

Contractor shall pay City, or make at the Contractor's own expense, all repairs, replacement or payments necessitated by defects in materials or workmanship supplied under the terms of the Contract which exist within one year after the date of final acceptance of the Work or such longer period of time as may be prescribed by applicable law or regulation in a reasonable and timely manner.

The Contract shall cover defects which shall be in existence during such one-year period but which shall not become apparent until thereafter.

Contractor shall be fully responsible for all direct, indirect and consequential costs to the City approximately caused by such defects in materials or workmanship including defects in materials or workmanship supplied to the Contractor by a subcontractor or supplier. Contractor shall also hold the City harmless from liability of any kind arising from damage due to said defects.

Contractor shall make all repairs and replacements or payments promptly upon receipt of written order from the City. If Contractor fails to make the repairs, replacements or payments promptly, City may do the work and Contractor and the Contractor's Surety shall be liable for cost thereof, including but not limited to, fees and charges of engineers, architects, attorneys and other professionals.

7. PROVISIONS FOR SAFETY:

The Contractor will be required to make whatever provisions necessary, to provide for the safety and welfare of the public and City employees during construction.

8. PRE-CONSTRUCTION CONFERENCE

A pre-construction meeting shall be scheduled between the Owner and the Contractor and shall be conducted at the time and location specified in the Notice of Pre-construction Meeting which will be presented to the Contractor after execution of the construction contract. At this meeting the Engineer and Project Manager will discuss administrative matters with the Contractor and the Sub-contractors and further orient the Contractor to the requirements of the Contract Documents. The Contractor shall introduce responsible personnel (to be in attendance), present and discuss the

construction schedule, and discuss approach and construction methods to complete the work and utility coordination, as applicable.

9. CONTRACTOR PERSONNEL INFORMATION:

The Contractor will provide the following information to the Project Manager:

A. Contractor's Project Manager:_____

Phone No.:_____Cell Phone:_____

B. Contractor's Superintendent: _____

Telephone No.:_____Cell Phone No.:_____

FAX No.:_____e-mail:_____

C. Architect/Engineer:_____

Address:_____

Phone No.:_____Cell Phone:_____

FAX No.:_____e-mail:_____

D. A/E's Project Representative:_____

E. Testing Laboratory:_____

E. Emergency contact phone numbers

(1) Person/Address _____

Phone: _____Cell Phone:_____

(2) Person/Address _____

Phone: _Cell Phone:_____

(3) Person/Address _____

Phone: _Cell Phone:_____

F. List of authorized signatures for:
Certified payrolls; Payroll affidavits; Change orders; Progress payment certifications:

_____

_____

E. Project Safety Officer: _____

F. Equal Employment Opportunity Officer: _____

G. List of tentative suppliers: _____

The person listed in **"B."** will become the Contractor's Superintendent of Record. The Contractor will not be allowed more than one (1) Superintendent. The Contractor's Superintendent shall supervise the project and be available at all times that construction is in progress.

APPENDIX A
REQUIRED INSURANCE

A.1 Contractor's Required Insurance

A.1.1 General Requirements: Contractor shall not commence nor continue to perform any of the Work unless he, at his own expense, has in full force and effect all Required Insurance as set out in this Appendix A. The Contractor shall not permit any Subcontractor to perform work on the Project unless the Workers' Compensation/Employer's Liability Insurance and Liability Insurance requirements have been complied with by such Subcontractor as provided herein. The types of insurance the Contractor (and Subcontractors) shall obtain and maintain are set forth herein. All insurance policies carried by the Contractor or its Subcontractors pursuant to this Appendix A shall be **primary** and **non-contributory** as to any insurance carried by the City of Santa Fe.

All Liability Insurance, Workers' Compensation Insurance, and Employer's Liability Insurance shall be maintained in full force and effect through any warranty period.

Each insurer issuing a policy to satisfy the Required Insurance must be authorized to do business (and have an agent for service of process) in New Mexico and either (1) have not less than an "A-" policyholder's rating and a financial rating of at least Class VII in accordance with the most current Best's Key Rating Guide.; or (2) be acceptable to the City as evidenced by the City's written approval of such Insurer.

Unless otherwise provided herein, the Contractor shall be responsible (without any reimbursement from the City) for payment of the amount of any deductible under any of the insurance policies.

Prior to the execution of the Contract by the City, certificates of insurance shall be delivered to the City Representative on forms acceptable to the City Representative, evidencing full compliance with all the Required Insurance of this Appendix A. Such insurance shall provide that the City is named as an additional insured. Attached to such certificates of insurance shall be endorsements evidencing that (1) the Contractor's and their subcontractors policies shall be primary and non-contributory as to any separate insurance carried by the additional insured; (2) waivers of subrogation on all Workers' Compensation and Employer's Liability policies; and (3) endorsements for the Additional Insured. In addition to showing such insurance is in full force and effect, such certificates must certify to the Certificate Holder that 30 days prior written notice **will be given** to the City of Santa Fe prior to any cancellation, termination or material alteration of the insurance coverage. The wording "will endeavor" to give such notice is not permitted.

In addition to the Certificates of Insurance, Contractor will deliver to the City Representative with the signed Contract Declaration pages for each of the insurance coverages. Certified copies of the (1) Project Specific Builder's Risk Insurance Policy; and (2) the Workers' Compensation and Employer's Liability Insurance Policies (and all endorsements pertaining to such coverages) shall be delivered to the City Representative not later than 7 days after Notice of Award of the Contract by the City (and in any event prior to the commencement of any work at the Project Site).

Due to proprietary and competitive concerns, as to the Commercial General Liability Policy (CGL); the Automobile Liability Policy (Auto); the City and Contractor have agreed to the following procedures:

(1) In the event any claim (or notice of claim) is submitted under any such policies, and the insurance carrier denies coverage, or fails to adjust and resolve such claims in a timely manner, or fails to procure and pay for the defense of such claim, or provides a defense under a reservation of right, then certified copies of the policies (and all endorsements thereto) shall promptly be provided to the City of Santa Fe.

The Liability (and Employer's Liability) insurance herein may be satisfied by excess coverage policies that comply with the Required Insurance under this Appendix A. Exhibit A is the coverage Contractor has agreed to provide to meet the Required Insurance.

If the City is damaged by Contractor's failure to obtain and maintain the insurance called for herein, then Contractor shall be liable to the City for all costs, expenses, and damages resulting therefrom. All insurance policies to be furnished by Contractor under this Agreement shall be subject to approval by the City. All insurance policies shall be on an occurrence (as opposed to claims made) basis. The Required Insurance as set forth herein are to protect the City and any Additional or Named Insured from claims by third parties, including employees of the Contractor or its agents, subcontractors and invitees. Said insurance shall not relieve or release Contractor, its agents or subcontractors from, or to limit their liability as to, any and all obligations assumed under the Contract.

A.1.2 Workers' Compensation and Employer's Liability Insurance: Contractor (and each Subcontractor) shall comply with Applicable Law, including all applicable provisions of the New Mexico Workers' Compensation Act, (see Section 52-1-1, et. seq. NMSA 1978) and the New Mexico Occupational Disease Disablement Law (see Section 52-3-1, et. seq. NMSA 1978) (and any amendments thereto) (collectively Workers' Compensation Insurance). Contractor shall procure, pay for and maintain through Final Completion of the Contract and any warranty period Workers' Compensation Insurance and Employer's Liability Insurance in accordance with Applicable Law in the amounts required by Applicable Law or as set out herein. Such insurance shall include coverage permitted under Applicable Law for safety devices. Contractor shall also provide Employer's Liability coverage of $1,050,000 (including excess coverage) each person, such combined insurance is to cover claims for damages arising from bodily injury, by accident or disease (including death at any time resulting therefrom) sustained by employees of the Contractor while engaged in the performance of any portion of the Work or services or labor under the Contract.

A.1.3 Liability Insurance: The Contractor shall procure, pay for, and maintain Liability Insurance in the amounts stated herein through Final Completion and any warranty period as will protect the Contractor and the Additional Insured from claims which may arise out of or result from Contractor's activities, operations, omissions, and actions concerning the Project, the Work, or the Contract (including activities, operations, omissions, or actions by any Subcontractor or by anyone directly or indirectly employed by Contractor or Subcontractors, or by anyone for whose acts any of them may be liable). The Contractor shall procure, pay for, and maintain, from the execution of the Contract through Final Completion (and through any warranty period), Commercial General Liability Insurance (CGL). The CGL policy shall provide limits as follows:

$ 4,000,000 General Aggregate

$ 1,050,000 Personal Injury
$ 1,050,000 Each Occurrence

The CGL policy of Contractor shall be Abroad form@ coverage and must include liability coverage in the amount of $1,050,000 per occurrence for the following:

Bodily Injury and Property Damage;
Premises/Operations;
Independent Contractors Protective;
Contractual Liability covering the Contract;
Broad Form Property Damage including Completed Operations;
Personal Injury/Advertising Injury with Employment Exclusion deleted;
Explosion, Collapse, and Underground (XCU)

The Commercial General Liability Insurance shall include an endorsement stating that the City, the City Representative and other parties reasonably requested in writing by the City, and their officials, members, officers, employees, and agents are named additional insureds (Additional Insureds) under the policy. Such policy shall also contain an appropriate crossclaim provision and severability of interest provision so that appropriate claims asserted by the City against the Contractor may still be covered. The Contractor's Commercial General Liability Insurance (and Automobile Liability Insurance) shall be deemed the primary insurance coverage for all covered losses.

The Contractor shall procure and maintain, from the execution of this Agreement through Final Completion and any warranty period, Automobile Liability Insurance. The limits shall be: $1,050,000 Combined Single Limit Bodily Injury or Property Damage per accident. The insurance shall also apply to all owned, non-owned, and hired vehicles used by the Contractor or any of its Subcontractors in performance of the Work.

A.l.4 Builder's Risk Insurance: **BUILDER'S RISK IS NOT REQUIRED FOR BID 21/46/B** At all times during the performance of the Work, and until Substantial Completion of the Project is achieved, Contractor shall procure, pay for, and maintain Project-specific Builder's Risk Insurance Coverage on an "all risk"/special form completed value basis for the entire Project (with only such exclusions approved by the City). The "all risk" coverage shall include (1) all Work being constructed, (2) all machinery and equipment at the Project (other than tools and mobile equipment more appropriately insured on a Contractor's equipment floater); and (3) materials and supplies to be used on the Project located at the Project or stored offsite or in transit. The coverage will be at full replacement cost.

The City shall be named as the Loss Payee under the Builder's Risk policy. The policy shall be Project-specific for the Project. Contractor shall be the Named Insured. The City of Santa Fe shall be named as Additional Insured under the policy. The Builder's Risk policy shall insure against "all risk" of physical loss or damage including fire, vandalism, terrorism, flood, or other water damage, earthquake, other earth movement, transit, off site storage, and any damage resulting from defective design, faulty workmanship, or materials. Coverage for business interruption, equipment and machinery, delay in opening, and testing shall be included.

Contractor shall also carry equipment coverage insurance on an "all risk" basis covering equipment owned, leased, or used by Contractor.

With respect to correcting defective workmanship, the coverage shall include the cost of repairing damage caused thereby.

The Builder's Risk policy shall provide coverage for "soft costs" incurred by the City for any covered loss (up to an aggregate limit of $250,000.00).

A.l.5 Contractor's Liability Not Limited by Insurance: Nothing contained in this Appendix A is to be construed as a limitation of the liability of Contractor or Contractor's surety under the Contract.

A.1.6 All insurance policies carried by the Contractor (and its Subcontractors) shall include a waiver of subrogation in favor of the Additional Insureds under either the CGL or the Builder's Risk sections of this Appendix A.

A.1.7 Forms of Policies. The Commercial General Liability Policy shall be substantially equivalent to most current version of ISO CG 0001. The Automobile Liability Policy shall be substantially equivalent to most current ISO CA-00-01.

Exhibit A

Minimum Insurance Coverage

The Contractor shall obtain, pay for and maintain the insurance coverage listed below in connection with the Work:

	Combined Single Limit
Commercial General Liability –	
General Annual Aggregate Limit	$4,000,000
Personal Injury Limit	$1,050,000
Each Occurrence Limit	$1,050,000
Workers' Compensation	
Coverage A	Statutory limits
Employers Liability:	
Bodily Injury by accident	$1,050,000 each accident
Bodily Injury by disease	$1,050,000 each employee
Bodily Injury by disease	$1,050,000 policy limit
Automobile Liability	
Limit for Each Accident	$1,050,000
Coverage to include all owned, non-owned, and hired vehicles	
Project-Specific Builder's Risk Coverage – "All Risk"/Special Form	Amount Equal to Actual Cash Value of Project

"STANDARD SPECIFICATIONS" FOR CITY OF SANTA FE

The New Mexico State Highway Department Standard Specifications, 2000 Edition or most up to date version, shall govern construction of this project except where revised or amended by the General Conditions, Special Provisions and Supplemental Technical Specifications.

The New Mexico Standard Specifications for Public Works Construction and 2006 EDITION or most up to date version shall govern construction of manholes and related appurtenances, except where revised or amended by the General Conditions, Special Provisions and Supplemental Technical Specifications.

The most recent version of the City of Santa Fe Wastewater Division Standard Specifications shall govern construction of water utilities and related appurtenances, except where revised or amended by the General Conditions, Special Provisions, and Supplemental Technical Specifications.

If there is a conflict between Standard Specifications and the General Conditions, Special Provisions or Supplemental Technical Specifications, the stricter requirement shall govern.

SPECIAL PROVISIONS

1.01 INSPECTION, TESTING OF MATERIAL AND SUBMITTALS

A**. The contractor shall provide to the owner two (2) sets of submittal sheets for all material and products used in this project**. All Work shall be monitored by the City's Authorized Representative for compliance with all applicable specifications, codes, and standards. The Contractor shall provide access to all facilities for inspection purposes. Contractor shall notify City's Authorized Representative prior to commencing Work, should said Work be performed after normal working hours. Failure of Contractor to provide proper access of inspection of Work or to notify City of Work to be performed after normal working hours may result in said Work being unacceptable to City.

B. Observations, inspections, tests, or approval by the Owner or Owner's representative will be completed as part of verification testing for the benefit of the Owner to ensure that all work is being completed in accordance with the Contract Documents by the Contractor and shall not relieve the Contractor from Contractor's obligation to perform the work in accordance with the requirements of the Contract Documents.

C. See General Conditions and Supplemental Technical Specifications for additional requirements.

2.01 NPDES – CITY OF SANTA FE STORM WATER MANAGEMENT DIVISION

A. All requirements outlined in the Federal Environmental Protection Agency (EPA) National Pollutant Discharge Elimination System (NPDES), New Mexico Clean Water Act and the City of Santa Fe Storm Water Division shall be strictly adhered to during the course of constructing this project. Exposed areas of disturbance shall be kept to a minimum to perform project construction. **It is not anticipated that this project will be disturbing one (1) acre or more under each Work Order and an NPDES permit is not expected to be necessary**. **Compliance with these NPDES or the City of Santa Fe Storm Water Division requirements shall be incidental to the Work. As such, no separate payment will be made.** The City of Santa Fe Storm Water Division at a minimum requires the following for projects that disturb one acre or less:

- All drop inlets and all flows shall be protected for a distance of 200 feet from the work site.
- All excavated spoils during working activity shall be protected.
- All paved streets shall be power swept (hand broomed) prior to a storm event and at the end of each work day.
- Any and all oil, gasoline, diesel, sewage spills or other controlled substance spills shall be contained, cleaned up and reported to the storm water inspector for the City.
- Any and all work performed near the Santa Fe River, arroyos, acequias or waterways shall be protected.

This work will include preparing and submitting a storm water pollution prevention plan (SWPPP) as well as the appropriate monitoring, reporting and certification of the approved SWPPP as required by the NPDES permit or The City of Santa Fe Storm Water Division.

3.01 PROTECTION OF WORK AND PROPERTY

A. The Contractor shall at all times safely guard the Owner's property from injury or loss in connection with this contract.

B. The Contractor will bear all costs if any damage occurs due to poor weather, etc., while excavation is open.

C. The Contractor will construct the project without any damage to adjacent property, sidewalks, street, vegetation, etc., unless specifically called out on the drawings to be removed and/or removed and replaced. If damage does occur, Contractor will bear all costs of repair and restoration to its original state.

D. The Contractor will take the necessary precautions to prevent damage to properties adjacent to the Work. The Work will be performed in the vicinity of many historic buildings and features. The use of non-vibratory compaction equipment is required by the City and State near these areas. Compliance with this Section is the Contractor's responsibility and is incidental to the Work as such no separate payment will be made

4.01 PROTECTION OF UTILITIES AND PROPERTY

A. Locations, elevations and dimensions of existing utilities, water line or sewer lines, manholes and associated structures are shown according to the best information available at the time of the preparation of the plans, but do not purport to be absolutely correct and are approximate. The Contractor will be responsible for verifying locations, elevations, and dimensions of all existing utilities which pertain to and affect the construction of this project. **All work associated with verifying location of existing utilities, sewer lines or manholes shall be considered incidental to the work and no additional payment will be made for these activities.**

B. During performance of the Work, Contractor shall protect all utilities and property from damage. All utilities shall be spotted prior to any excavation Work by Contractor. Contractor shall call Bluestake One-Call System @ 811 and request utilities' locations forty-eight (48) hours prior to excavation in strict accordance with Bluestake One-Call System operating procedures. The Contractor will be responsible for locating all utilities Owned by the City of Santa Fe as part of construction activities. **Compliance with this Section is the Contractor's sole responsibility and is incidental to the Work. As such, no separate payment will be made.**

5.01 INTERFERENCE WITH SERVICE AND SCHEDULE OF WORK

A. The Contractor shall be required to arrange his construction/work schedule with the intent to minimize the impact on surrounding businesses and residences and to minimize the disruption of City traffic.

B. The Contractor shall notify and obtain City's approval for any connections to existing wastewater facilities or collections system prior to the scheduling of any construction.

C. Any work by the Contractor required outside the normal working hours of 7:00 am to 5:00 pm, Monday through Sunday, to minimize disruption to the City's businesses, residents and vehicular traffic shall be considered incidental to the work and no separate payment will be made.

D. See Supplemental Technical Specifications for additional requirements regarding scheduling of work.

6.01 CONSTRUCTION WATER – NON-POTABLE

A. The City of Santa Fe prohibits the use of potable water (from fire hydrants) for construction purposes. Construction projects are directed to use reclaimed water at the City's fill station. Potable water may be used for purposes of cleaning sewer lines under the provisions of this Section (see 6.02).

B. Fill Station Location: On Paseo Real, (west of SR 599, adjacent to the wastewater treatment plant).

C. Hours of Operations: Monday – Friday, 7 a.m. to 5 p.m. (subject to change); Saturdays 7 am to 3 pm. Closed on official City observed Holidays as listed in the General Conditions.

D. Reclaimed Water Use Rate: $3.37/1,000 gallons (subject to change).

E. Uses Permitted by the NM Environment Department (NMED)/Ground Water Quality Bureau:

1. Construction dust control.

2. Construction compaction+-.

3. Irrigation of landscaping under "restricted access conditions" (e.g., at construction sites and roadway medians).

F. Uses Not Permitted:

1. Water used in a construction "process" (e.g., plastering, making stucco, etc.). Irrigation in residential and commercial settings including City parks, school grounds, etc.

2. Dust control on unpaved residential streets.

3. Street sweeping.

G. Other Provisions:

1. Signage: All haul vehicles must have the following visible on at least three sides—"Caution: Non-Potable Water, Do Not Drink"—and "Peligro: Agua Inbebestible, No Es Para Beber."

2. Water tank must have lid.

3. Vehicle must have 1 ½ cup of bleach per 1000 gallon capacity.

4. Discharge must occur under gravity flow or under low pressure to minimize misting and when public contact is not likely to occur. If misting occurs, the area must be 100 feet from areas accessible to the public.

5. Discharge area must be 300 feet from potable water supply wells.

H. Permitting:

All reclaimed water users must obtain a "Reclaimed Water Use Application and Permit" from the Wastewater Management Division, City of Santa Fe. Compliance with the terms and conditions of reclaimed water use shall be the sole responsibility of the reclaimed water user. Questions should be directed to NMED/Ground Water Quality Bureau, 827-2900.

I. For More Information, Contact: Matilda Shamy, Wastewater Management Division, 955-4651.

J. All costs associated with the use of reclaimed water shall be incidental to the work.

6.02 CONSTRUCTION WATER – POTABLE

A. THIS SECTION 6.02 DOES NOT APPLY FOR THIS BID

For the purpose of sewer line cleaning, potable water obtained from the City of Santa Fe fire hydrants may be used. The Contractor should contact Dora Marquez @ 505-955-4264 to obtain an application and to obtain current rates. A $1200.00 deposit is required that is refundable upon project close-out. The charge for the meter rental is

$195.13 per month. Water use rate is $6.06/1000 gallons (1st 112,000 gal. Sept thru April), $21.72/1000 gallons thereafter 112,000 gal. Sept thru April. $6.06/1000 gallons (1st 160,000 gal. May thru August), $21.72/1000 gallons thereafter 160,000 gal. May thru August. Conservation charge is $1.00/1000 gallons for May thru October. Compliance with the terms and conditions of the potable water use agreement shall be the sole responsibility of the potable water user.

B. **All costs associated with the use of potable water shall be incidental to the work.**

7.01 SUPERINTENDENCE BY CONTRACTOR

At the site of work, the Contractor shall employ a construction superintendent or foreman who shall have full authority to act for the Contractor.

8.01 CERTIFICATES OF COMPLIANCE

A Certificate of Compliance shall be furnished to the City by the Contractor for all material that has specifications requirements listed in the Contract. Certificate of Compliance shall be signed and notarized by the material Manufacturer stating that the materials supplied for Work under the Contract meet all required specifications.

9.01 CORRECTION OF WORK

Should any of the materials of construction or work fail to meet the City's or City's Authorized Representative's approval they shall be forthwith reconstructed, made good, replaced, and corrected by the Contractor at his own expense.

10.01 GENERAL GUARANTEE

A. The Contractor shall remedy any defects in the work and pay for any damages within a period of one year from date of final acceptance. The Owner will give notice of observed defects with reasonable promptness.

B. Items of warranty shall include, but not limited to spalling, cracking, shrinkage, and failure due to improper compactions. Items of warranty shall also include failures or the need for additional work resulting from the Contractor's application of sewer line replacement, repair, extension or rehabilitation technology.

11.01 PUBLIC RELATIONS

The Contractor shall cooperate with the City or City's Authorized Representative in maintaining a high degree of sensitivity to the needs of property and residence owners along the routes at the various project sites. **The use of door hangers (written in both English and Spanish)** and/or personal visits to each affected residence informing them of the Work at least two days prior to beginning the Work is required. The Contractor shall prepare a brief and concise Fact Sheet of the proposed street closures for submittal to the City's Public Information Officer of the planned construction activities one week in

advance of the construction activity. The Contractor may be required to contact public/private agencies at the direction of the City's Office of Public Affairs. The Contractor shall provide the City's Authorized Representative with a copy of each Fact Sheet that is sent to the City's Office of Public Affairs. **The preparation and delivery of the door hangers, visits, and Fact Sheet will not be a separate pay item but shall be considered incidental to the work in executing the construction contract.**

12.01 TRAFFIC CONTROL

A. The Contractor shall provide traffic control including, but not limited to, changeable message sign boards (CMSB), message signs, warning signs, barricades, and flagman to safely mark any hazards or detours as a result of the construction work. All such warning signs, barricades, and flagmen for work in or affecting State, City or County streets, access roads, private drives, alleys, etc., shall meet all applicable requirements as stipulated in these Contract Documents and in the latest edition of the Manual for Uniform Traffic Control Devices published by the U.S. Department of Transportation Federal Highway Administration. The Contractor shall maintain traffic flow(s) and accessibility to all private property(s) as close to normal conditions as possible. The Contractor shall notify residents, businesses, the City and State, as appropriate, of any driveway and/or road closures.

B. The City does not have Standard Traffic Control Plans. The Contractor will be required to submit traffic control plans for segments of the Project where specific traffic control plans are required by the City of Santa Fe. The Contractor shall submit any traffic control required for bypass pumping operations as a part of his/her traffic control plans. No work shall begin until the traffic control plan is approved by the City. Traffic control plans shall be submitted to the City at least two weeks in advance of when the Contractor intends to begin his work for the portion within the City limits. **Preparation of traffic control plans for submittal to the City of Santa Fe shall be considered incidental to the work.**

C. The Contractor shall provide a copy of the proposed traffic control plan to the City of Santa Fe's Streets Division Traffic Impact Section for all work conducted. The City's Public Works Department shall have the final decision as to the approval of a traffic control plan.

D. Contractor shall be responsible, and shall make appropriate accommodation for mail delivery and other essential services needed by residents affected by Contractor operations. This effort shall include coordination at least two (2) days prior with U.S. Post Office and other agencies.

E. Changeable Message Sign Boards (CMSB): The Contractor shall be responsible for providing changeable message sign boards as required. **The Contractor shall be reimbursed for the direct rental cost of the CMSB plus ten (10) % based upon a paid invoice from the supplier or a pricing method as mutually agreed by the Contractor and City**.

F. Flagmen: The Contractor shall be responsible for providing Flagmen as required and when approved by the City. **The Contractor shall be reimbursed for the direct cost of the Flagmen plus ten (10) % based upon a paid invoice from the sub-contractor or a pricing method as mutually agreed by the Contractor and City**.

G. **All items A through F, Section 12.01 – Traffic Control, shall be considered incidental to the work for the Unit Bid Item for Traffic Control in executing the construction contract.**

13.01 PERMITS

Contractor shall obtain permits and pay for fees from the City of Santa Fe as outlined below:

A. Right-of-Way Access, Excavation and Restoration Permit

The Contractor shall complete and submit to the City a Right-of-Way Excavation and Restoration Permit. A permit along with a $200.00 fee will be required for each street cut excavated and/or traffic control plan for access to the street right of way. In addition to the Right-of-Way Excavation and Restoration Permit and fee, a New Pavement Penalty of $20.00 per square foot shall be charged for excavation where new pavement (within five years) has recently been placed by the City. This penalty is an addition to the $200.00 permit fee. Reimbursement for permit fee, including new pavement penalty, paid by the Contractor shall be from the lump sum bid allowance as contained in the Bid Proposal. Contractor shall include receipts for all fees paid for reimbursement on a monthly basis. Contractor is required to conduct field meeting with the City of Santa Fe Streets Division representative and the City's Project Manager for the purpose of determining the number of street cuts required for determination of permit fees.

B. Permit to Construct Driveway on City Right-of-Way

Contractor shall complete and submit to the City and Application for Permit to Construct Driveway. This permit shall be for all new and reconstructed driveways. A permit along with a $200.00 fee will be required for each new or reconstructed driveway. Reimbursement for the fee paid by the Contractor shall be from the permit fee allowance item as contained in the Bid Proposal. Contractor shall include receipts for all fees paid for reimbursement on a monthly basis. Contractor is required to conduct field meeting with the City of Santa Fe Streets Division representative and the City's Project Manager for the purpose of determining the number of driveway permits required for determination of permit fees.

C. Sewer Service Permits and Inspection Fee

Contractor shall obtain, complete, and submit sewer connection permits for those sewer services that are to be reconnected. A $50 fee will be required for each reconnected service. Reimbursement for the fee paid by the Contractor shall be from

the permit fee allowance item as contained in the Bid Proposal. Contractor shall include receipts for all fees paid for reimbursement on a monthly basis. No permit or fee is required for the abandonment of a sewer service.

D. Parking Meter Covers

Contractor shall coordinate with the Parking Division one week in advance for the placement of covers over any parking meters and spaces that will be affected by the work. There is no charge from the Parking Division relating to the covering of meters.

E. Agency and Permits

AGENCY	**PERMIT/LICENSE**
Construction Industries Division –State of New Mexico	Building Permit for City owned property
Federal Aviation Administration or City of Santa Fe Municipal Airport	For any construction equipment that may effect airport operation, e.g. a crane
City of Santa Fe – Land Use	Prairie Dog Clearance
City of Santa Fe – Land Use	Building Permits
City of Santa Fe – Land Use	Dust Control Permit
EPA	NPDES Permit
City of Santa Fe- Wastewater Management Division	Reclaimed Water Permit
City of Santa Fe-Water Division	Water Utility Service

All permit fees referenced in 13.01 Permits shall be reimbursed to the Contractor from the respective permit and inspection fee allowance in the bid submittal. Contractor's time required in obtaining permits is incidental to the work.

14.01 SUBMITTALS

After checking and verifying all field conditions and measurements, Contractor shall submit to the Project Manager or Engineer for review a minimum two (2) copies of all

submittals which shall have been checked by and stamped with the approval of the Contractor. The Contractor shall prepare and complete submittal in a form as approved by the City's Project Manager or Engineer and include it with each submittal. The data shown on the submittals will be complete with respect to dimensions, calculations, design criteria, materials of construction, manufacturer and the like to enable Project Manager or Engineer to review the information as required.

The Contractor shall also submit to the Project Manager or Engineer for review, with such promptness as to cause no delay in work, all samples required by the Contract Documents. All samples will have been checked by and stamped with the approval of the Contractor; identified clearly as to material, manufacturer, and pertinent catalog numbers; and the use for which intended.

At the time of each submission, the Contractor shall in notify the Project Manager or Engineer's attention to any deviations that the submittals may have from the requirements of the Contract Documents.

The Project Manager or Engineer will review with reasonable promptness submittals but his review shall be only for conformance with the design concept of the Project and for compliance with the information given in the Contract Documents. The review of a separate item as such will not indicate approval of the assembly in which the item functions. The Contractor shall make any corrections required by the Project Manager or Engineer and shall return the required number of corrected copies of submittals for review. The Contractor shall direct specific attention in writing or on resubmitted submittals revisions other than the corrections called for by the Project Manager or Engineer on previous submissions. The Contractor's stamp of approval on any submittal or sample shall constitute a representation to the Owner and the Project Manager or Engineer that the Contractor has either determined and verified all quantities, calculations, dimensions, field construction criteria, materials, catalog numbers and similar data or he/she assumes full responsibility for doing so and that he/she has reviewed or coordinated each submittal or sample with the requirements of the Work and the Contract Documents.

Where a submittal is required by the Specifications, no related Work shall be commenced until the submission has been reviewed by the Project Manager or Engineer. A copy of each reviewed submittal and each reviewed sample shall be kept in good order by the Contractor at the site and shall be available to the Project Manager or Engineer.

The Project Manager or Engineer's review of submittals or samples shall not relieve the Contractor from his responsibility for any deviations from the requirements of the Contract Documents unless the Contractor has in writing called the Project Manager or Engineer's attention to such deviation at the time of submission and the Project Manager or Engineer has given written approval to the specific deviation, nor shall any review by the Project Manager or Engineer relieve the Contractor from responsibility for errors or omissions in the submittal.

15.01 PROJECT RECORDS

The Contractor shall maintain in a safe place at the project site one (1) record copy of all Specifications, Submittals, Drawings, Addenda, Modifications, TV Video Logs, and Shop Drawings which are currently annotated to show all changes made during the construction process. These documents shall be available to the Project Manager or Engineer for reference during the construction process. These documents shall be delivered in good condition to the Project Manager or Engineer upon completion of the Project. Final contract payment will not be released until these items have been received, inventoried, and reviewed for correctness and completeness by the Project Manager or Engineer. If deficiencies are found in the Project Records submitted, the Contractor will be required to correct such deficiencies and resubmit to the Project Manager or Engineer. All survey information and record information including manhole rim elevations, invert elevations, pipe diameters, and related information shall be shown by the Contractor on the as-builts and provided in electronic format when required by the Contract Documents.

16.01 SEQUENCE OF WORK

A. The sequence of work will be determined with the Contractor after the award of the contract. It is intended that the Contractor and City mutually establish a work sequence that benefits both and uses the expertise of both parties in establishing a work sequence. The Contractor is obligated to work. The City shall have the final approval of the sequence of work without any additional compensation to the Contractor

B. The Contractor shall complete all work in one work area (a work area is defined as the area referenced in an Individual Job Authorization - I.J.A.) or as Owner determines before beginning work in another work area such that the public right-of-way disruption throughout the City is minimized as much as possible. Completion of work shall include the sewer line rehabilitation or replacement, rehabilitation or replacement of manholes, reconnection of all sewer service lines, and the replacement of all curb, gutters, sidewalk, drive pads, and asphalt/concrete pavement.

C. Work on more than one work area at a time will be allowed if authorized in writing by the Owner. Any special schedule requirements for multiple “work area” work will be noted on the written authorization.

17.01 CONSTRUCTION STAGING – STORAGE AREAS

The Contractor may use, with the City’s approval, those areas of City land within the City of Santa Fe Wastewater Treatment Plant or other City properties as a staging-storage area for equipment and materials directly related to performance of this contract. The Contractor is solely responsible for all personnel, equipment and material stored within these areas.

18.01 MEASUREMENT AND PAYMENT

Payment will be rendered based on the fixed Unit Item Bid Sheet as set forth in the Bid Proposal and in accordance with the Contract Documents. All items required for this Project shall be considered incidental to the Contract and no additional payment shall be made unless unanticipated conditions are discovered. Whether conditions are unanticipated shall be in the sole discretion of the Owner, in which case a field change order incorporated into the Individual Job Authorization (I.J.A) shall be prepared for review and approval by the Owner and/or Owner's Representative prior to commencing any work. The Contractor shall not be paid for performing any work not specifically required by the Contract or written field change orders approved by the Owner and/or Owner's Representative. The cost of performing work must be agreed upon by both parties to the Contract, unless a written notice to proceed is used by the Owner prior to initiation of the construction on changed work.

A. TRAFFIC CONTROL AND BARRICADING
Measurement will be based on the percentage complete for each bid item where Traffic Control is required.

WORK DESCRIPTION WITH MEASUREMENT AND PAYMENT FOR Publicly Owned Treatment Works (POTW) On-call repair, replacement, extension and rehabilitation of sewer collection system Price Agreement Bid 21/46/B

1. DESCRIPTION

1.1 The work under this contract is located in the City of Santa Fe at various sites throughout the City. The scope of work consists of furnishing all mobilization, labor, material, equipment and services, unless otherwise specified, for on-call emergency service and for routine work for the City of Santa Fe Sanitary Sewer Treatment Facility and Sanitary Sewer Collection System and appurtenances. Work to include repair, replacement, extension and rehabilitation of the sewer collection system to include trenching, excavation, backfill and compaction at excavation site, cleaning of loose debris, soil density testing, and any other incidental items necessary for the safety, health and welfare of the general public and to complete Work authorized under a Work Order and in accordance with the drawings, specifications, and other Contract Documents.

1.2 Work will take place on city streets and sewer easements in various locations throughout the City or within the Wastewater Facility. The above is only a general description and is not intended to describe project completely.

1.3 Work performed under this Contract shall be authorized in writing by an Individual Job Authorization (I.J.A.) signed by one of the following authorized representatives (hereafter "Authorizing Representative"): Wastewater Division Collection Manager/Supervisor,

Wastewater Division Project Engineer or Wastewater Division Director based on the bid prices submitted on the Unit Item Bid Sheets by the Contractor to the City of Santa Fe. Contractor shall not honor any I.J.A. signed by other than the City of Santa Fe's Authorizing Representative. Each I.J.A. shall set forth (a) the I.J.A. which shall define the Scope of Work to be performed, (b) the period of performance, (c) other data as necessary. Contractor shall, upon acceptance of the I.J.A., provide all supervision, labor, supplies, materials, and facilities including all vehicles and transportation, except as may be provided by the City of Santa Fe, for the performance of the Work authorized herein. Verbal authorizations may be given by the City of Santa Fe in emergency situations, but shall be confirmed in writing by the City of Santa Fe within five (5) days of the verbal authorization to Contractor.

2. EMERGENCY REPAIRS

An Authorized City Representative will notify contractor of an emergency. A City representative will brief the Contractor, at the job site or at the Wastewater Facility, prior to beginning emergency work. The Contractor shall provide supervision at the emergency location within two (2) hours after contact by the city, and labor and equipment to get underway with the work within six (6) hours of being contacted or as agreed by an Authorized City of Santa Fe representative. There is no additional compensation for emergency repairs.

3. COMPENSATION

3.1 Upon completion and acceptance of all work per Work Order the amount due to the Contractor under this Work shall be paid on a monthly basis upon the presentation of a properly executed invoice and after Contractor shall have furnished to the City of Santa Fe with a release of all claims against City of Santa Fe arising by virtue of this bid, other than claims in stated amounts as may be specifically excepted by Contractor from the operation of the release.

4. CHANGES—WORK ORDERS (WO)

4.1 The City of Santa Fe may at any time, by a written Work Order, and without notice to sureties, if any, make changes in an issued Work Order in any one or more of the following: (i) drawings, designs, or specifications; (ii) method of shipment or packing: (iii) place of delivery; (iv) the amount of city-furnished property and (v) Work Orders not specifically covered in the Unit Bid items or a bid item that is necessary and within the scope of work for the repair, replacement, maintenance, operation or extension of the sanitary sewer treatment plant and collection system and appurtenances. If any such change requires the inclusion of a rate of any additional category of labor or unit bid item, or an increase or decrease in any hourly rate, or in the ceiling price provided for in a Work Order., whether changed or not changed by any such order, or otherwise affects any other provision of an Work Order an equitable adjustment shall be made in the (i) ceiling price, (ii) hourly rates, (iii) delivery schedule, (iv) unit bid rates (v) additional unit bid rates and (vi) in such other provisions of the Work Order as may be so affected, and the Work Order shall be modified

in writing (30) days from the date of receipt by Contractor of the notification of change; provided, however, that if city decides that the facts justify such action, it may receive and act upon such claim asserted at any time prior to final payment under a Work Order

5. MISCELLANEOUS PROVISIONS

5.1 The City will require that any sub-contractor performing work in connection with the work for which Contractor is providing, hold harmless, indemnify and defend city, and each of their directors, officers, agents and employees from any and all liability, claims, losses, damages and costs, including attorneys' fees, arising out of or alleged to arise form the sub-contractor's performance of the work described in the construction contract documents.

5.2 The City will require the sub-contractor to provide workers' compensation and commercial general liability insurance, including completed operations and contractual liability, with the latter coverage sufficient to insure the sub-contractor's indemnity, as above required; and such insurance shall include city, Contractor, their consultants, and each of their directors, officers, agents and employees as additional insurers.

5.3 The insurance afforded to these additional insurers shall be primary insurance. If the additional insurers have other insurance that might be applicable to any loss, the amount of the insurance provided under this article shall not be reduced or prorated by the existence of such other insurance.

5.4 The City agrees that in accordance with generally accepted construction practices, the Contractor will be required to assume sole and complete responsibility for job site conditions during the course of construction of the work, including safety of all persons and property, and that this requirement shall be made to apply continuously and not be limited to normal working hours.

5.5 In the performance of its work, Contractor will use that degree of care and skill ordinarily exercised under similar conditions in similar localities and no other warranties, express or implied, are made or intended in any of Contractor' proposals, contracts or reports.

6. SPECIAL CONSTRUCTION CONDITIONS

6.1 The Contractor shall begin work within a period of ten (10) calendar days from and after the date of receiving valid Work Order from the City authorizing the Contractor to commence construction on the project and to diligently carry each and every Work Order assignment through to satisfactory completion in strict accordance with these specifications. Each Work Order shall specify a completion date as agreed upon by the Contractor and the city's authorized representative. Contractor shall submit a progress report once each calendar month on the status of all out-standing Work Order Contractor's report shall include the following items:

1. Contract Number or Name, Work Order Number and Name (if applicable)
2. Short title.

3. Date Work Order issued to Contractor.
4. Scheduled acceptance.
5. Percent (%) completed.
6. Actual acceptance date.
7. If construction exceeds time limit set or requires re-scheduling, Contractor's reasons shall be indicated.

For sewer lines greater in diameter than 10 inches, Contractor shall confirm that the pipe has been ordered within seven (7) days of the issuance of the Work Order. Construction of these lines shall start within seven (7) days of the receipt of the material or as mutually agreed by the City and Contractor.

6.2 The CIP No. 962 Project consists of the summation of all of the Work Orders issued in accordance with the project. Actual work depends on owners, City and others, for new sewer lines and for collection system and treatment plant repair, replacement, operation or extension needs. **The attached estimated quantities in the Unit Bid are not guaranteed as final, nor is the Work amount selected by the City for the purpose of determining the low bidder guaranteed as the final Contract amount.**

6.3 The attached fixed unit bid item price schedule shall apply to the work for this project CIP No. 962 as set forth in the fixed unit bid sheet, the construction drawings and the Work Orders issued. Work may be in any location or locations within or near the City of Santa Fe, dependent upon the demands placed upon the City. Work Orders shall be made up of any combination of bid items required and shall be issued at any time during the term of the project**. Contractor is advised that some bid items include City supplied material. Contractor is responsible for pick-up and delivery of City supplied material to the job site with no additional compensation.**

6.4 In the preparation and issuance of Work Orderss, any or all of the unit bid items in this project may be combined or used interchangeably with any of the other unit bid items.

7. REFERENCED CONSTRUCTION SPECIFICATIONS AND CONSTRUCTION DRAWINGS.

The following specifications and drawings shall be included as a part of reference:

7.1 American Water Works Standard Specifications (AWW Specifications) or latest published revision.

7.2 New Mexico Standard Specifications for Public Works Construction, 2006 Edition (APWA Specifications) or latest published revision.

7.3 New Mexico State Highway Department Standard Specifications (NMSHD Specifications - 2000) or latest published revision.

7.4 Current City of Santa Fe Sanitary Sewer Standard Construction Details or as modified or provided by the Wastewater Division Project Manager.

7.5 Drawings as issued with each I.J.A. as referenced in the I.J.A..

8. ACCESS TO INSPECTION

All work shall be monitored by city's authorized representative for compliance with all applicable specification, codes and standards. The Contractor shall provide access to all sewer system facilities for inspection purposes and notify city's authorized representative prior to commencing work, should said work be performed after normal working hours. Failure of Contractor to provide proper access for inspection of work or to notify City of Santa Fe work to be performed after normal working hours may result in said work being unacceptable to the city. The authorized representative shall be permitted to inspect all work, materials, payrolls, records of personnel, invoices of materials, and other relevant data and record.

9. INTERFERENCE WITH SERVICE AND SCHEDULE OF WORK

9.1 Contractor shall be required to arrange his construction schedule with the intent of maintaining continuous service to sewer users to the fullest extent possible from existing facilities. Should a conflict between the contract work and service occur, Contractor shall, as directed by the city's authorized representative, discontinue the work.

9.2 Contractor shall obtain city's approval for any sewer by-pass and connections to existing mains prior to the scheduling of any construction.

9.3 Contractor, **without additional compensation, may be required to do work outside of normal working hours,** if city's authorized representative determines it is necessary for the convenience of the general public. In the case where Contractor is required to perform any wet connections where notification of discontinued usage will be made, Contractor shall notify each household, office, or any sewer user that a discontinue usage may be made, giving full details. Also, Contractor and city's authorized representative shall determine when discontinued use will be made so that a notice, as agreed to the parties, may be place in the local newspaper. These actions shall be taken to give the sewer users ample time to arrange for a temporary supply of water.

10. CONSTRUCTION WATER

Contractor will provide water for compaction. For work done under this Contract, water for compaction will be furnished by the Contractor using effluent obtained from the Wastewater Treatment Plant. The Contractor is to provide the equipment necessary to transport the effluent from the Plant to the job site. All equipment used for transport is subject to inspection and approval by the Wastewater Management Division.

11. BARRICADES AND SIGNS

Contractor shall provide warning signs and barricades to safely mark any hazards or detours caused by the work. All such warning signs and barricades for work in, or affecting city streets, access roads, and state highways shall meet all applicable requirements as stipulated in the latest edition of the Manual for Uniform Traffic Control Devices (MUTCD) published by the U.S. Department of Transportation and as approved by the City of Santa Fe Public Works Department.

12. PROTECTION OF UTILITIES AND PROPERTY

During performance of the work, Contractor shall protect all utilities and property from damage. Contractor shall spot all utilities prior to any excavation work. Contractor shall call Blue Stake One Call System, and request utility locations as soon as possible for emergency repairs and within forty-eight (48) hours for non-emergency work prior to excavation in strict accordance with Blue Stake One Call System operation procedures.

13. TRAFFIC CONTROL

13.1 Contractor shall maintain traffic flow(s) and accessibility to private property(s) as close to normal condition as possible. Contractor shall notify residents, city and state officials, as appropriate, of any driveway or road closure.

13.2 The contractor shall abide with the New Mexico State Highway and Transportation Department's Standard Specifications for Road and Bridge Construction, 2000 Edition and as amended and shall also abide with the Manual on Uniform Traffic Control Devices, 2000 Edition Part VI and as amended. Contractor shall also provide sufficient flag persons to assist with traffic control during operation.

13.3 **Traffic control is paid on a per work zone per day basis** and typically includes all work within the street from intersection to intersection (i.e. there may be two manholes being raised on same section of street) or within the total work area or work zone. **Traffic control will only be paid for consecutive days worked unless additional days are agreed to by the City and Contractor.**

14. WORK IN STREET RIGHT-OF-WAY

14.1 All of contractor's construction work in street right-of-ways shall be done in strict accordance with the applicable controlling public agency's construction specifications, rules, and regulations.

14.2 Contractor shall coordinate with the proper public officials and receive approval from said officials prior to any street closings or detouring required due to the work to be performed.

Contractor shall protect existing vegetation from removal or damage wherever possible. Contractor shall confine construction work to specified construction limits as shown on the drawings or defined in the specifications. Should Contractor damage or remove any vegetation outside the construction limits, Contractor shall restore the affected area to its original state at no expense to the city.

15. CLEAN -UP

After all work under each task phase of the work is completed, the Contractor shall remove all loose debris and other materials not incorporated in the work from the site of the work. Any clean up or restoration to private property will be the responsibility of the Contractor.

16. PUBLIC RELATIONS

The Contractor shall cooperate with the City in maintaining a high degree of sensitivity to the needs of property and business owners along the project route. Contractor to distribute written public work notices to businesses and residences when required by the City.

17. TESTING

A testing lab shall do testing for soil compaction density requirements, proctor analysis, and any other material testing with all material testing to be certified by professional engineer registered in the State of New Mexico. Test locations and intervals shall be at the direction of the city, and shall be Contractor's responsibility to also comply with all testing necessary for all work done in public right-of-way per the controlling agency's requirements. A copy of all testing shall be mailed from the testing lab directly to city. **The direct cost of testing shall be reimbursed to the Contractor with the submittal of an approved invoice.**

18. WORK IN SANTA FE SOUTHERN RAILWAY INC. RIGHT-OF-WAY

18.1 Construction Work within the railroad right-of-way shall be done in strict accordance with applicable railway standards and directions.

18.2 At least a 48-hour notice to the Railway Company in advance of construction is required. The notice shall be given to the Santa Fe Southern Railway Inc. representative located at 430 W Manhattan Ave A, Santa Fe, NM 87501

18.3 An executed copy of the pipeline license agreement will be given to the contractor. Contractor shall have the license in its possession of the railroad-crossing site during any construction work within the railway right-of-way.

19. WORK IN NEW MEXICO STATE HIGHWAY DEPARTMENT (NMSHD) RIGHT-OF-WAY

All construction work in NMSHD right-of-way shall be done in strict accordance with applicable NMSHD requirements as specified in "Regulations, Policy, and Procedure Governing Occupancy of State Highway System Right-of-Way Public Utility Facilities. "Traffic signs, warnings, and barricades, shall be provided by Contractor and shall conform to NMSHD requirements. Work within NMSHD construction projects shall meet all applicable project specifications and requirements. Contractor shall be responsible for obtaining necessary permits for work conducted on state highways. The City in agreement with the Contractor may incur additional costs associated with construction work done on state highways resulting from street cut permits, traffic control plans, or asphalt paving requirements.

20. CERTIFICATE OF COMPLIANCE

Contractor shall furnish a Certificate of Compliance to City for all material that has specifications requirements listed in the bid. Certificate of Compliance shall be signed and notarized by the material manufacturer stating that the material supplied for Work under the Contract meets all required specifications.

21. MEASUREMENT AND PAYMENT

Payment will be rendered based on the fixed unit price for each item as set forth in the Unit Item Bid Sheet. Such payment shall be full compensation for furnishing all mobilization, labor, materials, tools, equipment, removal and disposal, permit fees, and all incidental items required to complete the work in strict accordance with the bid documents and issued I.J.As. The following defined measurements or specifications shall be used for the determination of payment to Contractor.

CONCRETE:
All concrete to be a minimum 3000 psi design mix.

POINT REPAIR -SEWER MAIN:
Point repairs are utilized to replace a section of sewer pipe, up to 10' maximum, to correct localized pipe defects or retrieve sewer maintenance equipment, etc. Payment for a sewer line point repair shall be based upon the pipe size and depth increment (0'-6' 6'-10', 10'-16') as shown in the respective bid items. Payment shall include all mobilization, labor, equipment, sewer pipe (SDR35 PVC) and materials for the excavation down to the pipe, backfill, compaction, removal and disposal of the existing pipe, removal and disposal of the existing asphalt or concrete pavement, installation of up to 10 linear feet of new pipe including any couplings or fittings and pipe bedding material (minimum of 6 inches compacted base course under pipe), and other appurtenances to make the connection, soil and asphalt density testing as required by the City,. The City will assist the Contractor by providing City equipment and personnel as may be available, (i.e. Vactors, Rodders, By-Pass Pumps) when needed. The City shall have the final determination when the use of City equipment and personnel are warranted. **(Traffic Control, asphalt removal and replacement and sewer services Not Included in this item).**

REMOVE AND REPLACE EXISTING PIPE – OPEN TRENCH:

Open trench pipe replacement shall be utilized for pipe replacement between manholes and in lengths typically greater than 20 feet. Payment shall be made at the fixed unit price per lineal foot of pipe installed per depth increments (0'-6' 6'-10', 10'-16') at a location prescribed per Work Order. Measurement shall be along the new pipe installed from center of fitting to center of fitting. Work includes trench excavation, removal and disposal of existing sewer pipe, backfilling, compaction, pipe bedding material, placement of contractor supplied pipe (SEPARATE BID ITEM). Contractor to verify asphalt removal and replacement amounts with City authorized representative prior to starting work. The City will assist the Contractor by providing City equipment and personnel as may be available, (i.e. Vactors, Rodders, By-Pass Pumps) when needed. The City shall have the final determination when the use of City equipment and personnel are warranted. **(Traffic Control, asphalt removal and replacement and sewer services Not Included in this item).**

SEWER SERVICE RECONNECTION AS PART OF A POINT REPAIR OR OPEN TRENCH PROJECT :

Sewer service reconnections to include removal and replacement of the existing service line, new saddle and installation of up to 5 (five) feet minimum of 4 (four) inch or 6 (six) inch diameter PVC service line pipe replacement. The sewer service reconnection shall be an additional bid item when encountered in the work necessary for a point repair of the sewer line. **The service connection is to be done by the contractor within the excavated trench area necessary for the point repair or open trench work; as such, no additional payment for asphalt removal and replacement will be made under this bid item.** The fixed price for service connections shall include all items associated with the making of a service connection to existing or new sewer lines, including mobilization, excavation, backfill and compaction, saddles and straps, couplings and non-shear couplings and pipe. The fixed unit price shall include payment for the disposal of wastewater, location of utilities to be connected, cutting into existing lines or new lines, and any necessary removal and reinstallation of existing sewer pipe to make the service connection. The notification of customers of the interruption of services, and any other construction costs shall be included for payment in the unit bid price of a service connection. When such service connections and their excavations are made, Contractor shall provide all necessary precautions so that no damage shall be done to the sewer system, employees, or any other property or persons. The City will assist the Contractor by providing City equipment and personnel as may be available, (i.e. Vactors, Rodders, By-Pass Pumps) when needed. The City shall have the final determination when the use of City equipment and personnel are warranted No separate payment will be made for the proper disposing of surplus excavations or the disposing of wastewater, so that no inconvenience will be caused in the street or the adjoining properties. The cost thereof shall be included in the various fixed unit prices. Surplus excavations shall be disposed of as soon as possible in an approved place.

PIPE DISPLACEMENT (BURSTING - 6" THRU 10" PIPE DIAMETER)

Pipe bursting of existing sewer lines shall be determined per inch per pipe diameter of replacement pipe for pipe bursting services. The unit price per inch per diameter of

replacement pipe shall be valid for a 6" through 10" diameter pipe range. Pipe bursting services for pipe diameters larger than 10" will be determined and negotiated on an as needed basis. Contractor can anticipate pipe bursting lengths 200 feet or greater. Work associated with pipe bursting services shall include any other incidental items including mobilization and all materials, labor, equipment, cost of insertion, jacking or recovery pits, machine pits, by-pass pumping, testing, and incidentals required to complete the replacement process. **(Traffic Control, asphalt removal and replacement and sewer services Not Included in this item).** Any pipe damage incurred to existing sewer by the Contractor not associated with pipe bursting shall be replaced with new pipe at the Contractor's expense. The City will assist the Contractor by providing City equipment and personnel as may be available, (i.e. Vactors, Rodders, By-Pass Pumps) when needed. The City shall have the final determination when the use of City equipment and personnel are warranted.

PART 1 - GENERAL

1.01 DESCRIPTION

This section addresses the procedures to be employed for replacing the existing sewer pipes with new polyethylene pipe. In general, any appurtenant work not specifically designated herein shall conform to 2006 New Mexico Standard Specifications for Public Works Construction (APWA).

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1.02 QUALIFICATIONS

A. The Contractor/Subcontractor shall be trained by the Manufacturer of the pipe bursting equipment in the use of the pipe bursting equipment. The Contractor may be required to provide certification from the Manufacturer that the Contractor has been trained and is proficient in the use of the equipment. Only the Contractor's employees trained and certified by the Manufacturer shall be allowed to operate the equipment during the project.

B. The Contractor/Subcontractor shall be trained by the Manufacturer of the polyethylene pipe butt-fusion equipment in the use of the fusion equipment. The Contractor may be required to provide certification from the Manufacturer that the Contractor has been trained and is proficient in the use of the equipment. Only the Contractor's employees trained and certified by the Manufacturer shall be allowed to operate the equipment during the project.

1.03 SUBMITTALS

A. Submit Manufacturer's specific technical data with complete information on physical properties of pipe and pipe dimensions pertinent to this job. A certificate of "Compliance with Specification" shall be furnished for all materials to be supplied.

B. Complete calculations including lists of parameters, all formulas, and all other data which are necessary for the design of the new pipe and the axial resistance for the design of the manhole anchorage system including the required number of electofused restraint saddles.

C. Detail drawings and written descriptions of the entire construction procedure to install pipe, by-pass sewage flow and sewer service reconnections.

D. Certification of workers' proficiency for the pipe fusion for polyethylene pipe and pipe bursting equipment and procedures for both types of pipe.

E. SDR rating calculation for the new polyethylene pipe to be installed.
Pipe Dimension Ratios: The minimum wall thickness of the polyethylene pipe will meet the following, as based on the deepest portion of a particular pipe pull, typically between manholes:

Depth of Cover (Feet)	**Minimum SDR of Pipe**
0 - 16.0	**17**
>16.1	**TO BE DETERMINED**

1.04 LICENSE AGREEMENTS

When requested by the City, the Contractor shall submit evidence acceptable to the City, such as a certified copy of a license or agreement that it has the authority from the Patent Owner to use and/or install patented equipment and materials. The Contractor agrees to defend, indemnify, and hold harmless the City and the Project Manager or Engineer against all claims, suits, and actions brought because of any person or property arising out of patent infringement by the Contractor or the Contractor's employees, agents, suppliers, or any tier of subcontractor involved in the work.

1.05 MEASUREMENT AND PAYMENT

A. Payment for the work in this section will be based on the unit price per linear foot for each size of existing pipe burst to each new size pipe as measured for the actual footage of new pipe installed in the field. New pipe shall be measured between the centerlines of the manholes.

B. The unit price bid for replacing the sewer pipes by pipe bursting shall be full compensation for all mobilization, materials, labor, equipment, cost of insertion jacking or recovery pits, machine pits, surface restoration at the pits, by-pass pumping, testing, and incidentals required to complete the replacement process. Connection of new sewer line to existing manhole is considered incidental to the pipe bursting cost as such no separate payment will be made.

C. The cost for traffic control and reconnecting service lines shall be paid in accordance with the bid items established in the Bid Proposal. **Pre and post Video Inspection will be provided by the City of Santa Fe. Traffic control, not covered by bid items, for major street closures and detours will be negotiated**

PART 2 - MATERIALS

2.01 POLYETHYLENE PIPE (HDPE)

A. MATERIAL

1) The pipe material shall be manufactured from a high density high molecular weight polyethylene compound which conforms to ASTM F-714, and ASTM D-1248 and meets the requirements for Type III, Class C, Grade P-34, Category 5, and has a PPI rating of PE 3408. Inside color shall be white or an alternative light color suitable for illumination during television inspection. Outside color may be different provided the pipe is a homogeneous material and all colors are integral to the HDPE material (not painted or coated). Contractor shall follow the written recommendations of the pipe Manufacturer regarding installation and storage, including protecting the pipe from damage from ultra-violet light. As a minimum, pipe shall be completely covered in its stored location until ready for splicing and installation.

2) The pipe produced from this resin shall have a minimum cell classification of 345434C under ASTM D3350. The Project Manager or Engineer at no extra cost to the City may also accept a higher numbered cell classification limit that gives a desirable higher primary property, per ASTM D3350. The value for the Hydrostatic Design Basis shall not be less than 1600 psi (11.03 MPa) per ASTM D-2837.

B. DIMENSIONS

1) Dimensions and workmanship shall be in accordance with ASTM F714 and ASTM D2122

2) The minimum internal diameter of the new sewer pipe shall be as approved by the City's Project Manager. The Contractor shall submit the manufactures specifications for approval by the City's Project Manager prior to installation

3) The physical appearance of deformities such as concentrated ridges, discoloration, excessive spot roughness, pitting, varying wall thickness, etc. shall constitute sufficient basis for rejection. The pipe shall be homogeneous throughout, free from visible cracks, foreign inclusions, and any other defects. Pipe with gashes, nicks, abrasions, or any such physical damage that may have occurred during storage and/or handling, which are larger/deeper than 10% of the wall thickness shall not be used and must be removed from the construction site.

C. PIPE JOINTING

1) Sections of polyethylene pipe shall be assembled and joined on the job site above ground. Jointing shall be accomplished by the heating and butt-fusion method in strict conformance with the Manufacturer's printed instructions.

2) The butt-fusion method for pipe jointing shall be carried out in the field by operators with prior experience in fusing polyethylene pipe with similar equipment using proper jigs and tools per standard procedures outlined by the pipe manufacturer. These joints shall have a smooth, uniform, double rolled-back bead made while applying the proper melt, pressure, and alignment. It shall be the sole responsibility of the Contractor to provide an acceptable butt-fusion joint. All joints shall be inspected by the Project Manager or Engineer before insertion.

3) All new polyethylene pipes shall be laid along streets, not across streets, so as not to block traffic. If the pipe laid along one street would block traffic on a cross street, then Contractor shall lay the pipe around corners or provide a ramp/bridge to allow traffic to safely cross the pipe with no damage to the pipe. Private property, including landscaping, shall be protected during pipe bursting operations including the preparation and layout of the pipe.

D. MANHOLE ANCHORAGE

1) Each end of the HDPE pipe at the connection with a manhole will be anchored with an electrofusion restraint saddle. A minimum of two (2) saddles will be required on each end to prevent the movement of the HDPE pipe due to creep caused by thermal variations.

2) Electrofusion restraint saddles shall be as manufactured by Central Plastics, or approved equal.

3.03 PIPE INSTALLATION

A. If determined by the Contractor that pipe bursting is not an appropriate rehabilitation method for a specific reach of pipe due to the possibility of damage to the adjacent structures, pavement, and/or underground utilities, the Contractor shall suggest another trenchless pipe rehabilitation method and obtain approval of that method from the City.

B. The pipe bursting tool shall be designed and manufactured to force its way through existing pipe materials by fragmenting the pipe and compressing the old pipe section into the surrounding soils as it progresses. The bursting unit shall generate sufficient force to burst and compact the existing pipeline.

C. Equipment used to perform the work shall be located away from buildings so as not to create noise or vibration impact. Provide a silent engine compartment with the winch to reduce machine noise as required meeting local requirements.

D. The Contractor shall install all pulleys, rollers, bumpers, alignment control devices and other equipment required to protect existing manholes, and to protect the pipe from damage during installation. Lubrication may be used as recommended by the manufacturer. Under no circumstances will the pipe be stressed beyond its elastic limit.

E. The installed pipe shall be allowed the manufacturer's recommended amount of time, but not less than four (4) hours, for cooling and relaxation due to tensile stressing prior to any reconnection of service liens, sealing of the annulus or backfilling of the insertion pit. Sufficient excess length of new pipe, but not less than four (4) inches, shall be allowed to protrude into the manhole to provide for contraction.

F. Following the relaxation period, the void between new pipe and manhole wall shall be sealed. Sealing shall be made with material approved by the City's Project Manager and/or representative and shall extend a minimum of eight (8) inches into the manhole wall in such a manner as to form a smooth, uniform, watertight joint.

SEWER SERVICE RECONNECTION AS PART OF A PIPE BURSTING PROJECT:

Sewer services to include removal and replacement of the existing service line, new saddle and installation of up to 5 (five) feet minimum of 4 (four) inch or 6 (six) inch diameter PVC service line replacement. The sewer service reconnection shall be an additional bid item when encountered in the work necessary for pipe bursting of the sewer line. The fixed price for service connections shall include all items associated with the making of a service connection to new sewer lines, including mobilization, excavation, backfill and compaction, **asphalt removal and replacement with 4 (four) inches asphalt and 6 inches base course,** Geneco saddles and straps or Inserta Tee service connections as approved by the Project Manager, installation of up to 5 (five) feet minimum of 4 (four) inch or 6 (six) inch diameter PVC service line, couplings and/or non-shear couplings. The fixed unit price shall include payment for the disposal of wastewater, location of utilities, cutting into existing lines or new lines, and any necessary removal and reinstallation of existing sewer service pipe to make the service connection. The units for measurement and payment for sewer service reconnections are for depths from 0 to 6 foot in depth,

greater than 6 foot to 10 foot in depth and greater than 10 foot in depth per each additional vertical foot. The additional vertical foot payment will be in addition to the payment for the 6 foot to 10 foot in depth bid item. The notification of customers of the interruption of services, and any other construction costs shall be included for payment in the unit bid price of a service connection. When such service connections and their excavations are made, Contractor shall provide all necessary precautions so that no damage shall be done to the sewer system, employees, or any other property or persons. The City will assist the Contractor by providing City equipment and personnel as may be available, (i.e. Vactors, Rodders, By-Pass Pumps) when needed. The City shall have the final determination when the use of City equipment and personnel are warranted No separate payment will be made for the proper disposing of surplus excavations or the disposing of wastewater, so that no inconvenience will be caused in the street or the adjoining properties. The cost thereof shall be included in the various fixed unit prices. Surplus excavations shall be disposed of as soon as possible in an approved place.

ROCK EXCAVATION:
Rock Excavation as defined in Section 550.021, APWA, will be measured by the cubic yard of rock in its original position within the trench width limits as specified in Section 550.05, APWA. Work shall include excavation, removal, and disposal of rock. This measurement of rock excavation shall be in addition to the measurement for trenching, back filling, and compaction. No measurement shall be made for rock excavation outside the specified trench width limits.

SELECT FILL:
Select fill shall be paid by the cubic yard delivered to site. The type of select fill material shall be approved by the City prior to delivery.

MANHOLE CLEANING: shall include primarily removal of debris and roots from the manhole interior wall and base, compliance with confined space requirements and all other incidental items including disposal.

MANHOLE SEWER SERVICE CONNECTION: Payment for new 4 inch or 6 inch sewer service connection to a manhole shall be made at the fixed unit price per each. Each new sewer service connection to the manhole shall be core drilled and sealed. The new connection shall be made at the top of or slightly below the top of the existing shelf in the manhole. The units for measurement and payment for sewer service connections to a manhole are for depths from 0 to 8 foot in depth and greater than 8 foot in depth per each additional vertical foot. The additional vertical foot payment will be in addition to the payment for the 0 to 8 foot in depth bid item.

MANHOLE(s):
Payment for new manholes/replacement manholes shall be made at the fixed unit price per each manhole, complete in place. Work shall include removing existing concrete collar and barrel sections when needed. Work shall include mobilization, setting manhole to grade, new concrete collar and base, steps and all other incidental items. **Contractor will be**

provided with City furnished concrete barrels, cones, doughnuts and manhole frames and covers. Contractor to reuse manhole barrels and frame and covers when possible. **Work does not include asphalt removal and replacement.** Asphalt removal and replacement is a separate bid item. Contractor to verify asphalt removal and replacement amounts with City authorized representative prior to starting work.

MANHOLE ADJUSTMENTS:

Payment for manhole adjustments will be made at the fixed unit price per each manhole adjusted to grade. Work shall include mobilization, all necessary excavation, backfill and compaction, removal of existing concrete collar, installation of new concrete collar, cleaning of material from inside of manhole to ensure unit is clear, and any other incidental work including removal and disposal of debris . **Work does not include asphalt removal and replacement.** Asphalt removal and replacement is a separate bid item. Separate unit bids items based upon depth are to be made on manhole adjustments requiring work on the existing frame and cover and adjustment rings involving depths from the existing finish grade/manhole rim to 24 inches deep and for adjustments involving depths from the existing finish grade/manhole rim to depths **greater than 24 inches** and involve the adjustment, removal or addition of a manhole barrel section. **The Contractor will be provided with City supplied manhole frames and covers (when required), adjustment rings, donuts and barrels. The Contractor can anticipate a minimum number of three (3) manhole adjustments per Work Order except in an emergency.** The Contractor shall coordinate final grade adjustment of manhole(s) with the City and the paving contractor prior to the Work Order final inspection. The Contractor shall complete adjustment of manhole to final grade no later than thirty (30) days after the Work Order start date. **The contractor will reuse existing manhole frames and covers where possible.** The contractor will save and transport to the Siler Yard site for use by the City any existing manhole frames and covers replaced in the field. **Bid prices will be for manholes and concrete collars installed as per the City of Santa Fe Standard Sewer Construction Drawings and Specifications or as directed by the City's authorized Project Manager.**

CONCRETE COLLAR(s):

Unit bid item is for installing a concrete collar in a dirt road or cross country easement area for an existing manhole **where no concrete collar exists.** Payment for concrete collars shall be made at the fixed unit price per each collar complete in place. Work shall include removal and disposal of debris, all necessary excavation, backfill and compaction. Bid price will be for a concrete collar installed as per the City of Santa Fe Standard Sewer Construction Drawings and Specifications.

MH REHABILITATION:

DESCRIPTION

This specification shall govern all work, materials, and equipment required for new manhole lining or manhole rehabilitation for the purpose of eliminating infiltration, providing corrosion protection, repair of voids, and restoration of the structural integrity

of the manhole as a result of applying a monolithic fiber-reinforced cementitious liner to the wall and bench surfaces of brick, concrete, or any other construction material. In addition this specification will cover the construction of a new Portland cement concrete manhole floor in existing manholes without floors or floors with severe structural damage.

Procedures for MH preparation, cleaning, application and testing are described. The applicator, or approved and trained by the manufacturer, shall furnish all labor, equipment and materials for applying a cementitious mix to form a monolithic liner of minimum 1/2-inch thickness using a machine specifically designed for the application. All aspects of the installation shall be in accordance with the manufacturer's recommendations and with the following specifications that include:

The elimination of active infiltration prior to making the application.
Repair and sealing of the invert and benches.

The removal of any loose and unsound material, including roots, rocks and/or debris
The spray application of a cementitious mix to form a monolithic liner.

SUBMITTALS:
The Contractor shall submit the proposed patch mix, infiltration control (if required), grouting mix and liner mix with all performance data which are to meet the requirements in Part 2 of this section.

MEASUREMENT AND PAYMENT
Measurement will be made by the *vertical foot* for each existing manhole wall rehabilitated, *each* for manhole floor built in an existing manhole, and *each* for existing floor rehabilitated. Payment for the above mentioned work will be made at the unit price as set forth in the Unit Bid Proposal. The Contractor is responsible for furnishing all traffic control, labor, materials, equipment, by-pass pumping, and incidentals necessary to rehabilitate the manhole wall, floor, or build a manhole floor.

MATERIALS
PATCHING MIX—Strong-Seal QSR or equivalent as approved by the City's Project Manger shall be used as a patching mix, shall be applied according to manufacturer's recommendations and shall have the following minimum requirements:

A.	Comprehensive Strength (ASTM C-109)	15 min. 200 psi .6 hrs. 1400 psi
B.	Shrinkage (ASTM C-596)	0% at 90% R.H.
C.	Bond (ASTM C-321)	28 days, 145 psi
D.	Cement	Calcium Aluminate
E.	Density, when applied	105 plus or minus pcf

INFILTRATION CONTROL

Strong Plug or equivalent shall be used to stop minor water infiltration and shall be applied according to manufacturer's recommendations and shall have the following minimum requirements:

A.	Compressive Strength (ASTM C-109)	400-600 psi, 1hr. 1800-2400 psi, 24 hrs.
B.	Bond (ASTM C-321)	30 psi, 1hr. 80 psi, 24hrs.

GROUTING MIX

Strong-Seal Grout or equivalent as approved by the City's Project Manger shall be used for stopping very active infiltration and filling voids according to manufacturer's recommendations. The Grout shall be volume stable, and have a minimum 28 day compressive strength of 250 psi and a 1 day strength of 50 psi.

LINER MIX

Strong-Seal MS-2 or equivalent as approved by the City's Project Manger shall be used to form the monolithic liner covering all interior manhole surfaces and shall have the following minimum requirements at 28 days:

A.	Comprehensive Strength (ASTM C-109)	8000 psi, 28 day
B.	Tensile Strength (ASTM C-496)	800 psi, 28 day
C	Flexural Strength (ASTM C-293)	1200 psi, 28 day
D.	Shrinkage (ASTM C-596)	0% at 90% R.H.
E.	Bond (ASTM C-882 or C-952)	1500 psi

Strong-Seal MS-2C shall be used with the above mixes without prior approval or recommendations from the manufacturer.

OTHER MATERIALS

No other materials shall be used with the above mixes without prior approval or recommendations from the manufacturer and City's Project Manager.

EXECUTION

BUILD NEW MANHOLE FLOOR

On 4' diameter manholes where the existing floor is not made of concrete or has severe structural damage and requires a new concrete floor to be built, the Work will require that existing unsuitable materials be removed and disposed without excavating the exterior of the manhole. This includes any debris, roots, rubble, and saturated soils. The existing sewer lines and manhole blocks, bricks, and risers shall be supported to prevent settling or movement during the Work. Stainless steel threaded rod, approximately 6 inches long

and 3/8-inch diameter, on 12-inch centers, will be drilled and epoxy glued into the manhole wall such that when the new Portland Cement Concrete base is poured that the rod is embedded at least 3 inches into the new concrete. Portland Cement Concrete shall be 4000 psi minimum. **Alternate base designs must have prior City approval by an authorized City representative**. The new concrete floor shall be shaped with the appropriate shelves, benches, and inverts similar to a new manhole. The minimum base thickness shall be 8" not including benches or shelves and shall include rebar in the concrete base.

REHABILITATE MANHOLE FLOOR AND/OR WALL

PREPARATION--Place covers over invert to prevent extraneous material from entering the sewer lines. All foreign material shall be removed from the manhole wall and bench using a high-pressure water spray (minimum 1200-psi). Loose and protruding brick, mortar, and concrete shall be removed using a mason's hammer and chisel and/or scraper. Large voids shall be filled with quick setting patching mix.

MIXING-- The material shall be mixed at such that the nozzle can spray in a continuous manner without interruption until each application is complete.

SPRAYING—Prior to spraying, the surface shall be damp without noticeable free water droplets or running water. Materials shall be applied by spraying a minimum uniform thickness to insure that all cracks, crevices, and voids are filled and a smooth surface remains after light trowel work. The trowel work shall compact the material into voids and set the bond.

The second application of material shall not begin before the first application has achieved an initial set (disappearance of surface sheen that could be 15 minutes to 1 hour depending upon ambient conditions). The minimum total finished thickness shall not be less than 1/2 inch. The second application trowel work shall be a smooth finish being careful not to over trowel and bring additional water to the surface thereby weakening it. Material shall not be applied to frozen surfaces or if freezing is expected to occur within the manhole for 24 hours after application. If ambient temperatures are in excess of 95 degrees F, precautions shall be taken to keep the mix temperature at time of application below 90 degrees F. If necessary, use ice or chilled water during mix.
Ambient manhole conditions are adequate for curing so long as the manhole is covered. It is imperative that the manhole be covered as soon as possible after the application has been completed.
The final application shall have a minimum of four (4) hours cure time before being subjected to active flow.
D. MATERIAL TESTING
At some point during the application, at least two (2) 3-inch diameter by 6-inch long cylinders shall be collected from each day's work, for compression strength testing as described in ASTM C-39.

PAVEMENT REMOVAL, DISPOSAL AND REPLACEMENT (ASPHALT)

Payment for pavement removal, disposal and replacement shall be made at the fixed unit price per square yard of pavement removed and replaced. Work consists of pavement cutting as marked in the field, removal and disposal of pavement and debris and pavement replacement with four (4) inches of type B or C asphalt and 6" of base course. Tack coat required at edge of new and existing asphalt. **Prior to the removal and/or replacement of any asphalt paving, the Contractor shall review the work with the City's Project Manager and the quantity of asphalt for removal/replacement shall be agreed prior to the start of work.**

CONCRETE CURB AND GUTTER / SIDEWALK REMOVAL AND REPLACEMENT:

Payment for removal, disposal and replacement shall be made at the fixed unit price per linear foot of concrete curb and gutter or square yard of concrete sidewalk removed and replaced with four (4) inch thick concrete sidewalk. Work consists of saw cutting along marked lines, removal and disposal of concrete, and replacement of concrete sidewalk or curb and gutter. All curb and gutter and sidewalk removal and replacement to include all incidentals necessary for installation. All concrete shall be 4000psi minimum.

EASEMENT CLEARANCE AND GRADING FOR ACCESS AND REPAIR WORK:

Payment for sewer line easement clearance and access for repairs shall be made at the fixed price per square yard of material removed, replaced and/or graded so as to facilitate repair work by the contractor and/or access for city maintenance crews.

RIPRAP & WIRE MATTRESSES / GABION BASKET NEW INSTALLATION

Payment for new riprap wire mattresses and Gabion baskets shall be made at the fixed price per cubic yard of material installed. Work shall require the contractor to provide all the labor and associated materials (e.g. rock, wire, concrete, filter fabric) to secure such structures in place.

TRAFFIC CONTROL

A. The Contractor shall provide traffic control including, but not limited to, changeable message sign boards (CMSB), message signs, warning signs, barricades, and flagman to safely mark any hazards or detours as a result of the construction work. All such warning signs, barricades, and flagmen for work in or affecting State, City or County streets, access roads, private drives, alleys, etc., shall meet all applicable requirements as stipulated in these Contract Documents and in the latest edition of the Manual for Uniform Traffic Control Devices published by the U.S. Department of Transportation Federal Highway Administration. The Contractor shall maintain traffic flow(s) and accessibility to all private property(s) as close to normal conditions as possible. The Contractor shall notify residents, businesses, the City and State, as appropriate, of any driveway and/or road closures.

B. The City does not have Standard Traffic Control Plans. The Contractor will be required to submit traffic control plans for segments of the Project where specific traffic control plans are required by the City of Santa Fe. The Contractor shall submit any traffic control required for bypass pumping operations as a part of his/her traffic control plans. No work shall begin until the traffic control plan is approved by the City. Traffic control plans shall be submitted to the City at least two weeks in advance of when the Contractor intends to begin his work for the portion within the City limits. **Preparation of traffic control plans for submittal to the City of Santa Fe shall be considered incidental to the work.**

C. The Contractor shall provide a copy of the proposed traffic control plan to the City of Santa Fe's Streets Division Traffic Impact Section for all work conducted. The City's Public Works Department shall have the final decision as to the approval of a traffic control plan.

D. Contractor shall be responsible, and shall make appropriate accommodation for mail delivery and other essential services needed by residents affected by Contractor operations. This effort shall include coordination at least two (2) days prior with U.S. Post Office and other agencies.

E. Changeable Message Sign Boards (CMSB): The Contractor shall be responsible for providing changeable message sign boards as required. **The Contractor shall be reimbursed for the direct rental cost of the CMSB plus ten (10) percent based upon a paid invoice from the supplier or a pricing method as mutually agreed by the Contractor and City**.

F. Flagmen: The Contractor shall be responsible for providing Flagmen as required and when approved by the City. **The Contractor shall be reimbursed for the direct cost plus ten (10) percent of the Flagmen based upon a paid invoice from the sub-contractor or a pricing method as mutually agreed by the Contractor and City**.

G. **All items A through F,– Traffic Control, shall be considered incidental to the work for the Unit Bid Item for Traffic Control in executing the construction contract.**

SEWER AND MANHOLE - SMOKE TESTING

PART 1 – GENERAL

1.01 Scope of Work

A. Based upon findings of the 2016 Wastewater Division Master Plan Study, the City has determined it is necessary to investigate its sewer collection system for points of infiltration during a storm event. The City has purchased a new smoker utilizing liquid smoke and wants to engage an experienced Contractor having field experience with the smoke testing process to assist the City in the performance of smoke tests. The work will

be performed by the Contractor with the City's assistance both in personnel and equipment as deemed appropriate.

B. It is the intent of this specification to provide for the smoke testing materials and procedures to be used in the investigation of the sanitary sewer collection system as required by the City of Santa Fe Wastewater Division (City). All materials and procedures shall be consistent with these specifications, current industry standards, and as approved by the City.

C. The Contractor shall minimize the physical entry of personnel into the sanitary sewer facilities. If required, manhole entry shall be in accordance with Federal, State, and local regulations for confined space entry and other regulations that may apply. The Contractor shall provide all safety equipment required for manhole entry operations, including harnesses, ventilation equipment, etc. Contractor shall provide a copy of their confined space entry program along with a current list of trained personnel. This list must be maintained and updated by the awarded contractor for the duration of the contract.

1.02 Personnel Qualifications

A. A single Crew performing the testing shall be no less than two (2) persons; One supervisor and one helper per crew. One person operates the blower and smoke device. The other inspects and documents the run for evidence of smoke. The Contractor may require additional persons to perform the test as agreed by both the Contractor and the City.

B. The Contractor's employees performing the smoke testing under the provisions of these specifications shall be properly trained and thoroughly experienced in the use of the equipment and procedures. The supervisor shall have at least one year of previous testing experience obtained in the last four years prior to the date of award unless specifically waived by the City.

C. All job supervisors will have cards with contact information for the supervisor and company to provide to residents if requested.

D. The Contractor shall take appropriate action to ensure that his employees are polite and responsive to the public in all aspects of the work and that immediate assistance is provided to property owners if needed.

PART 2 – PRODUCTS

2.01 Blowers

A. The **City** shall provide a portable HURCO Super Smoker utilizing the Super Jet Muffler system capable of 12,987 CFM @ 0.001 static pressure or approved equal.

2.02 Smoke Production

A. Smoke Fluid shall produce smoke when exposed to the heat of the exhaust system of the motor for the blower. The smoke generated shall be white to gray smoke, leaving no residue, and shall be non-toxic and non-explosive. The **City** shall provide the LiquiSmoke™ for the testing.

2.03 Other Equipment

The **Contractor** shall provide all other equipment, tools, and incidentals required to perform smoke testing as required by these specifications and as directed by the City including but not limited to sewer line stoppers, sand bags, cameras, confined space entry equipment, etc. **The City shall provide all door hangers and public information material; the Contractor shall be responsible for distribution. In addition, the City will provide maps for the field documentation. The Contractor will be responsible for documentation.**

PART 3 – EXECUTION

3.01 Work Progress – The work shall generally progress as follows:

A. The City shall select the lines to be tested and issue Work Orders for the sewer line segments to be tested.

B. The Contractor shall obtain traffic control permits for all work to be performed as required.

C. A Work Schedule shall be submitted by the Contractor for review and approval by the City. No field testing or notification may proceed until the schedule has been approved by the City. After approval of the work schedule by the City, the Contractor shall not make any revisions or modifications to it without the approval of the City.

D. Pre-notifications – With the first notification, the contractor shall notify all affected residents that smoke testing will occur no more than two weeks prior and not less than one week prior to the date of the testing. (This timeline for notification is subject to modification by the mutual agreement of the Contractor and the City). The notification will be by using a printed flyer hung on each door of affected homeowners. The flyer and/or press release notice shall include:
1. Contact numbers for the Contractor and the City, if residents want additional information. (*All persons who will be in contact with the public should be well versed in the smoke testing*
procedures, work schedule and content of all public notices).
2. Warnings to the homeowner that Individuals with respiratory, heart problems, or others who should never be exposed to smoke, should be removed from the premises prior to the tests. Others, such as house confined invalids, sleeping shift workers and locked in animals should be identified and evacuated before the test. The notice should also request

that homes with these individuals be requested to be registered as "Homes of Special Concern."

E. Regulatory Notifications – The Contractor shall notify the Local Police and Fire Departments, the City's Public Information Office and the City Manager's Office, just prior to distributing the flyers.

F. Daily Notifications – In the Area of Daily Testing, the Contractor shall notify:
1. All providers of emergency services by phone providing the area to be tested during the next day of work. Notification shall be 24 hours in advance of the testing.
2. The Contractor shall notify, by hand delivery of a notification letter, door knob hangtags or other acceptable methods to each address, all residences and businesses in the area to be tested 24 hours in advance of the testing. All notification letters or hangtags shall be bilingual in Spanish and English.
3. The day of the testing, the Contractor shall check with all homes of special concerns to be sure that all persons that may be sensitive to smoke will be out of the home prior to testing.

G. It shall be the Contractor's responsibility to keep adequate records of all notifications to emergency services and to produce them upon request by the City. Failure to comply with this requirement may be cause to suspend the Contractor's operations until compliance is achieved.

3.02 Work Schedule

A. The Contractor shall not commence testing before 8:00 a.m. and shall terminate testing no later than 5:00 p.m. each day without the prior approval of the City.

B. Work times in Commercial areas shall be scheduled prior to the opening of the majority of the businesses in that area.

C. Smoke testing shall not be performed on weekends or on holidays without the prior approval of the City.

D. Contractor shall not perform smoke testing on days that, in the opinion of the City, will hinder the results of the test. (For example, when high winds, heavy rains, or excessively high groundwater levels would interfere with the effectiveness of the testing).

3.03 Performing the Testing

A. Procedure

1. Safety
(a) The Contractor and his personnel shall be aware of and shall follow all Federal, State, and Local safety laws and regulations.

(b) No entry into any part of the collection system shall be permitted until the Contractor has demonstrated that on-site personnel has been trained in applicable safety procedures and has the
equipment on-site to allow those procedures to be followed.
(c) Traffic Control. The area of work shall at all times be protected by means of an adequate number of cones, barricades, flags, or whatever means is necessary to properly and safely protect
vehicular and pedestrian traffic per MUTCD standards. Further requirements for Traffic control may be imposed by the City.
(d) Any condition deemed to be an unsafe condition shall be immediately corrected by the Contractor. The failure of the City or his representatives to bring a potentially dangerous
situation to the Contractor's attention shall not relieve the Contractor from his responsibility for providing a safe work area.

2. Unless otherwise approved by the City, the sections of sewer subject to testing shall:
(a) Consist of a central manhole, where the blower will be positioned, and an upstream and downstream manhole and the sewer pipe between them. With three (3) manholes and two
pipe sections, lengths should not exceed 800 feet or as mutually agreed by the City and Contractor.
(b) Consist of sections two (2) manholes and one pipe section. This allows a run of 400 to 800 ft of pipe or as mutually agreed by the City and Contractor.

3. Flow Control - <u>It is the intent of this specification that the smoke testing be accomplished without the need for bypass pumping</u>. The Contractor shall provide temporary plugs, sandbags, or flow barriers as required to contain an adequate volume of smoke within the section of sewer being tested, or to limit the extent of sewer subjected to pressurized smoke. The Contractor shall monitor the resulting surcharged sewer at the manhole upstream of the section of sewer being tested, and prevent overflow conditions from occurring by removing the flow barriers. The City shall provide a standby vactor truck when the use of a vactor truck is agreed to by the Contractor and the City.
4. Prior to placing any smoke into a manhole, the Contractor shall first evacuate the system with a blower to ensure that any collection of explosive gas and any odor that may be introduced into the homes and businesses have been dispersed prior to pressurizing the sewer with smoke. Evacuation may be accomplished by removing the manhole covers of all manholes in the run, then placing a vacuum on the manhole where the blower is located, or, then blowing air into the manhole.

5. All smoke testing information shall be accurately and neatly recorded on field worksheets and on maps of suitable scale as provided by the Contractor and/or City. The final report and information may be transferred by the City to a data base together with related digital photographs taken during the project.

6. For each sewer main tested, the Contractor shall prepare a field log identifying each point of smoke exfiltration from:

(a) Roof gutters.
(b) Sewer cleanouts
(c) Leakage in house laterals.
(d) Patio or area drains.
(e) Storm drain cross connections.
(f) Any other source not stated above
(g) Indicate if roof vents showed evidence of smoke or not.

7. The points of exfiltration, as identified above, shall be referenced and dimensioned to permanent landmarks or house or lot numbers.

8. A photograph of all leaks using a digital camera or approved substitute (video camera) shall be included with the field log. All photographs shall be clearly cross-referenced to the typed and/or computer generated log indicating the location of the leak.

9. The report shall reference the alphanumeric manhole numbers shown on the project maps.

10. The Contractor shall prepare a report on a form provided by the City of the smoke testing as specified. The report shall;
(a) Clearly identifies each sewer main tested and documented smoke exfiltration.
(b) Have all field data checked for accuracy.
(c) Contain the digital data (i.e. photographs) at the end of the project.
(d) Contain copies of the materials used to make notifications and a log of the daily notifications to the emergency and safety personnel and "Homes of Special Concern."

PART 4 – PAYMENT
A. Personnel for Smoke Testing
1. Payment for Supervisor and for Helper shall be made on an hourly basis for each classification. This pay item shall be for the personnel required to perform the smoke test and shall include all mobilization costs.

B. Traffic Control for Smoke Testing
1. Traffic control will be paid on a cost plus ten (10) percent markup of the actual invoice from the subcontractor providing traffic control for the work authorized in the Work Order. This pay item shall be for traffic control required to perform a smoke test and to include the costs of changeable message sign boards (CMB) and flagmen when required and as approved by the City.

CITY STREET CUT PERMITS:
The Contractor will obtain permits for work within city rights-of-way which includes: dirt cuts; gravel road cuts; asphalt or concrete pavement cuts; concrete sidewalk or curb and gutter cuts; and excavation permits**. Street cut permits are reimbursed with the submittal of a paid invoice from the City of Santa Fe Streets Division**.

22. N/A

23. TERM AND RENEWAL CONDITIONS

The initial term of Work to be performed for this bid shall become effective from the date the contract is signed by the City and terminate on June 30, 2022. The city reserves the right to renew or extend the period of performance with the Contractor for an additional three (3) terms of twelve (12) months each by a written amendment in accordance with the terms of the initial agreement.

24. WARRANTIES

Warranty required for material and workmanship for minimum of one year unless specified otherwise in these specifications. Warranties shall begin when the City accepts satisfactory delivery of equipment or work from the bidder. The warranty contract shall be solely with the bidder and the bidder shall be responsible for ensuring all warranty work is satisfactorily completed on any component of the unit. All details of warranties shall be included with the bid.

25. EROSION CONTROL

The City of Santa Fe Storm Water Division at a minimum requires the following for projects that disturb one acre or less:

- All drop inlets and all flows shall be protected for a distance of 200 feet from the work site.
- All excavated spoils during working activity shall be protected.
- All paved streets shall be power swept (hand broomed) prior to a storm event and at the end of each work day.
- Any and all oil, gasoline, diesel, sewage spills or other controlled substance spills shall be contained, cleaned up and reported to the storm water inspector for the City. Any and all work performed near the Santa Fe River, arroyos, acequias or waterways shall be protected.

All erosion control measures of this section shall be considered incidental to the bid items

END OF DOCUMENT FOR
BID 21/46/B
CIP 962

City of Santa Fe, New Mexico

Santa Fe Regional Airport

MEMO

DATE: October 25, 2021

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

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

ISSUE: Gate 13 LLC to Gate 13 Hangar Condominium Association Lease Assignment

SUMMARY:
Gate 13 LLC, currently leases property at the Santa Fe Airport, a copy of the lease is attached as Exhibit A. Paragraph 15 of the lease allows Gate 13 LLC, to assign the lease to another party, but the City must provide written consent for the assignment of the lease. Gate 13 LLC, wants to assign its interest in the lease to "Gate 13 Hangar Condominium Association." The Airport Manager does not object to the assignment of the lease to "Gate 13 Hangar Condominium Association" and recommends the Governing Body approve the assignment of the lease. The assignment does not change any of the terms or conditions of the lease.

BUDGET:
This lease assignment has no financial impact to the City of Santa Fe Regional Airport.

SCHEDULE:

Finance Committee	11/01/2021
Public Works/Public Utilities	11/08/2021
City Council	11/10/2021

REQUESTED ACTION:
Approve assignment of lease from Gate 13, LLC to Gate 13 Hangar Condominium Association.

ATTACHMENTS:
Exhibit A – Gate 13, LLC Lease agreement
Exhibit B – Gate 13 Hangar Condominium Association Lease assignment

ITEM # 18-0188

SANTA FE REGIONAL AIRPORT LEASE AGREEMENT

THIS LEASE AGREEMENT ("Lease") is made and entered into this 28th day of February 2018, by and between the CITY OF SANTA FE, NEW MEXICO, a municipality and political subdivision of the State of New Mexico ("Lessor"), and Gate 13 LLC, a New Mexico Limited Liability Corporation ("Lessee") (collectively, the "Parties").

WHEREAS, Lessor owns and operates the Santa Fe Regional Airport ("Airport"), and is desirous of leasing to Lessee certain premises at said Airport; and

WHEREAS, Lessee is desirous of constructing one or more hangars for the purpose of storing aircraft and renting hanger space to third parties; and

WHEREAS, the Parties have the right and power to enter into this Lease for the purposes and upon the terms and conditions set forth herein;

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth herein, the Parties agree as follows:

1. EFFECTIVE DATE.

This Lease shall become effective forty-five (45) days after the date it is adopted and approved by the Governing Body of the City of Santa Fe, unless a referendum is held pursuant to Section 3-54-1 NMSA 1978, and upon execution by the Parties (the "Effective Date"); however, this Lease shall be fully executed no later than April 4, 2018.

2. LEASED PREMISES.

Lessor leases to Lessee and Lessee leases from Lessor that certain real property located at the Airport and identified as Lease Parcels L9B, L10 and L11 as more particularly shown on Exhibit A attached hereto and made a part hereof, containing 4,290, 13,500 and 13,500 square feet respectively totaling 0.7183 acres more or less (collectively, the "Premises"), together with the unimpeded and unlimited right of access thereto from a road to be built by Lessee. Lessor acknowledges and agrees accepts that Lot L9B is subject to a 2,025 square foot utility easement and contains a 435 square-foot area where overhead power lines and a pole are located, rendering 2,460± square feet of Lot L9B unusable, since the easement area cannot be built upon and power lines cannot be built underground.

3. USE OF THE PREMISES AND RIGHT TO CONSTRUCT.

A. Lessee shall use the Premises solely for the purpose of constructing aircraft hangars and related improvements (the "Improvements") for storage of aircraft and for sublease to others for storage of personal or business owned aircraft, conduct of aircraft-for-hire business or other similar aircraft related businesses. No other commercial business activities of any kind shall be conducted on the Premises by Lessee or its sublessees. No vehicle of any type shall be parked on the Premises or inside any hangar except those used for transportation to and from the Premises. No long term parking or storage of any other vehicle shall be permitted unless specifically approved in writing as an exception by Lessor, and if the hangars' primary use

remains as aircraft storage. Lessor reserves the right to revise vehicle parking provisions of this Article 3A at any time Lessor may deem necessary with not less than thirty (30) days advance written notice to Lessee.

B. Lessee shall have the right to erect and maintain such Improvements upon the Premises as are depicted on Exhibit B attached hereto, provided such Improvements are consistent with the then applicable Airport Master Plan, Airport Minimum Standards Ordinance, the Building Code Requirements of the New Mexico Construction Industries Division, and any City of Santa Fe ordinance. Title to such Improvements, installations, and equipment, shall remain in the Lessee during the term of this Lease and Lessee shall have the right to remove the Improvements and equipment at any time during the term of the Lease. Upon expiration of this Lease the Lessee has the option to remove all Improvements within thirty (30) days. If the Lessee does not wish to exercise this option then title to such Improvements as remain shall pass to Lessor.

C. Lessee shall, at its own expense, prepare plans and specifications for the Improvements which shall be submitted to and approved by the Airport Manager prior to any construction commencing. Lessor assumes no liability or responsibility for any defect in any Improvements constructed from such plans or specifications.

D. Lessee must commence construction of the Improvements within twelve (12) months of the effective date of this Lease, and complete construction of the Improvements within twenty-four (24) months thereafter or this Lease will be null and void, provided, however, that the commencement and completion times may be extended on a day-for-day basis for delays caused by adverse weather or other unforeseen circumstances as determined by the Airport Manager.

E. The Premises is not directly served by any access road, although Lessor has plans to construct such an access road in the future by extending the existing access road located on Airport Property adjacent to Lot 9A as shown in Exhibit "B" attached hereto. The Access Road extension shall be constructed by the Lessee and be 22 feet wide with 25 foot radius corners where required and constructed of asphalt to airport standards. Access road construction shall be consistent with the then applicable Airport Minimum Standards Ordinance, the Building Code requirements of the New Mexico Construction Industries Division, the building code requirements of the City of Santa Fe, any City of Santa Fe ordinance and existing lease agreement easements; if any. Any gate constructed by Lessee shall include powered operation and code activated entry controls and shall be placed in the chain link fence bordering the west side of Aviation Drive and shall be constructed to airport standards. Title to such gate and access road shall become the property of the Lessor upon completion of construction. Lessor will assume all responsibility for repair, maintenance and replacement of said gate and access road upon completion of construction.

F. The Premises are not directly served by any sewer line. Lessee shall connect to the existing airport pressure sewer line that is located approximately at the southeastern corner of lot 9B. If this sewer line cannot be located or is not suitable, Lessee may construct a new sewer line from the east property line of Lot to the existing airport pressure line approximately four hundred (400) feet to the southeast which shall meet the Wastewater Management Division's minimum standards. This sewer line shall be designed, sized, and constructed to accommodate future connections from all remaining Lots north of the Premises to the degree that future usage can be

reasonably predicted. Title to such sewer line shall become the property of the Lessor upon completion of construction.

G. Portions of the Premises are served by a taxiway the centerline of which is located no farther than one hundred and forty (140) feet from the Premises. Lessee shall have the right to construct an apron or other pavement to provide access from said Premises to said taxiway, at no cost to Lessor and subject to approval by the Airport Manager, providing such apron or similar pavement construction is consistent with the then applicable Airport Minimum Standards Ordinance, the Building Code requirements of the New Mexico Construction Industries Division, the building code requirements of the City of Santa Fe, then applicable Santa Fe City Code provisions or Santa Fe ordinances, existing lease agreement easements, and applicable FAA apron or pavement construction requirements and standards, if any. Title to such apron or pavement construction shall become the property of the Lessor upon completion of construction. Lessor will assume all responsibility for repair, maintenance and replacement of said pavement upon completion of construction.

H. Lessee must receive prior written approval from Lessor and Lessor will obtain all approvals from the Federal Aviation Administration for any and all Improvements to be placed on the Premises. Lessee shall provide a schedule for completion dates of all Improvements at the time plans for construction or alterations are presented to the Lessor for review and approval, which approval will not be unreasonably withheld. Prior to commencing construction of any Improvements on the Premises, Lessee must demonstrate its financial capability to complete and pay for such construction by way of an irrevocable letter of credit, irrevocable financing commitment, performance bond or other means satisfactory to Lessor.

I. Lessee shall have the right to remodel, remove, demolish or destroy any of the Improvements constructed by Lessee on the Premises without compensation to Lessor, so long as the Premises are left in a safe and sightly condition and provided that Lessor has received the prior written consent of Lessor for such action, which consent shall be provided within not less than thirty (30) days and shall not be unreasonably withheld.

J. Lessor may control access to leasehold from the Eastern access road by installing new or maintaining existing chain link fencing and a powered and code activated nonexclusive use vehicle access security gate and as depicted in Exhibit "B". Lessee shall be allowed to move the existing powered and code activated gate located on the south end of the Premises to the east side of the Premises along Aviation Drive as depicted on Exhibit "B" at no cost to Lessor and subject to approval by the Airport Manager. All gates shall remain secured at all times. Lessee shall not interfere in any way with the use of these security gates by authorized airport vehicles, emergency vehicles or other authorized vehicles or authorized personnel traveling to adjacent or nearby properties. Lessee shall unconditionally grant access to these adjacent or nearby properties by allowing said vehicles or personnel to travel across the Premises utilizing the most direct route. Lessee shall take no action intended to delay or discourage use of these security gates or access to said properties. For the purposes of this paragraph, "authorized" means, vehicles or personnel who have been provided with keys or codes necessary to activate these gates by airport management, Lessee, or other airport leaseholders.

4. TERM OF LEASE.

A. Term. This Lease shall be for a thirty (30) year term beginning on the Effective Date (the "Initial Term"). Upon expiration or other termination of the Initial Term or any Renewal Term as provided for herein, Lessee shall peacefully surrender and vacate the Premises.

B. Option to Renew. The Lessor hereby grants to Lessee the option to renew this Lease Agreement for two additional five (5) year terms (each five (5) year period a "Renewal Term"). The terms and conditions of such Renewal Term shall be the same terms and conditions as are set forth in this Lease Agreement except for ground space rent which shall increase from the rate in effect at the end of the previous lease term pursuant to Article 6, Paragraph A and Paragraph C of this Lease Agreement. Provided, however, that at such time as either Renewal Term is exercised, this Lease Agreement will be amended to conform to all federal and other regulations and grant requirements related to the Airport development and operation. Lessee shall notify Lessor in writing of its intention to exercise the renewal option not less than three (3) months before the expiration of the Initial Term; otherwise, the option shall be deemed to have been waived. At the expiration of this Lease Agreement, Lessee shall, at Lessor's sole discretion, be afforded the opportunity to negotiate and enter a new Lease Agreement with the City of Santa Fe for use of the Premises.

C. Termination. Lessee may terminate this Lease at any time, by giving sixty (60) days prior written notice to Lessor, or otherwise in accordance with Paragraph 11 of this Lease. Lessor may terminate this Lease in accordance with Paragraph 10 of this Lease. Upon termination of this Lease by either party, Lessee's rights to use the Premises shall cease and Lessee shall peacefully vacate the Premises, removing its Improvements, personal property, including, without limitation, items such as signs, trade fixtures, hoists, and conveyors, at its own expense within forty-eight (48) hours of written notification of termination by Lessor. All permanent leasehold Improvements shall, upon termination, be and become the property of Lessor, unless provided otherwise elsewhere in this Lease. Termination by Lessor shall not relieve the Lessee of liability for any damages sustained by Lessor caused by Lessee's breach of this Lease.

5. HOLDOVER.

In the absence of a new lease agreement entered into before the expiration of the Initial Term or any Renewal Term under this Lease, Lessee shall be allowed to hold over for a period not to exceed sixty (60) days from the expiration date of such term. Holding over by Lessee after the expiration of the Initial Term or any Renewal Term under this Lease, whether with or without the consent of Lessor, shall not operate to extend or renew this Lease. Any such holding over shall be construed as a tenancy from month to month at the rents reserved in this Lease under the terms herein.

6. RENT AND FEES.

Lessee agrees to pay to Lessor, at the office of the Airport Manager, at the Airport, or at such place as Lessor may designate from time to time, for the use of the Premises the following rents and fees:

A. Ground Space Rent. Lessee shall pay to Lessor as annual rent for the Premises ("Annual Rent") Five thousand and four and 00/100 Dollars ($5,006.40). Annual Rent is calculated at a rate of Sixteen Cents ($ 0.16) per usable square foot for the Premises.

B. Schedule of Payments for Ground Space Rent. The fixed rental as Provided in Paragraph 6A (above) shall be payable to Lessor annually in advance on the anniversary of the effective date of this Lease.

C. Adjustments to Annual Rent. The Annual Rent as computed above shall be adjusted at the end of every year during the Initial Term and any Renewal Term with an increase of Two Percent (2%) per annum. The required lease payments are shown in Exhibit D, Payment Schedule.

D. Percentage of Gross Receipts Fees. Lessee shall pay to Lessor the following: A sum equal to Two Percent (2%) of the adjusted gross receipts from all business conducted and carried on by Lessee upon the Premises. In addition, Lessee shall require that any corporation member or sublessee conducting any aircraft-for-hire or other aviation related business notify Lessor of the intent to conduct such business, and require that any sublessee conducting any aircraft-for-hire or other aviation related business pay to Lessor the following: A sum equal to Two Percent (2%) of the adjusted gross receipts from all business conducted and carried on by sublessees upon the Premises. The term "adjusted gross receipts" as used in this Lease shall mean the aggregate amount of all sales made, and services performed, for cash, on credit or otherwise, of every kind, name and nature. Adjusted gross receipts shall also include the aggregate value of all goods, wares and merchandise received for property services, at the selling price thereof, as if the same had been sold for cash. There shall be excluded from adjusted gross receipts: (a) federal, state and municipal sales taxes, excise taxes, gross receipts taxes and all other similar taxes separately stated and/or collected from customers; and (b) bad debts and uncollectible accounts. This adjusted gross receipts fee shall be increased or decreased at such time as any other similar lease fee is adjusted or implemented. This adjusted gross receipts fee is due and payable annually within Thirty (30) days of the end of each calendar year for the preceding calendar year. Lessee, upon notification by the Airport Manager of any sublessee in default of this requirement, shall require that the sublessee in default vacate the Premises within 30 calendar days from receipt of said notification.

E. Security and Fire Protection Fees. Lessor reserves the right to impose fair and equitable fees for security and fire protection should such services be provided by Lessor and imposed on other similar leases

F. Late Payment Penalty. If the fixed rental payment as provided in Paragraph 6A and 6C (above) is not received within the twenty-five (25) days of its due date, Lessee shall pay a finance charge of 1.5% per month (18% annually) on such past due payment for each month or partial month thereafter that any payment due is not made.

G. Annual Statement. If Lessee generates any applicable gross revenues described in Paragraph 6D (above), Lessee shall submit via electronic mail a detailed statement to Lessor to accompany the annual payment, on a form satisfactory to Lessor, that shows the gross revenues of Lessee upon which compensation to Lessor is payable under this Lease for the preceding calendar year, which statement shall be subscribed and sworn to as correct by Lessee or certified by a licensed

accountant. The statement shall show such reasonable detail and breakdown by Lessee's payment for gross receipts percentage fees due. Lessee shall include with the breakdown of all rents, fees, and charges due Lessor for the preceding calendar year's business. Such statement shall contain, at a minimum, all annual activities and shall be subscribed and sworn to as correct by Lessee or certified by a licensed accountant.

7. RECORDS AND AUDIT.

A. In addition to the annual statement required under Paragraph 6G (above), Lessee shall provide and maintain true and accurate records of adjusted gross receipts under this Lease for a period of six (6) years from the date the record is made.

B. All records, accounts, books, delivery receipts and data on business activities maintained pursuant to Paragraph 7A (above) or elsewhere under this Lease shall be subject to inspection and audit by Lessor at Lessor's expense at all reasonable times; provided, however Lessor shall notify Lessee of any inspection or audit at least five (5) business days prior to any inspection or audit. However, if an audit reveals a discrepancy of more than five percent (5%) of the gross receipts reported and the gross receipts as determined by the audit for any 12 month period, and if Lessor requires an additional audit, the full cost of such additional audit shall be borne by the Lessee. Records shall be maintained for a period of not less than six (6) complete lease years.

C. The records and statements of business done by Lessee along with any other information obtained or inspected pursuant to this provision shall be considered proprietary information and shall not be subject to use or disclosure by Lessor for any purpose other than the ascertainment of rents, fees and charges under this Lease. Lessor may use the information and data provided by Lessee to compile gross receipts reports for airport activity reports provided the identity of Lessee is not disclosed.

8. INSURANCE.

A. Insurance Required. Lessee shall, at its sole cost and expense, procure and maintain at all times during the term of this Lease insurance coverage with limits not less than those set forth herein with insurers and under forms of policies satisfactory to Lessor, acceptance of which shall not unreasonably be withheld. A binder of all insurance policies required by this Lease shall be provided to the Airport Manager no later than the time of execution of this Lease, including certificates of insurance, as well as respective policy endorsements thereof. Said policies, if reasonably available, shall be procured from insurance carrier(s) authorized to do business in the State of New Mexico and rated A-, VII or better by A.M. Best. Certificates and insurance policies shall name Lessor, its directors, officers, employees, agents and trustees as additional insureds to all policies referenced in this Section, except the workers' compensation and employer's liability, and property insurance policies. Lessee's insurance policies shall be primary and without right of contribution from any other insurance as may be carried by Lessor, waive all rights of subrogation against the Lessor, inclusive of workers' compensation insurance, and provide not less than thirty (30) days written notice of cancellation or of any material change in coverage. However, Lessee shall be responsible for such notification to Lessor of cancellation or material change whether or not the insurer complies. Lessee shall promptly replace any policies terminated or cancelled and shall ensure no gaps in coverage. Lessor has and hereby reserves for all purposes of this Lease the right to revise the insurance requirements set forth

herein as to amounts, limitations and types of insurance, and Lessee hereby agrees to comply with such revised requirements upon reasonable notice from Lessor. Lessee is required to provide and maintain the following insurance and in the amounts indicated below:

1. Worker's Compensation and Employer's Liability. Lessee shall comply with all applicable provisions of the New Mexico Worker's Compensation Act; the Subsequent Injury Act; and the Occupational Disease Disablement Law. Such insurance, if required by the Acts and Law, shall include coverage permitted under N.M. Stat. Ann. 52-1-10 NMSA 1978, for safety devices. Lessee shall procure and maintain complete Employer's Liability Insurance in an amount of not less than $1,000,000 per accident for bodily injury or disease. If Lessee elects to be self-insured, Lessee shall comply with the applicable requirements of law. Lessee shall require any subcontractor or sublessee similarly to provide such coverage, or qualify as a self-insured, for all their employees. Lessor, its officers or employees shall not be responsible for any claims or actions occasioned by Lessee's failure to comply with the provisions of this subparagraph. It is expressly understood that employees of Lessee are not Lessor's employees for any purpose.

2. Aviation Commercial General Liability. If Lessee engages in commercial aviation activity, Lessee shall procure and maintain an aviation commercial general liability insurance policy for bodily injury, property damage and personal and advertising injury, including but not limited to, coverage for premises and operations, products and completed operations, and contractual liability in an amount not less than $1,000,000 per occurrence and $2,000,000 general aggregate.

3. Hangar-Keeper Legal Liability Coverage. Lessee shall procure and maintain hangar-keeper's legal liability insurance with liability limits of not less than the aggregate value of all aircraft stored in the hangar. If Lessee engages in business in which Lessee is legally responsible for aircraft that Lessee does not otherwise insure, Lessee shall procure and maintain hangar-keeper's legal liability insurance with liability limits of not less than the aggregate value of all aircraft stored in the hangar.

4. Commercial Automobile Liability. Lessee shall procure and maintain commercial automobile liability coverage for all owned, leased or hired vehicles in an amount of not less than $1,000,000 per accident for bodily injury and property damage until such time as all Improvements have been completed.

5. Property Insurance. Lessee shall procure and maintain "All Risk" property coverage against loss or damage to Lessee's structures, improvements, trade fixtures, business personal property and equipment caused by fire and lightning, vandalism and malicious mischief, with extended coverage. Such extended coverage shall include loss or damage by explosion, windstorm, riot, aircraft, vehicle damage and such other hazards as are normally covered by such insurance. Coverage provided shall be at full replacement cost. Lessee shall be named as loss payee under the policy as its interest appears.

6. Builder's Risk Insurance (Course of Construction). During construction, Lessee shall procure and maintain builder's risk insurance utilizing an "All Risk" or Special Causes of Loss form covering damages to the work with limits equal to the completed value of the

project, with no coinsurance penalty provisions. The policy shall name Lessor as loss payee, as its interests may appear.

B. Additional Requirements. If any of the policies required to be maintained by Lessee under this Lease are written on a claims-made basis, the following shall apply:

1. The retroactive date must be shown, and must be before the date of this Lease Agreement.

2. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after termination of the Lease;

3. If coverage is cancelled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to this Lease, Lessee must purchase an extended reporting period for a minimum of five (5) years after termination of the Lease.

9. INDEMNIFICATION.

To the fullest extent permitted by law, Lessee agrees to defend, indemnify and hold harmless Lessor, its directors, officers, employees and agents for any loss, liability, claims suits actions, regulatory proceedings, or expenses, including attorney's fees for injury to or death of any person, or any loss or destruction of any property arising out of or attributable to Lessee's or Lessee's agents, employees or sublessees negligent use or occupancy of the Premises, except any loss, liability, claims, suits, actions, regulatory proceedings or expenses caused by the negligence or willful misconduct of Lessor, its agents or employees. Lessee expressly waives any and all claims against Lessor for any compensation for any and all losses or damage sustained by reasons of any defect, deficiency or impairment of any electrical service system or electrical appliances or wires serving the Premises. The defense and indemnification obligations of Lessee under this Lease are undertaken in addition to, and shall not in any way be limited by, the insurance obligations contained herein. It is agreed that if any part of this indemnification is found to conflict with applicable laws, such part shall be unenforceable only insofar as it conflicts with said laws, and that this indemnification provision shall be judicially interpreted and rewritten to provide the broadest possible indemnification legally allowed and shall be binding upon Lessee. This indemnification agreement shall survive the termination of this Lease.

10. TERMINATION BY LESSOR.

Lessor may terminate this Lease by giving Lessee written notice of any alleged default under or breach of this Lease, provided that Lessee shall have thirty (30) days after receipt of such notice within which to cure such default or breach for any of the following:

A. Termination for Non-Payment. If Lessee shall default in any payment obligations contained herein, and the default shall continue for thirty 30 days after the effective date of written notice thereof to Lessee, given by Lessor in accordance with the provisions of this Lease, then Lessor shall have the option to declare the Initial Term or Renewal Term, as applicable, ended, without forfeiture, waiver or release of Lessor's rights to any sum of money due, and to recover and enjoy possession of the Premises, whether with or without process of law. In the event of termination for non-payment, Lessor may, at its option, attach a landlord's lien to any of the Improvements or other property of Lessee on the Premises, and notwithstanding any other

provision of this lease to the contrary, said Improvements or other property may not be removed from the Premises without Lessor's prior written approval.

B. Termination for Default other than Payment.

1. If Lessee shall default in the performance of any terms, covenants, agreements or conditions of this Lease other than in the performance of payment obligations, as set forth above, including, without limitation, Lessee's failure to complete the Improvements on schedule as provided for elsewhere in this Lease, as such schedule may be modified from time to time by the agreement of the Parties, and the default shall continue for thirty (30) days after the written notice thereof to the Lessee, given by Lessor in accordance with the provisions of this Lease, then Lessor shall have the option to declare the Term ended, without forfeiture, waiver or release of Lessor's rights to any sum of money due, and to recover and enjoy possession of the Premises, whether with or without process of law. However, if any default or breach may not reasonably and capably be cured within thirty (30) days after written notice thereof, and if Lessee promptly and diligently attempts to cure the default or breach, Lessor shall give Lessee reasonable additional time to cure the default or breach and Lessee shall pay Lessor for all costs incurred by Lessor as a result of Lessee's default and such payment shall be made promptly upon Lessee's receipt of written demand from Lessor.

2. No waiver of default by Lessor of any of the terms, covenants, agreements or conditions hereof to be performed, kept and observed by Lessee shall be construed to be a waiver of any subsequent default of any of the terms, covenants, agreements and conditions herein contained to be performed, kept and observed by Lessee. The acceptance of Annual Rent or other fees by Lessor for any period or periods after a default of any of the terms, covenants, agreements and conditions herein contained to be performed, kept and observed by Lessee, shall not be deemed a waiver of any right on the part of Lessor to terminate this Lease for failure by Lessee to so perform, keep or observe any of the terms, covenants, agreements or conditions of this Lease.

C. Other Termination. Lessor may terminate this Lease only by giving the Lessee thirty (30) days written notice and opportunity to cure, with our without process of law, upon or after the happening of any one of the following events:

1. If Lessee fails to cure any default set forth in Paragraph 10 B (1) of this Lease within the periods set forth therein, Lessor may declare this Lease to be terminated and to re-enter the Premises or any part thereof, with or without the process of law, to expel, remove and put out Lessee or any other persons occupying the Premises. Lessee shall pay all costs, including reasonable attorney's fees and expenses and court costs that may arise in enforcing the covenants, conditions and terms of this Lease.

2. The filing by Lessee of a voluntary petition in bankruptcy, or the institution of proceedings in bankruptcy against Lessee and the adjudication of Lessee as bankrupt pursuant to such proceedings.

3. The taking of a court of jurisdiction of Lessee and its assets pursuant to proceedings brought under the provisions of any Federal reorganization act.

4. The appointment of a receiver of Lessee's assets.

5. The termination or other termination of any insurance policy issued in compliance with this Lease shall automatically terminate this Lease, unless another policy has been filed and approved pursuant to this Lease.

6. If Lessee should breach any of the nondiscrimination covenants, Lessor shall have the right to terminate this Lease to reenter and repossess said Premises and hold the same as if said Lease had never been made or issued. Lessee shall be entitled to credit for the re-letting of the Premises at the fair market value for the remainder of the term.

11. TERMINATION BY LESSEE.

Lessee may terminate this Lease and terminate all or any of its obligations hereunder at any time that Lessee is not in default in the payment of any rents or fees to Lessor pursuant to this Lease by giving Lessor sixty (60) days advance written notice of its intentions to discontinue its business activities on the Premises.

12. RIGHTS OF LESSOR.

Lessor reserves the right to:

A. Operate the Airport in the best interest of the public and the right, without interference or hindrance, to maintain, improve, or further develop the landing area or public use facilities of the Airport as it sees fit, regardless of any protests of Lessee and to lease additional space to other concessions at the Airport regardless of any objection of Lessee. Lessor may relocate Lessee if the physical development of the Airport or the Airport Terminal requires relocation of Lessee, provided the Lessor gives sixty (60) days' written notice to Lessee and Lessor compensates Lessee for the Premises in one of the two following methods, at the Lessor's expense:

Method A. If Lessor determines it has vacant land available at the Airport which is generally comparable in location to that being taken for development, then Lessee shall relocate the Lessee-owned facilities to the new location in substantially similar form to that then existing. The Lessor shall reimburse Lessee within sixty (60) days for Lessee's actual expenses of relocation of its facilities, subject to Lessor's prior approval of the reasonableness of such expenses.

Method B. If Lessor determines that Lessee cannot be relocated as described in Method A above, then Lessor shall purchase from Lessee the Lessee-owned facilities, to which title shall then pass in fee simple to Lessor. The amount to be paid by Lessor to Lessee shall be the fair market value of the Improvements taken. Fair market value of the Improvements shall be determined by an appraiser selected by Lessee, and Lessor's consent to Lessee's selection of an appraiser shall not be unreasonably withheld. The cost of the appraisal of the fair market value of the Improvements shall be paid by Lessor, and the parties agree to be bound by the appraiser's determination of the fair market value of the Improvements.

B. Enter upon the Premises at any reasonable time for the purpose of making any inspection it may deem expedient to the proper enforcement of any of the covenants or conditions of this Lease and any federal, state, or city laws, ordinances, regulations, rules and codes now or hereinafter in effect.

13. RIGHTS OF LESSEE.

A. Lessee shall have the right, but shall not be required:

1. In common with others so authorized, to use common areas of the Airport, including runways, taxiways, aprons, roadways, floodlights, landing lights, signals and other conveniences for the take-off, flying and landing of aircraft.

2. To the non-exclusive use, in common with others, of the Airport, appurtenances and improvements thereon, but this shall not restrict the right of Lessor to charge visitors a fee for the use of such areas.

3. To install, operate maintain, repair and store, subject to approval of Lessor in the interests of safety and the convenience of all concerned, all equipment necessary for the conduct of Lessee's business.

4. Of access to and from the Premises, limited to taxiways, streets, driveways and sidewalks designated for such purposes by the Lessor, and which right shall extend to Lessee's employees, passengers, guests and patrons.

B. Lessee and its sublessees are authorized, but not required, to provide the following services and to engage in the following activities:

1. Lease of aircraft hangars for the purpose of private or business aircraft storage together with all other normal, reasonable and related activities (except as may be excluded elsewhere in this Lease), provided that all such activities shall be consistent with the Airport Minimum Standards Ordinance as the same may be amended from time to time;

2. Private aircraft storage;

3. Conduct aircraft-for-hire or other aviation related business together with all other normal, reasonable and related activities except as may be excluded elsewhere in this Lease and to be consistent with the then applicable Airport Minimum Standards Ordinance as the same may be amended from time to time.

C. So long as Lessee conducts its business in a fair, reasonable and workmanlike manner, to peaceably have and enjoy the Premises, and all the rights and privileges herein granted.

14. MAINTENANCE OF IMPROVEMENTS.

Lessee shall maintain the Improvements, keep the Premises in good order, make such repairs as are customary, remove abandoned equipment from the Premises and shall not deposit the same on or any portion of the Airport except on such areas as shall be reasonably designated by Lessor. Lessee shall be responsible for providing all customary and necessary janitorial and custodial services on the Premises and shall be responsible for snow, rubbish and trash removal and weed control, together with any work necessary to assure that the Premises do not detract from the Airport.

15. TRANSFER OF INTEREST.

Except as otherwise provided herein, Lessee may not, without the prior written consent of Lessor, which shall not be unreasonably withheld, conditioned or delayed at any time during the term of this Lease, sell, lease, assign, transfer or permit be acquired, this Lease or any interest herein. Lessee may sublease any portion of the leasehold interest to parties who will provide aviation-related services permitted hereunder, and who accept the terms of this Lease pursuant to any sublease agreement. Lessee shall, however, be permitted to enter into a leasehold mortgage, collateral assignment or security interest in the form approved by Lessor, for construction and/or business operation financing purposes. However, the amount secured by such financing shall not exceed the value of the Improvements on the Premises and the value of any other leasehold improvements owned by Lessee pursuant to leases (other than this Lease) between Lessor and Lessee. Leasing and subleasing of hangar and tie down space on the Premises, to individual aircraft owners, shall be allowed without Lessor's consent.

16. OBSERVATION OF LAWS, RULES AND REGULATIONS.

Lessee and Lessor agree to observe and obey during the Term of this Lease, all laws, ordinances, minimum standards, rules and regulations promulgated and enforced by Lessor, and by any other proper authority having jurisdiction over the conduct of operations at the Airport, including the federal government, the state and the City now or hereafter in effect.

17. UTILITIES, REFUSE AND SEWER.

Lessee is responsible for providing all installation and service cost for all utility needs at Lessee's sole expense. Lessee agrees that if in the future Lessor decides to provide sewer or refuse service, then Lessee will pay a reasonable and fair charge for such service(s). Until such time, Lessee shall be responsible for its own sewer service and garbage disposal.

18. ALTERATIONS AND IMPROVEMENTS.

A. Lessee shall not make or suffer or permit to be made any alterations, additions or improvement whatsoever in or about the Premises without first obtaining the written consent of the Airport Manager. If Lessor gives such consent, all alterations or improvements shall be done solely at the Lessee's expense and in accordance and in compliance with all applicable municipal, state and federal ordinances, laws, rules and regulations. Alterations or improvements shall be compatible with the general décor of the Airport Terminal or with such design standards as Lessor may adopt from time to time. Lessee has Lessor's consent to place temporary buildings on the Premises prior to, and during, construction.

B. Lessee shall allow no liens of mechanics, materialmen, laborers, architects, artisans, contractors or subcontractors to be created against or imposed upon the Premises. Lessee shall, upon request by Lessor, provide a labor and materialman's bond to cover all work and materials and labor arising out of such alterations, additions or improvements. No default shall occur if Lessee contests the amount or validity of any such lien, and actively litigates such claim to conclusion. Lessee may bond against such liens, as may be allowed by law, without constituting a default hereunder.

19. DESTRUCTION OF PREMISES.

If at any time during the Term of this Lease, the Premises shall be totally or partially destroyed by fire, earthquake, flood, or other calamity, then Lessee shall have the option to rebuild or repair the Improvements and Lessee shall rebuild and repair the Premises, providing such rebuilding or repairing shall be commenced within a period of thirty (30) days after receipt of notice in writing to Lessor by Lessee that such calamity has occurred. In such case a just and proportionate part of the rental payment per month shall be abated until such demised property shall have been rebuilt and repaired. In case, however, Lessor within thirty (30) days following receipt of notice in writing by Lessee of such damage or destruction elects not to consent to Lessee's election to rebuild or repair said property, Lessor shall so notify Lessee and thereupon this Lease shall terminate and become null and void. In such event, the Lessor shall compensate Lessee for the fair market value of the Improvements less any insurance proceeds collected by Lessee as a result of the event.

20. FAIR AND NONDISCRIMINATORY SERVICES.

Lessee, in the conduct of its authorized business activities shall furnish good, prompt and efficient service in compliance with all applicable laws, rules and regulations adequate to meet the demand for its services at the Airport, and shall furnish such service on a fair, equal and not unjustly discriminatory basis to all users thereof, and agrees to furnish such services at fair, equal and not unjustly discriminatory prices for each unit of sale or service; provided, however, that Lessee shall be allowed to make reasonable and nondiscriminatory discounts, rebates or other similar types of price reductions to volume purchases. Lessee agrees to operate the business in an ethical and professional manner and shall keep the Premises in a safe, clean, orderly and inviting condition at all times, satisfactory to the Lessor. Lessee shall not permit its employees or agent to solicit customers on public property.

21. TITLE VI CIVIL RIGHTS ASSURANCES.

A. Lessee, for itself, its personal representative, successors in interest, and assigns, as part of the consideration under this Lease, does hereby covenant and agree as a covenant running with the land that:

1. No person on the grounds of race, color, sex, disability or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of the Premises.

2. In the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the grounds of race, color, sex, disability or national origin shall be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination.

3. Lessee shall use the premises in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

B. Lessee assures that it will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to ensure that no person shall on the grounds of race, creed, color, national origin, disability or sex be excluded from participating in any employment activities covered in 14 CFR part 152, Subpart E. Lessee assures that no person shall be excluded on these grounds from participating in or receiving the service or benefits of any program or activity covered by this subject. Lessee assures that it will require that its covered sub-organizations provide assurances to the Lessee that they similarly will undertake affirmative action programs and that they will require assurances from their sub-organizations, as required by CFR Part 152 Subpart E, to the same effect.

22. AIRCRAFT SERVICE BY OWNER OR OPERATOR OF AIRCRAFT

No right or privilege has been granted which would prevent Lessee or sublessees from performing any maintenance or repair on its own aircraft as long as such work or services are not contrary to any Federal State or Local law, rule, regulation, now or hereafter in effect.

23. ENVIRONMENTAL PROTECTION.

A. Lessee shall not commit, or suffer to be committed, any waste upon the Premises, or any nuisance or other act or thing which may disturb the quiet enjoyment of the Airport or surrounding property. Lessee shall provide, as necessary, a separate drainage, collection, and/or separation system to ensure that no untreated liquid waste from any type of operation, including vehicle cleaning, fueling, and oil change operations, will enter the Airport storm drainage or sanitary system.

B. Lessee shall, at all times, comply with all applicable laws, rules and regulations of the federal, state, and local governmental agencies. Lessee shall not permit any activity which directly or indirectly produces objectionable or unlawful amounts or levels of air pollution, noise, glare, heat emission, electronic or radio interference with navigational and communications facilities for the operation of the Airport and for Airport use by aircraft, trash or refuse accumulation, vibration, prop-wash or jet blast, or which is hazardous or dangerous by reason or risk of explosion, fire or harmful emission. Any waste oil storage tanks shall be in approved containers and in accordance with all environmental and fire protection regulations.

C. Hazardous substances are any substance, material, or waste (including any petroleum products, solvents, thinners, herbicides and soil sterilants and aircraft de-icing fluids) which is or becomes designated, classified or regulated as being "toxic," "hazardous," a "pollutant," or is in the future given a similar designation under any federal, state or local law, regulation or ordinance.

D. Lessee agrees to defend, indemnify and hold Lessor harmless from and against all liabilities, claims, actions, foreseeable and unforeseeable consequential damages, costs and expenses (including sums paid in settlement of claims and all consultant, expert and legal fees and expenses of Lessor's counsel) or loss directly or indirectly arising out of or resulting from the presence of any hazardous substance as a result of Lessee's or sublessee's activities on the Premises, subsequent to the execution of this Lease but before, during or after construction, in or around any part of the property or the soil, groundwater or soil vapor on or under the property, including those incurred in connection with any investigation of site conditions or any cleanup,

remedial, removal or restoration work, or any resulting damages or injuries to the person or property of any parties or to any natural resources. Upon demand by Lessor, Lessee shall defend any investigation, action or proceeding alleging the presence of any hazardous substance as a result of Lessee's or its subtenant's occupancy of the leased property, in any such location which affects the property or which is brought the Lessor, whether alone or together with Lessee or any other person, all at Lessee's own cost and by counsel to be approved by Lessor in the exercise of its reasonable judgment Should Lessee fail to defend such action, then Lessor may elect to conduct its own defense at the expense of the Lessee. Lessee shall comply and cause all occupants of the property to comply with all laws, regulations, and ordinances governing or applicable to hazardous substances. Lessee acknowledges that hazardous substances may permanently and materially impair the value and use of real property. Lessee shall promptly notify Lessor if it knows, suspects or believes, there may be any hazardous substance in or around the property or in the soil, groundwater, on or under the leased property, or that Lessee or the property may be subject to any threatened or pending investigation by any governmental agency under any law, regulation, or ordinance pertaining to any hazardous substance. Lessee shall have no obligation to defend, indemnify, or hold harmless Lessor from any claims, causes of action, or damages which arise on account of Lessor's own conduct, the conduct of third parties other than Lessee's subtenants, or which is attributable to pre-existing conditions or events over which Lessee exercises no control, even though the Premises may be impacted hereby.

24. NONEXCLUSIVE RIGHTS.

A. Lessee shall have the exclusive right and privilege of engaging in and conducting a business on the Premises under the terms and conditions set forth herein, provided, however, that this Lease shall not be construed in any manner to grant Lessee or those claiming under Lessee in this Lease the exclusive right to use the common areas and facilities of said Airport other than the Premises.

B. Lessor shall have the right to lease other portions of the Airport or Airport Terminal to other lessees, including other ground, air and transportation services. Lessor shall not in the future lease any other Airport premises to any other lessees providing the same or similar services and activities authorized in this Lease at rental rates or terms more favorable or less restrictive to the lessees than set forth in this Lease without Lessee's prior written approval, which shall not be unreasonably withheld, conditioned or delayed. Lessee understands and agrees that nothing in this Lease shall be construed as granting or authorizing the granting of an exclusive right within the meaning of Section 308 of the Federal Aviation Act of 1958, as amended.

25. TAXES AND LICENSES.

A. Lessee shall promptly pay any and all taxes, personal property tax, leasehold tax, gross receipts tax, transaction privilege tax or other exaction assessed or assessable and pay all license fees and permit fees applicable to the Lessee's operation, and acquire and keep current, all licenses, municipal, state or federal, as the result of Lessee's operations at the Airport pursuant to this Lease, and shall not allow any of said taxes, excises or licenses to become delinquent.

B. Lessee shall not permit any mechanics' or materialman's or any other lien to be placed or foreclosed upon the Premises or improvements thereto. Lessee shall have the ability to contest

payment demand by a contractor. Should the Lessee withhold payments to a contractor, the Lessee shall be required, at Lessor's option, to deposit with Lessor or a court of competent jurisdiction, an amount equal to the amount in dispute.

26. SUBORDINATE PROVISIONS.

This Lease shall be subordinate to the provisions of any existing or future agreement between Lessor and the United States or the State of New Mexico relative to the operation or maintenance of the Airport, the execution of which has been or may be required as a condition precedent to the expenditure of federal or state funds for the development of the Airport.

27. OBSTRUCTIONS.

Lessor reserves the right to take any action it considers necessary to protect the aerial approaches of the Airport against obstruction, together with the right to prevent Lessee from erecting, or permitting to be erected, any building or other structure on the Airport which, in the opinion of Lessor, would limit the usefulness of the Airport or constitute a hazard to aircraft. Lessee shall, upon approval by Lessor and prior to any construction of any nature within the boundaries of the airport, prepare and submit to the Airport Manager and the Federal Aviation Administration, Airports District Office, 2601 Meacham Blvd., Ft. Worth, TX, 76137 one executed set (four copies) of FAA form 7460-1 "Notice of Proposed Construction or Alterations", as required by Federal Aviation Regulation Part 77. This notice must be submitted at least thirty (30) days prior to the date of the proposed construction/alteration or the date that an application for a construction permit is filed, whichever is earlier.

Should a Federal Aviation Administration Obstruction Evaluation determine that obstruction lights are needed or required on new construction, or should Federal Aviation Administration rules and regulations change to require obstruction lights on existing structures which previously did not require obstruction lights, Lessee agrees to install, maintain and operate such obstruction lights on the top of buildings or structures to be placed on the Premises. If Lessee fails to install, maintain and operate such obstruction lights then the Lessor shall have the right to install, maintain and operate the same at Lessee's expense.

28. SIGNS.

Lessee shall not erect or mount any signs on the Premises without approval of Airport Manager.

29. AMENDMENT IN WRITING.

No amendment between Lessor and Lessee relative to the leasehold interest herein shall be valid and enforceable unless in writing and executed by both Lessor and Lessee.

30. CHOICE OF LAW.

In the event of contest or legal dispute regarding this Lease, this Lease shall be construed according to the laws of the State of New Mexico and applicable City Ordinances.

31. APPROVALS, CONSENTS AND NOTICES.

Notices required to be given to Lessor shall be hand-delivered, sent via email, overnight courier service, or by certified mail, postage prepaid, addressed to:

Airport Manager
Santa Fe Regional Airport
P.O. Box 909
Santa Fe, New Mexico 87504-0909
505.955.2901
naschiavo@santafenm.gov

With a copy to:

City Manager
P.O. Box 909
Santa Fe, New Mexico 87504-0909
505.955.6848
bksnyder@santafenm.gov

City Attorney
P.O. Box 909
Santa Fe, New Mexico 87504-0909
505.955.6961
kabrennan@santafenm.gov

Any approvals, consents and/or notices to be given to Lessee shall be hand-delivered, sent via overnight courier service or sent by certified mail to:

John Elling
Gate 13 LLC
590 Monte Alto
Santa Fe NM 87501

Or to such other addresses as may be provided from time to time by each of the Parties to the other in accordance with the notice requirements of this Paragraph 31.

32. PARAGRAPH HEADINGS.

The paragraph and subparagraph headings contained in this Lease are inserted for reference and convenience and are not intended to define or limit the scope of any provision of this Lease.

33. INVALID PROVISIONS.

In the event any covenant, condition or provision contained in this Lease is held to be invalid by any court of competent jurisdiction, the invalidity of any such covenant, condition or provisions contained in this Lease shall not affect the enforceability of the balance of this Lease; provided that the invalidity of such covenant, condition or provision does not materially prejudice either Lessor or Lessee in its respective rights and obligations contained in this Lease.

IN WITNESS WHEREOF, the parties hereto have caused this Lease Agreement to be executed as of the day and year first above written.

ATTEST:

Yolanda Y. Vigil, City Clerk
CC mtg. 2/28/18

Javier M. Gonzales, Mayor

APPROVED AS TO FORM:

Kelley Brennan, City Attorney

APPROVED:

3.12.18
Adam Johnson, Finance Director

John Elling, Gate 13 LLC

STATE OF NEW MEXICO)
)
COUNTY OF SANTA FE)

This instrument was acknowledged before me on March 2, 2018, by John Elling, the Owner of Gate 13 LLC, a New Mexico LLC.

Notary Public
My Commission Expires: 4/23/18

OFFICIAL SEAL
MELISSA D. BYERS
Notary Public
State of New Mexico
My Comm. Expires 4/23/18

Exhibit A

DESCRIPTION LEASE PARCEL LOT 9B

ALL THAT PORTION OF

LEASE PARCEL L9B OF THE SANTA FE MUNICIPAL AIRPORT PROPERTY,
WITHIN SECTION 15, TOWNSHIP 16 NORTH,
RANGE 8 EAST, N.M.P.M., SANTA FE COUNTY, NEW MEXICO

WHICH PORTION MAY BE MORE PARTICULARLY DESCRIBED
AS FOLLOWS:

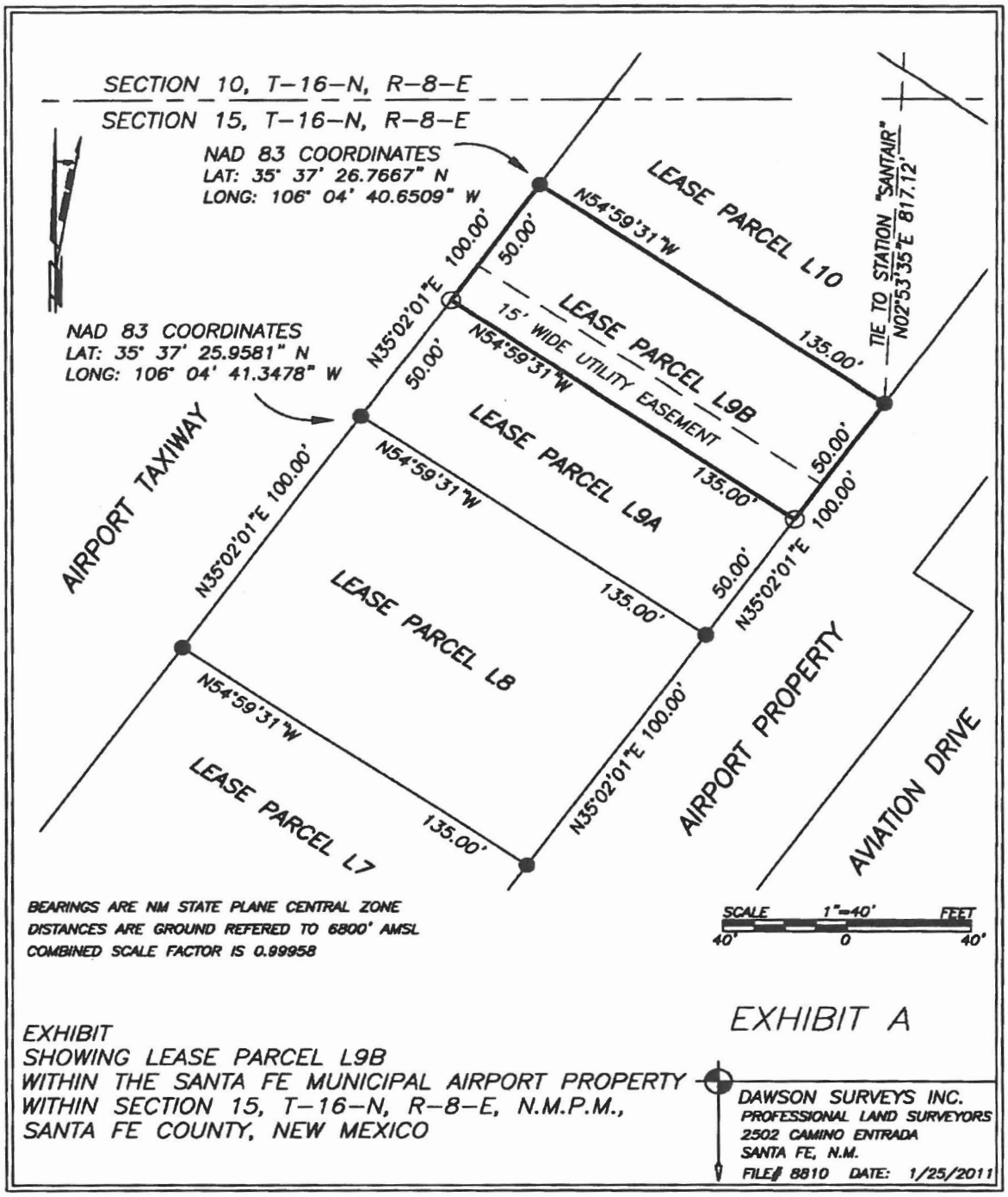
BEGINNING AT A POINT BEING THE MOST NORTHERLY CORNER OF SAID
LEASE PARCEL L9B, HAVING NAD83 COORDINATES OF
LATITUDE 35° 37' 26.7667" NORTH AND
LONGITUDE 106° 04' 40.6509" WEST,

THENCE S54°59'31"E, 135.00 FEET;
THENCE S35°02'01"W, 50.00 FEET;
THENCE N54°59'31"W, 135.00 FEET;
THENCE N35°02'01"E, 50.00 FEET;

MORE OR LESS TO THE POINT OF BEGINNING, CONTAINING
0.155 ACRES, MORE OR LESS,

SUBJECT TO A 15 FOOT WIDE UTILITY EASEMENT ALONG THE SOUTH WEST
BOUNDARY OF THIS PORTION OF SAID LEASE PARCEL L9B,

ALL AS SHOWN ON EXHIBIT A ATTACHED HERETO.


SECTION 10, T-16-N, R-8-E
SECTION 15, T-16-N, R-8-E
NAD 83 COORDINATES
LAT: 35° 37' 26.7667" N
LONG: 106° 04' 40.6509" W
NAD 83 COORDINATES
LAT: 35° 37' 25.9581" N
LONG: 106° 04' 41.3478" W
LEASE PARCEL L10
LEASE PARCEL L9B
LEASE PARCEL L9A
LEASE PARCEL L8
LEASE PARCEL L7
15' WIDE UTILITY EASEMENT
N54°59'31"W
135.00'
50.00'
100.00'
N35°02'01"E
TIE TO STATION "SANTAIR"
N02°53'35"E 817.12'
AIRPORT TAXIWAY
AIRPORT PROPERTY
AVIATION DRIVE
BEARINGS ARE NM STATE PLANE CENTRAL ZONE
DISTANCES ARE GROUND REFERED TO 6800' AMSL
COMBINED SCALE FACTOR IS 0.99958
SCALE 1"=40' FEET
40' 0 40'
EXHIBIT A
EXHIBIT
SHOWING LEASE PARCEL L9B
WITHIN THE SANTA FE MUNICIPAL AIRPORT PROPERTY
WITHIN SECTION 15, T-16-N, R-8-E, N.M.P.M.,
SANTA FE COUNTY, NEW MEXICO
DAWSON SURVEYS INC.
PROFESSIONAL LAND SURVEYORS
2502 CAMINO ENTRADA
SANTA FE, N.M.
FILE# 8810 DATE: 1/25/2011

DESCRIPTION LEASE PARCEL L10

ALL THAT PORTION OF

THE SANTA FE MUNICIPAL AIRPORT PROPERTY BEING LEASE PARCEL L10, WITHIN SECTIONS 10 & 15, TOWNSHIP 16 NORTH, RANGE 8 EAST, N.M.P.M., SANTA FE COUNTY, NEW MEXICO

WHICH PORTION MAY BE MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A 1/2" REBAR WITH CAP L.S. 7014, BEING THE NORTHEAST CORNER OF SAID LEASE PARCEL, HAVING NAD 83 NEW MEXICO STATE PLANE CENTRAL ZONE COORDINATES OF GRID N:1682490.283 GRID E:1691711.825, LAT.:35°37'26.808"N LONG.:106°04'38.617"W WHICH LIES S01°15'41"E 734.37 FEET FROM NGS CONTROL STATION SANTAIR,

THENCE S35°02'01"W, 100.00 FEET;
THENCE N54°59'31"W, 135.00 FEET;
THENCE N35°02'01"E, 100.00 FEET;
THENCE S54°59'31"E, 135.00 FEET;

MORE OR LESS TO THE POINT OF BEGINNING, CONTAINING 0.3099 ACRES, MORE OR LESS, AS SHOWN ON EXHIBIT B ATTACHED HERETO.

Diego J. Sisneros 2/1/2013

DIEGO J. SISNEROS N.M.P.L.S. #13986

DIEGO J. SISNEROS NEW MEXICO 13986 REGISTERED PROFESSIONAL SURVEYOR

EXHIBIT A

DESCRIPTION OF LEASE PARCEL L11

ALL THAT PORTION OF OF THE SANTA FE MUNICIPAL AIRPORT PROPERTY WITHIN SECTIONS 10 & 15, TOWNSHIP 16 NORTH, RANGE 8 EAST, N.M.P.M., SANTA FE COUNTY, NEW MEXICO

WHICH PORTION MAY BE MORE PARTICULARLY DESCRIBED AS FOLLOWS:

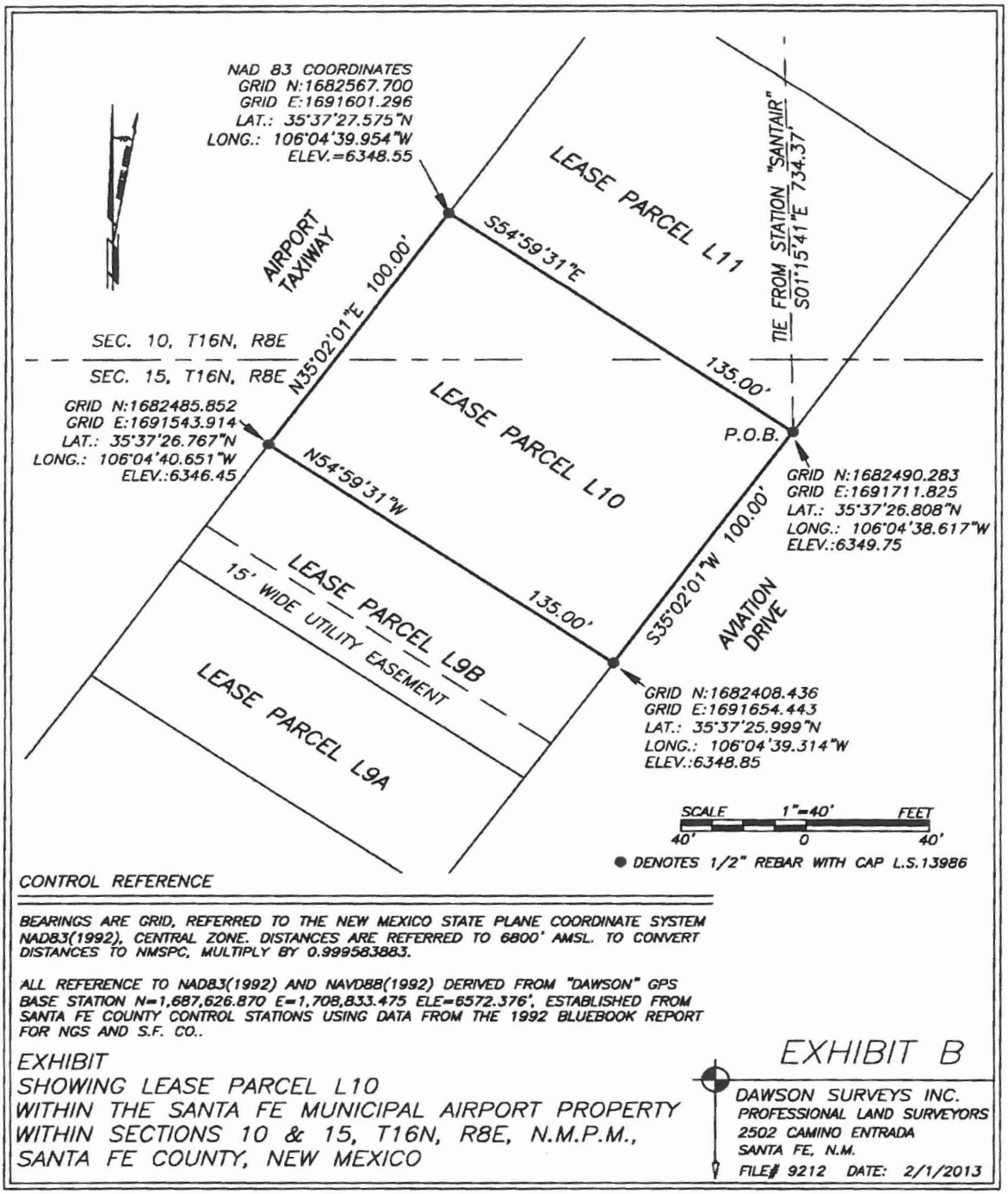
BEGINNING AT THE MOST NORTH CORNER OF SAID PARCEL, WHICH LIES S03°40'59"W 576.05 FEET FROM NGS CONTROL STATION "SANTAIR" HAVING NAD83 NEW MEXICO STATE PLANE CENTRAL ZONE COORDINATES OF GRID N:1683224.17 GRID E:1691695.66, LAT.:35°37'34.066"N LON.:106°04'38.797"W,
THENCE S54°59'31"E A DISTANCE OF 135.00 FEET;
THENCE S35°02'01"W A DISTANCE OF 100.00 FEET;
THENCE N54°59'31"W A DISTANCE OF 135.00 FEET;
THENCE N35°02'01"E A DISTANCE OF 100.00 FEET;
TO THE POINT OF BEGINNING, MORE OR LESS, HAVING AN AREA OF 0.310 ACRES, MORE OR LESS, AS SHOWN ON EXHIBIT B ATTACHED HERETO AND MADE A PART OF THIS DESCRIPTION.



DIEGO J. SISNEROS N.M.P.L.S. #13986 1/26/2018

EXHIBIT A

Exhibit B



CONTROL REFERENCE

BEARINGS ARE GRID, REFERRED TO THE NEW MEXICO STATE PLANE COORDINATE SYSTEM NAD83(1992), CENTRAL ZONE. DISTANCES ARE REFERRED TO 6800' AMSL. TO CONVERT DISTANCES TO NMSPC, MULTIPLY BY 0.999583883.

ALL REFERENCE TO NAD83(1992) AND NAVD88(1992) DERIVED FROM "DAWSON" GPS BASE STATION N=1,687,626.870 E=1,708,833.475 ELE=6572.376', ESTABLISHED FROM SANTA FE COUNTY CONTROL STATIONS USING DATA FROM THE 1992 BLUEBOOK REPORT FOR NGS AND S.F. CO..

EXHIBIT
SHOWING LEASE PARCEL L10
WITHIN THE SANTA FE MUNICIPAL AIRPORT PROPERTY
WITHIN SECTIONS 10 & 15, T16N, R8E, N.M.P.M.,
SANTA FE COUNTY, NEW MEXICO

EXHIBIT B

DAWSON SURVEYS INC.
PROFESSIONAL LAND SURVEYORS
2502 CAMINO ENTRADA
SANTA FE, N.M.
FILE# 9212 DATE: 2/1/2013

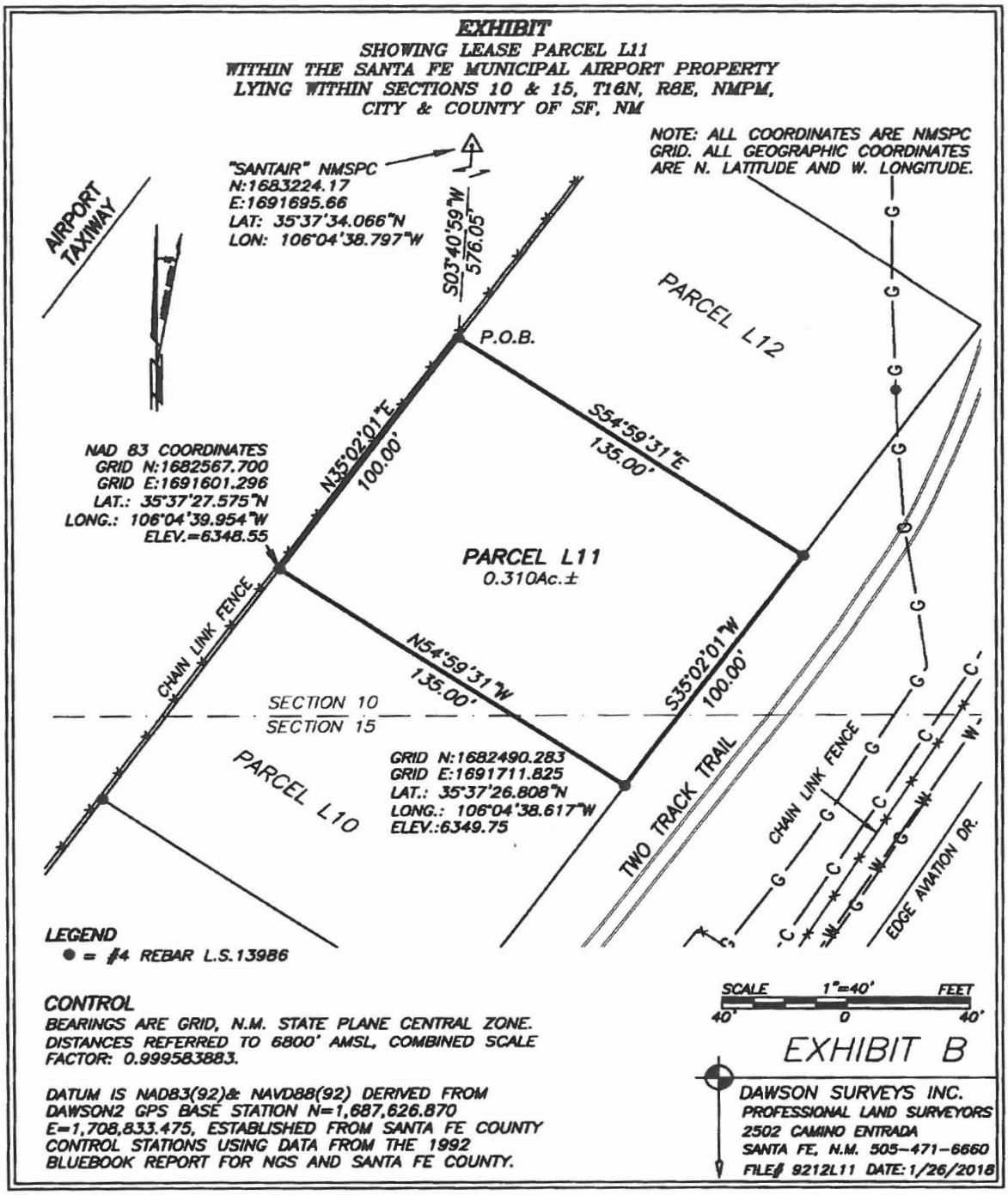

EXHIBIT
SHOWING LEASE PARCEL L11
WITHIN THE SANTA FE MUNICIPAL AIRPORT PROPERTY
LYING WITHIN SECTIONS 10 & 15, T16N, R8E, NMPM,
CITY & COUNTY OF SF, NM
NOTE: ALL COORDINATES ARE NMSPC GRID. ALL GEOGRAPHIC COORDINATES ARE N. LATITUDE AND W. LONGITUDE.
"SANTAIR" NMSPC
N:1683224.17
E:1691695.66
LAT: 35°37'34.066"N
LON: 106°04'38.797"W
AIRPORT TAXIWAY
S03°40'59"W
576.05'
P.O.B.
PARCEL L12
S54°59'31"E
135.00'
N35°02'01"E
100.00'
NAD 83 COORDINATES
GRID N:1682567.700
GRID E:1691601.296
LAT.: 35°37'27.575"N
LONG.: 106°04'39.954"W
ELEV.=6348.55
PARCEL L11
0.310Ac.±
CHAIN LINK FENCE
N54°59'31"W
135.00'
S35°02'01"W
100.00'
SECTION 10
SECTION 15
PARCEL L10
GRID N:1682490.283
GRID E:1691711.825
LAT.: 35°37'26.808"N
LONG.: 106°04'38.617"W
ELEV.:6349.75
TWO TRACK TRAIL
CHAIN LINK FENCE
EDGE AVIATION DR.
LEGEND
● = #4 REBAR L.S.13986
CONTROL
BEARINGS ARE GRID, N.M. STATE PLANE CENTRAL ZONE. DISTANCES REFERRED TO 6800' AMSL, COMBINED SCALE FACTOR: 0.999583883.
DATUM IS NAD83(92)& NAVD88(92) DERIVED FROM DAWSON2 GPS BASE STATION N=1,687,626.870 E=1,708,833.475, ESTABLISHED FROM SANTA FE COUNTY CONTROL STATIONS USING DATA FROM THE 1992 BLUEBOOK REPORT FOR NGS AND SANTA FE COUNTY.
SCALE 1"=40' FEET
40' 0 40'
EXHIBIT B
DAWSON SURVEYS INC.
PROFESSIONAL LAND SURVEYORS
2502 CAMINO ENTRADA
SANTA FE, N.M. 505-471-6660
FILE# 9212L11 DATE: 1/26/2018

Exhibit C

Exhibit D

PAYMENT SCHEDULE			
YEAR	PAYMENT	YEAR	PAYMENT
2018	$5,006.40	2033	$6,737.96
2019	$5,106.53	2034	$6,872.71
2020	$5,208.66	2035	$7,010.17
2021	$5,312.83	2036	$7,150.37
2022	$5,419.09	2037	$7,293.38
2023	$5,527.47	2038	$7,439.25
2024	$5,638.02	2039	$7,588.03
2025	$5,750.78	2040	$7,739.79
2026	$5,865.80	2041	$7,894.59
2027	$5,983.11	2042	$8,052.48
2028	$6,102.77	2043	$8,213.53
2029	$6,224.83	2044	$8,377.80
2030	$6,349.33	2045	$8,545.36
2031	$6,476.31	2046	$8,716.26
2032	$6,605.84	2047	$8,890.59

ITEM # _____

WHEN RECORDED RETURN TO: Airport Manager, Santa Fe Municipal Airport, PO Box 909, Santa Fe NM 87504-0909

ASSIGNMENT OF INTEREST IN LEASE

Parcels L9B, L10, and L11 on the City of Santa Fe Regional Airport

THE ASSIGNMENT OF INTEREST IN SANTA FE REGIONAL AIRPORT LEASE AGREEMENT (the **"Assignment"**) is entered into this ___day of___, 2021, by and between:

i. **Gate 13, LLC,** a New Mexico Limited Liability Corporation, having a legal mailing address of c/o John Elling 590 Monte Alto, Santa Fe, NM 87501 ("**Assignor**"), which is the Lessee of Lease Parcels L9B, L10, and L11 on the City of Santa Fe Regional Airport;

ii. **Gate 13 Hangar Condominium Association**, having a legal mailing address of c/o John Elling, 590 Monte Alto, Santa Fe, NM 87501 ("**Assignee**");

iii. **The City of Santa Fe**, New Mexico, having a legal mailing address of Airport Manager, Santa Fe Regional Airport, PO Box 909, Santa Fe NM 87504-0909 (**"Lessor"**), which has executed this assignment solely for the purpose of acknowledging its consent to the assignment.

RECITALS

A. Lessor leased Parcels L9B, L10, and L11 to Assignor on February 28, 2018, recorded as item # 18-0188 ("Lease Agreement"). The Lease Agreement encumbers the real property described in **Exhibit A**, attached hereto and incorporated herein (the "Property")

B. Paragraph 15 of the Lease Agreement permits assignment of Lessee's interest with prior written consent of Lessor.

C. Assignee has executed this Assignment as Assignee of the interest of Assignor and, by this Assignment, accepts the assignment of the interests of Assignor in the Lease Agreement.

AGREEMENT

Now, therefore, in consideration of Ten Dollars ($10.00), the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Assignment. Assignor hereby quitclaims and assigns without warranties all of its rights and obligations as Lessee to Assignee, as permitted by the Lease Agreement.

2. Acceptance of Assignment. Assignee hereby accepts the assignment of the rights and obligations of Assignor as Lessee.

3. Representations by Lessor. Lessor has provided information, assurances, and representations to Assignee that there are no outstanding violations of the Lease Agreement as of the date of this Assignment and Assignee has inspected the Property and is satisfied that the Assignor is in compliance with the terms of the Lease Agreement.

4. Release of Original Lessee. Assignor is hereby released from any and all obligations and liability as Lessee under the terms of the Lease Agreement. Assignee is hereby released from any and all obligations and liability as Lessee under the terms of the Lease Agreement for events arising prior to the date of this Assignment.

5. Lessor Consent. By its signature below, Lessor hereby consents to this Assignment, agrees to its terms, and waves any notice requirements, if any, in the Lease Agreement

ASSIGNOR

Gate 13, LLC

By: _____
Name: John W Elling
Title: Sole Member

STATE OF New Mexico)
) ss.
COUNTY OF Santa Fe)

The foregoing document was acknowledged before me this ___ day of July 2021 by John Elling as Sole Member of Gate 13, LLC, a New Mexico Limited Liability Corporation

Witness, my hand and official seal.

_____
Notary Public

My Commission Expires: _____

ASSIGNEE

Gate 13 Hangar Condominium Association, Inc.

By: _____

Name: John W Elling
Title: Board Member

STATE OF New Mexico)
) ss.
COUNTY OF Santa Fe)

The foregoing document was acknowledged before me this ___ day of July 2021 by John Elling as Board Member Gate 13 Hangar Condominium Association, a New Mexico Nonprofit Corporation.

Witness, my hand and official seal.

_____
Notary Public

My Commission Expires: _____

CONSENT AND APPROVAL OF ASSIGNMENT BY LESSOR

Lessor hereby consents to the assignment of the lease Agreement.

LESSOR:

_____
MAYOR

DATE: _____

ATTEST:

_____
CITY CLERK

APPROVE AS TO FORM

_____
SENIOR ASSISTANT CITY ATTORNEY

Exhibit A

Legal Description

DESCRIPTION LEASE PARCEL LOT 9B

ALL THAT PORTION OF

LEASE PARCEL L9B OF THE SANTA FE MUNICIPAL AIRPORT PROPERTY, WITHIN SECTION 15, TOWNSHIP 16 NORTH, RANGE 8 EAST, N.M.P.M., SANTA FE COUNTY, NEW MEXICO

WHICH PORTION MAY BE MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT BEING THE MOST NORTHERLY CORNER OF SAID LEASE PARCEL L9B, HAVING NAD83 COORDINATES OF LATITUDE 35° 37' 26.7667" NORTH AND LONGITUDE 106° 04' 40.6509" WEST,

THENCE S54°59'31"E, 135.00 FEET;
THENCE S35°02'01"W, 50.00 FEET;
THENCE N54°59'31"W, 135.00 FEET;
THENCE N35°02'01"E, 50.00 FEET;

MORE OR LESS TO THE POINT OF BEGINNING, CONTAINING 0.155 ACRES, MORE OR LESS,

SUBJECT TO A 15 FOOT WIDE UTILITY EASEMENT ALONG THE SOUTH WEST BOUNDARY OF THIS PORTION OF SAID LEASE PARCEL L9B,

ALL AS SHOWN ON EXHIBIT A ATTACHED HERETO.

DESCRIPTION LEASE PARCEL L10

ALL THAT PORTION OF

THE SANTA FE MUNICIPAL AIRPORT PROPERTY BEING LEASE PARCEL L10, WITHIN SECTIONS 10 & 15, TOWNSHIP 16 NORTH, RANGE 8 EAST, N.M.P.M., SANTA FE COUNTY, NEW MEXICO

WHICH PORTION MAY BE MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A 1/2" REBAR WITH CAP L.S. 7014, BEING THE NORTHEAST CORNER OF SAID LEASE PARCEL, HAVING NAD 83 NEW MEXICO STATE PLANE CENTRAL ZONE COORDINATES OF GRID N:1682490.283 GRID E:1691711.825, LAT.:35°37'26.808"N LONG.:106°04'38.617"W WHICH LIES S01°15'41"E 734.37 FEET FROM NGS CONTROL STATION SANTAIR,

THENCE S35°02'01"W, 100.00 FEET;
THENCE N54°59'31"W, 135.00 FEET;
THENCE N35°02'01"E, 100.00 FEET;
THENCE S54°59'31"E, 135.00 FEET;

MORE OR LESS TO THE POINT OF BEGINNING, CONTAINING 0.3099 ACRES, MORE OR LESS, AS SHOWN ON EXHIBIT B ATTACHED HERETO.

DESCRIPTION OF LEASE PARCEL L11

ALL THAT PORTION OF OF THE SANTA FE MUNICIPAL AIRPORT PROPERTY WITHIN SECTIONS 10 & 15, TOWNSHIP 16 NORTH, RANGE 8 EAST, N.M.P.M., SANTA FE COUNTY, NEW MEXICO

WHICH PORTION MAY BE MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST NORTH CORNER OF SAID PARCEL, WHICH LIES S03°40'59"W 576.05 FEET FROM NGS CONTROL STATION "SANTAIR" HAVING NAD83 NEW MEXICO STATE PLANE CENTRAL ZONE COORDINATES OF GRID N:1683224.17 GRID E:1691695.66, LAT.:35°37'34.066"N LON.:106°04'38.797"W,
THENCE S54°59'31"E A DISTANCE OF 135.00 FEET;
THENCE S35°02'01"W A DISTANCE OF 100.00 FEET;
THENCE N54°59'31"W A DISTANCE OF 135.00 FEET;
THENCE N35°02'01"E A DISTANCE OF 100.00 FEET;
TO THE POINT OF BEGINNING, MORE OR LESS, HAVING AN AREA OF 0.310 ACRES, MORE OR LESS, AS SHOWN ON EXHIBIT B ATTACHED HERETO AND MADE A PART OF THIS DESCRIPTION.

ACTION SHEET
ITEM FROM FINANCE COMMITTEE MEETING OF 11/01/21
FOR CITY COUNCIL MEETING OF 11/10/21

Request for Approval of the Assignment of Santa Fe Regional Airport Lease Agreement (Item #18-0188) from "Gate 13, LLC," to "Gate 13 Hangar Condominium Association. (Mark Baca, Airport Manager: mdbaca@santafenm.gov, 955-2901)

Committee	**Review:**
Finance Committee:	11/1/21
Public Works and Utilities:	11/8/21
Governing Body: 11/10/2021	

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		

City of Santa Fe, New Mexico

memo

Date: October 28, 2021

To: Quality of Life
Finance Committee
City Council

From: Erin K. McSherry, City Attorney EM

Subject: Budget Amendment Resolution (BAR)

ITEM & ISSUE:

Request for Approval of a Budget Amendment Resolution (BAR) in the Amount of Two Hundred Ninety-Two Thousand, Three Hundred Thirty-Six Dollars ($292,336) to record receipt of settlement revenue and pay for the Legal Services provided by Gallagher & Kennedy, P.A., Pursuant to Settlement Agreement between the City of Santa Fe and the New Mexico Department of Taxation and Revenue Department in 2021.

ACTION REQUESTED:

The City Attorney's Office requests approval of the attached Budget Adjustment Resolution in the amount of $292,336 to pay counsel from the settlement funds, consistent with the attached Settlement Agreement.

Org. 1002550/Obj Code. 510200

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

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

DEPARTMENT / DIVISION NAME	DATE
City Attorney's Office	10/26/2021

ITEM DESCRIPTION	ORG	OBJECT	PROJECT	INCREASE	DECREASE
EXPENDITURES				*{enter as positive #}*	*{enter as negative #}*
Legal Services	1002550	510200		292,336	
REVENUES				*{enter as negative #}*	*{enter as positive #}*
Settlement Funds	1000001	470250		(292,336)	
				$ -	$ -

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

Request for Approval of a Budget Amendment Resolutions (BAR) in the Amount of Two Hundred Ninety-Two Thousand Three Hundred Thirty-Six Dollars ($292,336) to record receipt of settlement revenue and pay for the Legal Services provided by Gallagher & Kennedy, P.A, Pursuant to Settlement Agreement between the City of Santa Fe and the New Mexico Department of Taxation and Revenue Department in 2021.

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

Fund(s) Affected	Fund Balance Increase/(Decrease)
TOTAL:	**0**

Irene Romero — 10/26/2021
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 — Oct 28, 2021
Andy Hopkins (Oct 28, 2021 11:40 MDT)
Budget Officer — Date

Division Director Signature *{optional}* — Date

Oct 28, 2021
Department Director Signature — Date

Finance Director *{≤ $5,000}* — Date

City Manager *{≤ $60,000}* — Date

Gallagher&Kennedy

Gene F. Creely II
Of Counsel
Direct: (505) 989-7312
Email: gene.creely@gknet.com

October 21, 2021

PRIVILEGED ATTORNEY-CLIENT COMMUNICATION
VIA EMAIL AND FIRST CLASS MAIL

Ms. Erin K. McSherry
City Attorney
City of Santa Fe
P.O. Box 909
200 Lincoln Avenue
Santa Fe, NM 87504

Client: City of Santa Fe
Matter: No. D-202-CV-2018-08036, City of Albuquerque, et al v. New Mexico Taxation and Revenue Department, in the Second Judicial District of New Mexico

Dear Ms. McSherry:

The Department has advised that the distributions (i.e. settlement payments) required under the Mediation Settlement Agreement should have been made. Under the settlement agreement, we have fifteen (15) days to confirm receipt of the distributions. We request that you confirm receipt of the distribution on your end as soon as possible (and no later than October 29, 2021).

Also, attached you will find our firm's invoice in the amount of $291,386.50 which represents our contingency fee and GRT thereon owed under our fee agreement.[1] This invoice is due and payable following receipt of your distribution. Please arrange for the timely processing of this invoice for payment. Also, for such purposes, attached is a copy of our firm's W-9 form.

It has been an honor to represent the City of Santa Fe, along with other local governments, in this matter. We are pleased that we have been able to achieve a favorable settlement for all of the local

[1] As previously discussed, if you were previously billed for expenses associated with this case, we are waiving payment of those expenses. If you previously paid a bill for expenses in this case, your invoice includes a credit in the amount paid. Also, Gallagher & Kennedy is taking care of the fees incurred by the New Mexico Municipal League related to the development of this case, so you will not owe any part of your settlement recovery to the New Mexico Municipal League.

governments that we have represented in this matter. We have enjoyed working with you, as well as the representatives of the other local governments, to this conclusion of the matter.

Please let us know if you have any questions relating to this matter. Also, please let us know if we can assist you on any other matters.

Very truly yours,

GALLAGHER & KENNEDY, P.A.

BY: 

Gene F. Creely II

cc: Dalva L. Moellenberg
Anthony J."TJ" Trujillo
Scott Woody

Enclosures:
G&K invoice
G&K W-9 form

Billing Questions
602-530-8282

Gallagher&Kennedy

Tax Identification Number
Federal 86-0489397

October 21, 2021

City of Santa Fe
Attn: Irene Romero
P.O. Box 909
Santa Fe, NM 87504

Invoice #:	10142021
Client #:	31689
Matter #:	0023
Billing Attorney	DLM

INVOICE SUMMARY

For professional services rendered and costs advanced through October 21, 2021

RE: City of Santa Fe vs. NM Taxation and Revenue Department
Risk Management Claims File No.
GL-09-13397

Contractual Contingency Fee	$	269,589.19
Gross Receipt Tax	$	22,746.59
Sub-Total for Contractual Contingency Fee	**$**	**292,335.78**
Contractual Costs Billed	$	949.28
Offsetting Credit for Costs Billed	$	-949.28
Sub-Total for Contractual Costs	**$**	**0.00**
Credit for Previously Billed and Paid Costs	$	-949.28
TOTAL BALANCE DUE	**$**	**291,386.50**

THIS STATEMENT DOES NOT INCLUDE CHARGES FOR ANY EXPENSES INCURRED BUT NOT YET RECEIVED BY THIS OFFICE.

Billing Questions
602-530-8282

Gallagher&Kennedy

Tax Identification Number
Federal 86-0489397

October 21, 2021

City of Santa Fe
Attn: Irene Romero
P.O. Box 909
Santa Fe, NM 87504

Invoice #:	10142021
Client #:	31689
Matter #:	0023
Billing Attorney	DLM

REMITTANCE ADVICE

RE: City of Santa Fe vs. NM Taxation and Revenue Department

BALANCE DUE THIS INVOICE $ 291,386.50

Please return this advice with payment to:

Gallagher & Kennedy
Attn: Accounts Receivable
P.O. Box 32159
Phoenix, Arizona 85064-2159

TERMS: NET 30 DAYS

Form **W-9**
(Rev. October 2018)
Department of the Treasury
Internal Revenue Service

Request for Taxpayer Identification Number and Certification

▶ Go to *www.irs.gov/FormW9* for instructions and the latest information.

Give Form to the requester. Do not send to the IRS.

Print or type. See Specific Instructions on page 3.

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.
GALLAGHER & KENNEDY, P.A.

2 Business name/disregarded entity name, if different from above

3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only one of the following seven boxes.

☐ Individual/sole proprietor or single-member LLC ☑ C Corporation ☐ S Corporation ☐ Partnership ☐ Trust/estate

☐ Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ▶ _____

Note: Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is **not** disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner.

☐ Other (see instructions) ▶

4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):

Exempt payee code (if any) _____

Exemption from FATCA reporting code (if any) _____

(Applies to accounts maintained outside the U.S.)

5 Address (number, street, and apt. or suite no.) See instructions.
2575 East Camelback Road, Suite 1100

Requester's name and address (optional)

6 City, state, and ZIP code
Phoenix, AZ 85016

7 List account number(s) here (optional)

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

Note: If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Social security number
			–			–				

or

Employer identification number
8	6	–	0	4	8	9	3	9	7

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
3. I am a U.S. citizen or other U.S. person (defined below); and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

Sign Here | **Signature of U.S. person** ▶ Kathy A. Hai | **Date** ▶ 1/1/2021

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to *www.irs.gov/FormW9*.

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)
- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, *later.*

ACTION SHEET
ITEM FROM FINANCE COMMITTEE MEETING OF 11/01/21
FOR CITY COUNCIL MEETING OF 11/10/21

Request for Approval of a Budget Amendment Resolution (BAR) in the Amount of Two Hundred Ninety-Two Thousand, Three Hundred Thirty-Six Dollars ($292,336) to Pay for the Legal Services provided by Gallagher & Kennedy, P.A., Pursuant to Settlement Agreement between the City of Santa Fe and the New Mexico Department of Taxation and Revenue Department in 2021. (Erin McSherry, City Attorney, ekmcsherry@santafenm.gov, 955.6961)

Committee	**Review:**
Finance Committee:	11/1/2021
Quality of Life Committee:	11/3/2021
Governing Body: 11/10/2021	

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		

City of Santa Fe, New Mexico

memo

DATE: October 25, 2021

TO: Public Works / Public Utilities, Finance & Governing Body

VIA: Mary McCoy
Mary T. McCoy, Finance Director

FROM: David A. Chapman, Grant Administrator DAC

ISSUE: Request approval of a Budget Amendment Resolution (BAR) in the amount of $100,000.00 for the Kitchen Angels Project # 20-E2738.

20-E2738, $100,000.00 Appropriation Reversion Date: 30-Jun-24
Laws of 2020, Chapter 81, Section 35, Para. 394, One Hundred Thousand Dollars ($100,000.00) to plan, design, construct, renovate, purchase, furnish, equip and install improvements, including information technology and related equipment, furniture and infrastructure, for a meals program serving homebound and special needs individuals in Santa Fe. The City will act as fiscal agent and provide grant administrative services and oversight for this funding. The expected timeframe to complete this project is 12 months.

SUMMARY: Severance Tax Bond Agreement 20-E2738 between the State of New Mexico and the City of Santa Fe for Kitchen Angels was fully executed on September 13, 2021. This grant does not require matching funds and is funded n a reimbursement basis. The City of Santa Fe will act as the fiscal agent and city staff will administer the grant.

MUNIS CONTRACT #: 3202781 **Project String:** COM345C **ORG** 3459981 Obj 572970

ACTION: Please accept this BAR so that the appropriate Budget adjustment can be made.

Enclosures:
Procurement Checklist
Professional Service Contract (PSC)
Severance Tax Bond (STB) 20-E2738
BAR
Summary of Contracts
Business Registration and Good Standing
Certificate of Insurance

CITY OF SANTA FE PROCUREMENT CHECKLIST

Contractor Name: Kitchen Angels

Procurement Title: Kitchen Angels Facility Improvements

Procurement Method: State Price Agreement ☐ *Cooperative* ☐ *Sole Source* ☐ *Other* ☒ Severance Tax Bond

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

Department Requesting Public Works Department Staff Name David A. Chapman 660-2619

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: Severance Tax Bond #20-E2738

David A. Chapman — David A. Chapman, Grant Administrator — Sep 23, 2021
Department Rep Printed Name (attesting that all information included) — Title — Date

Fran Dunaway — Fran Dunaway, Chief Procurement Officer — Sep 28, 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.

Log # *(Finance use only)*:	
Journal # *(Finance use only)*:	

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

DEPARTMENT / DIVISION NAME	DATE
Public Works Department / Engineering Division	9/16/2021

ITEM DESCRIPTION	ORG	OBJECT	PROJECT	INCREASE	DECREASE
EXPENDITURES				*(enter as positive #)*	*(enter as negative #)*
WIP Construction	3459981	572970	COM345C	100,000	
REVENUES				*(enter as negative #)*	*(enter as positive #)*
NM Dept of Finance Adm	3459981	490210	COM345C	(100,000)	
				$ -	$ -

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

Re: New Mexico Legislative Severance Tax Bond Agreement Kitchen Angels 20-E2738

(Complete section below if BAR results in a net change to ANY Fund)

Fund(s) Affected	Fund Balance Increase/(Decrease)
TOTAL:	0

David A. Chapman
David A. Chapman (Sep 23, 2021 12:46 MDT)
Prepared By *(print name)* dac Date

Division Director Signature *(optional)* Date

Regina Wheeler
Regina Wheeler (Sep 23, 2021 12:58 MDT)
Department Director Signature raw 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 (Sep 24, 2021 11:[illegible] MDT)
Budget Officer ajh Date

Finance Director *(≤ $5,000)* acl Date

City Manager *(≤ $60,000)* jla Date

City of Santa Fe, New Mexico

memo

DATE: October 24, 2021

TO: Jarel LaPan Hill, City Manger

FROM: David A. Chapman, Grant Administrator

ISSUE: Request approval of a Professional Service Contract (PSC) between the City of Santa Fe and Kitchen Angels, Project # 20-E2738, in the amount of $100,000.00. This will enable the BAR to move forward to committees.

20-E2738, $100,000.00 Appropriation Reversion Date: 30-Jun-24
Laws of 2020, Chapter 81, Section 35, Para. 394, One Hundred Thousand Dollars ($100,000.00) to plan, design, construct, renovate, purchase, furnish, equip and install improvements, including information technology and related equipment, furniture and infrastructure, for a meals program serving homebound and special needs individuals in Santa Fe. The City will act as fiscal agent and provide grant administrative services and oversight for this funding. The expected timeframe to complete this project is 12 months.

SUMMARY: Severance Tax Bond Agreement 20-E2738 between the State of New Mexico and the City of Santa Fe for Kitchen Angels was fully executed on September 13, 2021. This grant does not require matching funds and is funded n a reimbursement basis. The City of Santa Fe will act as the fiscal agent and city staff will administer the grant.

MUNIS CONTRACT #: 3202781 **Project String:** COM345C **ORG** 3459981 **OBJ** 592970

ACTION: Please accept these PSC between the City of Santa Fe and Kitchen Angels.

Enclosures:
Procurement Checklist
Professional Service Contract (PSC)
Severance Tax Bond (STB) Agreement 20-E2738
BAR
E-mail correspondence

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 KITCHEN ANGELS, INC., a non-profit in good standing in the State of New Mexico, hereinafter referred to as the "Contractor," and is effective as of the date set forth below upon which it is executed by the Parties.

WHEREAS, the 2020 Legislature of the State of New Mexico (State) appropriated one hundred thousand dollars ($100,000.00) in state funds (the Appropriation) to plan, design, construct renovate, purchase, furnish, equip and install improvements, including information technology and related equipment, furniture and infrastructure, for a meals program serving homebound and special needs individuals in Santa Fe in Santa Fe County. The project is identified as Project No. 20-E2738 **(Exhibit A)**; and

WHEREAS, the reversion date for the appropriation is June 30, 2024; and

WHEREAS, the 2018 Legislature of the State of New Mexico (State) appropriated $218,300.00 minus two thousand one hundred eight-three dollars ($2,183.00) for Arts in Public Places in capital outlay for a net amount of $216,117.00 (the Appropriation) to plan, design, renovate, construct, improve, and equip a facility and to purchase and install information technology, including related equipment, furniture and infrastructure for a meals program serving homebound and special need individuals in Santa Fe in Santa Fe County. The project is identified as Project No. 18-C2574; and

WHEREAS, the City has determined that it is in the best interest of the welfare of the citizens of the City of Santa Fe to enter into this Agreement for the purposes of effectuating the City's role as fiscal agent for the Appropriation; and

WHEREAS, the City owns in fee simple the land and the building within which the improvements and equipment to be paid for ty the Appropriation will be located; and

WHEREAS, for the foreseeable future, City will continue to own the improvements and equipment to paid for by the Appropriation; and

WHEREAS, the Contractor shall continue to provide the City a meal program serving a low-income, homebound, chronically or terminally ill population in Santa Fe in Santa Fe County; and

WHEREAS, therefore the Appropriation, this Agreement, and the City's role as fiscal agent for the Appropriation are in compliance with Section 14, Article IX of the New Mexico Constitution (the "Anti-Donation Clause"), and

WHEREAS, as a condition precedent to this Agreement, the City must first enter into a grant agreement (Grant Agreement) with the State of New Mexico Department of Finance and Administration (DFA), to enable the City to serve as fiscal agent to the Appropriation; and

WHEREAS, any unexecuted prior draft agreements concerning the same Appropriation have no force or effect; and

WHEREAS, the Contractors has entered in to an "Initial Term" of twenty years (20) years with two (2) "optional Additional Terms of (10) years each. The Lease Agreement is effective August 1, 2016. **(Exhibit B)**; and

WHEREAS, there is a "Provision of Services to Offset Monetary Rent" in said Lease and the Contractor's in-kind valuation off-set is described in Section 2.5 of the Lease Agreement.

IT IS AGREED BETWEEN THE PARTIES:

1. **Scope of Work.**

A. The Contractor shall serve as the project manager for the Project, and shall Coordinate all aspects of the planning, designing and construction, renovation, purchase, furnishing, equip and install improvements, including information technology and related equipment, furniture and infrastructure, for a meals program serving homebound and special needs individuals in Santa Fe in Santa Fe County. The Contractor shall submit periodic project reports to the City in accordance with Article 2 of this Agreement.

B. *Performance Measures.*

1) The Contractor represents that it possesses the personnel, experience, and knowledge necessary to perform the services described under this Agreement.

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

2. **Project Reporting.**

A. Monthly Project Manager Status Reports. The Contractor shall submit Project construction status reports (Monthly Project Manager Status Reports) to the City's Public Works Director and the City's Grant Administrator by the 15th day of each month during the construction and implementation phase of the Project in order to facilitate the City's Capital Project Monitoring System (CPMS) and Grant Agreement reporting requirements. The Monthly Project Manager Status Reports shall detail for the preceding month: the Project construction work; the methods and procedures used to implement the Project; a description of any problems or delays that have occurred; and a detailed accounting of Project expenditures including, without limitation, the name of and financial obligation to sub-contractors and vendors, and the total amount of the Appropriation expended to date. Monthly Project Manager Status Reports shall be submitted to the City until such time as the full amount of the Appropriation has been expended, the Project's construction is complete, and the Project is accepted by the City.

B. Quarterly Service Value Statements. The Contractor shall submit Quarterly Service Value Statements for the duration of the Agreement. For Quarter 1 January 1 through March 31 the Quarterly Service Value Statement is due by April 30. For Quarter 2 April 1 through June 30 the Quarterly Service Value Statement is due by July 31. For Quarter 3 July 1 through September 30 the Quarterly Service Value Statement is due by October 31. For Quarter 4 October 1 through December 31 Quarterly Service Value Statement is due by January 31.

C. Final Project Manager Report. The Contractor shall submit the final report (Final Report) to the City's Public Works Director and the City's Grant Administrator within 10 days of the Project's reversion date, or within 10 days of early termination, whichever first occurs. In the Final Report, the Contractor shall certify that all Appropriation funds have been completed and funds expended in accordance with all of the requirements of this Agreement, and in compliance with all applicable state and regulatory requirements.

D. Requests for Additional Information/Project Inspection. The City may require additional information as deemed necessary and the City and the DFA and shall be permitted by the Contractor to conduct onsite inspections of the Project. The Contractor shall respond to requests for

information regarding the Project within a reasonable period of time.

3. **General Project Conditions.**

A. Compliance with Law and Procurement Code. Appropriation funds must be spent in accordance with applicable laws, regulations, policies, and guidelines, including but limited to, the City's Procurement Code (a.k.a, the City's Purchasing Manual).

B. Certification of Non-Interest. By the time the Contractor submits its first application for payment, the Contractor shall certify to the City that no member, officer, or employee of the City (or its designees or agents), no member of the governing body of the locality of which the program is situated, and no other public official that exercises any functions or responsibilities with respect to the Project during his/her tenure (or for one year thereafter) shall have any interests (direct or indirect) in the Contractor or any contract or subcontract, or the process thereof, for work to be performed in connection with the Project that is the subject of this Agreement.

C. The Contractor shall certify that such a Certification of Non-Interest provision shall be included in all contracts and subcontracts in connection with the Project.

D. The Contractor shall at no time convert any property acquired or developed with Appropriation funds to uses other than those specified for the Project under this Agreement.

4. **Compensation.**

A. The City shall pay to the Contractor in full payment for services satisfactorily performed a sum not to exceed One Hundred Thousand Dollars ($100,000.00) including gross receipts tax. The total amount payable to the Contractor under this Agreement, including gross receipts tax and expenses, shall not exceed $100,000.00. 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.

5. **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.

6. **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.

7. **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.

8. **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.

9. **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.

10. **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.

11. **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.

12. **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.

13. **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.

14. **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.

15. **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.

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:	To Contractor:
City of Santa Fe:	Kitchen Angels
Attn: David A. Chapman	Attn: Tony L. McCarty
P.O. Box 909	1222 Siler Road
Santa Fe, NM 87504-0909	Santa Fe, NM 87507
dachapman@santafenm.gov	tmccarty@kitchenangels.org

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.

30. Additional Terms

A. State Appropriations. The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico (Legislature) for the performance of this Agreement. If sufficient appropriations and authorization are not made by the Legislature, 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. Contractor hereby waives any rights to assert an impairment of contract claim against the City, the Department of Finance and Administration, Local Government Division (DFA/LGD), or the State of New Mexico in the event of immediate or early termination of this Agreement by the City or the DFA/LGD.

B. General Conditions and Restrictions.

1. The Project must be implemented in accordance with the New Mexico Public Works Minimum Works Act, Section 13-4-10 through 13-4-17 NMSA 1978, if applicable. For every contract or project in excess of sixty thousand dollars ($60,000), the minimum wages and fringe benefits to be paid to various classes of laborers and mechanics, shall be based upon the wages and benefits that will be determined by the New Mexico Department of Workforce Solutions to be prevailing for the corresponding classes of laborers and mechanics employed on contract work of a similar nature in the locality. The Contractor, subcontractor, employer or a person acting as a contractor shall pay all mechanics and laborers employed on the site of the project, unconditionally and not less often than once a week and without subsequent unlawful deduction or rebate on any account, the full amounts accrued at time of payment commuted at wage rates and fringe benefit rates not less than those determined pursuant to Section 13-4-11 B NMSA 1978 to be the prevailing wage rates and prevailing fringe benefit rates issued for the project.

2. The Contractor warrants that no officer or employee of the City or its designees or agents, no member of the governing body, and no other public official of the locality who exercises any function or responsibility with respect to this Agreement, during his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed pursuant to this Agreement. Contractor shall incorporate into all subcontracts the language set forth in this paragraph prohibiting conflicts of interest.

3. Contractor shall certify to the City that no funds have been paid or will be paid by or on behalf of the City, to any person for influencing or attempting to influence an officer or employee of this agency or body in connection with this Agreement, the Appropriation, of the awarding of any Third Party

Obligation. Contractor shall incorporate into all subcontracts the language set forth in this paragraph prohibiting lobbying to be included in the award documents for all sub awards including but not limited to subcontracts, loans and cooperative agreements. Contractor shall certify that such language has thus been incorporated.

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:

Jarel LaPan Hill
Jarel LaPan Hill (Oct 25, 2021 08:48 MDT)

JAREL LAPAN HILL, CITY MANAGER

DATE: Oct 25, 2021

CONTRACTOR:
KITCHEN ANGELS, INC.

Tony L. McCarty

TONY L. McCARTY, EXECUTIVE DIRECTOR

DATE: 10.8.2021
CRS# 02-265457-00-7
City of Santa Fe
Registration # 224267

ATTEST:

KRISTINE BUSTOS-MIHELCIC
CITY CLERK

CITY ATTORNEY'S OFFICE:

SENIOR ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:
Mary McCoy

MARY MCCOY, FINANCE DIRECTOR

3459981.572970
Business Unit Line Item

A

STATE OF NEW MEXICO
DEPARTMENT OF FINANCE AND ADMINISTRATION
FUND 89200 CAPITAL APPROPRIATION PROJECT

THIS AGREEMENT is made and entered into as of this 9 day of Sep, 20 21, by and between the Department of Finance and Administration, State of New Mexico, acting through the Local Government Division, Bataan Memorial Building, Room 202, Santa Fe, New Mexico, 87501, hereinafter called the "Department" or abbreviation such as "DFA/LGD", and the City of Santa Fe, hereinafter called the "Grantee." This Agreement shall be effective as of the date it is executed by the Department.

RECITALS

WHEREAS, in the Laws of 2020, Chapter 81, Section 35, Para. 394, the Legislature made an appropriation to the Department, funds from which the Department is making available to the Grantee pursuant to this Agreement; and

WHEREAS, the Department is granting to Grantee, and the Grantee is accepting the grant of, funds from this appropriation, in accordance with the terms and conditions of this Agreement; and

WHEREAS, pursuant to Sections 9-6-5 and 9-6-5.1 NMSA 1978, the Secretary of the Department of Finance and Administration has the power and the authority to (i) maintain long-range estimates and plans for capital projects and develop standards for measuring the need for, and utility of, proposed projects; (ii) contract for, receive and utilize any grants or other financial assistance made available by the United States government or by any other source, public or private; (iii) provide planning and funding assistance to units of local government, council of government organizations, Indian tribal governments situated within New Mexico, and to nonprofit entities having for their purpose local, regional or community betterment; (iv) incident to any such programs, may enter into contracts and agreements with such units of local government, council of government organizations, Indian tribal governments, nonprofit entities and the federal government; and (v) delegate such authority to the Local Government Division as being necessary and appropriate to such delegation;

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and obligations contained herein, the parties hereby mutually agree as follows:

ARTICLE I. PROJECT DESCRIPTION, AMOUNT OF GRANT AND REVERSION DATE

A. The project that is the subject of this Agreement is described as follows:

20-E2738 $100,000.00 Appropriation Reversion Date: 30-JUN-24
Laws of 2020, Chapter 81, Section 35, Para. 394, One Hundred Thousand Dollars ($100,000.00) to plan, design, construct, renovate, purchase, furnish, equip and install improvements, including information technology and related equipment, furniture and infrastructure, for a meals program serving homebound and special needs individuals in Santa Fe in Santa Fe county.

The Grantee's total reimbursements shall not exceed One Hundred Thousand Dollars ($100,000.00) (the "Appropriation Amount") minus the allocation for Art in Public Places ("AIPP amount")[1], if applicable, Zero Dollars ($0.00), which equals One Hundred Thousand Dollars ($100,000.00) (the "Adjusted Appropriation Amount").

In the event of a conflict among the Appropriation Amount, the Reversion Date, as defined herein and/or the purpose of the Project, as set forth in this Agreement, and the corresponding appropriation language in the laws cited above in this Article I (A), the language of the laws cited herein shall control.

This project is referred to throughout the remainder of this Agreement as the "Project"; the information contained in Article I (A) is referred to collectively throughout the remainder of this Agreement as the "Project Description". The Grantee shall reference the Project's number in all correspondence with and submissions to the Department concerning the Project, including, but not limited to, Requests for Payment and reports.

ARTICLE II. LIMITATION ON DEPARTMENT'S OBLIGATION TO MAKE GRANT DISBURSEMENT TO GRANTEE

A. Upon the Effective Date of this Agreement, for permissible purposes within the scope of the Project Description, the Grantee shall only be reimbursed monies for which the Department has issued and the Grantee has received a Notice of Department's Obligation to Reimburse[2] Grantee (hereinafter referred to as "Notice of Obligation"). This Grant Agreement and the disbursement of any and all amounts of the above referenced Adjusted Appropriation Amount are expressly conditioned upon the following:

(i) Irrespective of any Notice of Obligation, the Grantee's expenditures shall be made on or before the Reversion Date and, if applicable, an Early Termination Date (i.e., the goods have been delivered and accepted or the title to the goods has been transferred to the Grantee and/or the services have been rendered for the Grantee); and

(ii) The total amount received by the Grantee shall not exceed the lesser of: (a) the Adjusted Appropriation Amount identified in Article I(A) herein or (b) the total of all amounts stated in the Notice(s) of Obligation evidencing that the Department has received and accepted the Grantee's Third Party Obligation(s), as defined in subparagraph iii of this Article II(A); and

(iii) The Grantee's expenditures were made pursuant to the State Procurement Code and execution of binding written obligations or purchase orders with third party contractors or vendors for the provision of services, including professional services, or the purchase of tangible personal property and real property for the Project, hereinafter referred to as "Third Party Obligations"; and

(iv) The Grantee's submittal of timely Requests for Payment in accordance with the procedures set forth in Article IX of this Agreement; and

(v) In the event that capital assets acquired with Project funds are to be sold, leased, or licensed to or operated by a private entity, the sale, lease, license, or operating agreement:

a. must be approved by the applicable oversight entity (if any) in accordance with law; or

b. if no oversight entity is required to approve of the transaction, the Department must approve the transaction as complying with law.

Prior to the sale, lease, license, or operating agreement being approved pursuant to Articles II(A)(v)(a) and II(A)(v)(b) herein, the Department may, in its sole and absolute discretion and unless inconsistent with New Mexico State Board of Finance imposed conditions, reimburse the Grantee for necessary expenditures incurred to develop the Project sufficiently to make the sale, lease, license, or operating agreement commercially feasible, such as plan and design expenditures; and

[1] The AIPP amount is "an amount of money equal to one percent or two hundred thousand dollars ($200,000), whichever is less, of the amount of money appropriated for new construction or any major renovation exceeding one hundred thousand dollars ($100,000)." Section 13-4A-4 NMSA 1978.
[2] "Reimburse" as used throughout this Agreement includes Department payments to the Grantee for invoices received, but not yet paid, by the Grantee from a third party contractor or vendor, if the invoices comply with the provisions of this Agreement and are a valid liability of the Grantee.

(vi) The Grantee's submission of documentation of all Third Party Obligations and amendments thereto (including terminations) to the Department and the Department's issuance and the Grantee's receiving of a Notice of Obligation for a particular amount in accordance with the terms of this Agreement shall be governed by the following:

a. The Grantee shall submit to the Department one copy of all Third Party Obligations and amendments thereto (including terminations) as soon as possible after execution by the Third Party **but prior to execution by the Grantee.**

b. Grantee acknowledges and agrees that if it chooses to enter into a Third Party Obligation prior to receiving a Notice of Obligation that covers the expenditure, it is solely responsible for such obligations.

c. The Department may, in its sole and absolute discretion, issue to Grantee a Notice of Obligation for the particular amount of that Third Party Obligation that only obligates the Department to reimburse Grantee's expenditures made on or before the Reversion Date or an Early Termination Date. The current Notice of Obligation form is attached to this Agreement as Exhibit 2.

d. The date the Department signs the Notice of Obligation is the date that the Department's Notice of Obligation is effective. After that date, the Grantee is authorized to budget the particular amount set forth in the Notice of Obligation, execute the Third Party Obligation and request the Third Party to begin work. Payment for any work performed or goods received prior to the effective date of the Notice of Obligation is wholly and solely the obligation of the Grantee.

B. The Grantee shall implement, in all respects, the Project. The Grantee shall provide all necessary qualified personnel, material, and facilities to implement the Project. The Grantee shall finance its share (if any) of the costs of the Project, including all Project overruns.

C. Project funds shall not be used for purposes other than those specified in the Project Description.

D. Unless specifically allowed by law, Project funds cannot be used to reimburse Grantee for indirect Project costs.

ARTICLE III. NOTICE PROVISIONS AND GRANTEE AND DEPARTMENT DESIGNATED REPRESENTATIVES

Whenever written notices, including written decisions, are to be given or received, related to this Agreement, the following provisions shall apply.

The Grantee designates the person(s) listed below, or their successor as their official representative(s) concerning all matters related to this Agreement.

Grantee	City of Santa Fe
Name	David A. Chapman
Title	Grant Administrator - Writer
Address	P. O. Box 909, Santa Fe, NM 87504-0909
Email	dachapman@santafenm.gov
Telephone	505-955-2010

The Grantee designates the person(s) listed below, or their successor, as their Fiscal Officer or Fiscal Agent concerning all matters related to this Agreement.

Grantee	City of Santa Fe
Name	David A. Chapman
Title	Grant Administrator - Writer
Address	P. O. Box 909, Santa Fe, NM 87504-0909
Email	dachapman@santafenm.gov
Telephone	505-955-2010

The Department designates the persons listed below, or their successors, as Points of Contact for matters related to this Agreement.

Department	DFA/Local Government Division
Name	Maria Urban
Title	Project Manager
Address	Bataan Memorial Bldg. Rm 202, Santa Fe, NM 87501
Email	maria.urban@state.nm.us
Telephone	505-827-8061

The Grantee and the Department agree that either party shall send all notices, including written decisions, related to this Agreement to the above named persons by email, or regular mail. In the case of mailings, notices shall be deemed to have been given and received upon the date of the receiving party's actual receipt or five calendar days after mailing, whichever shall first occur. In the case of email transmissions, the notice shall be deemed to have been given and received on the date reflected on the delivery receipt of email.

ARTICLE IV. REVERSION DATE, TERM, DEADLINE TO EXPEND FUNDS

A. As referenced in Article I (A), the applicable law establishes a date by which Project funds must be expended by Grantee, which is referred to throughout the remainder of this Agreement as the "Reversion Date." Upon being duly executed by both parties, this Agreement shall be effective as of the date of execution by the Department. It shall terminate on **June 30, 2024**, the Reversion Date, unless Terminated Before Reversion Date ("Early Termination") pursuant to Article V herein.

B. The Project's funds must be expended on or before the Reversion Date and, if applicable, Early Termination Date of this Agreement. For purposes of this Agreement, it is not sufficient for the Grantee to encumber the Project funds on its books on or before the Project's Reversion Date or Early Termination Date. Funds are expended and an expenditure has occurred as of the date that a particular quantity of goods are delivered to and received by the Grantee or title to the goods is transferred to the Grantee and/or as of the date particular services are rendered for the Grantee. Funds are ***not*** expended and an expenditure has ***not*** occurred as of the date they are encumbered by the Grantee pursuant to a contract or purchase order with a third party.

ARTICLE V. EARLY TERMINATION

A. Early Termination Before Reversion Date Due to Completion of the Project or Complete Expenditure of the Adjusted Appropriation or Violation of this Agreement

Early Termination includes:

(i) Termination due to completion of the Project before the Reversion Date; or

(ii) Termination due to complete expenditure of the Adjusted Appropriation Amount before the Reversion Date; or

(iii)Termination for violation of the terms of this Agreement; or

(iv) Termination for suspected mishandling of public funds, including but not limited to, fraud, waste, abuse, and conflicts of interest.

Either the Department or the Grantee may early terminate this Agreement prior to the Reversion Date by providing the other party with a minimum of fifteen (15) days' advance, written notice of early termination. Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department pursuant to Article V (A).

B. Early Termination Before Reversion Date Due to Non-Appropriation

The terms of this Agreement are expressly made contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico for the performance of this Agreement. Throughout this Agreement the term "non-appropriate" or "non-appropriation" includes the following actions by the New Mexico Legislature: deauthorization, reauthorization or revocation of a prior authorization. The Legislature may choose to non-appropriate the Appropriation referred to in Article I and, if that occurs, the Department shall early terminate this Agreement for non-appropriation by giving the Grantee written notice of such termination, and such termination shall be effective as of the effective date of the law making the non-appropriation. The Department's decision as to whether sufficient appropriations or authorizations are available shall be accepted by the Grantee and shall be final. Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department pursuant to Article V (B).

C. Limitation on Department's Obligation to Make Grant Disbursements to Grantee in the Event of Early Termination

In the event of Early Termination of this Agreement by either party, the Department's sole and absolute obligation to reimburse the Grantee is expressly conditioned upon the limitations set forth Article II.

ARTICLE VI. SUSPENSION OF NEW OR FURTHER OBLIGATIONS

A. The Department may choose, in its sole and absolute discretion, to provide written notice to the Grantee to suspend entering into new and further obligations. Upon the receipt of such written notice by the Grantee:

(i) The Grantee shall immediately suspend entering into new or further written obligations with third parties; and

(ii) The Department will suspend the issuance of any new or further Notice of Obligation under this Agreement; and

(iii) The Department may direct the Grantee to implement a corrective action plan in accordance with Article VI (D) herein.

B. In the event of Suspension of this Agreement, the Department's sole and absolute obligation to reimburse the Grantee is expressly conditioned upon the limitations set forth in Article II herein.

C. A suspension of new or further obligations under this Agreement shall remain in effect unless or until the date the Grantee receives written notice given by the Department informing the Grantee that the Suspension has been lifted or that the Agreement has been Early Terminated in accordance with Article V herein. If the Suspension is lifted, the Department will consider further requests for Notice of Obligation.

D. Corrective Action Plan in the Event of Suspension

In the event that the Department chooses, in its sole and absolute discretion to direct the Grantee to suspend entering into new or further written obligations with third parties pursuant to Article VI (A), the Department may, but is not obligated to, require the Grantee to develop and implement a written corrective action plan to remedy the grounds for the Suspension. Such corrective action plan must be approved by the Department and be signed by the Grantee. Failure to sign a corrective action plan or meet the terms and deadlines set forth in the signed corrective action plan, is hereby deemed a violation of the terms of this Agreement for purposes of Early Termination, Article V(A)(iii). The corrective action plan is in addition to, and not in lieu of, any other equitable or legal remedy, including but not limited to Early Termination.

ARTICLE VII. AMENDMENT

This Agreement shall not be altered, changed, or amended except by instrument in writing duly executed by both the parties hereto.

ARTICLE VIII. REPORTS

A. Database reporting

The Grantee shall report monthly Project activity by entering such Project information as the Department and the Department of Finance and Administration may require, such information entered directly into a database maintained by the Department of Finance and Administration (http://cpms.dfa.state.nm.us). Additionally, the Grantee shall certify on the Request for Payment form (exhibit 1) that updates have been maintained and are current in the database. The Grantee hereby acknowledges that failure to perform and/or certify updates into the database will delay or potentially jeopardize the reimbursement of funds. The Department shall give the Grantee with a minimum of thirty (30) days' advance written notice of any changes to the information the Grantee is required to report.

Monthly reports shall be due on the last day of each month, beginning with the first full month following execution of this Agreement by the Department and ending upon the submission of the final request for reimbursement for the Project.

B. Requests for Additional Information/Project Inspection

During the term of this Agreement and during the period of time during which the Grantee must maintain records pursuant to Article VIII, the Department may:

(i) request such additional information regarding the Project as it deems necessary; and

(ii) conduct, at reasonable times and upon reasonable notice, onsite inspections of the Project. Grantee shall respond to such requests for additional information within a reasonable period of time, as established by the Department.

ARTICLE IX. REQUEST FOR PAYMENT PROCEDURES AND DEADLINES

A. The Grantee shall request payment by submitting a Request for Payment, in the form attached hereto as Exhibit 1. Payment requests are subject to the following procedures:

(i) The Grantee must submit a Request for Payment; and

(ii) Each Request for Payment must contain proof of payment by the Grantee or liabilities incurred by the Grantee showing that the expenditures are valid or the liabilities incurred by the Grantee in the form of actual unpaid invoices received by the Grantee for services rendered by a third party or items of tangible personal property received by the Grantee for the implementation of the Project; provided, however, that the Grantee may be reimbursed for unpaid liabilities only if the Department, in its sole and absolute discretion, agrees to do so and in accordance with any special conditions imposed by the Department.

(iii) In cases where the Grantee is submitting a Request for Payment to the Department based upon invoices received, but not yet paid, by the Grantee from a third party contractor or vendor, if the invoices comply with the provisions of this Agreement and are a valid liability of the Grantee, the Grantee shall make payment to those contractors or vendors within five (5) business days from the date of receiving reimbursement from the Department or such shorter period of time as the Department may prescribe in writing. The Grantee is required to certify to the Department proof of payment to the third party contractor or vendor within ten (10) business days from the date of receiving reimbursement from the Department.

B. The Grantee must obligate 5% of the Adjusted Appropriation Amount within six months of the acceptance of the grant agreement and must have expended no less than 85% of the Adjusted Appropriation Amount six months prior to the reversion date.

C. Deadlines

Requests for Payments shall be submitted by Grantee to the Department on the earlier of:

(i) Immediately as they are received by the Grantee but at a minimum of thirty (30) days from when the expenditure was incurred or liability of the Grantee was approved as evidenced by an unpaid invoice received by the Grantee from a third party contractor or vendor; or

(ii) July 15 of each year for all unreimbursed incurred during the previous fiscal year; or

(iii) Twenty (20) days from the date of Early Termination; or

(iv) Twenty (20) days from the reversion date.

D. The Grantee's failure to abide by the requirements set forth in Article II and Article IX herein will result in the denial of its Request for Payment or will delay the processing of Requests for Payment. The Department has the right to reject a payment request for the Project unless and until it is satisfied that the expenditures in the Request for Payment are for permissible purposes within the meaning of the Project Description and that the expenditures and the Grantee are otherwise in compliance with this Agreement, including but not limited to, compliance with the reporting requirements and the requirements set forth in Article II herein to provide Third Party Obligations and the Deadlines set forth in Article IX herein. The Department's ability to reject any Request for Payment is in addition to, and not in lieu of, any other legal or equitable remedy available to the Department due to Grantee's violation of this Agreement.

ARTICLE X. PROJECT CONDITIONS AND RESTRICTIONS; REPRESENTATIONS AND WARRANTIES

A. The following general conditions and restrictions are applicable to the Project:

(i) The Project's funds must be spent in accordance with all applicable state laws, regulations, policies, and guidelines, including, but not limited to, the State Procurement Code (or local procurement ordinance, where applicable).

(ii) The project must be implemented in accordance with the New Mexico Public Works Minimum Works Act, Section 13-4-10 through 13-4-17 NMSA 1978, as applicable. Every contract or project in excess of sixty thousand dollars ($60,000) that the Grantee is a party to for construction, alteration, demolition or repair or any combination of these, including painting and decorating, of public buildings, public works or public roads and that requires or involves the employment of mechanics, laborers or both shall contain a provision stating the minimum wages and fringe benefits to be paid to various classes of laborers and mechanics, shall be based upon the wages and benefits that will be determined by the New Mexico Department of Workforce Solutions to be prevailing for the corresponding classes of laborers and mechanics employed on contract work of a similar nature in the locality. Further, every contract or project shall contain a stipulation that the contractor, subcontractor, employer or a person acting as a contractor shall pay all mechanics and laborers employed on the site of the project, unconditionally and not less often than once a week and without subsequent unlawful deduction or rebate on any account, the full amounts accrued at time of payment computed at wage rates and fringe benefit rates not less than those determined pursuant to Section 13-4-11 (B) NMSA 1978 to be the prevailing wage rates and prevailing fringe benefit rates issued for the project.

(iii) The Project may only benefit private entities in accordance with applicable law, including, but not limited to, Article IX, Section 14 of the Constitution of the State of New Mexico, "Anti-Donation Clause."

(iv) The Grantee shall not for a period of 10 years, from the date of this agreement convert any property acquired, built, renovated, required, designed or developed with the Project's funds to uses other than those specified in the Project Description without the Department's and the Board of Finance's express, advance written approval, which may include requirement to reimburse the State for the cost of the project, transfer proceeds from the disposition of property to the State, or otherwise provide consideration to the State.

(v) The Grantee shall comply with all federal and state laws, rules and regulations pertaining to equal employment opportunity. In accordance with all such laws, rules and regulations the Grantee agrees to assure that no person shall, on the grounds of race, color, national origin, sex, sexual preference, age or handicap, be excluded from employment with Grantee, be excluded from participation in the Project, be denied benefits or otherwise be subject to discrimination under, any activity performed under this Agreement. If Grantee is found to be not in compliance with these requirements during the life of this Agreement, Grantee agrees to take appropriate steps to correct any deficiencies. The Grantee's failure to implement such appropriate steps within a reasonable time constitutes grounds for terminating this Agreement.

B. The Grantee hereby represents and warrants the following:

(i) The Grantee has the legal authority to receive and expend the Project's funds.

(ii) This Agreement has been duly authorized by the Grantee, the person executing this Agreement has authority to do so, and, once executed by the Grantee, this Agreement shall constitute a binding obligation of the Grantee, enforceable according to its terms.

(iii) This Agreement and the Grantee's obligations hereunder do not conflict with any law or ordinance or resolution applicable to the Grantee, the Grantee's charter (if applicable), or any judgment or decree to which the Grantee is subject.

(iv) The Grantee has independently confirmed that the Project Description, including, but not limited to, the amount and Reversion Date, is consistent with the underlying appropriation in law.

(v) The Grantee's governing body has duly adopted or passed as an official act a resolution, motion, or similar action authorizing the person identified as the official representative of the Grantee to sign the Agreement and to sign Requests for Payment.

(vi) The Grantee shall abide by New Mexico laws regarding conflicts of interest, governmental conduct and whistleblower protection. The Grantee specifically agrees that no officer or employee of the local jurisdiction or its designees or agents, no member of the governing body, and no other public official of the locality who exercises any function or responsibility with respect to this Grant, during their tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed or goods to be received, pursuant to this Grant. Further, Grantee shall require all of its contractors to incorporate in all subcontracts the language set forth in this paragraph prohibiting conflicts of interest.

(vii) No funds have been paid or will be paid, by or on behalf of the Grantee, to any person for influencing or attempting to influence an officer or employee of this or any agency or body in connection with the awarding of any Third Party Obligation and that the Grantee shall require certifying language prohibiting lobbying to be included in the award documents for all subawards, including subcontracts, loans and cooperative agreements. All subrecipients shall be required to certify accordingly.

ARTICLE XI. STRICT ACCOUNTABILITY OF RECEIPTS AND DISBURSEMENTS; PROJECT RECORDS

A. The Grantee shall be strictly accountable for receipts and disbursements relating to the Project's funds. The Grantee shall follow generally accepted accounting principles, and, if feasible, maintain a separate bank account or fund with a separate organizational code, for the funds to assure separate budgeting and accounting of the funds.

B. For a period of five (5) years following the Project's completion, the Grantee shall maintain all Project related records, including, but not limited to, all financial records, requests for proposals, invitations to bid, selection and award criteria, contracts and subcontracts, advertisements, minutes of pertinent meetings, as well as records sufficient to fully account for the amount and disposition of the total funds from all sources budgeted for the Project, the purpose for which such funds were used, and such other records as the Department shall prescribe.

:C. The Grantee shall make all Project records available to the Department, the Department of Finance and Administration, and the New Mexico State Auditor upon request. With respect to the funds that are the subject of this Agreement, if the State Auditor or the Department of Finance and Administration finds that any or all of these funds were improperly expended, the Grantee may be required to reimburse to the State of New Mexico, to the originating fund, any and all amounts found to be improperly expended.

ARTICLE XII. IMPROPERLY REIMBURSED FUNDS

If the Department determines that part or all of the Appropriation Amount was improperly reimbursed to Grantee, including but not limited to, Project funds reimbursed to Grantee based upon fraud, mismanagement, misrepresentation, misuse, violation of law by the Grantee, or violation of this Agreement, the Grantee shall return such funds to the Department for disposition in accordance with law.

ARTICLE XIII. LIABILITY

Neither party shall be responsible for liability incurred as a result of the other party's acts or omissions in connection with this Agreement. Any liability incurred in connection with this Agreement is subject to immunities and limitations of the New Mexico Tort Claims Act.

ARTICLE XIV. SCOPE OF AGREEMENT

This Agreement constitutes the entire and exclusive agreement between the Grantee and Department concerning the subject matter hereof. The Agreement supersedes any and all prior or contemporaneous agreements, understandings, discussions, communications, and representations, written or verbal.

ARTICLE XV. REQUIRED NON-APPROPRIATIONS CLAUSE IN CONTRACTS FUNDED IN WHOLE OR PART BY FUNDS MADE AVAILABLE UNDER THIS AGREEMENT

The Grantee acknowledges, warrants, and agrees that Grantee shall include a "non-appropriations" clause in all contracts between it and other parties that are (i) funded in whole or part by funds made available under this Agreement and (ii) entered into after the effective date of this Agreement that states:

"The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico for the performance of this Agreement. If sufficient appropriations and authorization are not made by the Legislature, the City of Santa Fe may immediately terminate this Agreement by giving Contractor written notice of such termination. The City of Santa Fe's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. Contractor hereby waives any rights to assert an impairment of contract claim against the City of Santa Fe, the Department of Finance and Administration, Local Government Division (DFA/LGD), or the State of New Mexico in the event of immediate or Early Termination of this Agreement by the City of Santa Fe or the Department."

ARTICLE XVI. REQUIRED TERMINATION CLAUSE IN CONTRACTS FUNDED IN WHOLE OR PART BY FUNDS MADE AVAILABLE UNDER THIS AGREEMENT

Grantee acknowledges, warrants, and agrees that Grantee shall include the following or a termination clause in all contracts that are (i) funded in whole or part by funds made available under this Agreement and (ii) entered into after the effective date of this Agreement:

"This contract is funded in whole or in part by funds made available under DFA/LGD Grant Agreement. Should DFA/LGD early terminate the grant agreement, the City of Santa Fe may early terminate this

contract by providing Contractor written notice of such termination. In the event of termination pursuant to this paragraph, the City of Santa Fe's only liability shall be to pay Contractor for acceptable goods delivered and services rendered before the termination date."

Grantee hereby waives any rights to assert an impairment of contract claim against the Department or the State of New Mexico in the event of Early Termination of this Agreement by the Department.

ARTICLE XVII. COMPLIANCE WITH UNIFORM FUNDING CRITERIA

A. Throughout the term of this Agreement, Grantee shall:

1. submit all reports of annual audits and agreed upon procedures required by Section 12-6-3(A)-(B) NMSA 1978 by the due dates established in 2.2.2 NMAC, reports of which must be a public record pursuant to Section 12-6-5(A) NMSA 1978 within forty-five days of delivery to the State Auditor;
2. have a duly adopted budget for the current fiscal year approved by its budgetary oversight agency (if any);
3. timely submit all required financial reports to its budgetary oversight agency (if any); and
4. have adequate accounting methods and procedures to expend grant funds in accordance with applicable law and account for and safeguard grant funds and assets acquired by grant funds.

B. In the event Grantee fails to comply with the requirements of Paragraph A of this Article XVII, the Department may take one or more of the following actions:

1. suspend new or further obligations pursuant to Article VI(A) of this Agreement;
2. require the Grantee to develop and implement a written corrective action plan pursuant to Article VI(D) of this Agreement to remedy the non-compliance;
3. impose special grant conditions to address the non-compliance by giving the Grantee notice of such special conditions in accordance with Article III of this Agreement; the special conditions shall be binding and effective on the date that notice is deemed to have been given pursuant to Article III; or
4. terminate this Agreement pursuant to Article V (A) of this Agreement.

ARTICLE XVIII. SEVERANCE TAX BOND PROJECT AND GENERAL OBLIGATION BOND PROJECT CLAUSES

A. Grantee acknowledges and agrees that the underlying appropriation for the Project is a severance tax bond or general obligation bond appropriation, and that the associated bond proceeds are administered by the New Mexico State Board of Finance (SBOF), an entity separate and distinct from the Department. Grantee acknowledges and agrees that (i) it is Grantee's sole and absolute responsibility to determine through SBOF staff what (if any) conditions are currently imposed on the Project; (ii) the Department's failure to inform Grantee of a SBOF imposed condition does not affect the validity or enforceability of the condition; (iii) the SBOF may in the future impose further or different conditions upon the Project; (iv) all SBOF conditions are effective without amendment of this Agreement; (v) all applicable SBOF conditions must be satisfied before the SBOF will release to the Department funds subject to the condition(s); and (vi) the Department's obligation to reimburse Grantee from the Project is contingent upon the then current SBOF conditions being satisfied.

B. Grantee acknowledges and agrees that SBOF may in its sole and absolute discretion remove a project's assigned bond proceeds if the project doesn't proceed sufficiently. Entities must comply with the requirement to encumber five percent (5%) of Project funds within six months of bond issuance as certified by the grantee in the Bond Questionnaire and Certification documents submitted to the SBOF. Failure to comply may result in the bond proceeds reassignment to a new ready project. If this should occur this grant agreement will be suspended until the entity has demonstrated readiness as determined by the SBOF and the Department.

C. Grantee acknowledges and agrees that this agreement is subject to the SBOF's Bond Project Disbursements

rule, NMAC 2.61.6, as may be amended or re-codified. The rule provides definitions and interpretations of grant language for the purpose of determining whether a particular activity is allowable under the authorizing language of the agreement.]

[THIS SPACE LEFT BLANK INTENTIONALLY]

IN WITNESS WHEREOF, the parties have duly executed Agreement as of the date of execution by the Department.

GRANTEE

City of Santa Fe
Entity Name

By: Jarel LaPan Hill
(Type or Print Name)

Its: City Manager
(Type or Print Title)

Jarel LaPan Hill
Jarel LaPan Hill (Sep 3, 2021 13:11 MDT)
Signature of Official with Authority to Bind Grantee

Sep 3, 2021
Date

DEPARTMENT OF FINANCE AND ADMINISTRATION
LOCAL GOVERNMENT DIVISION

Its: Division Director

Donnie Quintana
Signature

09/09/2021
Date

CITY OF SANTA FE

Jarel LaPan Hill

Jarel LaPan Hill (Sep 13, 2021 08:27 MDT)

JAREL LAPAN HILL,
CITY MANAGER

DATE: Sep 13, 2021

ATTEST:

KRISTINE BUSTOS-MIHELCIC,
CITY CLERK

CITY ATTORNEY'S OFFICE:

Marcos Martinez

Marcos Martinez (Apr 12, 2021 09:47 MDT)

SENIOR ASSISTANT CITY ATTORNEY

APPROVED: FOR FINANCES

Mary McCoy

MARY McCOY,
FINANCE DIRECTOR

3459981.572970

BUSINESS UNIT/LINE ITEM

S111 20-P2728 Meals Program aka Kitchen Angels dac

DAC

STATE OF NEW MEXICO
CAPITAL GRANT PROJECT
Request for Payment Form
Exhibit 1

I. Grantee Information

(Make sure information is complete & accurate)

A. Grantee: _____

B. Address: _____

(Complete Mailing, including Suite, if applicable)

_____

City, State, Zip

C. Phone No: _____

D. Grant No: _____

E. Project Title: _____

F. Grant Expiration Date: _____

II. Payment Computation

A. Payment Request No. _____

B. Grant Amount: _____

C. AIPP Amount *(If Applicable)*: _____

D. Funds Requested to Date: _____

E. Amount Requested this Payment: _____

F. Reversion Amount (*If Applicable*): _____

G. Grant Balance: _____

H. ☐ GF ☐ GOB ☐ STB (*attach wire if first draw*)

I. ☐ Final Request for Payment (*if Applicable*)

III. Fiscal Year : _____

(The State of NM Fiscal Year is July 1, 20XX through June 30, 20XX of the following year)

IV. ☑ **Reporting Certification:** I hereby certify to the best of my knowledge and belief, that database reporting is up to date; to include the accuracy of expenditures and grant balance, project status, project phase, achievements and milestones; and in compliance with Article VIII of the Capital Outlay Grant Agreement.

V. ☑ **Compliance Certification:** Under penalty of law, I hereby certify to the best of my knowledge and belief, the above information is correct; expenditures are properly documented, and are valid expenditures or actual receipts; and that the grant activity is in full compliance with Article IX, Sec. 14 of the New Mexico Constitution known as the "anti donation" clause.

Grantee Fiscal Officer
or Fiscal Agent (*if applicable*)

Grantee Representative

Printed Name

Printed Name

Date: _____

Date: _____

(State Agency Use Only)

Vendor Code: _____ **Fund No.:** _____ **Loc No.:** _____

I certify that the State Agency financial and vendor file information agree with the above submitted information.

Division Fiscal Officer Date

Division Project Manager Date

NOTICE OF OBLIGATION TO REIMBURSE GRANTEE
EXHIBIT 2

Notice of Obligation to Reimburse Grantee # _____

DATE: _____

TO: Department Representative: _____, _____

FROM: Grantee Entity: _____

Grantee Official Representative: _____

SUBJECT: Notice of Obligation to Reimburse Grantee

Grant Number: _____

Grant Termination Date: _____

As the designated representative of the Department for Grant Agreement number _____ entered into between Grantee and the Department, I certify that the Grantee has submitted to the Department the following third party obligation executed, in writing, by the third party's authorized representative:

Vendor or Contractor: _____

Third Party Obligation Amount: _____

Vendor or Contractor: _____

Third Party Obligation Amount: _____

I certify that the State is issuing this Notice of Obligation to Reimburse Grantee for permissible purposes within the scope of the project description, subject to all the terms and conditions of the above referenced Grant Agreement.

Grant Amount (Minus AIPP if applicable): _____

The Amount of this Notice of Obligation: _____

The Total Amount of all Previously Issued Notices of Obligation: _____

The Total Amount of all Notices of Obligation to Date: $ 0.00

Note: Contract amounts may exceed the total grant amount, but the invoices paid by the grant will not exceed the grant amount.

Department Rep. Approver: _____

Title: _____

Signature: _____

Date: _____

1 Administrative and/or Indirect Cost – generally, the legislation authorizing the issuance of bonds prohibits the use of its proceeds for indirect expenses (e.g. penalty fees or damages other than pay for work performed, attorney fees, and administrative fees). Such use of bond proceeds shall not be allowed unless specifically authorized by statute.

MICHELLE LUJAN GRISHAM
GOVERNOR

DONNIE J. QUINTANA
DIRECTOR

DEBORAH K. ROMERO
ACTING CABINET SECRETARY

STATE OF NEW MEXICO
DEPARTMENT OF FINANCE AND ADMINISTRATION
LOCAL GOVERNMENT DIVISION
Bataan Memorial Building ♦ 407 Galisteo St. ♦ Suite 202 ♦ Santa Fe, NM 87501
PHONE (505) 827-4950 ♦ FAX (505) 827-4948

October 22, 2020

Alan Webber
Mayor, City of Santa Fe
200 Lincoln Ave
Santa Fe, NM 87501

Re: Special Conditions for City of Santa Fe Capital Outlay Projects, per E.O. 13-006

Dear Mayor Webber:

Our many thanks to you and the other City of Santa Fe representatives for a very productive meeting on Monday, October 19th, concerning certification of the City of Santa Fe for purposes of the Executive Order 2013-006 and New Mexico Capital Outlay projects. As discussed, in accordance with E.O. 2013-006, the following uniform funding criteria must be met for a Local Government grantee to be eligible to receive a grant of a State Capital Outlay appropriation:

a. for the most recently concluded fiscal year, a grantee must have timely submitted to the federal government all forms and federal single audit documentation required under the federal Single Audit Act of 1984, as amended, and Office of Management and Budget Circular No. A-133, if the due date for the report under federal law has passed. A federal single audit report is timely submitted for purposes of this criterion if submitted by any extended due date granted by the grantee's federal cognizant agency;
b. in the case of a grantee whose most recent federal single audit raises concerns about the grantee's ability to expend grant funds in accordance with applicable law and account for and safeguard grant funds and assets acquired with grant funds:
    1. the grantee must have remedied the inadequacies in its accounting methods and procedures to the satisfaction of the State agency making the grant;
    2. **the State agency making the grant must have determined that it can impose and has the resources to implement special grant conditions that adequately address the inadequacies in the grantee's accounting methods and procedures; or**
    3. the State agency making the grant must have determined that another appropriate entity is able and willing to act as fiscal agent for the grant.

The Department of Finance and Administration (herein referred to as "Department") agrees that certification of the City of Santa Fe in accordance with the established uniform funding criteria would be possible provided that the following Special Conditions are implemented:

Special Conditions for All 2020 Appropriations

1. The City will participate in quarterly reconciliation meetings with the Department and provide status reports regarding the Audit Corrective Action Plan; and
2. The City's Grants Management Division or its Finance Director shall verify and approve that all documents related to encumbrance (Notice of Obligation) are eligible activities and consistent with the project(s) appropriation language per NMAC 2.61.6., prior to being submitted to the Department; and
3. The City's Grants Management Division or its Finance Director shall approve and verify that all documents related to reimbursement are encumbered (Department-approved Notice of Obligation), accurate, reported in the Department's database (http://cpms.dfa.state.nm.us) and submitted in a timely manner.
4. The City will use fund ***30300 State Legislative Appropriation Project*** and revenue line item ***47300 State Legislative Appropriations*** to budget all state capital outlay project grant awards on the Local Government Budget Management System (LGBMS) to allow for better tracking of quarterly financial activity related to these projects; and
5. The City will provide annually an audited detailed listing of all assets acquired with State Capital Outlay grant funds that identifies the Department administering such projects. In doing so, the City will provide to the Department a copy of the policies and procedures used to inventory capital and infrastructure assets; and

These Special Conditions will be included in the Inter-Governmental Agreement (IGA) for each City of Santa Fe project. The Special Conditions will remain in place for the duration of the project unless and until the Department is satisfied that the E.O. 13-006 uniform funding criteria has been met such that certain Special Conditions may be eliminated, in which case the Department will notify the City of Santa Fe in writing.

We welcome your comments and suggestions as to how to make these conditions effective. Please respond by close of business on Friday, November 6, 2020. If you should have any questions, you may call me at 505-470-7935.

Sincerely,



Eric Chenier
Chief Financial Officer
Department of Finance and Administration

Cc: Deborah K. Romero, Acting Cabinet Secretary, Department of Finance and Administration
Donnie Quintana, LGD Director, Department of Finance and Administration
Jarel Lapan Hill, City Manager, City of Santa Fe
Mary McCoy, Finance Director, City of Santa Fe

EXHIBIT
tabbies
B

ITEM # 16-0724

TRANSFER AND LEASE AGREEMENT
BETWEEN
THE CITY OF SANTA FE AND KITCHEN ANGELS, INC.

SFC CLERK RECORDED 08/12/2016

This TRANSFER AND LEASE AGREEMENT (Agreement) is made and entered into this 29TH day of JULY, 2016 by and between the CITY OF SANTA FE, a municipal corporation (City or Lessor) and KITCHEN ANGELS, INC., a New Mexico nonprofit corporation (Kitchen Angels or Lessee), collectively the "Parties".

WHEREAS, Kitchen Angels currently owns a building known as the "Coll-Green Angel Depot Building" (the Building) and site improvements (the Site Improvements) upon 2.125 acres of land owned by the City located at 1222 Siler Road in the City and County of Santa Fe, New Mexico known as "Lease Parcel A" as shown on **Exhibit A** of this Agreement (the Land); and

WHEREAS, the State of New Mexico legislature (the State) has appropriated public funds for capital improvements to the Kitchen Angels Building and may appropriate additional public funds for capital improvements to the Kitchen Angels Building in the future; and

WHEREAS, because the capital improvements to the Kitchen Angels Building will benefit a nonprofit entity, the State's appropriations were, and are, based and conditioned on commitments contained in the State-required Legislative Council Service Capital Outlay Request Forms to ensure compliance with the anti-donation clause of Article IX, §14 of the New Mexico Constitution; and

WHEREAS, the commitments contained in the Legislative Council Service Capital Outlay Request Forms were, and are, that a political subdivision of the state: (i) "*is or will be the owner of the asset and the fiscal agent for the nonprofit entity*"; (ii) "*will lease the asset to the nonprofit entity at fair market value*" and (iii) "*will ensure that the nonprofit entity maintains the asset*"; and

WHEREAS, the City is a municipal corporation that is a political subdivision of the State and has agreed to serve as the fiscal agent for Kitchen Angels for the purpose of the administration of the appropriated public funds; and

WHEREAS, the City intends to make a determination that Kitchen Angels, as intended Lessee of the Building, Site Improvements and Land (hereinafter referred to collectively as the Premises), qualifies under the procurement code as the sole source for providing Services through programs and activities upon the Premises, as described in Article II.5.A of this Agreement.

NOW THEREFORE, Kitchen Angels desires to transfer title in fee simple to the Building and Site Improvements to the City, and the City desires to lease the Premises to Kitchen Angels pursuant to this Agreement.

WITNESSETH:

In consideration of the Parties' promises herein, Kitchen Angels transfers title in fee simple to the Building and Site Improvements to the City pursuant to the transfer provisions of this Agreement and the City (Lessor) hereby gives Kitchen Angels (Lessee) a lease, revocable and terminable pursuant to the lease provisions of this Agreement, to enter on, make use of, and develop the real property of the Lessor as follows:

I. TRANSFER

1. QUITCLAIM DEED

As condition precedent to the lease provisions in this Agreement, Kitchen Angels shall transfer to City, title in fee simple to the following real property via quitclaim deed attached hereto as **Exhibit B:**

> The existing building known as the Coll-Green Angel Depot Building located at 1222 Siler Road, Santa Fe, New Mexico and all existing site improvements appurtenant thereto upon a certain parcel of land lying and being situate within a portion of Tract 2 as shown on a "Plat of Survey" for the City of Santa Fe "City Yards", prepared by Richard E. Smith, PS No. 5837 in February 1984 and having his Project No. 2411, recorded in the records of Santa Fe County, New Mexico as Document No. 553116 on October 16, 1984 in Plat Book 146, Page 007.

2. RECORDATION

Kitchen Angels shall be responsible for recording the transfer of the Building and Site Improvements to the City in the Santa Fe County Clerk's Office within one week of full execution of the quitclaim deed and shall provide a copy of such recording to the City Clerk within one week of recording.

II. LEASE

1. PRIOR AGREEMENTS

The Parties agree that this Agreement replaces in its entirety the previous Lease Agreement between City and The Food Depot and Kitchen Angels, Inc. entitled "LEASE AGREEMENT" dated February 9, 2000 (City Item #00-0039) and the amendment to the previous Lease Agreement entitled "REVISED AMENDMENT NO. 1 TO THE LEASE AGREEMENT BETWEEN THE CITY OF SANTA FE AND THE KITCHEN ANGELS AND THE FOOD DEPOT" dated October 16, 2009 (City Item #09-0991).

2. PREMISES

Lessor allows Lessee to use, occupy, and develop, subject to the lease terms and conditions of this Agreement (hereinafter referred to as the Lease Agreement), the Premises as described herein. Lessee accepts the Premises in its present state and agrees that it is in good condition, without any representation or warranty by Lessor as to the condition of the Premises.

3. EFFECTIVE DATE

This Lease Agreement shall become effective August 1, 2016 (the Effective Date).

4. LEASE TERM

The term of this Lease Agreement shall commence at 12:00 a.m. on the Effective Date. The term of this Lease Agreement shall consist of an "Initial Term" of twenty years (20) years with two (2) "Optional Additional Terms" of ten (10) years each. The Initial Term and any Optional Additional Terms are hereinafter referred to collectively as the "Term".

Lessee's exercise of any Optional Additional Term is contingent upon compliance with this Lease Agreement and with proper written notice by Lessee to Lessor at least one hundred eighty (180) days prior to the expiration of the Initial Term or any Optional Additional Term. In

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the event Lessee remains in possession of the Premises after the expiration of the Term of this Lease Agreement, such possession may, at the sole option of Lessor, be continued as a month-to-month tenancy. During any such month-to-month tenancy, the Rent due shall be prorated and payable on a monthly basis, and the terms and conditions of the Lease Agreement shall be otherwise applicable.

5. USE OF PREMISES

A. Provision of Specific Services. Lessee shall use and develop the Premises, and/or cause the Premises to be used and developed, solely for the specific purpose of delivering services related to provision of free, nutritious meals to residents of Santa Fe and other Northern New Mexico communities who are homebound, in a health crisis, lack the resources for regular meals, and who are not eligible for other local meal services, by cooking, packaging, and delivering meals to these residents, the majority of whom live below Federal Poverty Guidelines (the Services). Lessee agrees to actively use and develop the Premises, and/or cause the Premises to be actively used and developed, to deliver the above Services. The Services provided by Lessee may be modified from time to time by written agreement of the Parties to account for changes in community needs, changes in Lessee's and/or Lessee's Sublessee's capacities to provide new or different services, or other similar changes attributable to the passage of time.

B. Development of the Premises. Lessee may, with the prior written consent of Lessor and at no cost to Lessor, develop the Premises as it deems necessary in furtherance of the intended use of the Premises as provided in Section II.5.A above. For the purposes of this Lease Agreement, development shall include: (i) construction of new buildings, structures or site improvements; and/or (ii) improvements or alterations to the existing Premises.

C. Ownership of Improvements. Lessor shall own any improvements that the Lessee or its Sublessee(s) place, or cause to be placed, on the Premises during the Term of this Lease Agreement, unless the Parties agree otherwise in writing. Upon termination of this Lease Agreement, title to any and all such improvements shall pass to Lessor.

D. Trade Fixtures. All trade fixtures installed by Lessee after the Effective Date of this Lease Agreement shall remain the property of Lessee, who may remove the same upon termination of this Lease Agreement, provided that removal shall be done in such a manner as not to injure or damage the Premises.

In the event that Lessee fails to remove the trade fixtures, Lessor may require Lessee to remove the same. In the event that Lessee fails to remove said trade fixtures after receipt of notice from Lessor, Lessor may remove and dispose of the same as it sees fit and Lessee agrees to sell, assign, transfer and set over to Lessor all of Lessee's right, title and interest in and to said trade fixtures and any personal property not removed by Lessee. Lessee further agrees that should Lessor remove said trade fixtures pursuant to this paragraph, that Lessee shall pay Lessor upon demand the cost of such removal, plus the cost of transportation and disposal thereof.

E. Repairs and Maintenance. Lessee shall not cause or permit any waste, damage or injury to the Premises or to any improvements made to the Premises. Lessee shall, at its sole expense, keep and maintain the Premises in good and clean condition at all times and shall be responsible for the costs of any and all required repairs and replacements that arise during the Term of this Lease Agreement.

In the event Lessee fails to maintain the Premises at a standard acceptable to the

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Lessor as determined in Lessor's sole discretion, Lessor may terminate this Agreement, in accordance with Section II.14 herein.

F. Compliance with Laws. Use of the Premises shall at all times be in compliance with the City of Santa Fe Municipal Code and other applicable local, state and federal regulations including but not limited to compliance with the City of Santa Fe Integrated Pest Management Policy (§10-7 SFCC 1987) (the Pest Management Policy).

6. SUBLEASE

A. Lessee's Right to Sublease. In furtherance of Lessee's use and development of the Premises pursuant to Section II.5 of this Agreement, with the prior written consent of the Lessor, Lessee may sublease portions of the Premises to other not-for-profit organizations, community groups, or governmental entities (each hereinafter a Sublessee) that provide Services. Lessee shall be the "Sublessor" to any Sublessee(s) of the Premises. Lessee shall include a provision in all subleases that the subtenant shall attorn to Lessor as landlord upon termination or expiration of this Agreement. Lessee shall provide copies of all Sublease agreements to Lessor upon request.

B. Existing Sublessees. With the exception of the existing Sublessees listed in this Section II.6.B, this Lease Agreement does not constitute Lessor's consent for Lessee to sublease the Premises to any existing Sublessee or tenant in occupation of any portion of the Premises as of the Effective Date of this Lease Agreement.

Notwithstanding the above paragraph, Lessor hereby consents, subject to the provisions of this Lease Agreement, to the Sublease and continued use of the Premises and provision of Services by "Feeding Santa Fe, Inc." (Feeding Santa Fe) in accordance with any existing agreements in place prior to the Effective Date of this Lease Agreement. Lessee hereby agrees that it shall become the Sublessor to Feeding Santa Fe and that Feeding Santa Fe shall become a Sublessee pursuant to the provisions of this Lease Agreement.

7. RENT

Rent shall be paid as follows:

A. Rent during Initial Term. During the Term of and in consideration of this Lease Agreement and the demise of the Premises by Lessor to Lessee, Lessee hereby agrees and covenants with Lessor to pay for said Premises the annual fair market rent (the Rent) as established by a real estate appraisal prepared by an MAI-certified appraiser licensed by the State of New Mexico (the 2016 Appraisal), to be provided for Lessor's approval by and at Lessee's sole expense within sixty (60) days after the Effective Date of this Lease Agreement. Rent during the Initial Term shall be subject to increases in accordance with Section II.7.C below.

The Parties agree that Lessee may use and occupy the Premises beginning on the Effective Date provided that at the time Rent is established by the approved 2016 Appraisal, the Rent will be applied retroactively to the Effective Date.

B. Rent during any Optional Additional Term(s). The Rent for any Optional Additional Term(s) of this Lease Agreement shall be established by a real estate appraisal prepared by an MAI-certified appraiser licensed by the State of New Mexico to be provided and paid for by Lessee for Lessor's approval at least forty-five (45) days prior to the commencement of any such Optional Additional Term(s). In no case shall the Rent for any Optional Additional Term(s) be less than the Rent during the last year of the previous term plus two and one-half percent (2.5%).

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Rent during any Optional Additional Term(s) shall be subject to increases in accordance with Section II.7.C below.

C. Increases in Rent. Rent shall be adjusted every five (5) years during the Term of this Lease Agreement, beginning on August 1, 2021. At each time of adjustment the Rent shall be increased by an amount calculated by multiplying the previous year's Rent by twelve and one-half percent (12.5%).

D. Provision of Services to Offset Monetary Rent. During the Term of and in consideration of this Lease Agreement, Lessee may offset the monetary Rent due by providing to the residents of the City and County of Santa Fe the Services described in Section II.5 of this Lease Agreement. In addition, Lessee shall permit its Sublessee(s) to provide such Services in lieu of or in addition to monetary Rent and to the extent that it does so, Lessee may apply the value of such Services to the Rent due by Lessee hereunder. The monetary value of the Services provided by Lessee during any lease year shall meet or exceed the Rent due for that lease year.

E. Annual Service Value Statement. Beginning on September 1, 2017 and on September 1 of each subsequent lease year during the Term of this Lease Agreement, Lessee shall submit to Lessor a statement (the Annual Service Value Statement) itemizing each type and corresponding monetary value of Services delivered during the prior lease year and the amount of Services that it proposes to credit toward Rent due, and containing a statement from an independent third-party auditor that the provision of Services for the prior lease year has met the requirements of this Section II.7. Lessor may adopt a required form for the Annual Service Value Statement and such adopted form may be modified from time to time by Lessor.

F. Exclusions. Lessee shall exclude from the value of any Services that it proposes to credit toward Rent the amount of any governmental subsidy and other payment for Services received by Lessee for providing such Services and the amount paid by Service recipients to receive the Services.

G. Review by Lessor. Lessor shall evaluate the Lessee's Annual Service Value Statement and provide a written acceptance or rejection of the Annual Service Value Statement to Lessee. Lessee may request that Lessor review the methodology that Lessee intends to use to prepare the Annual Service Value Statement prior to its submission to Lessor. Lessor may, in its sole discretion, request any such additional information and documentation as it deems necessary to evaluate any Annual Service Value Statement. Lessee's failure to provide such requested information within forty-five (45) days of Lessor's request is cause for Lessor's termination of this Lease Agreement. Lessor's determination regarding the monetary value of Services shall be final and binding and not subject to challenge by Lessee in any forum.

Notwithstanding anything in this Section II.7 to the contrary, Lessor's failure provide written acceptance or rejection of the Annual Service Value Statement or to request additional information and documentation from the Lessee within forty-five (45) days of Lessor's receipt of any Annual Service Value Statement shall be deemed to be acceptance of such Annual Service Value Statement by Lessor.

H. Rent Shortfalls. Should the monetary value of the Services in any year not equal or exceed the Rent due in that year (a Rent Shortfall), then Lessee shall pay to Lessor the amount of the Rent Shortfall in monetary Rent. Notwithstanding anything to the contrary in the foregoing sentence, Lessor may agree to allow Lessee to provide within a reasonable amount of time additional Services to offset any Rent Shortfall, and in such event the Parties agree to negotiate

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in good faith to determine the nature, extent, and schedule for provision of such additional Services.

I. No Compensation by Lessor. In no event shall Lessor be required at any time, including at the end of the Lease Term, to compensate Lessee in any way for any excess Services. In the event of the termination of this Lease Agreement prior to the end of the Term, for any cause, Lessee shall forfeit any excess Services not applied to Rent.

8. UTILITIES

Beginning on the Effective Date and until the termination of this Lease Agreement, the costs of any and all natural gas, electricity, telephone, cable or satellite television, internet or wireless, or security alarm services and any and all domestic or irrigation water, sanitary sewer, and solid waste collection fees shall be paid by Lessee. Lessee may assess and collect from its Sublessees portions of the above costs on a pro rata basis as Lessee deems necessary.

9. TAXES

Lessee shall pay all taxes levied and assessed, if any, upon any personal property, buildings, fixtures and improvements belonging to Lessee and located upon the demised premises, and all leasehold and possessory interest taxes levied or assessed by any proper taxing authority.

10. ASSIGNMENT OR TRANSFER

Lessee shall not assign or otherwise transfer this Lease Agreement, without the prior written consent of the Lessor. Any such actions taken by Lessee shall result in the immediate termination of this Lease Agreement.

11. INSURANCE

Lessee shall at all times maintain and provide adequate insurance coverage which includes, without limitation, each of the following:

A. Casualty Insurance. Lessee shall carry and maintain in full force and effect during the term of this Lease Agreement casualty insurance ("extended coverage" and "additional extended coverage") as may be available for all improvements to the Premises in an amount sufficient to restore and replace existing structures and improvements if lost or damaged by any form of casualty. Lessee shall cause the City of Santa Fe to be named as an additional insured on such policy of insurance.

B. Liability Insurance. Lessee shall carry and maintain in full force and effect during the term of this Lease Agreement, public liability insurance covering bodily injury and property damage, in a form and with an insurance company acceptable to Lessor, with limits of coverage not less than as stated in the New Mexico Tort Claims Act for each person injured and for each accident resulting in damage to property, against all claims and lawsuits arising from Lessee's use of the Premises. Lessee shall cause the City of Santa Fe to be named as an additional insured on such policy of insurance.

C. Certificates of Insurance. Within ten (10) days of the Effective Date of this Lease Agreement, and thereafter at any time during the Term of this Lease Agreement that Lessor requests, Lessee shall provide Lessor with certificates of insurance for each policy evidencing that the coverage required hereunder is current. Such policy shall provide that the coverage evidenced thereby shall not be terminated or modified for any reason without thirty (30) days

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prior written notice to the Lessor. A certificate or policy which states that failure to give such notice imposes no obligation on the part of the insurer shall be unacceptable to Lessor, and Lessee shall be responsible for removing such language from such certificate or policy.

D. Sublease Agreements. Lessee shall cause any and all Sublease agreements, or other agreements related to use, occupation, or development of the Premises, that Lessee enters into to contain language that requires the City of Santa Fe to be named as an additional insured on such policies of insurance as provided in this Section II.11.

12. INDEMNIFICATION

Lessee shall indemnify, hold harmless and defend Lessor, its agents, officers, and employees against all losses, damages, claims or judgments, including payment of all attorney's fees and costs, on account of any suit, judgment, execution, claim, action or demand whatsoever arising from Lessee's use of the Premises hereunder, including use of the Premises by Lessee's employees, agents, representatives, Sublessees, tenants, contractors, agents, guests, invitees or permitted assigns. Lessee shall cause any and all agreements that Lessee enters into with any of the above parties to contain language indemnifying the Lessor as provided in this Section.

13. EASEMENTS

A. Lessor's Right to Grant Easements. Lessor reserves the exclusive right to grant access, utility or other easements on or through the Premises. Lessor shall notify Lessee in writing prior to Lessor's grant of any easement through the Premises.

B. Reciprocal Easements – Lessor's Adjacent Lease Parcel. Notwithstanding Section II.13.A above, Lessor hereby acknowledges and consents to the "RECIPROCAL GRANT OF EASEMENTS" between Lessee and the lessee of Lessor's adjacent "Lease Parcel B" effective June 20, 2016 (the Reciprocal Easements Agreement) attached hereto as **Exhibit C**. The Parties agree that the Reciprocal Easements Agreement shall not be terminated or amended during the Term of this Lease Agreement without the prior written consent of Lessor.

14. TERMINATION BY LESSOR

Lessor may terminate this Lease Agreement upon Lessee's failure to comply with any provisions contained herein. Prior to termination, Lessor shall hand deliver or mail notice to Lessee via certified or registered mail specifying:

A. the breach;

B. the action required to cure the breach;

C. a date, not less than fifteen (15) days from the date the notice is hand delivered or mailed to Lessee, by which such breach must be cured; and

D. that failure to cure such breach on or before the date specified in the notice will result in termination of the Lease Agreement.

III. MISCELLANEOUS PROVISIONS

1. NOTICE

Any required notice will be deemed delivered, given and received (i) when personally hand delivered, or (ii) five days after the same are deposited in the United States mail, postage prepaid, registered, addressed to the applicable party at the address indicated below for such

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party, or at such other address as may be designated by either party in a written notice to the other party:

To Lessor:	To Lessee:
City Manager	Executive Director
City of Santa Fe	Kitchen Angels, Inc.
P. O. Box 909	1222 Siler Road
Santa Fe, NM 87504-0909	Santa Fe, NM 87507

2. **NO WAIVER**

No waiver of a breach of any of the provisions contained in this Agreement shall be construed to be a waiver of any succeeding breach of the same or any other provisions.

3. **SEVERABILITY**

In the event that 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.

4. **ENTIRE AGREEMENT**

The foregoing constitutes the entire Agreement between the Parties, represents their entire understanding, and defines all of their respective rights, title and interests as well as all of their duties, responsibilities and obligations. Any and all prior Agreements and understandings between the Parties related to the Premises, if any, are merged herein. This Agreement shall not be modified or amended except by a written document signed by the Parties hereto.

5. **BINDING EFFECT**

This Agreement shall be binding upon and insure to the benefit of the Parties hereto and their respective successors and permitted assigns.

6. **LITIGATION EXPENSE**

In the event of litigation between the Parties or litigation between Lessee and its Sublessees in which Lessor is named, Lessee shall pay any necessary costs, including reasonable attorney's fees, expenses and other costs of collection or otherwise, which Lessor shall incur in enforcing this Agreement or in recovering any and all damages caused to the Premises by Lessee, or Lessee's Sublessees, contractors, agents, employees or permitted assigns.

7. **RECORDING**

This Agreement shall be recorded in its entirety. Lessee shall bear all costs for recording of the Agreement and any other associated costs.

8. **HEADINGS**

The section headings contained in this Agreement are for reference purposes only and shall not affect the meaning or interpretation of this Agreement.

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[SIGNATURES APPEAR ON THE FOLLOWING PAGE]

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IN WITNESS WHEREOF, the Parties have hereunto set their hands and seals as of this 29TH day of JULY, 2016.

CITY OF SANTA FE

JAVIER M. GONZALES, MAYOR

ATTEST:

YOLANDA Y. VIGIL, CITY CLERK cemtg 7/27/16

APPROVED AS TO FORM:

KELLEY A. BRENNAN, CITY ATTORNEY

APPROVED:

OSCAR S. RODRIGUEZ, FINANCE DIRECTOR

BUSINESS UNIT/LINE ITEM: 21117.460150

KITCHEN ANGELS, INC.

STEPHANIE GONZALES, PRESIDENT

ACKNOWLEDGEMENT

STATE OF NEW MEXICO)
) ss.
COUNTY OF SANTA FE)

The foregoing instrument was acknowledged before me this 29th day of July 2016, by Stephanie Gonzales, President of the Board of Directors of the Kitchen Angels, Inc., a New Mexico non-profit corporation.

Anne G. Padilla

My Commission Expires: 8-11-2019 NOTARY PUBLIC

(Seal)

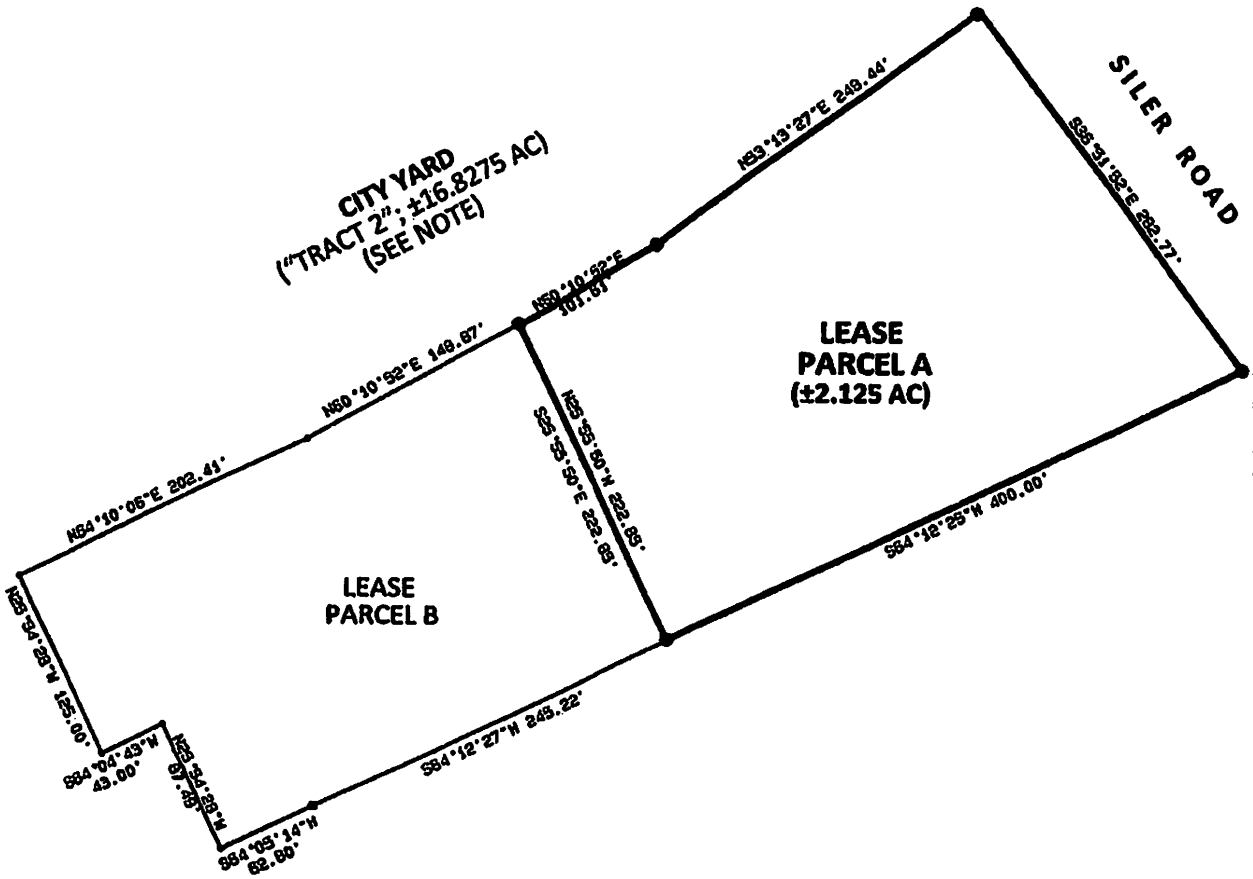
OFFICIAL SEAL
ANNE G. PADILLA
NOTARY PUBLIC-State of New Mexico
My Commission Expires 8-11-2019

STC CLERK RECORDED 08/12/2016

OFFICIAL SEAL
ANNE G. PADILLA
NOTARY PUBLIC-State of New Mexico
My Commission Expires _____

SFC CLERK RECORDED 08/12/2016

EXHIBIT A



*NOTE: "TRACT 2" AS SHOWN ON A "PLAT OF SURVEY" FOR THE CITY OF SANTA FE "CITY YARDS", PREPARED BY RICHARD E. SMITH, PS NO. 5837 IN FEBRUARY 1984 AND HAVING HIS PROJECT NO. 2411, RECORDED IN THE RECORDS OF SANTA FE COUNTY, NEW MEXICO AS DOCUMENT NO. 553116 ON OCTOBER 16, 1984 IN PLAT BOOK 146, PAGE 007.

EXHIBIT B

SFC CLERK RECORDED 08/12/2016

QUITCLAIM DEED

QUITCLAIM DEED
(Building and Site Improvements Only)

Kitchen Angels, Inc., a New Mexico non-profit corporation (Grantor), whose address is 1222 Siler Road, Santa Fe, New Mexico, 87507, for good and adequate consideration quitclaims to the City of Santa Fe, a municipal corporation (Grantee), whose address is 200 Lincoln Ave., Santa Fe, New Mexico 87504, the existing Building known as the Coll-Green Angel Depot Building located at 1222 Siler Road, Santa Fe, New Mexico and all existing Site Improvements appurtenant thereto upon a certain parcel of land lying and being situate within a portion of Tract 2 as shown on a "Plat of Survey" for the City of Santa Fe "City Yards", prepared by Richard E. Smith, PS No. 5837 in February 1984 and having his Project No. 2411, recorded in the records of Santa Fe County, New Mexico as Document No. 553116 on October 16, 1984 in Plat Book 146, Page 007. Said parcel of land being more particularly described as follows:

Beginning at the northeast corner of this parcel of land (from whence a USC and GS brass cap stamped "Azimuth 1945 East Base" bears along the following courses N36°51'52"W, 325.80 feet to a point; thence N37°20'48"W, 191.06 feet to a point; thence N64°40'59"W feet distant); thence from said point of beginning S36°51'52"E, 285.00 feet to a point; thence S64°12'27"W, 400.00 feet to a point; thence N25°47'33"W, 212.13 feet to a point; thence N53°08'08"E, 351.82 feet to the point and place of beginning; containing 2.125 acres more or less.

Subject to reservations, restrictions, easements of record and for existing utilities, and taxes for the year of 2016 and thereafter.

WITNESS my hand and seal this 29TH day of JULY, 2016.

GRANTOR:
KITCHEN ANGELS, INC.

Stephanie Gonzales
STEPHANIE GONZALES, PRESIDENT

ACKNOWLEDGEMENT

STATE OF NEW MEXICO)
) ss.
COUNTY OF SANTA FE)

The foregoing instrument was acknowledged before me this 29th day of July, 2016 by Stephanie Gonzales, President of the Board of Directors of Kitchen Angels, Inc., a New Mexico non-profit corporation.

Anne G. Padilla
Notary Public

My commission expires: 8-11-2019

OFFICIAL SEAL
ANNE G. PADILLA
NOTARY PUBLIC-State of New Mexico
My Commission Expires 8-11-2019

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My Commission Expires
NOTARY PUBLIC-STATE of New Mexico
ANNE C. PADILLA
OFFICIAL SEAL

GRANTEE:
CITY OF SANTA FE

JAVIER M. GONZALES, MAYOR

ATTEST:

YOLANDA Y. VIGIL, CITY CLERK

APPROVED AS TO FORM:

KELLEY A. BRENNAN, CITY ATTORNEY

APPROVED:

OSCAR S. RODRIGUEZ, FINANCE DIRECTOR

BUSINESS UNIT.LINE ITEM: 21117.460150

COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

QUITCLAIM DEED
PAGES: 2

I Hereby Certify That This Instrument Was Filed for Record On The 12TH Day Of August, 2016 at 11:01:20 AM And Was Duly Recorded as Instrument # 1801297 Of The Records Of Santa Fe County

Witness My Hand And Seal Of Office
Geraldine Salazar
Deputy ____ County Clerk, Santa Fe, NM

SFC CLERK RECORDED 08/12/2016

EXHIBIT C

SFC CLERK RECORDED 08/12/2016

RECIPROCAL EASEMENTS AGREEMENT

COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

TRANSFER
PAGES: 16

I Hereby Certify That This Instrument Was Filed for Record On The 12TH Day Of August, 2016 at 11:01:21 AM And Was Duly Recorded as Instrument # 1801298 Of The Records Of Santa Fe County

Witness My Hand And Seal Of Office
Geraldine Salazar
Deputy County Clerk, Santa Fe, NM

RECIPROCAL GRANT OF EASEMENTS

THIS AGREEMENT is made effective as of June 20, 2016, between The Food Depot ("Depot") and Kitchen Angels ("Angels"), each a New Mexico nonprofit corporation. In consideration of the mutual promises set out below, Seller and Purchaser agree as follows:

1. Relations between the Parties. Depot and Angels were co-tenants of Parcel A, located at 1222 Siler Road, Santa Fe, New Mexico and shown on Exhibit A, under a Lease Agreement from the City of Santa Fe, New Mexico, Lease Agreement dated February 9, 2000, as amended. There is a building on Parcel A which is known as the Coll-Green Angel Depot. Depot has sold is interest in that building to Angels. Depot is the tenant of Parcel B as shown on Exhibit D under a Lease Agreement from the City of Santa Fe dated 1 August 2016. Parcel B is located west of Parcel A and does not have direct access to Siler Road or other public street. The parties each make use of the paved area between their buildings, as shown on Exhibit E and wish to confirm their understandings and agreements with respect to access, parking and other matters, as set out in this Agreement.

2. Angels grants to Depot an easement for ingress to and egress from Parcel B over the area on either side (north and south) of the Coll-Green Angel Depot building. Depot shall use this easement only for ingress and egress by its employees and invitees and shall not obstruct the easement area by parking or otherwise. Depot shall not use the area in front of the Coll-Green Angel Depot building, fronting on Siler Road, for parking or other purposes without the express prior consent of Angels.

3. Each party grants to the other party an easement over the vacant space between the building on Parcel A and the building on Parcel B for access to its own loading dock.

4. Neither party shall obstruct the other party's access to its own building or the parking spaces for that building.

5. The parties will share equally in the cost of snow removal from and maintenance of the areas on either side of the Coll-Green Angel Depot building and the vacant area between the buildings, based on the square footage of those areas. Maintenance includes but is not limited to resealing, painting and striping, and repaving, as and when mutually agreed, and any other improvements, such as gates and lighting, as may be mutually agreed.

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6. Each party will add the areas it is permitted to use under this Agreement to the insured premises under its commercial liability insurance policy and shall cause its insurer to name the other party as an additional insured under its policy with respect to the areas it is permitted to use under this Agreement.

7. The terms of this Agreement shall not be affected by the removal of Depot as a co-tenant of Parcel A.

IN WITNESS WHEREOF, the parties have executed this Agreement.

Kitchen Angels — Date: 6-20-16

The Food Depot — Date: 6-30-16

STATE OF NEW MEXICO)
) ss:
COUNTY OF SANTA FE)

The foregoing instrument was acknowledged before me on June 20, 2016, by Jenna Brack, the Vice President of Kitchen Angels, a New Mexico nonprofit corporation, on its behalf.

OFFICIAL SEAL
SARAH WILLIAMS TAYLOR
NOTARY PUBLIC-State of New Mexico
My Commission Expires 8-4-16

[seal]

Sarah Williams Taylor
Notary Public

STATE OF NEW MEXICO)
) ss:
COUNTY OF SANTA FE)

The foregoing instrument was acknowledged before me on June 20, 2016, by Sherry F. Hooper, the Exec. Director of The Food Depot, a New Mexico nonprofit corporation, on its behalf.

OFFICIAL SEAL
SARAH WILLIAMS TAYLOR
NOTARY PUBLIC-State of New Mexico
My Commission Expires 8-4-16

[seal]

Sarah Williams Taylor
Notary Public

SFC CLERK RECORDED 08/31/2016

City of Santa Fe

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

BUSINESS REGISTRATION

Business Name: KITCHEN ANGELS
DBA: KITCHEN ANGELS

Business Location: 1222 SILER RD
SANTA FE, NM 87505

CRS Number: 02-265457-00-7

Owner: MIKE TYSON

License Number: 224767

License Type: Business License - Renewable

Issued Date: January 06, 2021

Classification: Business Registration - Food Sales

Expiration Date: January 06, 2022

Fees Paid: $35.00

KITCHEN ANGELS
1222 SILER 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

HOME

Search Information

Home

Entity Details

Business ID#:	**1565894**	Status:	**Active**
Entity Name:	**KITCHEN ANGELS**	Standing:	**Good Standing**
DBA Name:	**Not Applicable**		

Entity Type and State of Domicile

Entity Type:	**Domestic Nonprofit Corporation**	State of Incorporation:	**New Mexico**
Benefit Corporation:	**No**	Statute Law Code:	**53-8-1 to 53-8-99**

Formation Dates

Reporting Information

Period of Existence and Purpose and Character of Affairs

Outstanding Items

Reports:

No Pending Reports.

Registered Agent:

No Records Found.

License:

No Records Found.

Contact Information

Mailing Address:	**1222 SILER ROAD, Santa Fe, NM 87507**
Principal Place of Business in New Mexico:	**1222 SILER RD, Santa Fe, NM 87507**
Secondary Principal Place of Business in New Mexico:	
Principal Office Outside of New Mexico:	**Not Applicable**
Registered Office in State of Incorporation:	

Principal Place of Business in Domestic State/ Country: **Not Applicable**

Principal Office Location in NM: **Not Applicable**

Registered Agent Information

Name: **TONY MC CARTY**

Geographical Location Address:

Physical Address: **1222 SILER RD, Santa Fe, NM 87507**

Mailing Address: **1222 SILER RD, Santa Fe, NM 87507**

Date of Appointment: **05/13/1992**

Effective Date of Resignation:

Director Information

Title	Name	Address
Director	Peter Lovato	1645 Placita de Luna, Santa Fe, NM 87506
Director	Kathye Segala	604 Av Villa Hermosa, Santa Fe, NM 87506
Director	Martha Gandert Romero	2927 Plaza Azul, Santa Fe, NM 87507
Director	Yash Morimoto	4754 Lluvia Encantada, Santa Fe, NM 87507

Officer Information

Title	Name	Address
Vice President	BENJAMIN ALAIMO-MONSON	1457 MIRACERROS LOOP, Santa Fe, NM 87505
President	LINDA DRESSMAN	3 ECCOLA LN, Santa Fe, NM 87506
Vice President	Karen Wolfe-Mattison	43 Pinon Jay Tr, Santa Fe, NM 87505
Treasurer	Darrin Abby	800 Viejo Rastro, Santa Fe, NM 87505
Secretary	Morgan Honeycutt	106 E Coronado Rd, Santa Fe, NM 87505

Organizer Information

Not Applicable

Incorporator Information

No Records to View.

Trustee Information

Not Applicable

Filing History

License History

Back | Entity Name History | Return to Search

City of Santa Fe

Real Estate Summary of Contracts, Agreements, Amendments & Leases

Section to be completed by department

1. Munis Contract # **3202781**

Contractor: **N.M. Department of Finance & Administration (DFA)**

Description: **A Professional Service Agreement Project # 20-E2738 between the City & Kitchen Angels for a meals program serving homebound & special needs people. $100,000**

Contract ☐ Agreement ☑ Lease / Rent ☐ Amendment ☐

Term Start Date: **10/1/21** Term End Date: **6/30/24**

☐ Approved by Council Date: _____

Contract / Lease:

Amendment # _____ to the Original Contract / Lease # _____

Increase/(Decrease) Amount $ _____

Extend Termination Date to: _____

☐ Approved by Council Date: _____

Amendment is for:

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

3. Procurement History: **This a new procurement.**

Jon Dunaway — Sep 28, 2021

Purchasing Officer Review: Date:

Comment & Exceptions: _____

4. Funding Source: **NM DFA** Org / Object: **3459981.572970**

Andy Hopkins — Sep 24, 2021

Budget Officer Approval: Date:

Comment & Exceptions: _____

Staff Contact who completed this form: **David A. Chapman** Phone # **660-2619**

Email: **dachapman@santafenm.gov**

To be recorded by City Clerk:

Clerk # _____

Date of Execution: _____

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 05/14/2021

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: Marcella Nellist	
Daniels Insurance, Inc.-Santa Fe 805 St Michaels Drive Santa Fe NM 87505	PHONE (A/C, No, Ext): (505) 982-4302	FAX (A/C, No): (505) 989-9186
	E-MAIL ADDRESS: mnellist@danielsinsuranceinc.com	
	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A: Cincinnati Insurance Companies	10677
INSURED (505) 471-7780 Kitchen Angels, Inc. 1222 Siler Road Santa Fe NM 875074106	INSURER B: New Mexico Commercial Ins Co	13673
	INSURER C: Philadelphia Indemnity Insuran	18058
	INSURER D:	
	INSURER E:	
	INSURER F:	

COVERAGES **CERTIFICATE NUMBER:** Cert ID 32050 **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						EACH OCCURRENCE	$ 1,000,000
	CLAIMS-MADE X OCCUR			ETD0439625	06/25/2021	06/25/2022	DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 1,000,000
							MED EXP (Any one person)	$ 10,000
							PERSONAL & ADV INJURY	$ 1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$ 2,000,000
	X POLICY PRO-JECT LOC						PRODUCTS - COMP/OP AGG	$ 2,000,000
	OTHER:						Empl Benefits Liab	$ 1M/3M
A	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident)	$ 1,000,000
	ANY AUTO			ETD0439625	06/25/2021	06/25/2022	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)	$
								$
A	X UMBRELLA LIAB X OCCUR			ETD0439625	06/25/2021	06/25/2022	EACH OCCURRENCE	$ 3,000,000
	EXCESS LIAB CLAIMS-MADE						AGGREGATE	$ 3,000,000
	DED X RETENTION $ none						products/C-O&a-	$ 3,000,000
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y/N			26556.124	06/21/2021	06/21/2022	X PER STATUTE OTH-ER	
	ANYPROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	N/A					E.L. EACH ACCIDENT	$ 1,000,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	$ 1,000,000
							E.L. DISEASE - POLICY LIMIT	$ 1,000,000
A	Professional Services			ETD0439625	06/25/2021	06/25/2022	Professional Liability	$ 1,000,000
C	Accident Policy			PHPA078723	06/25/2021	06/25/2022	Medical Expense Max Benefit	$ 100,000

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

General liability policy contain a Blanket Additional Insured provision that establishes the scope of Additional Insured coverage granted to the Certificate Holder. Where permitted by state law, and per a Blanket Waiver of Subrogation Endorsement, the Insurer waives its right to subrogate against the Certificate Holder by reason of payments made under the General liability policy but only under the circumstances stated in the policies.

CERTIFICATE HOLDER

City of Santa Fe

P.O. Box 909

Santa Fe NM 875040909

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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Signature: David A. Chapman
David A. Chapman (Oct 25, 2021 10:26 MDT)

Email: dachapman@santafenm.gov

City of Santa Fe, New Mexico
memo

Date: October 22, 2021

To: Fran Dunaway, Chief Procurement Officer

Via: Regina Wheeler
Regina Wheeler (Nov 1, 2021 13:15 MDT)
Regina Wheeler, Public Works Department Director

From: Romella Glorioso-Moss, AICP, Public Works Sr. Project Administrator

Subject: Exemption Determination Request 13-1-98 A

Public Works – Roadway and Trails Department respectfully request exempt determination to be approved by the City's CPO, Fran Dunaway. The Memo of Agreement is between New Mexico Department of Transportation and City of Santa Fe Public Works Department

City of Santa Fe follows the New Mexico State Procurement code.

A. *procurement of items of tangible personal property or services by a state agency or a local public body from a state agency, a local public body or external procurement unit except as otherwise provided in Sections 13-1-135 through 13-1-137 NMSA 1978;*

Amount: $ 1,700,000.00

Term: 06/30/2025

Approved Exemption

_____
Fran Dunaway, Chief Procurement Officer

City of Santa Fe, New Mexico

Memorandum

DATE: October 22, 2021

TO: Finance Committee, Public Works and Utilities Committee and Governing Body

VIA: Regina Wheeler, Public Works Department Director Regina Wheeler (Nov 1, 2021 13:15 MDT)

FROM: Romella Glorioso-Moss, PhD, AICP, Public Works Sr. Project Administrator RGM

ITEMS AND ACTIONS:

Approval of Transportation Project Fund Grant Agreement in the Total Amount of $1,700,000 for the Construction of Agua Fria/South Meadows Intersection Improvements Project; New Mexico Department of Transportation; Romella Glorioso-Moss, rsglorioso-moss@santafenm.gov, (505) 955-6623.

Approval of a Budget Adjustment Resolution (BAR) in the Total Amount of $1,615,000 to put the funds from the TPF Grant into budget for the Construction of Agua Fria/South Meadows Intersection Improvements.

BACKGROUND AND SUMMARY:

Public Works – Roadway and Trails is receiving Transportation Project Funds (TPF) administered by the New Mexico Department of Transportation (NMDOT) in the total amount of $1,700,000 to construct intersection improvements on Agua Fria/South Meadows.

The purpose of this project is to alleviate traffic at the Agua Fria/South Meadows intersection, which has considerably increased since the building of the El Camino Real Academy and new residential development south side of the City. With increase in traffic, crashes have also increased. The NMDOT Crash Data from 2011 through 2016 showed an upward trend of vehicular crashes annually - from 4 crashes in 2011 to 9 crashes in 2016.

The project is 0.28-mile long, which begins at the intersection of Agua Fria/Morning Drive and ends at the intersection of Agua Fria/Jemez Road. The improvements will include the construction of turning lanes on all legs of the intersection except for the North bound, 5-ft bike lanes on all directions, 6-ft sidewalks on both sides of the road, and driveways per ADA and NMDOT's type B or C pedestrian access. This project follows the Complete Street Guidelines that the City of Santa Fe has adopted to provide safe access to all road users.

Our project consultants are working on the final phase of the design including obtaining five (5) NMDOT required certifications for construction. One of which is the right-of-way certification which could take up to six months to complete. Construction could begin Spring of 2022. With this additional funding, the construction of this project is fully funded. Please refer to Table 1 below for funding sources and amount.

Table 1 Project Funding Received as of October 31, 2021

SOURCE	AMOUNT	PURPOSE	EXPIRATION DATE	EXPENDED
NM State Capital Appropriation 2015	$25,000.00	Design	06/30/2019	$25,000.00
NM State Capital Appropriation 2018	$100,000.00	Design	06/30/2022	$100,000.00
NM State Capital Appropriation 2019	$125,000.00	Design	06/30/2023	$125,000.00
NMDOT Municipal Arterial Program Funding 2019 (25% match from City of Santa Fe Impact Fees)	$587,667.00	Design and Construction	06/30/2020 Amendment #1 12/31/2021	$302,874.00
NMDOT Municipal Arterial Program Funding 2020 (25% match from City of Santa Fe Impact Fees)	$151,825.00	Design and Construction	06/30/2021	
NMDOT Municipal Arterial Program Funding 2021 (25% match from City of Santa Fe Impact Fees)	$162,000.00	Design and Construction	06/30/2022	
NMDOT Municipal Arterial Program Funding 2022 (25% match from City of Santa Fe Impact Fees)	$124,444	Construction	06/30/2023	
Local Government Road Fund 2022 (25% match from City of Santa Fe Impact Fees)	$75,833	Construction	06/30/2023	
TOTAL FUNDING RECEIVED	**$1,351,769.00**			
TOTAL FUNDING EXPENDED	**$552,874.00**			**$552,874.00**
TOTAL FUNDING REMAINING FOR ROW ACQUISITION, CONSTRUCTION & CONSTRUCTION MANAGEMENT	**$798,895.00**			
TOTAL FUNDING NEEDED FOR ROW ACQUISITION, CONSTRUCTION & CONSTRUCTION MANAGEMENT	**1,700,000.00**			

The total TPF grant is $1.7M, which is proportionally shared between NMDOT at 95% or $1,615,000 and City at 5% or $85,000. As per funding agreement, the City needs to budget the NMDOT share; thus the request for the BAR. The City match of $85,000 will be requested from the CapitalImprovements Advisory Committee to use road impact fees.

PROCUREMENT METHOD:
This funding is exempt from the New Mexico Procurement Code as per the attached Exemption Determination Request 13-1-98 A approved by the City's Chief Procurement Officer, Ms. Fran Dunaway.

CONTRACT NUMBER:
The FY22 Munis contract number is 3203078.

FUNDING SOURCE:

The funding source is:
Fund Name/Number: NMDOT/
Munis Org Name/Number: Engineering/3559980
Munis Object Name/Number: WIP Construction/572970

ACTION REQUESTED:
Public Works – Roadway and Trails respectfully requests your review and approval.

ATTACHMENTS:
Transportation Project Fund Grant Agreement (Control #HW2LP50019)Budget Adjustment Resolution Form
Exemption Determination Request 13-1-98 A MemoProcurement Checklist
Summary of Contracts, Agreements, Amendments and Leases Form

Contract No. 3203078
Vendor No. 0000054360
Control No. HW2LP50019

TRANSPORTATION PROJECT FUND
GRANT AGREEMENT

This Agreement is between the **New Mexico Department of Transportation** (Department) and **City of Santa Fe** (Public Entity). This Agreement is effective as of the date of the last party to sign it on the signature page below.

Pursuant to NMSA 1978, Sections 67-3-28 and 67-3-78 and 18.27.6 NMAC, the parties agree as follows:

1. Purpose.

The purpose of this Agreement is to provide Transportation Project Funds (TPF) to the Public Entity for the following project scope **Agua Fria/South Meadows Intersection: To construct intersection improvements on Auga Fria St/South meadows to include 5' wide bicycle lanes, 6' wide sidewalks, turn lanes, driveways, etc..** (Project or CN LP50019). This Agreement specifies and delineates the rights and duties of the parties.

2. Project Funding.

a. The estimated total cost for the Project is One Million Seven Hundred Thousand Dollars and No Cents **($1,700,000.00)** to be funded in proportional share by the parties as follows:

1. Department's share shall be 95% **$1,615,000.00**
   Agua Fria/South Meadows Intersection: To construct intersection improvements on Auga Fria St/South meadows to include 5' wide bicycle lanes, 6' wide sidewalks, turn lanes, driveways, etc..

2. The Public Entity's required proportional matching Share shall be 5% **$85,000.00**
   For purpose stated above

3. Total Project Cost **$1,700,000.00**

b. The Public Entity is responsible for all costs that exceed Project funding.
c. All allocated funds must be spent by **June 30, 2025**.
d. The Public Entity represents that no federal funds will be used to finance the Project.
e. The Public Entity must repay Project funding to the Department if:
   1. The Project is cancelled or partially performed.
   2. A final audit conducted by the Department at Project completion determines the following: an overpayment, unexpended monies or ineligible expenses.

3. The Department:

a. Shall distribute the funds, identified in Section 2a1, in a lump sum to the Public Entity after:
   1. The Department has received this Agreement fully executed with a Resolution of Sponsorship attached as Exhibit B.
   2. Receipt of a letter requesting funds, which includes the following Project documents: Notice of Award/Work Order and Notice to Proceed for the Project.
   3. If a Department's or another entity's right-of-way is involved, a permit or letter of approval/authorization, from the entity with jurisdiction over the Project right-of-way.

b. Will not:
   1. Perform any detailed technical reviews of Project scope, cost, budget, schedule, design or other related documents;
   2. Have any involvement in the construction phase;
   3. Be involved in permit preparation or the review or coordination with regulatory agencies.
   4. Conduct periodic assurance inspections or comparison material testing.
   5. Participate in resolving bidding and contract disputes between the Public Entity and contractors.

c. May perform Project monitoring that might consist of the following:
   1. Review of Project status to ensure that project goals, objectives, performance requirements, timelines, milestone completion budgets and other guidelines are being met.
   2. Request written Project status reports.
   3. Conduct a review of the Local Entity's performance and administration of the Project funds identified in Section 2a.

d. Reserves the right, upon receipt of the Public Entity's Certification of Completion, Exhibit A, to request additional documents that demonstrate Project completion.

e. If required, the District Engineer or designee, will conduct a Project review to determine if permit is required from the Department. If there is a determination that a permit is not required, a letter of approval and authorization will be forwarded to the Public Entity.

4. The Public Entity Shall:

a. Act in the capacity of lead agency for the purpose as described in Section 1.

b. Procure and award any contract in accordance with applicable procurement law, rules, regulations and ordinances.

c. Be responsible for all design activities necessary to advance the Project to construction and coordinate construction.

d. Unless otherwise specified in a letter of authorization or permit, design and construct the Project in accordance with the Public Entity's established design standards.

e. Have sole responsibility and control of all project phases and resulting quality of the completed work.

f. If the Project is in full or on a portion of a state highway, on a Department right of way or a National Highway System route:
   1. Obtain from the Department a permit in accordance with 18.31.6.14 NMAC, State Highway Access Management Requirements or a letter of authorization; and

2. Design and construct the Project in accordance with standards established by the Department.

g. Adopt a written resolution of Project support that includes a commitment to funding, ownership, liability and maintenance. The resolution is attached to this Agreement as Exhibit B.
h. Consider placing pedestrian, bicycle and equestrian facilities in the Project design in accordance with NMSA 1978, Section 67-3-62.
i. Comply with any and all state, local and federal regulations including the Americans with Disabilities Act (ADA) and laws regarding noise ordinances, air quality, surface water quality, ground water quality, threatened and endangered species, hazardous materials, historic and cultural properties, and cultural resources.
j. Be responsible for all permit preparation, review and coordination with regulatory agencies.
k. Cause all designs, plans, specifications and estimates to be performed under the direct supervision of a Registered New Mexico Professional Engineer, in accordance with NMSA 1978 Section 61-23-26.
l. Allow the Department to perform a final inspection of the Project and all related documentation to determine if the Project was constructed in accordance with the provisions of this Agreement. At the Department's request, provide additional documentation to demonstrate completion of the required terms and conditions.
m. Meet with the Department, as needed, or provide Project status reports within thirty (30) days of request.
n. Within 60 days after Project completion, provide the Certification of Completion, which is attached as Exhibit A, that it has complied with the requirements of 18.27.6 NMAC and this Agreement.
o. Upon completion, maintain all the Public Entity's facilities constructed or reconstructed under this Agreement.

5. Both Parties Agree:

a. Upon termination of this Agreement any remaining property, materials, or equipment belonging to the Department will be accounted for and disposed of by the Public Entity as directed by the Department.
b. Unless otherwise indicated in a letter of authorization, the Project will not be incorporated into the State Highway System and the Department is not assuming maintenance responsibility or liability.
c. Pursuant to NMSA 1978, Section 67-3-78, Transportation Project Funds granted under this provision cannot be used by the Public Entity to meet a required match under any other program.
d. The requirements of 18.27.6 NMAC are incorporated by reference.
e. The inability to properly complete and administer the Project may result in the Public Entity being denied future grant funding.

6. Term.

This Agreement becomes effective upon signature of all parties. The effective date is the date when the last party signed the Agreement on the signature page below. This Agreement terminates on the earliest of the following dates: (a) Department receipt of the Certification of

Completion or (b) **June 30, 2025**. In the event an extension to the term is needed, the Public Entity shall provide written notice along with detailed justification to the Department sixty (60) days prior to the expiration date to ensure timely processing of an Amendment. Neither party shall have any obligation after said date except as stated in Sections 2e, 4l, 4n and 7.

7. Termination.
If the Public Entity fails to comply with any provision of this Agreement, the Department may terminate this Agreement by providing thirty (30) days written notice. This Agreement may also be terminated pursuant to Section 15. Neither party has any obligation after termination, except as stated in Sections 2e, 4l, 4n and 7.

8. Third Party Beneficiary.
It is not intended by any of the provisions of any part of this Agreement to create in the public or any member of the public a third party beneficiary or to authorize anyone not a party to the Agreement to maintain a suit(s) for wrongful death(s), bodily and/or personal injury(ies) to person(s), damage(s) to property(ies), and/or any other claim(s) whatsoever pursuant to the provisions of this Agreement.

9. New Mexico Tort Claims Act.
As between the Department and Public Entity, neither party shall be responsible for liability incurred as a result of the other party's acts or omissions in connection with this Agreement. Any liability incurred in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, NMSA 1978, Section 41-4-1, *et seq*.

10. Contractors Insurance Requirements.
The Public Entity shall require contractors and subcontractors hired for the Project to have a general liability insurance policy, with limits of liability of at least $1,000,000 per occurrence. The Department is to be named as an additional insured on the contractors and subcontractor's policy and a certificate of insurance must be provided to the Department and it must state that coverage provided under the policy is primary over any other valid insurance.

To the fullest extent permitted by law, the Public Entity shall require the contractor and subcontractors to defend, indemnify and hold harmless the Department from and against any liability, claims, damages, losses or expenses (including but not limited to attorney's fees, court costs, and the cost of appellate proceedings) arising out of or resulting from the negligence, act, error, or omission of the contractor and subcontractor in the performance of the Project, or anyone directly or indirectly employed by the contractor or anyone for whose acts they are liable in the performance of the Project.

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

12. Terms of this Agreement.
The terms of this Agreement are lawful; performance of all duties and obligations must conform with and not contravene any state, local, or federal statutes, regulations, rules, or ordinances.

13. Legal Compliance.
The Public Entity shall comply with all applicable federal, state, local, and Department laws, regulations and policies in the performance of this Agreement, including, but not limited to laws governing civil right, equal opportunity compliance, environmental issue, workplace safety, employer-employee relations and all other laws governing operations of the workplace. The Public Entity shall include the requirements of this Section 13 in each contract and subcontract at all tiers.

14. Equal Opportunity Compliance.
The parties agree to abide by all federal and state laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, the parties agree to assure that no person in the United States will, on the grounds of race, color, national origin, ancestry, sex, sexual preference, age or handicap, be excluded from employment with, or participation in, any program or activity performed under this Agreement. If the parties are found to not be in compliance with these requirements during the term of this Agreement, the parties agree to take appropriate steps to correct these deficiencies.

15. Appropriations and Authorizations.
The terms of this Agreement are contingent upon sufficient appropriations and authorizations being made by the governing board of the Public Entity, the Legislature of New Mexico for performance of the Agreement. If sufficient appropriations and authorizations are not made by the Public Entity and the Legislature this Agreement will terminate upon written notice being given by one party to the other. The Department and Public Entity are expressly not committed to expenditure of any funds until such time as they are programmed, budgeted, encumbered, and approved for expenditure.

16. Accountability of Receipts and Disbursements.
There shall be strict accountability for all receipts and disbursements relating to this Agreement. The Public Entity shall maintain all records and documents relative to the Project for a minimum of five (5) years after completion of the Project. The Public Entity shall furnish the Department and State Auditor, upon demand, any and all such records relevant to this Agreement. If an audit finding determines that specific funding was inappropriate or not related to the Project, the Public Entity shall reimburse that portion to the Department within thirty (30) days of written notification. If documentation is insufficient to support an audit by customarily accepted accounting practices, the expense supported by such insufficient documentation must be reimbursed to the Department within thirty (30) days.

17. Severability.
In the event that any portion of this Agreement is determined to be void, unconstitutional or otherwise unenforceable, the remainder of this Agreement will remain in full force and effect.

18. Applicable Law.
The laws of the State of New Mexico shall govern this Agreement, without giving effect to its choice of law provisions. Venue is proper in a New Mexico Court of competent jurisdiction in accordance with NMSA 1978, Section 38-3-1(G).

19. Amendment.
This Agreement may be amended by an instrument in writing executed by the parties.

The remainder of this page is intentionally left blank.

In witness whereof, each party is signing this Agreement on the date stated opposite that party's signature.

NEW MEXICO DEPARTMENT OF TRANSPORTATION

By:_____ Date: _____
Cabinet Secretary or Designee

Approved as to form and legal sufficiency by the New Mexico Department of Transportation's Office of General Counsel

By: Craig C Kling (Sep 24, 2021 14:29 MDT) Date: Sep 24, 2021
Assistant General Counsel

City of Santa Fe

By:_____ Date: _____

Title: _____

Attest: _____

Title: _____

Approved as to form and legal sufficiency by the City's Attorney

Marcos Martinez
Marcos Martinez (Oct 19, 2021 14:50 MDT)

Oct 19, 2021

CITY OF SANTA FE Attorney

Date

Approved

CITY OF SANTA FE Finance Director

Date

EXHIBIT A

CERTIFICATION OF PROJECT COMPLETION

Public Entity:

Control No. LP50019

I, _____, in my capacity as _____ of _____ certify in regard to Control No. **LP50019**:

1. That the Public Entity has complied with the terms and conditions of the requirements under this Agreement and 18.27.6 NMAC.
2. That all work in was performed in accordance with the Agreement.
3. That the total Project cost of _____, with New Mexico Department of Transportation 95% share of _____ and the Public Entity share of _____ is accurate, legitimate, and appropriate for the Project.
4. That the Project was completed on _____ of _____, 20____

In Witness Whereof, _____ in his/her capacity as_____ of _____ certify that the matters stated above are true to his/her knowledge and belief.

City of Santa Fe

By:_____ Date: _____

Title: _____ Date: _____

ATTEST:

By:_____ Date: _____

Public Entity Clerk

When completed, send Certification of Project Completion to the District Coordinator, New Mexico Department of Transportation.

EXHIBIT B

RESOLUTION

City of Santa Fe

PARTICIPATION IN TRANSPORTATION PROJECT FUND PROGRAM ADMINISTERED BY NEW MEXICO DEPARTMENT OF TRANSPORTATION

WHEREAS, the **City of Santa Fe** and the New Mexico Department of Transportation have entered into a grant agreement under the Transportation Fund Program for a local road project.

WHEREAS, the total cost of the project will be $1,700,000 to be funded in proportional share by the parties hereto as follows:

a. New Mexico Department of Transportation's share shall be 95% or $1,615,000.00

and

b. **City of Santa Fe**'s proportional matching share shall be 5% or $85,000.00

TOTAL PROJECT COST IS $1,700,000.00

The **City of Santa Fe** shall pay all costs, which exceed the total amount of $1,700,000.00**.**

Now therefore, be it resolved in official session that **City of Santa Fe** determines, resolves, and orders as follows:

That the project for this Cooperative agreement is adopted and has a priority standing.

The agreement terminates on June 30, 2025 and the **City of Santa Fe** 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 the written agreement.

Now therefore, be it resolved by the **City of Santa Fe** to enter into Cooperative Agreement for Project Control Number **LP50019** with the New Mexico Department of Transportation for the TPF Program for year 2022 for - Agua Fria/South Meadows Intersection: To construct intersection improvements on Auga Fria St/South meadows to include 5' wide bicycle lanes, 6' wide sidewalks, turn lanes, driveways, etc.. within the control of the **City of Santa Fe** in New Mexico.

(Appropriate Signatures below (Council, Commission, School Board, Tribe, Pueblo, Nation, etc.)

_____ _____

(PRINTED NAME, POSITION) DATE

_____ _____

(PRINTED NAME, POSITION) DATE

LP50019

Final Audit Report 2021-09-24

Created:	2021-09-23
By:	Clarissa Martinez (Clarissa.Martinez@state.nm.us)
Status:	Signed
Transaction ID:	CBJCHBCAABAAGQ3FqCtE9UrngN0UfzDyAwqHFgwiELd_

"LP50019" History

Document created by Clarissa Martinez (Clarissa.Martinez@state.nm.us)
2021-09-23 - 7:35:54 PM GMT- IP address: 76.127.3.135

Document emailed to Craig C Kling (craig.kling1@state.nm.us) for signature
2021-09-23 - 7:36:21 PM GMT

Email viewed by Craig C Kling (craig.kling1@state.nm.us)
2021-09-24 - 8:25:05 PM GMT- IP address: 104.47.65.254

Document e-signed by Craig C Kling (craig.kling1@state.nm.us)
Signature Date: 2021-09-24 - 8:29:46 PM GMT - Time Source: server- IP address: 164.64.74.20

Agreement completed.
2021-09-24 - 8:29:46 PM GMT

CITY OF SANTA FE PROCUREMENT CHECKLIST

Contractor Name: NMDOT

Procurement Title: Transportation Project Fund Grant Agreement (Control # HW2LP50019)

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 Staff Name Romella Glorioso-Moss

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:

Romella Glorioso-Moss | Sr. Projects Administrator | 10/22/2021

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

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

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

City of Santa Fe

Real Estate Summary of Contracts, Agreements, Amendments & Leases

Section to be completed by department

1. Munis Contract # **3203078**

Contractor: **NMDOT**

Description: **Transportation Project Fund Grant Agreement for $1,700,000 to construct intersection improvements at Agua Fria/South Meadows.**

Contract ☐ Agreement ☉ Lease / Rent ☐ Amendment ☐

Term Start Date: _____ Term End Date: _____

☑ Approved by Council Date: **Pending**

Contract / Lease:

Amendment # _____ to the Original Contract / Lease # _____

Increase/(Decrease) Amount $ _____

Extend Termination Date to: _____

☐ Approved by Council Date: _____

Amendment is for:

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

3. **Procurement History:** _____

_____ _____

Purchasing Officer Review: Date:

Comment & Exceptions: _____

4. **Funding Source:** **NMDOT (TPF)** **Org / Object:** **3309980/572970**

_____ _____

Budget Officer Approval: Date:

Comment & Exceptions: _____

Staff Contact who completed this form: **Romella Glorioso-Moss** Phone # **X6623**

Email: **rsglorioso-moss@santafenm.gov**

To be recorded by City Clerk:

Clerk # _____

Date of Execution: _____

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

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

DEPARTMENT / DIVISION NAME	DATE
Public Works/Engineering - Roadway and Trails	10/22/2021

ITEM DESCRIPTION	ORG	OBJECT	PROJECT	INCREASE	DECREASE
EXPENDITURES				*{enter as positive #}*	*{enter as negative #}*
WIP Construction	33099880	572970	ST18330AT	1,615,000	
REVENUES				*{enter as negative #}*	*{enter as positive #}*
NMDOT	33099880	490150	ST18330AT	(1,615,000)	
				$ -	$ -

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

Acceptance of $1,615,000 NMDOT grants to construct the intersection improvements at Agua Fria/South Meadows..

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

Fund(s) Affected	Fund Balance Increase/(Decrease)
TOTAL:	**0**

Romella Glorioso-Moss 10/22/2021
Prepared By *{print name}* Date

Division Director Signature *{optional}* Date

Regina Wheeler
Regina Wheeler (Nov 1, 2021 13:15 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 #:

Budget Officer Date

Finance Director *{≤ $5,000}* Date

City Manager *{≤ $60,000}* Date

CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2021-__

INTRODUCED BY:

Councilor Christopher Rivera

Councilor Roman "Tiger" Abeyta

A RESOLUTION

APPROVING THE CITY OF SANTA FE'S PARTICIPATION IN A TRANSPORTATION FUND PROGRAM ADMINISTERED BY THE NEW MEXICO DEPARTMENT OF TRANSPORTATION FOR IMPROVEMENTS TO THE AGUA FRIA/SOUTH MEADOWS INTERSECTION.

WHEREAS, the City of Santa Fe ("City") and the New Mexico Department of Transportation ("NMDOT") entered into a grant agreement under the Transportation Fund Program ("TPF") for improvements to the Agua Fria/South Meadows intersection; and

WHEREAS, the total cost of the project is $1,700,000 to be funded in proportional share by the parties as follows:

1. NMDOT's share shall be ninety-five percent or $1,615,000; and

2. The City's proportional matching share shall be five percent or $85,000; and

WHEREAS, the City shall pay all costs that exceed the total budgeted amount of $1,700,000, to the extent permitted under law.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE

CITY OF SANTA FE that Governing Body hereby approves a cooperative agreement for Project Control Number LP50019 with the NMDOT for the TPF Program for year 2022 for improvements to the Agua Fria Street/South Meadows Road intersection including five-foot wide bicycle lanes, six-foot wide sidewalks, turn lanes, and driveways within the control of the City.

BE IT FURTHER RESOLVED that this project maintains priority status for the City.

BE IT FURTHER RESOLVED that the cooperative agreement terminates on June 30, 2025 and the City incorporates all the agreements, covenants, and understandings between the parties concerning the subject matter and that all such agreements, covenants, and understandings have been merged into the written agreement.

PASSED, APPROVED, and ADOPTED this ___ day of _____, 2021.

APPROVED AS TO FORM:

_____

ERIN K. McSHERRY, CITY ATTORNEY

Legislation/2021/Resolutions/Agua Fria South Meadows Project Fund

FIR No. 10358

FISCAL IMPACT REPORT

General Information:

(Check) Bill: _____ Resolution: X

Short Title(s): Agua Fria – South Meadows Project Fund

Sponsor(s): Councilor Rivera and Councilor Abeyta

Reviewing Department(s): Public Works

Staff Completing FIR: Romella Glorioso-Moss Date: 10/25/2021 Phone: 955-6623

Reviewed by City Attorney: _____ Date: _____

Reviewed by Finance Director: _____ Date: _____

Summary:
This Resolution specifies the conditions for accepting Transportation Project Funds administered by the New Mexico Department of Transportation in the total amount of $1.7M for the construction of the Agua Fria – South Meadows Intersection Improvements Project. The funding is proportionally shared with NMDOT contributing 95% of the total cost ($1,615,000) and the City contributing 5% ($85,000). The funding agreement will terminate on June 30, 2025.

Departments Affected:
Public Works Department

Consequences of Not Enacting Legislation:
The City will lose NMDOT's funding share of 95%, or $1,615,000. In addition, NMDOT will decline any future application for project funding by the City.

Conflict, Duplication, Companionship, or Relationship to Other Legislation:
None identified.

Performance and Administrative Implications:
Roadway and Trails staff will need to administer the project including hiring design consultants, ensuring the project is completed within the funding agreement term, ensuring the project complies with the funding agreement, and submitting reimbursements to NMDOT.

Fiscal Implications:
The City's funding share is 5% or $85,000.

Fiscal Impact

_____ Check here if no fiscal impact

Expenditures

Expenditure Type	FYE 22	FYE ___	FYE ___	Require BAR (Y/N)	Recurring (R) or Non-recurring (NR)	Fund	3-Year Total Cost
Personnel and Benefits*	$	$	$				
Capital Outlay	$ 85,000	$	$	Y	NR	Road Impact Fees	$ 85,000
Contractual/ Professional Services	$	$	$				
Operating	$	$	$				$
Total:	$ 85,000	$	$				$ 85,000

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

Expenditure Narrative:

The City's 5% share of funding for the project is $85,000, which will be used to construct the project. This $85,000 will come from Road Impact Fees fund, which currently has a balance of $2.6M. The funds can only be used for roadway improvements.

Revenue

Revenue Type	FYE 22	FYE __	FYE __	Recurring (R) or Non-recurring (NR)	Fund
General Fund	$	$	$		
Special Revenue	$	$	$		
CIP	$	$	$		
Enterprise	$	$	$		
Internal Service	$	$	$		
Trust and Agency	$	$	$		
Federal	$	$	$		
Other (State)	$ 1,615,000	$	$	NR	NMDOT
Total	$ 1,615,000	$	$		

Revenue Narrative:

This revenue of $1,615,000 is NMDOT's 95% share of the funding to construct the improvements at the intersection of Agua Fria and South Meadows.

City of Santa Fe, New Mexico

memo

Date: October 22, 2021

To: Fran Dunaway, Chief Procurement Officer

Via: Regina Wheeler
Regina Wheeler (Nov 2, 2021 10:40 MDT)
Regina Wheeler, Public Works Department Director

From: Romella Glorioso-Moss, AICP, Public Works Sr. Project Administrator

Subject: Exemption Determination Request 13-1-98 A

Public Works – Roadway and Trails
Department respectfully request exempt determination to be approved by the City's CPO, Fran Dunaway. The Memo of Agreement is between New Mexico Department of Transportation and City of Santa Fe Public Works Department

City of Santa Fe follows the New Mexico State Procurement code.

A. *procurement of items of tangible personal property or services by a state agency or a local public body from a state agency, a local public body or external procurement unit except as otherwise provided in Sections 13-1-135 through 13-1-137 NMSA 1978;*

Amount: $ 800,000.00

Term: 06/30/2025

Approved Exemption

_____
Fran Dunaway, Chief Procurement Officer

City of Santa Fe, New Mexico
Memorandum

DATE: October 22, 2021

TO: Public Works and Utilities Committee and Governing Body

VIA: Regina Wheeler, Public Works Department Director Regina Wheeler (Nov 2, 2021 10:40 MDT)

FROM: Romella Glorioso-Moss, PhD, AICP, Public Works Sr. Project Administrator RGM

ITEMS AND ACTIONS:

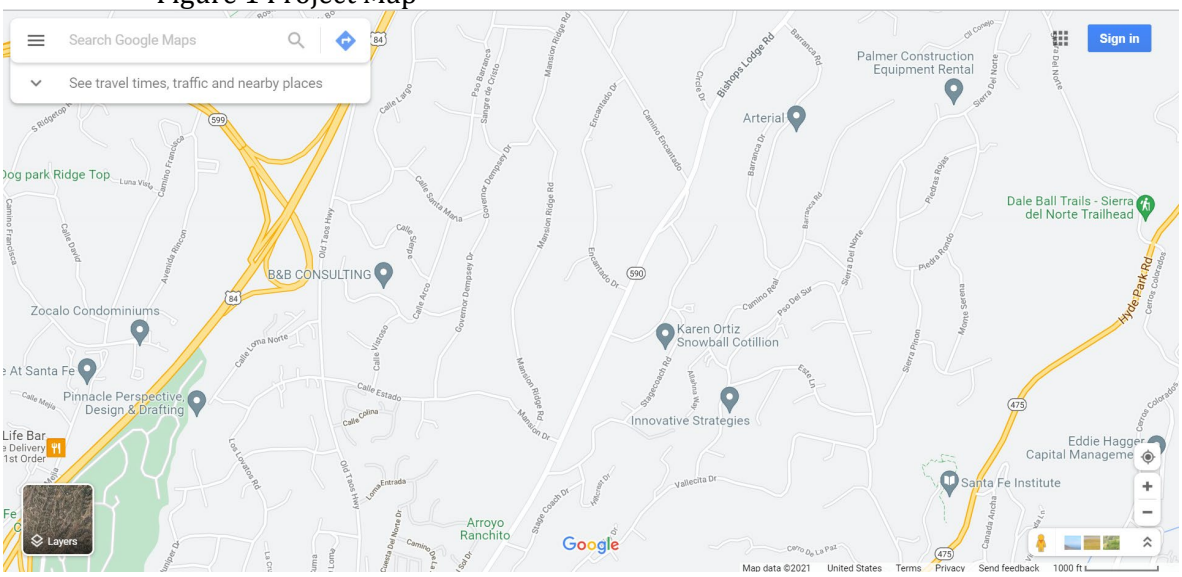
Approval of Transportation Project Fund Grant in the Total Amount of $800,000 for the Engineering Design of Bishop's Lodge Reconstruction Project; New Mexico Department of Transportation; Romella Glorioso-Moss, rsglorioso-moss@santafenm.gov, (505) 955-6623.

Approval of a Budget Adjustment Resolution (BAR) in the Total Amount of $760,000 to put the funds from the TPF Grant into budget for the Engineering Design of Bishop's Lodge Reconstruction Project.

BACKGROUND AND SUMMARY:

Many constituents have contacted the City and the Bicycle Pedestrian Advisory Committee (BPAC) requesting that the City make Bishop's Lodge Road safer for bicyclists and pedestrians. Bishops Lodge Road has no sidewalks, no multimodal path and no bicycle lane, and in many places, the shoulders are narrow. Consequently, in late 2020, the *Santa Fe 2020-2045 Metropolitan Transportation Plan* was amended to include Bishop's Lodge Road Reconstruction Project. When this funding opportunity arose, this project important to many, was submitted for funding. The City is receiving Transportation Project Funds (TPF) administered by the New Mexico Department of Transportation (NMDOT) in the amount of $800,000 for the engineering design of reconstructing Bishop's Lodge Road.

Figure 1 Project Map



The project is about 1.8 miles starting at the intersection of Bishop's Lodge Road/Paseo De Peralta and ending at the intersection of Bishop's Lodge Road/Circle Drive (see Fig. 1 above). The width of the travel lanes will be decreased to reduce vehicle speeds and yield space for pedestrian refuges, ADA compliant sidewalks, curb and gutter, and bike lanes. The total project budget is estimated at $5,860,000, of which $800,000 is for engineering design.

The total TPF grant is $800,000, includes a requirement for a 5% City match or $40,000. The City match of $40,000 will be sought from road impact fees.

PROCUREMENT METHOD:
This funding is exempt from the New Mexico Procurement Code as per the attached Exemption Determination Request 13-1-98 A approved by the City's Chief Procurement Officer, Ms. Fran Dunaway.

CONTRACT NUMBER:
The FY22 Munis contract number is 3203070.

FUNDING SOURCE:

The funding source is:
Fund Name/Number: NMDOT/3309980
Munis Org Name/Number: Engineering/3559980
Munis Object Name/Number: WIP Design/572960

ACTION REQUESTED:
Public Works – Roadway and Trails respectfully requests your review and approval.

ATTACHMENTS:
Transportation Project Fund Grant Agreement (Control #HW2LP50020)
Budget Adjustment Resolution Form
Exemption Determination Request 13-1-98 A Memo
Procurement Checklist
Summary of Contracts, Agreements, Amendments and Leases Form

Contract No. _____
Vendor No. 0000054360
Control No. HW2LP50020

TRANSPORTATION PROJECT FUND
GRANT AGREEMENT

This Agreement is between the **New Mexico Department of Transportation** (Department) and **City of Santa Fe** (Public Entity). This Agreement is effective as of the date of the last party to sign it on the signature page below.

Pursuant to NMSA 1978, Sections 67-3-28 and 67-3-78 and 18.27.6 NMAC, the parties agree as follows:

1. Purpose.
The purpose of this Agreement is to provide Transportation Project Funds (TPF) to the Public Entity for the following project scope **Bishops Lodge Road Reconstruction: To do Location Study , Preliminary and Final Design of Bishop's Lodge Rd Reconstruction to include ADA compliant sidewalks and bicycle lanes.** (Project or CN LP50020). This Agreement specifies and delineates the rights and duties of the parties.

2. Project Funding.

a. The estimated total cost for the Project is Eight Hundred Thousand Dollars and No Cents **($800,000.00)** to be funded in proportional share by the parties as follows:

1. Department's share shall be 95% **$760,000.00**
   Bishops Lodge Road Reconstruction: To do Location Study , Preliminary and Final Design of Bishop's Lodge Rd Reconstruction to include ADA compliant sidewalks and bicycle lanes.

2. The Public Entity's required proportional matching Share shall be 5% **$40,000.00**
   For purpose stated above

3. Total Project Cost **$800,000.00**

b. The Public Entity is responsible for all costs that exceed Project funding.
c. All allocated funds must be spent by **June 30, 2025**.
d. The Public Entity represents that no federal funds will be used to finance the Project.
e. The Public Entity must repay Project funding to the Department if:
   1. The Project is cancelled or partially performed.
   2. A final audit conducted by the Department at Project completion determines the following: an overpayment, unexpended monies or ineligible expenses.

3. The Department:

a. Shall distribute the funds, identified in Section 2a1, in a lump sum to the Public Entity after:
    1. The Department has received this Agreement fully executed with a Resolution of Sponsorship attached as Exhibit B.
    2. Receipt of a letter requesting funds, which includes the following Project documents: Notice of Award/Work Order and Notice to Proceed for the Project.
    3. If a Department's or another entity's right-of-way is involved, a permit or letter of approval/authorization, from the entity with jurisdiction over the Project right-of-way.
b. Will not:
    1. Perform any detailed technical reviews of Project scope, cost, budget, schedule, design or other related documents;
    2. Have any involvement in the construction phase;
    3. Be involved in permit preparation or the review or coordination with regulatory agencies.
    4. Conduct periodic assurance inspections or comparison material testing.
    5. Participate in resolving bidding and contract disputes between the Public Entity and contractors.
c. May perform Project monitoring that might consist of the following:
    1. Review of Project status to ensure that project goals, objectives, performance requirements, timelines, milestone completion budgets and other guidelines are being met.
    2. Request written Project status reports.
    3. Conduct a review of the Local Entity's performance and administration of the Project funds identified in Section 2a.
d. Reserves the right, upon receipt of the Public Entity's Certification of Completion, Exhibit A, to request additional documents that demonstrate Project completion.
e. If required, the District Engineer or designee, will conduct a Project review to determine if permit is required from the Department. If there is a determination that a permit is not required, a letter of approval and authorization will be forwarded to the Public Entity.

4. The Public Entity Shall:

a. Act in the capacity of lead agency for the purpose as described in Section 1.
b. Procure and award any contract in accordance with applicable procurement law, rules, regulations and ordinances.
c. Be responsible for all design activities necessary to advance the Project to construction and coordinate construction.
d. Unless otherwise specified in a letter of authorization or permit, design and construct the Project in accordance with the Public Entity's established design standards.
e. Have sole responsibility and control of all project phases and resulting quality of the completed work.
f. If the Project is in full or on a portion of a state highway, on a Department right of way or a National Highway System route:
    1. Obtain from the Department a permit in accordance with 18.31.6.14 NMAC, State Highway Access Management Requirements or a letter of authorization; and
    2. Design and construct the Project in accordance with standards established by the Department.

g. Adopt a written resolution of Project support that includes a commitment to funding, ownership, liability and maintenance. The resolution is attached to this Agreement as Exhibit B.
h. Consider placing pedestrian, bicycle and equestrian facilities in the Project design in accordance with NMSA 1978, Section 67-3-62.
i. Comply with any and all state, local and federal regulations including the Americans with Disabilities Act (ADA) and laws regarding noise ordinances, air quality, surface water quality, ground water quality, threatened and endangered species, hazardous materials, historic and cultural properties, and cultural resources.
j. Be responsible for all permit preparation, review and coordination with regulatory agencies.
k. Cause all designs, plans, specifications and estimates to be performed under the direct supervision of a Registered New Mexico Professional Engineer, in accordance with NMSA 1978 Section 61-23-26.
l. Allow the Department to perform a final inspection of the Project and all related documentation to determine if the Project was constructed in accordance with the provisions of this Agreement. At the Department's request, provide additional documentation to demonstrate completion of the required terms and conditions.
m. Meet with the Department, as needed, or provide Project status reports within thirty (30) days of request.
n. Within 60 days after Project completion, provide the Certification of Completion, which is attached as Exhibit A, that it has complied with the requirements of 18.27.6 NMAC and this Agreement.
o. Upon completion, maintain all the Public Entity's facilities constructed or reconstructed under this Agreement.

5. Both Parties Agree:

a. Upon termination of this Agreement any remaining property, materials, or equipment belonging to the Department will be accounted for and disposed of by the Public Entity as directed by the Department.
b. Unless otherwise indicated in a letter of authorization, the Project will not be incorporated into the State Highway System and the Department is not assuming maintenance responsibility or liability.
c. Pursuant to NMSA 1978, Section 67-3-78, Transportation Project Funds granted under this provision cannot be used by the Public Entity to meet a required match under any other program.
d. The requirements of 18.27.6 NMAC are incorporated by reference.
e. The inability to properly complete and administer the Project may result in the Public Entity being denied future grant funding.

6. Term.

This Agreement becomes effective upon signature of all parties. The effective date is the date when the last party signed the Agreement on the signature page below. This Agreement terminates on the earliest of the following dates: (a) Department receipt of the Certification of Completion or (b) **June 30, 2025**. In the event an extension to the term is needed, the Public Entity shall provide written notice along with detailed justification to the Department sixty (60)

days prior to the expiration date to ensure timely processing of an Amendment. Neither party shall have any obligation after said date except as stated in Sections 2e, 4l, 4n and 7.

7. Termination.
If the Public Entity fails to comply with any provision of this Agreement, the Department may terminate this Agreement by providing thirty (30) days written notice. This Agreement may also be terminated pursuant to Section 15. Neither party has any obligation after termination, except as stated in Sections 2e, 4l, 4n and 7.

8. Third Party Beneficiary.
It is not intended by any of the provisions of any part of this Agreement to create in the public or any member of the public a third party beneficiary or to authorize anyone not a party to the Agreement to maintain a suit(s) for wrongful death(s), bodily and/or personal injury(ies) to person(s), damage(s) to property(ies), and/or any other claim(s) whatsoever pursuant to the provisions of this Agreement.

9. New Mexico Tort Claims Act.
As between the Department and Public Entity, neither party shall be responsible for liability incurred as a result of the other party's acts or omissions in connection with this Agreement. Any liability incurred in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, NMSA 1978, Section 41-4-1, *et seq*.

10. Contractors Insurance Requirements.
The Public Entity shall require contractors and subcontractors hired for the Project to have a general liability insurance policy, with limits of liability of at least $1,000,000 per occurrence. The Department is to be named as an additional insured on the contractors and subcontractor's policy and a certificate of insurance must be provided to the Department and it must state that coverage provided under the policy is primary over any other valid insurance.

To the fullest extent permitted by law, the Public Entity shall require the contractor and subcontractors to defend, indemnify and hold harmless the Department from and against any liability, claims, damages, losses or expenses (including but not limited to attorney's fees, court costs, and the cost of appellate proceedings) arising out of or resulting from the negligence, act, error, or omission of the contractor and subcontractor in the performance of the Project, or anyone directly or indirectly employed by the contractor or anyone for whose acts they are liable in the performance of the Project.

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

12. Terms of this Agreement.
The terms of this Agreement are lawful; performance of all duties and obligations must conform

with and not contravene any state, local, or federal statutes, regulations, rules, or ordinances.

13. Legal Compliance.
The Public Entity shall comply with all applicable federal, state, local, and Department laws, regulations and policies in the performance of this Agreement, including, but not limited to laws governing civil right, equal opportunity compliance, environmental issue, workplace safety, employer-employee relations and all other laws governing operations of the workplace. The Public Entity shall include the requirements of this Section 13 in each contract and subcontract at all tiers.

14. Equal Opportunity Compliance.
The parties agree to abide by all federal and state laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, the parties agree to assure that no person in the United States will, on the grounds of race, color, national origin, ancestry, sex, sexual preference, age or handicap, be excluded from employment with, or participation in, any program or activity performed under this Agreement. If the parties are found to not be in compliance with these requirements during the term of this Agreement, the parties agree to take appropriate steps to correct these deficiencies.

15. Appropriations and Authorizations.
The terms of this Agreement are contingent upon sufficient appropriations and authorizations being made by the governing board of the Public Entity, the Legislature of New Mexico for performance of the Agreement. If sufficient appropriations and authorizations are not made by the Public Entity and the Legislature this Agreement will terminate upon written notice being given by one party to the other. The Department and Public Entity are expressly not committed to expenditure of any funds until such time as they are programmed, budgeted, encumbered, and approved for expenditure.

16. Accountability of Receipts and Disbursements.
There shall be strict accountability for all receipts and disbursements relating to this Agreement. The Public Entity shall maintain all records and documents relative to the Project for a minimum of five (5) years after completion of the Project. The Public Entity shall furnish the Department and State Auditor, upon demand, any and all such records relevant to this Agreement. If an audit finding determines that specific funding was inappropriate or not related to the Project, the Public Entity shall reimburse that portion to the Department within thirty (30) days of written notification. If documentation is insufficient to support an audit by customarily accepted accounting practices, the expense supported by such insufficient documentation must be reimbursed to the Department within thirty (30) days.

17. Severability.
In the event that any portion of this Agreement is determined to be void, unconstitutional or otherwise unenforceable, the remainder of this Agreement will remain in full force and effect.

18. Applicable Law.
The laws of the State of New Mexico shall govern this Agreement, without giving effect to its

choice of law provisions. Venue is proper in a New Mexico Court of competent jurisdiction in accordance with NMSA 1978, Section 38-3-1(G).

19. Amendment.
This Agreement may be amended by an instrument in writing executed by the parties.

The remainder of this page is intentionally left blank.

In witness whereof, each party is signing this Agreement on the date stated opposite that party's signature.

NEW MEXICO DEPARTMENT OF TRANSPORTATION

By:_____ Date: _____
Cabinet Secretary or Designee

Approved as to form and legal sufficiency by the New Mexico Department of Transportation's Office of General Counsel

By: Craig C Kling Date: Sep 24, 2021
Craig C Kling (Sep 24, 2021 14:31 MDT)
Assistant General Counsel

City of Santa Fe

By:_____ Date: _____

Title: _____

Attest: _____

Title: _____

Approved as to form and legal sufficiency by the City's Attorney

Marcos Martinez
Marcos Martinez (Oct 19, 2021 14:35 MDT)

CITY OF SANTA FE Attorney

Oct 19, 2021
Date

Approved

CITY OF SANTA FE Finance Director

Date

EXHIBIT A

CERTIFICATION OF PROJECT COMPLETION

Public Entity:

Control No. LP50020

I, _____, in my capacity as _____ of _____ certify in regard to Control No. **LP50020**:

1. That the Public Entity has complied with the terms and conditions of the requirements under this Agreement and 18.27.6 NMAC.
2. That all work in was performed in accordance with the Agreement.
3. That the total Project cost of _____, with New Mexico Department of Transportation 95% share of _____ and the Public Entity share of _____ is accurate, legitimate, and appropriate for the Project.
4. That the Project was completed on _____ of _____, 20____

In Witness Whereof, _____ in his/her capacity as_____ of _____ certify that the matters stated above are true to his/her knowledge and belief.

City of Santa Fe

By:_____ Date: _____

Title: _____ Date: _____

ATTEST:

By:_____ Date: _____

Public Entity Clerk

When completed, send Certification of Project Completion to the District Coordinator, New Mexico Department of Transportation.

EXHIBIT B

RESOLUTION

City of Santa Fe

PARTICIPATION IN TRANSPORTATION PROJECT FUND PROGRAM ADMINISTERED BY NEW MEXICO DEPARTMENT OF TRANSPORTATION

WHEREAS, the **City of Santa Fe** and the New Mexico Department of Transportation have entered into a grant agreement under the Transportation Fund Program for a local road project.

WHEREAS, the total cost of the project will be $800,000 to be funded in proportional share by the parties hereto as follows:

a. New Mexico Department of Transportation's share shall be 95% or $760,000.00

and

b. **City of Santa Fe**'s proportional matching share shall be 5% or $40,000.00

TOTAL PROJECT COST IS $800,000.00

The **City of Santa Fe** shall pay all costs, which exceed the total amount of $800,000.00**.**

Now therefore, be it resolved in official session that **City of Santa Fe** determines, resolves, and orders as follows:

That the project for this Cooperative agreement is adopted and has a priority standing.

The agreement terminates on June 30, 2025 and the **City of Santa Fe** 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 the written agreement.

Now therefore, be it resolved by the **City of Santa Fe** to enter into Cooperative Agreement for Project Control Number **LP50020** with the New Mexico Department of Transportation for the TPF Program for year 2022 for **-** Bishops Lodge Road Reconstruction: To do Location Study , Preliminary and Final Design of Bishop's Lodge Rd Reconstruction to include ADA compliant sidewalks and bicycle lanes. within the control of the **City of Santa Fe** in New Mexico.

(Appropriate Signatures below (Council, Commission, School Board, Tribe, Pueblo, Nation, etc.)

_____ _____

(PRINTED NAME, POSITION) DATE

_____ _____

(PRINTED NAME, POSITION) DATE

LP50020

Final Audit Report 2021-09-24

Created:	2021-09-23
By:	Clarissa Martinez (Clarissa.Martinez@state.nm.us)
Status:	Signed
Transaction ID:	CBJCHBCAABAAQbPIpwNH8sh9xygJTA-U7s72XIPP5rJu

"LP50020" History

Document created by Clarissa Martinez (Clarissa.Martinez@state.nm.us)
2021-09-23 - 7:36:36 PM GMT- IP address: 76.127.3.135

Document emailed to Craig C Kling (craig.kling1@state.nm.us) for signature
2021-09-23 - 7:37:02 PM GMT

Email viewed by Craig C Kling (craig.kling1@state.nm.us)
2021-09-24 - 8:31:05 PM GMT- IP address: 104.47.64.254

Document e-signed by Craig C Kling (craig.kling1@state.nm.us)
Signature Date: 2021-09-24 - 8:31:49 PM GMT - Time Source: server- IP address: 164.64.74.20

Agreement completed.
2021-09-24 - 8:31:49 PM GMT

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

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

DEPARTMENT / DIVISION NAME	DATE
Public Works/Engineering - Roadway and Trails	

ITEM DESCRIPTION	ORG	OBJECT	PROJECT	INCREASE	DECREASE
EXPENDITURES				*{enter as positive #}*	*{enter as negative #}*
WIP Design	33099880	572960		760,000	
REVENUES				*{enter as negative #}*	*{enter as positive #}*
NMDOT	33099880	490150		(760,000)	
				$ -	$ -

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

Acceptance of $760,000 NMDOT grants to design the reconstruction of Bishop's Lodge Rd.

{Complete section below if BAR results in a net change to ANY Fund}	
Fund(s) Affected	Fund Balance Increase/(Decrease)
TOTAL:	**0**

Romella Glorioso-Moss 10/22/2021
Prepared By *{print name}* Date

Division Director Signature *{optional}* Date
Regina Wheeler
Regina Wheeler (Nov 2, 2021 10:40 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 #:

Budget Officer Date

Finance Director *{≤ $5,000}* Date

City Manager *{≤ $60,000}* Date

CITY OF SANTA FE PROCUREMENT CHECKLIST

Contractor Name: NMDOT

Procurement Title: Transportation Project Fund Grant Agreement (Control # HW2LP50020)

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 Staff Name Romella Glorioso-Moss

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:

Romella Glorioso-Moss | Sr. Projects Administrator | 10/22/2021

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

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

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

City of Santa Fe

Real Estate Summary of Contracts, Agreements, Amendments & Leases

Section to be completed by department

1. Munis Contract # _____

Contractor: **NMDOT**

Description: **Transportation Project Fund Grant Agreement for $800,000 to design the reconstruction of Bishop's Lodge Road.**

Contract ☐ Agreement ☉ Lease / Rent ☐ Amendment ☐

Term Start Date: _____ Term End Date: _____

☑ Approved by Council Date: **Pending**

Contract / Lease:

Amendment # _____ to the Original Contract / Lease # _____

Increase/(Decrease) Amount $ _____

Extend Termination Date to: _____

☐ Approved by Council Date: _____

Amendment is for:

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

3. **Procurement History:** _____

Purchasing Officer Review: _____ Date: _____

Comment & Exceptions: _____

4. **Funding Source:** **NMDOT (TPF)** **Org / Object:** **3309980/572960**

Budget Officer Approval: _____ Date: _____

Comment & Exceptions: _____

Staff Contact who completed this form: **Romella Glorioso-Moss** Phone # **X6623**

Email: **rsglorioso-moss@santafenm.gov**

To be recorded by City Clerk:

Clerk # _____

Date of Execution: _____

City of Santa Fe, New Mexico
Memorandum

Date: November 8, 2021

To: Governing Body

Via: Regina Wheeler, Public Works Department Director RW

From: Romella Glorioso-Moss, AICP, Public Works Sr. Project Administrator RGM

RE: Bishop's Lodge Reconstruction NMDOT TPF Resolution

EXECUTIVE SUMMARY:
City of Santa Fe is receiving Transportation Project Funds (TPF) administered by the New Mexico Department of Transportation (NMDOT) in the total amount of $800,000 for the engineering design of LP50020 Bishop's Lodge Road Reconstruction Project. However, a Resolution approved by the Governing Body is needed to receive the funding.

BACKGROUND:
At the October 8, 2020 Bicycling and Pedestrian Advisory Committee (BPAC) meeting, the Bishop's Lodge Road Condominium Association President Mr. Jim Taylor requested the City make Bishop's Lodge Road safe to bicyclists and pedestrians. Councilor Michael Garcia, BPAC Chair, requested Staff apply for funding for the project.

With support from the Santa Fe Metropolitan Planning Organization (SFMPO), Public Works Department-Roadway and Trails Division responded to NMDOT's Call for Projects via the FHWA's Transportation Project Funds (TPF) Program in June 2021. The reconstruction project of Bishop's Lodge Road is approximately 1.8 miles in length, starting at the intersection of Bishop's Lodge Road/Paseo De Peralta and ending at the intersection of Bishop's Lodge Road/Circle Drive. The width of the road will be decreased to reduce vehicle speeds and yield space for medians, sidewalks, shoulders, and bike lanes. The total project budget is estimated at $5,860,000, of which $800,000 is for design.

As described in the attached resolution, the $800,000 funding for this project will be proportionately shared by NMDOT at 95%, or $760,000 and the City at 5%, or $40,000. The funding will be used for engineering design, specifically Phase 1: Location Study; Phase 2: Preliminary and Final Design; and Phase 3: Bidding Services. The Agreement terminates on June 30, 2025.

ACTION REQUESTED:
Approve the Resolution as presented.

ATTACHMENTS:
Resolution
FIR

CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2021-__

INTRODUCED BY:

Councilor Signe I. Lindell

Councilwoman Renee Villarreal

Councilor Michael J. Garcia

A RESOLUTION

APPROVING THE CITY OF SANTA FE'S PARTICIPATION IN A TRANSPORTATION FUND PROGRAM ADMINISTERED BY THE NEW MEXICO DEPARTMENT OF TRANSPORTATION FOR THE RECONSTRUCTION OF BISHOP'S LODGE ROAD.

WHEREAS, the City of Santa Fe ("City") and the New Mexico Department of Transportation ("NMDOT") entered into a grant agreement under the Transportation Fund Program for the Bishop's Lodge Road Reconstruction project; and

WHEREAS, the total cost of the project is $800,000 to be funded in proportional share by the parties as follows:

1. NMDOT's share shall be ninety-five percent or $760,000; and
2. The City's proportional matching share shall be five percent or $40,000; and

WHEREAS, the City shall pay all costs that exceed the total budgeted amount of $800,000, to the extent permitted under law.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF SANTA FE that the Governing Body hereby approves a cooperative agreement for

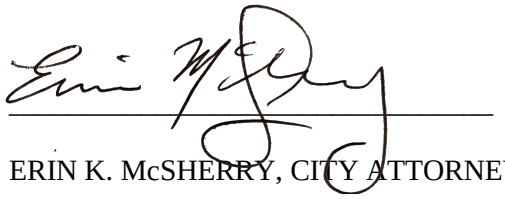
Project Control Number LP50020 with the NMDOT for the TPF Program for year 2022 for the Bishop's Lodge Road Reconstruction project and to conduct a location study, and preliminary and final design to include ADA-compliant sidewalks and bicycle lanes within the boundaries of the City.

BE IT FURTHER RESOLVED that this project maintains priority status for the City.

BE IT FURTHER RESOLVED that the cooperative agreement terminates on June 30, 2025, and the City incorporates all the agreements, covenants, and understandings between the parties concerning the subject matter and that all such agreements, covenants, and understandings have been merged into the written agreement.

PASSED, APPROVED, and ADOPTED this ___day of _____, 2021.

APPROVED AS TO FORM:



ERIN K. McSHERRY, CITY ATTORNEY

Legislation/2021/Resolutions/Bishop's Lodge Road Reconstruction

FIR No. 10359

FISCAL IMPACT REPORT

General Information:

(Check) Bill: _____ Resolution: X

Short Title(s): Bishop's Lodge Road Reconstruction

Sponsor(s): Councilors Lindell, Villarreal, and Garcia

Reviewing Department(s): Public Works

Staff Completing FIR: Romella Glorioso-Moss Date: 10/25/2021 Phone: 955-6623

Reviewed by City Attorney: Date: Nov 8, 2021

Reviewed by Finance Director: Date: Nov 8, 2021

Summary:
This Resolution specifies the conditions for accepting Transportation Project Funds administered by the New Mexico Department of Transportation in the total amount of $800,000 for a location study, and preliminary and final design of Bishop's Lodge Road Reconstruction Project. Funding would be proportionally shared with NMDOT contributing 95% of the total cost ($760,000) and the City contributing 5% ($40,000). This funding agreement terminates on June 30, 2025.

Departments Affected:
Public Works Department

Consequences of Not Enacting Legislation:
The City will lose NMDOT's funding share of 95%, or $760,000. In addition, NMDOT will decline any future application for project funding by the City.

Conflict, Duplication, Companionship, or Relationship to Other Legislation:
None identified.

Performance and Administrative Implications:
Roadway and Trails staff will need to administer the project including hiring design consultants, ensuring the project is completed within the funding agreement term, ensuring the project complies with the funding agreement, and submitting reimbursements to NMDOT.

Fiscal Implications:
The City's funding share is 5% or $40,000.

Fiscal Impact

_____ Check here if no fiscal impact

Expenditures

Expenditure Type	FYE 22	FYE ___	FYE ___	Require BAR (Y/N)	Recurring (R) or Non-recurring (NR)	Fund	3-Year Total Cost
Personnel and Benefits*	$	$	$				
Capital Outlay	$ 40,000	$	$	Y	NR	Road Impact Fees	$ 40,000
Contractual/ Professional Services	$	$	$				
Operating	$	$	$				$
Total:	$ 40,000	$	$				$ 40,000

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

Expenditure Narrative:

The City's 5% share of funding for the project is $40,000, which will be used to hire an engineering firm to design the reconstruction. This $40,000 will come from Road Impact Fees fund, which currently has a balance of $2.6M. The funds can only be used for roadway improvements.

Revenue

Revenue Type	FYE 22	FYE __	FYE __	Recurring (R) or Non-recurring (NR)	Fund
General Fund	$	$	$		
Special Revenue	$	$	$		
CIP	$	$	$		
Enterprise	$	$	$		
Internal Service	$	$	$		
Trust and Agency	$	$	$		
Federal	$	$	$		
Other (State)	$ 760,000	$	$	NR	NMDOT
Total	$ 760,000	$	$		

Revenue Narrative:

This revenue of $760,000 is NMDOT's 95% share of the funding to hire an engineering firm to do the location study, preliminary and final design of reconstructing Bishop's Lodge Road to make it safe for bicyclists and pedestrians.

Signature:

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

City of Santa Fe, New Mexico
memo

Date: October 22, 2021

To: Fran Dunaway, Chief Procurement Officer

Via: Regina Wheeler
Regina Wheeler (Nov 2, 2021 11:53 MDT)
_____
Regina Wheeler, Public Works Department Director

From: Romella Glorioso-Moss, AICP, Public Works Sr. Project Administrator

Subject: Exemption Determination Request 13-1-98 A

Public Works – Roadway and Trails
Department respectfully request exempt determination to be approved by the City's CPO, Fran Dunaway. The Memo of Agreement is between New Mexico Department of Transportation and City of Santa Fe Public Works Department

City of Santa Fe follows the New Mexico State Procurement code.

A. *procurement of items of tangible personal property or services by a state agency or a local public body from a state agency, a local public body or external procurement unit except as otherwise provided in Sections 13-1-135 through 13-1-137 NMSA 1978;*

Amount: $ 450,000.00

Term: 06/30/2025

Approved Exemption

_____
Fran Dunaway, Chief Procurement Officer

City of Santa Fe, New Mexico
Memorandum

DATE: October 22, 2021

TO: Public Works and Utilities Committee and Governing Body

VIA: Regina Wheeler, Public Works Department Director Regina Wheeler (Nov 2, 2021 11:53 MDT)

FROM: Romella Glorioso-Moss, PhD, AICP, Public Works Sr. Project Administrator RGM

ITEMS AND ACTIONS:

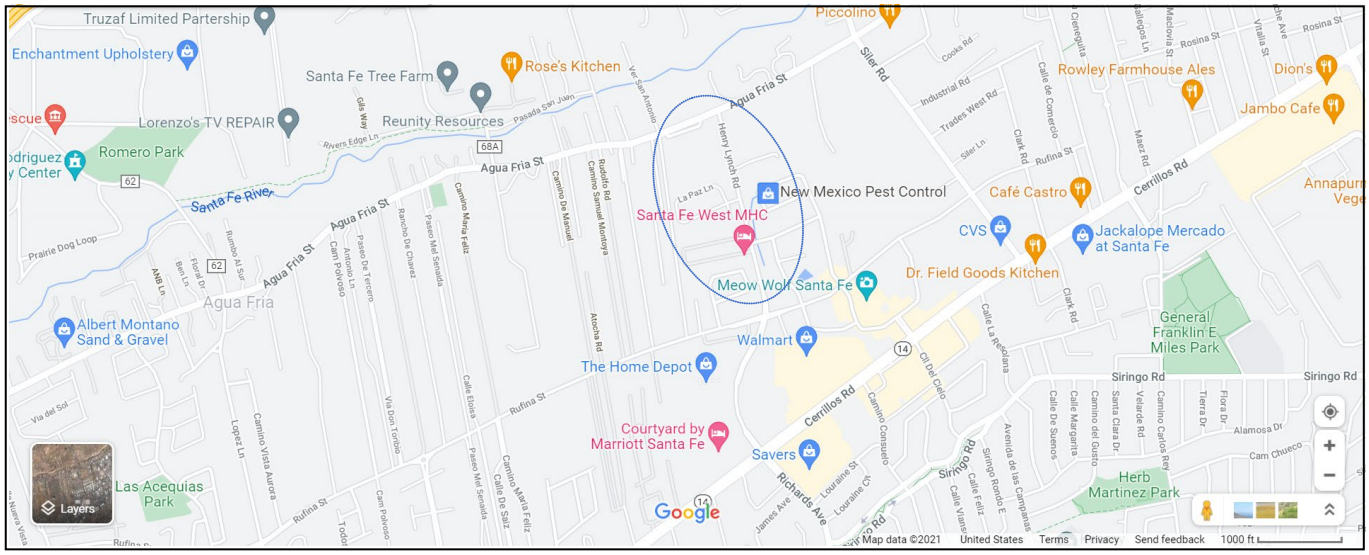
Approval of Transportation Project Fund Grant Agreement in the Total Amount of $450,000 for Engineering Design of Henry Lynch Road Reconstruction Project; New Mexico Department of Transportation; Romella Glorioso-Moss, rsglorioso-moss@santafenm.gov, (505) 955-6623.

Approval of a Budget Adjustment Resolution (BAR) in the Total Amount of $427,500 for Engineering Design of Henry Lynch Road Reconstruction Project.

BACKGROUND AND SUMMARY:

The Henry Lynch Road Reconstruction Project has been included in the Infrastructure Capital Improvement Project (ICIP) for the past several years now. More importantly, this is the only project that is prioritized in three (3) City capital infrastructure planning documents: ICIP 2022-2027, IFCIP 2021-2027, and SFMTP 2020-2045, which indicates the necessity and priority of this project for the City of Santa Fe. In the past few years, land use on Henry Lynch Road and the surrounding area has changed dramatically. Apartment complexes, single-family homes, schools, commercial areas have been built recently in this once predominantly mobile/manufactured home and industrial area. Its proximity to huge commercial complexes located along Richards Avenue and Cerrillos Road such as the Home Depot and Walmart makes Henry Lynch a more traveled road than in the past (see Fig. 1).

Fig. 1 Project Location/Land Use



The proposed reconstruction project will extend between Agua Fria St. and Rufina St. (0.48-mile long) and will include repaving of the road, which currently is in a very poor condition. The reconstruction will also include the addition of ADA compliant sidewalks, curb, gutter, bike lanes, associated drainage facilities and necessary right of way acquisition. Total project cost is estimated at 3,070,000; of which $450,000 is for engineering design.

The City is receiving Transportation Project Funds (TPF) administered by the New Mexico Department of Transportation (NMDOT) in the total amount of $450,000 for the engineering design of reconstructing Henry Lynch Road. The is proportionally shared between NMDOT at 95% or $427,500 and City at 5% or $22,500. The City match of $22,500 will be sought from road impact fees.

PROCUREMENT METHOD:
This funding is exempt from the New Mexico Procurement Code as per the attached Exemption Determination Request 13-1-98 A approved by the City's Chief Procurement Officer, Ms. Fran Dunaway.

CONTRACT NUMBER:
The FY22 Munis contract number is 3203069.

FUNDING SOURCE:

The funding source is:
Fund Name/Number: NMDOT/3309980
Munis Org Name/Number: Engineering/3559980
Munis Object Name/Number: WIP Design/572960

ACTION REQUESTED:
Public Works – Roadway and Trails respectfully requests your review and approval.

ATTACHMENTS:
Transportation Project Fund Grant Agreement (Control #HW2LP50021)
Budget Adjustment Resolution Form
Exemption Determination Request 13-1-98 A Memo
Procurement Checklist
Summary of Contracts, Agreements, Amendments and Leases Form

Contract No. 3203069
Vendor No. 0000054360
Control No. HW2LP50021

TRANSPORTATION PROJECT FUND
GRANT AGREEMENT

This Agreement is between the **New Mexico Department of Transportation** (Department) and **City of Santa Fe** (Public Entity). This Agreement is effective as of the date of the last party to sign it on the signature page below.

Pursuant to NMSA 1978, Sections 67-3-28 and 67-3-78 and 18.27.6 NMAC, the parties agree as follows:

1. Purpose.

The purpose of this Agreement is to provide Transportation Project Funds (TPF) to the Public Entity for the following project scope **Henry Lynch Road Reconstruction: To plan and design the reconstruction of Henry Lynch Rd from Agua Fria to Rufina St to include road repavement, bicycle lanes, ADA compliant sidewalks, curb, gutter & drainage facilities.** (Project or CN LP50021). This Agreement specifies and delineates the rights and duties of the parties.

2. Project Funding.

a. The estimated total cost for the Project is Four Hundred Fifty Thousand Dollars and No Cents **($450,000.00)** to be funded in proportional share by the parties as follows:

1. Department's share shall be 95% **$427,500.00**
   Henry Lynch Road Reconstruction: To plan and design the reconstruction of Henry Lynch Rd from Agua Fria to Rufina St to include road repavement, bicycle lanes, ADA compliant sidewalks, curb, gutter & drainage facilities.

2. The Public Entity's required proportional matching Share shall be 5% **$22,500.00**
   For purpose stated above

3. Total Project Cost **$450,000.00**

b. The Public Entity is responsible for all costs that exceed Project funding.
c. All allocated funds must be spent by **June 30, 2025**.
d. The Public Entity represents that no federal funds will be used to finance the Project.
e. The Public Entity must repay Project funding to the Department if:
   1. The Project is cancelled or partially performed.
   2. A final audit conducted by the Department at Project completion determines the following: an overpayment, unexpended monies or ineligible expenses.

3. The Department:

a. Shall distribute the funds, identified in Section 2a1, in a lump sum to the Public Entity after:
   1. The Department has received this Agreement fully executed with a Resolution of Sponsorship attached as Exhibit B.
   2. Receipt of a letter requesting funds, which includes the following Project documents: Notice of Award/Work Order and Notice to Proceed for the Project.
   3. If a Department's or another entity's right-of-way is involved, a permit or letter of approval/authorization, from the entity with jurisdiction over the Project right-of-way.

b. Will not:
   1. Perform any detailed technical reviews of Project scope, cost, budget, schedule, design or other related documents;
   2. Have any involvement in the construction phase;
   3. Be involved in permit preparation or the review or coordination with regulatory agencies.
   4. Conduct periodic assurance inspections or comparison material testing.
   5. Participate in resolving bidding and contract disputes between the Public Entity and contractors.

c. May perform Project monitoring that might consist of the following:
   1. Review of Project status to ensure that project goals, objectives, performance requirements, timelines, milestone completion budgets and other guidelines are being met.
   2. Request written Project status reports.
   3. Conduct a review of the Local Entity's performance and administration of the Project funds identified in Section 2a.

d. Reserves the right, upon receipt of the Public Entity's Certification of Completion, Exhibit A, to request additional documents that demonstrate Project completion.

e. If required, the District Engineer or designee, will conduct a Project review to determine if permit is required from the Department. If there is a determination that a permit is not required, a letter of approval and authorization will be forwarded to the Public Entity.

4. The Public Entity Shall:

a. Act in the capacity of lead agency for the purpose as described in Section 1.

b. Procure and award any contract in accordance with applicable procurement law, rules, regulations and ordinances.

c. Be responsible for all design activities necessary to advance the Project to construction and coordinate construction.

d. Unless otherwise specified in a letter of authorization or permit, design and construct the Project in accordance with the Public Entity's established design standards.

e. Have sole responsibility and control of all project phases and resulting quality of the completed work.

f. If the Project is in full or on a portion of a state highway, on a Department right of way or a National Highway System route:
   1. Obtain from the Department a permit in accordance with 18.31.6.14 NMAC, State Highway Access Management Requirements or a letter of authorization; and

2. Design and construct the Project in accordance with standards established by the Department.

g. Adopt a written resolution of Project support that includes a commitment to funding, ownership, liability and maintenance. The resolution is attached to this Agreement as Exhibit B.
h. Consider placing pedestrian, bicycle and equestrian facilities in the Project design in accordance with NMSA 1978, Section 67-3-62.
i. Comply with any and all state, local and federal regulations including the Americans with Disabilities Act (ADA) and laws regarding noise ordinances, air quality, surface water quality, ground water quality, threatened and endangered species, hazardous materials, historic and cultural properties, and cultural resources.
j. Be responsible for all permit preparation, review and coordination with regulatory agencies.
k. Cause all designs, plans, specifications and estimates to be performed under the direct supervision of a Registered New Mexico Professional Engineer, in accordance with NMSA 1978 Section 61-23-26.
l. Allow the Department to perform a final inspection of the Project and all related documentation to determine if the Project was constructed in accordance with the provisions of this Agreement. At the Department's request, provide additional documentation to demonstrate completion of the required terms and conditions.
m. Meet with the Department, as needed, or provide Project status reports within thirty (30) days of request.
n. Within 60 days after Project completion, provide the Certification of Completion, which is attached as Exhibit A, that it has complied with the requirements of 18.27.6 NMAC and this Agreement.
o. Upon completion, maintain all the Public Entity's facilities constructed or reconstructed under this Agreement.

5. Both Parties Agree:

a. Upon termination of this Agreement any remaining property, materials, or equipment belonging to the Department will be accounted for and disposed of by the Public Entity as directed by the Department.
b. Unless otherwise indicated in a letter of authorization, the Project will not be incorporated into the State Highway System and the Department is not assuming maintenance responsibility or liability.
c. Pursuant to NMSA 1978, Section 67-3-78, Transportation Project Funds granted under this provision cannot be used by the Public Entity to meet a required match under any other program.
d. The requirements of 18.27.6 NMAC are incorporated by reference.
e. The inability to properly complete and administer the Project may result in the Public Entity being denied future grant funding.

6. Term.

This Agreement becomes effective upon signature of all parties. The effective date is the date when the last party signed the Agreement on the signature page below. This Agreement terminates on the earliest of the following dates: (a) Department receipt of the Certification of

Completion or (b) **June 30, 2025**. In the event an extension to the term is needed, the Public Entity shall provide written notice along with detailed justification to the Department sixty (60) days prior to the expiration date to ensure timely processing of an Amendment. Neither party shall have any obligation after said date except as stated in Sections 2e, 4l, 4n and 7.

7. Termination.
If the Public Entity fails to comply with any provision of this Agreement, the Department may terminate this Agreement by providing thirty (30) days written notice. This Agreement may also be terminated pursuant to Section 15. Neither party has any obligation after termination, except as stated in Sections 2e, 4l, 4n and 7.

8. Third Party Beneficiary.
It is not intended by any of the provisions of any part of this Agreement to create in the public or any member of the public a third party beneficiary or to authorize anyone not a party to the Agreement to maintain a suit(s) for wrongful death(s), bodily and/or personal injury(ies) to person(s), damage(s) to property(ies), and/or any other claim(s) whatsoever pursuant to the provisions of this Agreement.

9. New Mexico Tort Claims Act.
As between the Department and Public Entity, neither party shall be responsible for liability incurred as a result of the other party's acts or omissions in connection with this Agreement. Any liability incurred in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, NMSA 1978, Section 41-4-1, *et seq*.

10. Contractors Insurance Requirements.
The Public Entity shall require contractors and subcontractors hired for the Project to have a general liability insurance policy, with limits of liability of at least $1,000,000 per occurrence. The Department is to be named as an additional insured on the contractors and subcontractor's policy and a certificate of insurance must be provided to the Department and it must state that coverage provided under the policy is primary over any other valid insurance.

To the fullest extent permitted by law, the Public Entity shall require the contractor and subcontractors to defend, indemnify and hold harmless the Department from and against any liability, claims, damages, losses or expenses (including but not limited to attorney's fees, court costs, and the cost of appellate proceedings) arising out of or resulting from the negligence, act, error, or omission of the contractor and subcontractor in the performance of the Project, or anyone directly or indirectly employed by the contractor or anyone for whose acts they are liable in the performance of the Project.

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

12. Terms of this Agreement.
The terms of this Agreement are lawful; performance of all duties and obligations must conform with and not contravene any state, local, or federal statutes, regulations, rules, or ordinances.

13. Legal Compliance.
The Public Entity shall comply with all applicable federal, state, local, and Department laws, regulations and policies in the performance of this Agreement, including, but not limited to laws governing civil right, equal opportunity compliance, environmental issue, workplace safety, employer-employee relations and all other laws governing operations of the workplace. The Public Entity shall include the requirements of this Section 13 in each contract and subcontract at all tiers.

14. Equal Opportunity Compliance.
The parties agree to abide by all federal and state laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, the parties agree to assure that no person in the United States will, on the grounds of race, color, national origin, ancestry, sex, sexual preference, age or handicap, be excluded from employment with, or participation in, any program or activity performed under this Agreement. If the parties are found to not be in compliance with these requirements during the term of this Agreement, the parties agree to take appropriate steps to correct these deficiencies.

15. Appropriations and Authorizations.
The terms of this Agreement are contingent upon sufficient appropriations and authorizations being made by the governing board of the Public Entity, the Legislature of New Mexico for performance of the Agreement. If sufficient appropriations and authorizations are not made by the Public Entity and the Legislature this Agreement will terminate upon written notice being given by one party to the other. The Department and Public Entity are expressly not committed to expenditure of any funds until such time as they are programmed, budgeted, encumbered, and approved for expenditure.

16. Accountability of Receipts and Disbursements.
There shall be strict accountability for all receipts and disbursements relating to this Agreement. The Public Entity shall maintain all records and documents relative to the Project for a minimum of five (5) years after completion of the Project. The Public Entity shall furnish the Department and State Auditor, upon demand, any and all such records relevant to this Agreement. If an audit finding determines that specific funding was inappropriate or not related to the Project, the Public Entity shall reimburse that portion to the Department within thirty (30) days of written notification. If documentation is insufficient to support an audit by customarily accepted accounting practices, the expense supported by such insufficient documentation must be reimbursed to the Department within thirty (30) days.

17. Severability.
In the event that any portion of this Agreement is determined to be void, unconstitutional or otherwise unenforceable, the remainder of this Agreement will remain in full force and effect.

18. Applicable Law.
The laws of the State of New Mexico shall govern this Agreement, without giving effect to its choice of law provisions. Venue is proper in a New Mexico Court of competent jurisdiction in accordance with NMSA 1978, Section 38-3-1(G).

19. Amendment.
This Agreement may be amended by an instrument in writing executed by the parties.

The remainder of this page is intentionally left blank.

In witness whereof, each party is signing this Agreement on the date stated opposite that party's signature.

NEW MEXICO DEPARTMENT OF TRANSPORTATION

By:_____ Date: _____
Cabinet Secretary or Designee

Approved as to form and legal sufficiency by the New Mexico Department of Transportation's Office of General Counsel

By: Craig C Kling Date: Sep 24, 2021
Craig C Kling (Sep 24, 2021 14:32 MDT)
Assistant General Counsel

City of Santa Fe

By:_____ Date: _____

Title: _____

Attest: _____

Title: _____

Approved as to form and legal sufficiency by the City's Attorney

Marcos Martinez
Marcos Martinez (Oct 19, 2021 14:36 MDT)

Oct 19, 2021

CITY OF SANTA FE Attorney

Date

Approved

CITY OF SANTA FE Finance Director

Date

EXHIBIT A

CERTIFICATION OF PROJECT COMPLETION

Public Entity:

Control No. LP50021

I, _____, in my capacity as _____ of _____ certify in regard to Control No. **LP50021**:

1. That the Public Entity has complied with the terms and conditions of the requirements under this Agreement and 18.27.6 NMAC.
2. That all work in was performed in accordance with the Agreement.
3. That the total Project cost of _____, with New Mexico Department of Transportation 95% share of _____ and the Public Entity share of _____ is accurate, legitimate, and appropriate for the Project.
4. That the Project was completed on _____ of _____, 20____

In Witness Whereof, _____ in his/her capacity as_____ of _____ certify that the matters stated above are true to his/her knowledge and belief.

City of Santa Fe

By:_____ Date: _____

Title: _____ Date: _____

ATTEST:

By:_____ Date: _____

Public Entity Clerk

When completed, send Certification of Project Completion to the District Coordinator, New Mexico Department of Transportation.

EXHIBIT B

RESOLUTION

City of Santa Fe

PARTICIPATION IN TRANSPORTATION PROJECT FUND PROGRAM ADMINISTERED BY NEW MEXICO DEPARTMENT OF TRANSPORTATION

WHEREAS, the **City of Santa Fe** and the New Mexico Department of Transportation have entered into a grant agreement under the Transportation Fund Program for a local road project.

WHEREAS, the total cost of the project will be $450,000 to be funded in proportional share by the parties hereto as follows:

a. New Mexico Department of Transportation's share shall be 95% or $427,500.00

and

b. **City of Santa Fe**'s proportional matching share shall be 5% or $22,500.00

TOTAL PROJECT COST IS $450,000.00

The **City of Santa Fe** shall pay all costs, which exceed the total amount of $450,000.00**.**

Now therefore, be it resolved in official session that **City of Santa Fe** determines, resolves, and orders as follows:

That the project for this Cooperative agreement is adopted and has a priority standing.

The agreement terminates on June 30, 2025 and the **City of Santa Fe** 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 the written agreement.

Now therefore, be it resolved by the **City of Santa Fe** to enter into Cooperative Agreement for Project Control Number **LP50021** with the New Mexico Department of Transportation for the TPF Program for year 2022 for **-** Henry Lynch Road Reconstruction: To plan and design the reconstruction of Henry Lynch Rd from Agua Fria to Rufina St to include road repavement, bicycle lanes, ADA compliant sidewalks, curb, gutter & drainage facilities. within the control of the **City of Santa Fe** in New Mexico.

(Appropriate Signatures below (Council, Commission, School Board, Tribe, Pueblo, Nation, etc.)

_____ _____

(PRINTED NAME, POSITION) DATE

_____ _____

(PRINTED NAME, POSITION) DATE

LP50021

Final Audit Report 2021-09-24

Created:	2021-09-23
By:	Clarissa Martinez (Clarissa.Martinez@state.nm.us)
Status:	Signed
Transaction ID:	CBJCHBCAABAADImUleUjvIhHzwKRjmgAvz2h0b_FG34r

"LP50021" History

Document created by Clarissa Martinez (Clarissa.Martinez@state.nm.us)
2021-09-23 - 7:37:18 PM GMT- IP address: 76.127.3.135

Document emailed to Craig C Kling (craig.kling1@state.nm.us) for signature
2021-09-23 - 7:37:58 PM GMT

Email viewed by Craig C Kling (craig.kling1@state.nm.us)
2021-09-24 - 8:32:00 PM GMT- IP address: 104.47.65.254

Document e-signed by Craig C Kling (craig.kling1@state.nm.us)
Signature Date: 2021-09-24 - 8:32:54 PM GMT - Time Source: server- IP address: 164.64.74.20

Agreement completed.
2021-09-24 - 8:32:54 PM GMT

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

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

DEPARTMENT / DIVISION NAME	DATE
Public Works/Engineering - Roadway and Trails	10/25/2021

ITEM DESCRIPTION	ORG	OBJECT	PROJECT	INCREASE	DECREASE
EXPENDITURES				*{enter as positive #}*	*{enter as negative #}*
WIP Design	33099880	572960		427,500	
REVENUES				*{enter as negative #}*	*{enter as positive #}*
NMDOT	33099880	490150		(427,500)	
				$ -	$ -

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

Acceptance of $427,500 NMDOT grants to design the reconstruction of Henry Lynch Road.

{Complete section below if BAR results in a net change to ANY Fund}	
Fund(s) Affected	Fund Balance Increase/(Decrease)
TOTAL:	**0**

Romella Glorioso-Moss 10/22/2021
Prepared By *{print name}* Date

Division Director Signature *{optional}* Date

Regina Wheeler
Regina Wheeler (Nov 2, 2021 11:53 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 #:

Budget Officer Date

Finance Director *{≤ $5,000}* Date

City Manager *{≤ $60,000}* Date

CITY OF SANTA FE PROCUREMENT CHECKLIST

Contractor Name: NMDOT

Procurement Title: Transportation Project Fund Grant Agreement (Control # HW2LP50021)

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 Staff Name Romella Glorioso-Moss

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:

Romella Glorioso-Moss — Sr. Projects Administrator — 10/22/2021

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

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

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

City of Santa Fe

Real Estate Summary of Contracts, Agreements, Amendments & Leases

Section to be completed by department

1. Munis Contract # 3203069

Contractor: **NMDOT**

Description: **Transportation Project Fund Grant Agreement for $450,000 to design the reconstruction of Henry Lynch Road.**

Contract ☐ Agreement ☉ Lease / Rent ☐ Amendment ☐

Term Start Date: _____ Term End Date: _____

☑ Approved by Council Date: **Pending**

Contract / Lease:

Amendment # _____ to the Original Contract / Lease # _____

Increase/(Decrease) Amount $ _____

Extend Termination Date to: _____

☐ Approved by Council Date: _____

Amendment is for:

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

3. **Procurement History:** _____

Purchasing Officer Review: _____ Date: _____

Comment & Exceptions: _____

4. **Funding Source:** **NMDOT (TPF)** **Org / Object:** **3309980/572960**

Budget Officer Approval: _____ Date: _____

Comment & Exceptions: _____

Staff Contact who completed this form: **Romella Glorioso-Moss** Phone # **X6623**

Email: **rsglorioso-moss@santafenm.gov**

To be recorded by City Clerk:

Clerk # _____

Date of Execution: _____

City of Santa Fe, New Mexico
Memorandum

Date: November 8, 2021

To: Governing Body

Via: Regina Wheeler, Public Works Department Director RW

From: Romella Glorioso-Moss, AICP, Public Works Sr. Project Administrator RGM

RE: Henry Lynch Reconstruction NMDOT TPF Resolution

EXECUTIVE SUMMARY:
The City of Santa Fe is receiving Transportation Project Funds (TPF) administered by the New Mexico Department of Transportation (NMDOT) in the total amount of $450,000 for the engineering design of LP50021 Henry Lynch Road Reconstruction Project. However a Resolution approved by the Governing Body is needed to receive the funding.

BACKGROUND:
In the past few years, land use along Henry Lynch Road and the surrounding area has changed dramatically. Apartment complexes, single-family homes, schools, and commercial buildings have been built in this once predominantly mobile/manufactured home and industrial area. Its proximity to huge commercial complexes located along Richards Avenue and Cerrillos Road such as the Home Depot and Walmart makes Henry Lynch a more frequently traveled road than in the past. Due to this condition, the reconstruction of Henry Lynch Road has been included in the Infrastructure Capital Improvement Project for the past several years. It is also prioritized in the Santa Fe Metropolitan Transportation Plan 2020-2045.

Recognizing the importance of this project, Public Works-Roadway and Trails, supported by the Santa Fe Metropolitan Planning Organization, responded to FWHA's Transportation Project Funds call for projects in June 2021. The reconstruction project will repave Henry Lynch Road from Agua Fria St. to Rufina St. The project also includes the addition of ADA compliant sidewalks, curbs, gutters, bike lanes, and associated drainage facilities. The total project cost is estimated at $3,070,000, of which $450,000 is for engineering design.

As described in the attached Resolution, the $450,000 in funding for this project will be proportionally shared by NMDOT at 95% or $427,500 and the City at 5% or $22,500. The funding will be used for engineering design: Phase 1: Location Study; Phase 2: Preliminary and Final Design; and Phase 3: Bidding Services. The Agreement terminates on June 30, 2025.

ACTION REQUESTED:
Approve the Resolution as presented.

City of Santa Fe, New Mexico
Memorandum

ATTACHMENTS:
Resolution
FIR

Signature:

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

Signature: Romella Glorioso-Moss

Email: rsglorioso-moss@ci.santa-fe.nm.us

CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2021-__

INTRODUCED BY:

Councilor Joanne Vigil Coppler

Councilor Jamie Cassutt

A RESOLUTION

APPROVING THE CITY OF SANTA FE'S PARTICIPATION IN A TRANSPORTATION FUND PROGRAM ADMINISTERED BY THE NEW MEXICO DEPARTMENT OF TRANSPORTATION FOR THE RECONSTRUCTION OF HENRY LYNCH ROAD.

WHEREAS, the City of Santa Fe ("City") and the New Mexico Department of Transportation ("NMDOT") entered into a grant agreement under the Transportation Fund Program ("TFP") for a local road project; and

WHEREAS, the total cost of the project will be $450,000 to be funded in proportional share by the parties hereto as follows:

1. NMDOT's share shall be ninety-five percent or $427,500; and

2. The City's proportional matching share shall be five percent or $22,500; and

WHEREAS, the City shall pay all costs that exceed the total budgeted amount of $450,000, to the extent permitted under law.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF SANTA FE that Governing Body hereby approves a cooperative agreement for Project

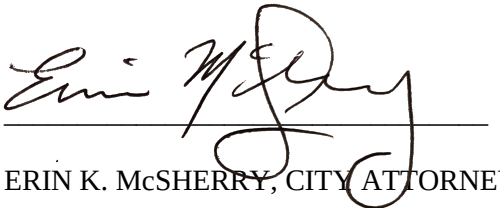
Control Number LP50021 with the NMDOT for the TPF Program for year 2022 for Henry Lynch Road Reconstruction to plan and design the reconstruction of Henry Lynch Rd from Agua Fria to Rufina Street to include road repaving, creation of bicycle lanes, ADA-compliant sidewalks, curb, gutter, and drainage facilities within the boundaries of the City.

BE IT FURTHER RESOLVED that this project maintains priority status for the City.

BE IT FURTHER RESOLVED that the cooperative agreement terminates on June 30, 2025 and the City incorporates all the agreements, covenants, and understandings between the parties concerning the subject matter and that all such agreements, covenants, and understandings have been merged into the written agreement.

PASSED, APPROVED, and ADOPTED this ___ day of _____, 2021.

APPROVED AS TO FORM:



ERIN K. McSHERRY, CITY ATTORNEY

Legislation/2021/Resolutions/Henry Lynch Road Reconstruction

FIR No. 10360

FISCAL IMPACT REPORT

General Information:

(Check) Bill: _____ Resolution: X

Short Title(s): Henry Lynch Road Reconstruction Project

Sponsor(s): Councilors Vigil Coppler and Cassutt

Reviewing Department(s): Public Works

Staff Completing FIR: Romella Glorioso-Moss Date: 10/25/2021 Phone: 955-6623

Reviewed by City Attorney: _____ Date: Nov 8, 2021

Reviewed by Finance Director: _____ Date: Nov 8, 2021

Summary:
This Resolution specifies the conditions for accepting Transportation Project Funds administered by the New Mexico Department of Transportation in the total amount of $450,000 for preliminary and final design of Henry Lynch Reconstruction Project. Funding is proportionally shared with NMDOT contributing 95% of the total cost ($427,500) and the City contributing 5% ($22,500). The funding agreement terminates on June 30, 2025.

Departments Affected:
Public Works Department

Consequences of Not Enacting Legislation:
The City will lose NMDOT's funding share of 95% or $427,500. In addition, NMDOT will decline any future application for project funding by the City.

Conflict, Duplication, Companionship, or Relationship to Other Legislation:
None identified.

Performance and Administrative Implications:
Roadway and Trails staff will need to administer the project including hiring design consultants, ensuring the project is completed within the funding agreement term, ensuring the project complies with the funding agreement, and submitting reimbursements to NMDOT.

Fiscal Implications:
The City's funding share is 5% or $22,500.

Fiscal Impact

_____ Check here if no fiscal impact

Expenditures

Expenditure Type	FYE 22	FYE ___	FYE ___	Require BAR (Y/N)	Recurring (R) or Non-recurring (NR)	Fund	3-Year Total Cost
Personnel and Benefits*	$	$	$				
Capital Outlay	$ 22,500	$	$	Y	NR	Road Impact Fees	$ 22,500
Contractual/ Professional Services	$	$	$				
Operating	$	$	$				$
Total:	$ 22,500	$	$				$ 22,500

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

Expenditure Narrative:

The City's 5% share of funding for the project is $22,500, which will be used to hire an engineering firm to design the reconstruction. The $22,500 will come from Road Impact Fees fund, which currently has a balance of $2.6M. Road impact fees funds can only be used for roadway improvements.

Revenue

Revenue Type	FYE 22	FYE __	FYE __	Recurring (R) or Non-recurring (NR)	Fund
General Fund	$	$	$		
Special Revenue	$	$	$		
CIP	$	$	$		
Enterprise	$	$	$		
Internal Service	$	$	$		
Trust and Agency	$	$	$		
Federal	$	$	$		
Other (State)	$ 427,500	$	$	NR	NMDOT
Total	$ 427,500	$	$		

Revenue Narrative:

This revenue of $427,500 is NMDOT's 95% share of the funding to hire an engineering firm to do the preliminary and final design of Henry Lynch Road Reconstruction Project.

Signature:

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

City of Santa Fe, New Mexico

memo

Date: October 22, 2021

To: Fran Dunaway, Chief Procurement Officer

Via: Regina Wheeler
Regina Wheeler (Nov 4, 2021 09:21 MDT)
_____
Regina Wheeler, Public Works Department Director

From: Romella Glorioso-Moss, AICP, Public Works Sr. Project Administrator

Subject: Exemption Determination Request 13-1-98 A

Public Works – Roadway and Trails
Department respectfully request exempt determination to be approved by the City's CPO, Fran Dunaway. The Memo of Agreement is between New Mexico Department of Transportation and City of Santa Fe Public Works Department

City of Santa Fe follows the New Mexico State Procurement code.

A. *procurement of items of tangible personal property or services by a state agency or a local public body from a state agency, a local public body or external procurement unit except as otherwise provided in Sections 13-1-135 through 13-1-137 NMSA 1978;*

Amount: $ 800,000.00

Term: 06/30/2025

Approved Exemption

_____
Fran Dunaway, Chief Procurement Officer

City of Santa Fe, New Mexico
Memorandum

DATE: October 22, 2021

TO: Public Works and Utilities Committee and Governing Body

VIA: Regina Wheeler, Public Works Department Director Regina Wheeler (Nov 4, 2021 09:21 MDT)

FROM: Romella Glorioso-Moss, PhD, AICP, Public Works Sr. Project Administrator RGM

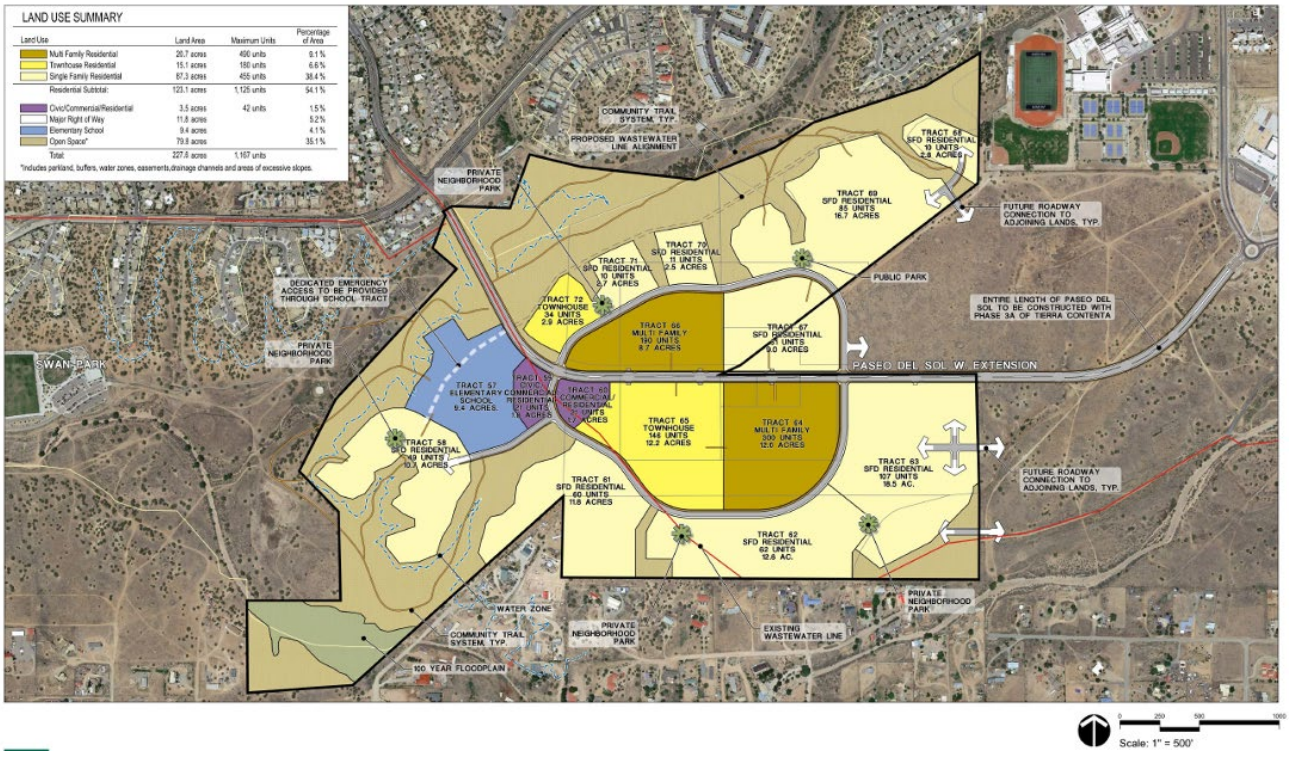
ITEMS AND ACTIONS:
Approval of Transportation Project Fund Grant Agreement in the Amount of $800,000 for the Engineering Design of Paseo del Sol Extension Project as per Tierra Contenta Master Development Plan; New Mexico Department of Transportation; Romella Glorioso-Moss, rsglorioso-moss@santafenm.gov, (505) 955-6623.

Approval of a Budget Adjustment Resolution (BAR) in the Total Amount of $760,000 to put the funds from the TPF Grant into budget for the Engineering Design of Paseo del Sol Extension Project.

BACKGROUND AND SUMMARY:
The City is receiving $800,000 of Transportation Project Funds (TPF) administered by the New Mexico Department of Transportation (NMDOT) for the engineering design of Paseo del Sol Extension. The Paseo del Sol extension will support the development of Phase 3 of the Tierra Contenta Master Plan. The development will be managed by the Tierra Contenta Corporation - a non-profit development corporation.

According to the New Mexico Affordable Housing Act, the City may pay the costs of infrastructure necessary to support affordable housing projects. Since Tierra Contenta Phase III will be 40% affordable, the City may offset up to 40% of the infrastructure costs for the development. TC's current estimate for construction of the Paseo del Sol extension, Loop Road and spine infrastructure is approximately $13,000,000. This NMDOT funding will be used to offset the cost of the TC Phase 3 infrastructure.

Fig. 1 Phase 3A Tierra Contenta Master Development Plan



This project is also included in three of the City's key capital infrastructure planning documents: 1) the City's FY2022-2026 Infrastructure Capital Improvement Plan (ICIP); the Santa Fe Metropolitan Transportation Plan (2020-2040); and 3) the Impact Fees Capital Improvements Plan 2021-2027.

The total TPF grant is $800,000, which is proportionally shared between NMDOT at 95% or $760,000 and City at 5% or $40,000. Thea City match of $40,000 will seek to use road impact fees.

PROCUREMENT METHOD:
This funding is exempt from the New Mexico Procurement Code as per the attached Exemption Determination Request 13-1-98 A approved by the City's Chief Procurement Officer, Ms. Fran Dunaway.

CONTRACT NUMBER:
The FY22 Munis contract number is 3203077.

FUNDING SOURCE:

The funding source is:
Fund Name/Number: NMDOT/3309980
Munis Org Name/Number: Engineering/3559980
Munis Object Name/Number: WIP Design/572960

ACTION REQUESTED:
Public Works – Roadway and Trails respectfully requests your review and approval.

ATTACHMENTS:
Transportation Project Fund Grant Agreement (Control #HW2LP50022)
Budget Adjustment Resolution Form
Exemption Determination Request 13-1-98 A Memo
Procurement Checklist
Summary of Contracts, Agreements, Amendments and Leases Form

Contract No. _____
Vendor No. 0000054360
Control No. HW2LP50022

TRANSPORTATION PROJECT FUND
GRANT AGREEMENT

This Agreement is between the **New Mexico Department of Transportation** (Department) and **City of Santa Fe** (Public Entity). This Agreement is effective as of the date of the last party to sign it on the signature page below.

Pursuant to NMSA 1978, Sections 67-3-28 and 67-3-78 and 18.27.6 NMAC, the parties agree as follows:

1. Purpose.

The purpose of this Agreement is to provide Transportation Project Funds (TPF) to the Public Entity for the following project scope **Paseo del Sol Extension: To design the extension of Paseo del Sol roadway as per Tierra Contenta Master Development Plan. Roadway design includes 2 travel lanes, bicycle lanes, sidewalks, lighting, & landscaping.** (Project or CN LP50022). This Agreement specifies and delineates the rights and duties of the parties.

2. Project Funding.

a. The estimated total cost for the Project is Eight Hundred Thousand Dollars and No Cents **($800,000.00)** to be funded in proportional share by the parties as follows:

1. Department's share shall be 95% **$760,000.00**
   Paseo del Sol Extension: To design the extension of Paseo del Sol roadway as per Tierra Contenta Master Development Plan. Roadway design includes 2 travel lanes, bicycle lanes, sidewalks, lighting, & landscaping.

2. The Public Entity's required proportional matching Share shall be 5% **$40,000.00**
   For purpose stated above

3. Total Project Cost **$800,000.00**

b. The Public Entity is responsible for all costs that exceed Project funding.
c. All allocated funds must be spent by **June 30, 2025**.
d. The Public Entity represents that no federal funds will be used to finance the Project.
e. The Public Entity must repay Project funding to the Department if:
   1. The Project is cancelled or partially performed.
   2. A final audit conducted by the Department at Project completion determines the following: an overpayment, unexpended monies or ineligible expenses.

3. The Department:

a. Shall distribute the funds, identified in Section 2a1, in a lump sum to the Public Entity after:
    1. The Department has received this Agreement fully executed with a Resolution of Sponsorship attached as Exhibit B.
    2. Receipt of a letter requesting funds, which includes the following Project documents: Notice of Award/Work Order and Notice to Proceed for the Project.
    3. If a Department's or another entity's right-of-way is involved, a permit or letter of approval/authorization, from the entity with jurisdiction over the Project right-of-way.
b. Will not:
    1. Perform any detailed technical reviews of Project scope, cost, budget, schedule, design or other related documents;
    2. Have any involvement in the construction phase;
    3. Be involved in permit preparation or the review or coordination with regulatory agencies.
    4. Conduct periodic assurance inspections or comparison material testing.
    5. Participate in resolving bidding and contract disputes between the Public Entity and contractors.
c. May perform Project monitoring that might consist of the following:
    1. Review of Project status to ensure that project goals, objectives, performance requirements, timelines, milestone completion budgets and other guidelines are being met.
    2. Request written Project status reports.
    3. Conduct a review of the Local Entity's performance and administration of the Project funds identified in Section 2a.
d. Reserves the right, upon receipt of the Public Entity's Certification of Completion, Exhibit A, to request additional documents that demonstrate Project completion.
e. If required, the District Engineer or designee, will conduct a Project review to determine if permit is required from the Department. If there is a determination that a permit is not required, a letter of approval and authorization will be forwarded to the Public Entity.

4. The Public Entity Shall:

a. Act in the capacity of lead agency for the purpose as described in Section 1.
b. Procure and award any contract in accordance with applicable procurement law, rules, regulations and ordinances.
c. Be responsible for all design activities necessary to advance the Project to construction and coordinate construction.
d. Unless otherwise specified in a letter of authorization or permit, design and construct the Project in accordance with the Public Entity's established design standards.
e. Have sole responsibility and control of all project phases and resulting quality of the completed work.
f. If the Project is in full or on a portion of a state highway, on a Department right of way or a National Highway System route:
    1. Obtain from the Department a permit in accordance with 18.31.6.14 NMAC, State Highway Access Management Requirements or a letter of authorization; and
    2. Design and construct the Project in accordance with standards established by the Department.

g. Adopt a written resolution of Project support that includes a commitment to funding, ownership, liability and maintenance. The resolution is attached to this Agreement as Exhibit B.
h. Consider placing pedestrian, bicycle and equestrian facilities in the Project design in accordance with NMSA 1978, Section 67-3-62.
i. Comply with any and all state, local and federal regulations including the Americans with Disabilities Act (ADA) and laws regarding noise ordinances, air quality, surface water quality, ground water quality, threatened and endangered species, hazardous materials, historic and cultural properties, and cultural resources.
j. Be responsible for all permit preparation, review and coordination with regulatory agencies.
k. Cause all designs, plans, specifications and estimates to be performed under the direct supervision of a Registered New Mexico Professional Engineer, in accordance with NMSA 1978 Section 61-23-26.
l. Allow the Department to perform a final inspection of the Project and all related documentation to determine if the Project was constructed in accordance with the provisions of this Agreement. At the Department's request, provide additional documentation to demonstrate completion of the required terms and conditions.
m. Meet with the Department, as needed, or provide Project status reports within thirty (30) days of request.
n. Within 60 days after Project completion, provide the Certification of Completion, which is attached as Exhibit A, that it has complied with the requirements of 18.27.6 NMAC and this Agreement.
o. Upon completion, maintain all the Public Entity's facilities constructed or reconstructed under this Agreement.

5. Both Parties Agree:

a. Upon termination of this Agreement any remaining property, materials, or equipment belonging to the Department will be accounted for and disposed of by the Public Entity as directed by the Department.
b. Unless otherwise indicated in a letter of authorization, the Project will not be incorporated into the State Highway System and the Department is not assuming maintenance responsibility or liability.
c. Pursuant to NMSA 1978, Section 67-3-78, Transportation Project Funds granted under this provision cannot be used by the Public Entity to meet a required match under any other program.
d. The requirements of 18.27.6 NMAC are incorporated by reference.
e. The inability to properly complete and administer the Project may result in the Public Entity being denied future grant funding.

6. Term.

This Agreement becomes effective upon signature of all parties. The effective date is the date when the last party signed the Agreement on the signature page below. This Agreement terminates on the earliest of the following dates: (a) Department receipt of the Certification of Completion or (b) **June 30, 2025**. In the event an extension to the term is needed, the Public Entity shall provide written notice along with detailed justification to the Department sixty (60)

days prior to the expiration date to ensure timely processing of an Amendment. Neither party shall have any obligation after said date except as stated in Sections 2e, 4l, 4n and 7.

7. Termination.
If the Public Entity fails to comply with any provision of this Agreement, the Department may terminate this Agreement by providing thirty (30) days written notice. This Agreement may also be terminated pursuant to Section 15. Neither party has any obligation after termination, except as stated in Sections 2e, 4l, 4n and 7.

8. Third Party Beneficiary.
It is not intended by any of the provisions of any part of this Agreement to create in the public or any member of the public a third party beneficiary or to authorize anyone not a party to the Agreement to maintain a suit(s) for wrongful death(s), bodily and/or personal injury(ies) to person(s), damage(s) to property(ies), and/or any other claim(s) whatsoever pursuant to the provisions of this Agreement.

9. New Mexico Tort Claims Act.
As between the Department and Public Entity, neither party shall be responsible for liability incurred as a result of the other party's acts or omissions in connection with this Agreement. Any liability incurred in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, NMSA 1978, Section 41-4-1, *et seq*.

10. Contractors Insurance Requirements.
The Public Entity shall require contractors and subcontractors hired for the Project to have a general liability insurance policy, with limits of liability of at least $1,000,000 per occurrence. The Department is to be named as an additional insured on the contractors and subcontractor's policy and a certificate of insurance must be provided to the Department and it must state that coverage provided under the policy is primary over any other valid insurance.

To the fullest extent permitted by law, the Public Entity shall require the contractor and subcontractors to defend, indemnify and hold harmless the Department from and against any liability, claims, damages, losses or expenses (including but not limited to attorney's fees, court costs, and the cost of appellate proceedings) arising out of or resulting from the negligence, act, error, or omission of the contractor and subcontractor in the performance of the Project, or anyone directly or indirectly employed by the contractor or anyone for whose acts they are liable in the performance of the Project.

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

12. Terms of this Agreement.
The terms of this Agreement are lawful; performance of all duties and obligations must conform

with and not contravene any state, local, or federal statutes, regulations, rules, or ordinances.

13. Legal Compliance.
The Public Entity shall comply with all applicable federal, state, local, and Department laws, regulations and policies in the performance of this Agreement, including, but not limited to laws governing civil right, equal opportunity compliance, environmental issue, workplace safety, employer-employee relations and all other laws governing operations of the workplace. The Public Entity shall include the requirements of this Section 13 in each contract and subcontract at all tiers.

14. Equal Opportunity Compliance.
The parties agree to abide by all federal and state laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, the parties agree to assure that no person in the United States will, on the grounds of race, color, national origin, ancestry, sex, sexual preference, age or handicap, be excluded from employment with, or participation in, any program or activity performed under this Agreement. If the parties are found to not be in compliance with these requirements during the term of this Agreement, the parties agree to take appropriate steps to correct these deficiencies.

15. Appropriations and Authorizations.
The terms of this Agreement are contingent upon sufficient appropriations and authorizations being made by the governing board of the Public Entity, the Legislature of New Mexico for performance of the Agreement. If sufficient appropriations and authorizations are not made by the Public Entity and the Legislature this Agreement will terminate upon written notice being given by one party to the other. The Department and Public Entity are expressly not committed to expenditure of any funds until such time as they are programmed, budgeted, encumbered, and approved for expenditure.

16. Accountability of Receipts and Disbursements.
There shall be strict accountability for all receipts and disbursements relating to this Agreement. The Public Entity shall maintain all records and documents relative to the Project for a minimum of five (5) years after completion of the Project. The Public Entity shall furnish the Department and State Auditor, upon demand, any and all such records relevant to this Agreement. If an audit finding determines that specific funding was inappropriate or not related to the Project, the Public Entity shall reimburse that portion to the Department within thirty (30) days of written notification. If documentation is insufficient to support an audit by customarily accepted accounting practices, the expense supported by such insufficient documentation must be reimbursed to the Department within thirty (30) days.

17. Severability.
In the event that any portion of this Agreement is determined to be void, unconstitutional or otherwise unenforceable, the remainder of this Agreement will remain in full force and effect.

18. Applicable Law.
The laws of the State of New Mexico shall govern this Agreement, without giving effect to its

choice of law provisions. Venue is proper in a New Mexico Court of competent jurisdiction in accordance with NMSA 1978, Section 38-3-1(G).

19. Amendment.
This Agreement may be amended by an instrument in writing executed by the parties.

The remainder of this page is intentionally left blank.

In witness whereof, each party is signing this Agreement on the date stated opposite that party's signature.

NEW MEXICO DEPARTMENT OF TRANSPORTATION

By:_____ Date: _____
Cabinet Secretary or Designee

Approved as to form and legal sufficiency by the New Mexico Department of Transportation's Office of General Counsel

By: Craig C Kling _____ Date: Sep 24, 2021
Craig C Kling (Sep 24, 2021 14:34 MDT)
Assistant General Counsel

City of Santa Fe

By:_____ Date: _____

Title: _____

Attest: _____

Title: _____

Approved as to form and legal sufficiency by the City's Attorney

Marcos Martinez
Marcos Martinez (Oct 21, 2021 14:48 MDT)

Oct 21, 2021

CITY OF SANTA FE Attorney

Date

Approved

CITY OF SANTA FE Finance Director

Date

EXHIBIT A

CERTIFICATION OF PROJECT COMPLETION

Public Entity:

Control No. LP50022

I, _____, in my capacity as _____ of _____ certify in regard to Control No. **LP50022**:

1. That the Public Entity has complied with the terms and conditions of the requirements under this Agreement and 18.27.6 NMAC.
2. That all work in was performed in accordance with the Agreement.
3. That the total Project cost of _____, with New Mexico Department of Transportation 95% share of _____ and the Public Entity share of _____ is accurate, legitimate, and appropriate for the Project.
4. That the Project was completed on _____ of _____, 20____

In Witness Whereof, _____ in his/her capacity as_____ of _____ certify that the matters stated above are true to his/her knowledge and belief.

City of Santa Fe

By:_____ Date: _____

Title: _____ Date: _____

ATTEST:

By:_____ Date: _____

Public Entity Clerk

When completed, send Certification of Project Completion to the District Coordinator, New Mexico Department of Transportation.

EXHIBIT B

RESOLUTION

City of Santa Fe

PARTICIPATION IN TRANSPORTATION PROJECT FUND PROGRAM ADMINISTERED BY NEW MEXICO DEPARTMENT OF TRANSPORTATION

WHEREAS, the **City of Santa Fe** and the New Mexico Department of Transportation have entered into a grant agreement under the Transportation Fund Program for a local road project.

WHEREAS, the total cost of the project will be $800,000 to be funded in proportional share by the parties hereto as follows:

a. New Mexico Department of Transportation's share shall be 95% or $760,000.00

and

b. **City of Santa Fe**'s proportional matching share shall be 5% or $40,000.00

TOTAL PROJECT COST IS $800,000.00

The **City of Santa Fe** shall pay all costs, which exceed the total amount of $800,000.00**.**

Now therefore, be it resolved in official session that **City of Santa Fe** determines, resolves, and orders as follows:

That the project for this Cooperative agreement is adopted and has a priority standing.

The agreement terminates on June 30, 2025 and the **City of Santa Fe** 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 the written agreement.

Now therefore, be it resolved by the **City of Santa Fe** to enter into Cooperative Agreement for Project Control Number **LP50022** with the New Mexico Department of Transportation for the TPF Program for year 2022 for **-** Paseo del Sol Extension: To design the extension of Paseo del Sol roadway as per Tierra Contenta Master Development Plan. Roadway design includes 2 travel lanes, bicycle lanes, sidewalks, lighting, & landscaping. within the control of the **City of Santa Fe** in New Mexico.

(Appropriate Signatures below (Council, Commission, School Board, Tribe, Pueblo, Nation, etc.)

_____ _____

(PRINTED NAME, POSITION) DATE

_____ _____

(PRINTED NAME, POSITION) DATE

LP50022

Final Audit Report 2021-09-24

Created:	2021-09-23
By:	Clarissa Martinez (Clarissa.Martinez@state.nm.us)
Status:	Signed
Transaction ID:	CBJCHBCAABAA1t3hkOcFHbJOSbd4rvUTRZAEZ148YKCf

"LP50022" History

Document created by Clarissa Martinez (Clarissa.Martinez@state.nm.us)
2021-09-23 - 7:38:16 PM GMT- IP address: 76.127.3.135

Document emailed to Craig C Kling (craig.kling1@state.nm.us) for signature
2021-09-23 - 7:38:46 PM GMT

Email viewed by Craig C Kling (craig.kling1@state.nm.us)
2021-09-24 - 8:33:04 PM GMT- IP address: 104.47.64.254

Document e-signed by Craig C Kling (craig.kling1@state.nm.us)
Signature Date: 2021-09-24 - 8:34:25 PM GMT - Time Source: server- IP address: 164.64.74.20

Agreement completed.
2021-09-24 - 8:34:25 PM GMT

CITY OF SANTA FE PROCUREMENT CHECKLIST

Contractor Name: NMDOT

Procurement Title: Transportation Project Fund Grant Agreement (Control # HW2LP50022)

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 Staff Name Romella Glorioso-Moss

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:

Romella Glorioso-Moss | Sr. Projects Administrator | 10/22/2021

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

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

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

City of Santa Fe

Real Estate Summary of Contracts, Agreements, Amendments & Leases

Section to be completed by department

1. Munis Contract # **3203077**

Contractor: **NMDOT**

Description: **Transportation Project Fund Grant Agreement for $800,000 to design the Paseo del Sol Extension as per Tierra Contenta Development Master Plan.**

Contract ☐ Agreement ☉ Lease / Rent ☐ Amendment ☐

Term Start Date: _____ Term End Date: _____

☑ Approved by Council Date: **Pending**

Contract / Lease:

Amendment # _____ to the Original Contract / Lease # _____

Increase/(Decrease) Amount $ _____

Extend Termination Date to: _____

☐ Approved by Council Date: _____

Amendment is for:

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

3. **Procurement History:** _____

Purchasing Officer Review: _____ Date: _____

Comment & Exceptions: _____

4. **Funding Source:** **NMDOT (TPF)** **Org / Object:** **3309980/572960**

Budget Officer Approval: _____ Date: _____

Comment & Exceptions: _____

Staff Contact who completed this form: **Romella Glorioso-Moss** Phone # **X6623**

Email: **rsglorioso-moss@santafenm.gov**

To be recorded by City Clerk:

Clerk # _____

Date of Execution: _____

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

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

DEPARTMENT / DIVISION NAME	DATE
Public Works/Engineering - Roadway and Trails	

ITEM DESCRIPTION	ORG	OBJECT	PROJECT	INCREASE	DECREASE
EXPENDITURES				*{enter as positive #}*	*{enter as negative #}*
WIP Design	33099880	572960		760000	
REVENUES				*{enter as negative #}*	*{enter as positive #}*
NMDOT	33099880	490150		(760000)	
				$ -	$ -

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

Acceptance of $760,000 NMDOT grants to design Paseo del Sol Extension as per Tierra Contenta Master Plan Development.

{Complete section below if BAR results in a net change to ANY Fund}	
Fund(s) Affected	Fund Balance Increase/(Decrease)
TOTAL:	**0**

Romella Glorioso-Moss 10/22/2021
Prepared By *{print name}* Date

Division Director Signature *{optional}* Date

Regina Wheeler
Regina Wheeler (Nov 4, 2021 09:21 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 #:

Budget Officer Date

Finance Director *{≤ $5,000}* Date

City Manager *{≤ $60,000}* Date

City of Santa Fe New Mexico
Memorandum

Date: November 8, 2021

To: Governing Body

Via: Regina Wheeler, Public Works Department Director RW

From: Romella Glorioso-Moss, AICP, Public Works Sr. Project Administrator RGM

RE: Paseo del Sol Extension NMDOT TPF Resolution

EXECUTIVE SUMMARY:
Attached for your approval is a Resolution for City's participation in a Transportation Project Funds in the total amount of $800,000. These funds will be used for the engineering design of LP50022 Paseo del Sol Extension Project as per Tierra Contenta Master Development Plan. This federal funding is administered by NMDOT.

BACKGROUND:
The future development of Phase 3A of Tierra Contenta requires the extension of Paseo del Sol, linking Paseo del Sol East with Paseo del Sol West. For this reason, this roadway project is prioritized in City's three key planning capital infrastructure documents: 1) ranked no. 4 out of 62 projects in the City's FY2022-2026 Infrastructure Capital Improvement Plan; 2) ranked no. 21 out of 67 publicly-funded regional roadway projects in the Santa Fe Metropolitan Transportation Plan (2020-2040); and 3) Impact Fees Capital Improvements Plan 2021-2027.

In June 2021 the Public Works Department - Roadway and Trails Division, with support from the Santa Fe Metropolitan Planning Organization, applied for $800,000 in TPF funds to complete the engineering design of the Paseo del Sol extension as per Tierra Contenta Master Development Plan. The engineering design will include two travel lanes, bicycle lanes, ADA compliant sidewalks, lighting, and landscaping that promotes safe, accessible, and equitable multi-modal transportation infrastructure.

As described in the attached Resolution, the $800,000 funding for this project will be proportionally shared by NMDOT at 95%, or $760,000 and by the City at 5%, or $40,000. The Agreement terminates on June 30, 2025.

ACTION REQUESTED:
Approve the Resolution as presented.

ATTACHMENTS:
Resolution
Fiscal Impact Report

CITY OF SANTA FE, NEW MEXICO

RESOLUTION NO. 2021-__

INTRODUCED BY:

Councilor Christopher Rivera

Councilor Roman "Tiger" Abeyta

A RESOLUTION

APPROVING THE CITY OF SANTA FE'S PARTICIPATION IN A TRANSPORTATION FUND PROGRAM ADMINISTERED BY THE NEW MEXICO DEPARTMENT OF TRANSPORTATION FOR THE EXTENSION OF PASEO DEL SOL.

WHEREAS, the City of Santa Fe ("City") and the New Mexico Department of Transportation (NMDOT) intend to enter into a grant agreement under the Transportation Fund Program (TFP) for a local road project; and

WHEREAS, the total cost of the project is $800,000 to be funded in proportional share by the parties hereto as follows:

1. NMDOT's share shall be ninety-five percent or $760,000; and

2. The City's proportional matching share shall be five percent or $40,000; and

WHEREAS, the City shall pay all costs that exceed the total budgeted amount of $800,000, to the extent permitted under law.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF SANTA FE that Governing Body hereby approves a cooperative agreement for Project

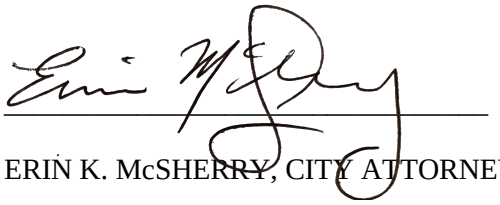
Control Number LP50022 with the NMDOT for the TPF Program for year 2022 for Paseo del Sol Extension to design the extension of Paseo del Sol roadway to includes two travel lanes, bicycle lanes, sidewalks, lighting, and landscaping within the boundaries of the City.

BE IT FURTHER RESOLVED that this project maintains priority status for the City.

BE IT FURTHER RESOLVED that the cooperative agreement terminates on June 30, 2025 and the City incorporates all the agreements, covenants, and understandings between the parties concerning the subject matter and that all such agreements, covenants, and understandings have been merged into the written agreement.

PASSED, APPROVED, and ADOPTED this ___ day of _____, 2021.

APPROVED AS TO FORM:



ERIN K. McSHERRY, CITY ATTORNEY

Legislation/2021/Resolutions/Paseo Del Sur Extension Design

FIR No. 10361

FISCAL IMPACT REPORT

General Information:

(Check) Bill: _____ Resolution: X

Short Title(s): Paseo del Sol Extension Project

Sponsor(s): Councilor Rivera and Councilor Abeyta

Reviewing Department(s): Public Works

Staff Completing FIR: Romella Glorioso-Moss Date: 10/25/2021 Phone: 955-6623

Reviewed by City Attorney: Date: Nov 8, 2021

Reviewed by Finance Director: Date: Nov 8, 2021

Summary:
This Resolution specifies the conditions for accepting Transportation Project Funds administered by the New Mexico Department of Transportation in the total amount of $800,000 for the preliminary and final design of the Paseo del Sol Extension. Funding is proportionately shared with NMDOT contributing 95% of the total cost ($760,000) and the City contributing 5% ($40,000). The funding agreement terminates on June 30, 2025.

Departments Affected:
Public Works

Consequences of Not Enacting Legislation:
The City will lose NMDOT's funding share of 95% or $760,000. In addition, NMDOT will decline any future application for project funding by the City.

Conflict, Duplication, Companionship, or Relationship to Other Legislation:
None identified.

Performance and Administrative Implications:
Roadway and Trails staff will need to administer the project including hiring design consultants, ensuring the project is completed within the funding agreement term, ensuring the project complies with the funding agreement, and submitting reimbursements to NMDOT.

Fiscal Implications:
The City's funding share is 5% or $40,000.

Fiscal Impact

_____ Check here if no fiscal impact

Expenditures

Expenditure Type	FYE 22	FYE ___	FYE ___	Require BAR (Y/N)	Recurring (R) or Non-recurring (NR)	Fund	3-Year Total Cost
Personnel and Benefits*	$	$	$				
Capital Outlay	$ 40,000	$	$	Y	NR	Road Impact Fees	$ 40,000
Contractual/ Professional Services	$	$	$				
Operating	$	$	$				$
Total:	$ 40,000	$	$				$ 40,000

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

Expenditure Narrative:

The City's 5% share of funding for the project is $40,000 which will be used to hire an engineering firm to design the reconstruction. This $40,000 will come from Road Impact Fees fund, which currently has a balance of $2.6M. The funds can only be used for roadway improvements.

Revenue

Revenue Type	FYE 22	FYE __	FYE __	Recurring (R) or Non-recurring (NR)	Fund
General Fund	$	$	$		
Special Revenue	$	$	$		
CIP	$	$	$		
Enterprise	$	$	$		
Internal Service	$	$	$		
Trust and Agency	$	$	$		
Federal	$	$	$		
Other (State)	$ 760,000	$	$	NR	NMDOT
Total	$ 760,000	$	$		

Revenue Narrative:

This revenue of $760,000 is NMDOT's 95% share of the funding to hire an engineering firm to do the preliminary and final design of extending Paseo del Sol as per Tierra Contenta Master Development Plan.

Signature:

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

City of Santa Fe, New Mexico
Memorandum

DATE: November 8, 2021

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

VIA: Jarel LaPan Hill, City Manager
Mary McCoy, Finance Department Director
Fran Dunaway, Chief Procurement Officer
Shannon Jones, Public Utilities Director SJ
Shirlene Sitton, Environmental Services Division Director SS

FROM: Lawrence Garcia, ESD Maintenance Manager LG

ITEM AND ISSUE:
Request for the Approval of the Purchase of Two Automated Side Load Collection Vehicles in the Total Amount of $879,068 for Residential Recycling and Waste Collection Services; Bruckner's Truck Sales, Inc. via the Cooperative Education Services; Lawrence Garcia, ESD Maintenance Manager, (lmgarcia@santafenm.gov).

BACKGROUND AND SUMMARY:
Solid Waste collection vehicles have a useful life of seven to ten years. The Environmental Services Division (ESD) has implemented a regular yearly truck replacement schedule, averaging six vehicles per year. ESD replaced four vehicles within FY21, three replacements and one addition.

ESD is requesting to replace two residential trucks, with the current high price of steel the truck cost came in much higher within FY22, and is showing signs of additional increases. Bruckner's was the only truck vendors that would provide price quotes for the collection vehicles via the Cooperative Education Services Contract with a build time of 300 days from receipt of a purchase order, and at a higher cost.

ESD requested and was approved within the FY22 budget to purchase two automated side load vehicles (ASL) for residential collections for a total budgeted amount of $747,278. Price for two collection vehicles came in at $879,068, a difference of $131,790 from what was budgeted. The built time for these vehicles is 300 days from receipt of purchase order and notice to proceed. The collection vehicles which are proposed for replacement are:

New Vehicle	Replacement/Addition	Replacement Unit	Purchase Cost
Peterbilt Model 320 CNG Auto Side Loader	Replacement	Asset #54613-a 2012 Peterbilt ASL	$440,034
Peterbilt Model 320 CNG Auto Side Loader	Replacement	Asset #54614-a 2012 Peterbilt ASL	$439,398
Total Amount			$879,068

Both the 2012 Peterbilt are ten years old and has surpassed its useful life and would need extensive work to make this truck operational. Both are being replaced with CNG vehicles, which is important in

meeting our goal of lowering carbon emissions by completing the transition of our fleet to cleaner burning fuel, and utilizing the new CNG slow-fill station completed one year ago.

PROCUREMENT METHOD:
The procurement method is from Bruckner's Truck Sales Inc. via the Cooperative Education Services, RFP 2020-31B, Contract #2020-31B-C106 (All Medium and Heavy Duty Trucks, Truck Bodies, Accessories, Parts and Services).

CONTRACT NUMBER:
Cooperative Education Services Munis vendor number 3553.

FUNDING SOURCE:
The Division budgeted and was approved for these vehicle replacements in FY 22 operating budget for a total amount of $747,278, the additional $131,790 is requested from fund 510 cash balance.
The funding source is:

Fund Name/Number: Environmental Services Division/510
Munis Org Name/Number: Residential Recycling/5100334 and Residential Collections/5100335
Munis Object Name/Number: Vehicles >1.5 /57100

Fund Name/Number: Environmental Services Division/510 Enterprise Cash Balance

ACTION REQUESTED:
Environmental Services respectfully requests your review and approval.

Attached Procurement Packet

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

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

DEPARTMENT / DIVISION NAME	DATE
Public Utilities/Environmental Services	11/8/2021

ITEM DESCRIPTION	ORG	OBJECT	PROJECT	INCREASE	DECREASE
EXPENDITURES				{enter as positive #}	{enter as negative #}
Vehicle > 1.5	5100334	571000	Purchase of Capital Assets	65,259	
Vehicle > 1.5	5100335	571000	Purchase of Capital Assets	66,531	
REVENUES				{enter as negative #}	{enter as positive #}
N/A					
				$ 131,790	$ -

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

Budget increase from fund 510 cash balance; Environmental Services Division Enterprise fund, for the purchase of two Residentail Collection Vehicles; Increase due to higher steel pricing.

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

Fund(s) Affected	Fund Balance Increase/(Decrease)
TOTAL:	0

Lawrence Garcia — 11/8/2021
Prepared By {print name} — Date

Shirlene Sitton (Oct 15, 2021 09:41 MDT) — 10/15/21
Division Director Signature {optional} — Date

Shannon Jones (Oct 15, 2021 11:49 MDT) — 10/15/21
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 (Oct 15, 2021 16:10 MDT) — 10/15/21
Budget Officer — Date

Finance Director {≤ $5,000} — Date

City Manager {≤ $60,000} — Date

CITY OF SANTA FE PROCUREMENT CHECKLIST

Contractor Name: Cooperative Education Services via Bruckner's Truck Sales, Inc.

Procurement Title: Medium and Heavy Trucks, Truck Bodies, Accessories, Parts and Service

Procurement Method: State Price Agreement ☐ *Cooperative* ☒ *Sole Source* ☐ *Other* ☐ _____

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

Department Requesting Public Utilities Staff Name Lawrence Garcia

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: _____

Lawrence Garcia Lawrence Garcia ESD Maintenance Manager 11/8/2021
Lawrence Garcia (Oct 13, 2021 14:44 MDT)
Department Rep Printed Name (attesting that all information included) Title Date

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

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

*

City of Santa Fe

Real Estate Summary of Contracts, Agreements, Amendments & Leases

Section to be completed by department

1. Munis Contract # _____

Contractor: **Cooperative Education Services via Bruckner's Truck Sales, Inc.**

Description: **Purchase of collection vehicles via a Cooperative Purchase Agreement #2020-31B-C106**

Contract ☐ Agreement ☑ Lease / Rent ☐ Amendment ☐

Term Start Date: **July 17, 2020** Term End Date: **July 17, 2024**

☑ Approved by Council Date: **To Be Determined**

Contract / Lease: **Contract Coopeartive Education Services #2020-31B-C106**

Amendment # **N/A** to the Original Contract / Lease # _____

Increase/(Decrease) Amount $ _____

Extend Termination Date to: _____

☐ Approved by Council Date: _____

Amendment is for: **N/A**

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

Cooperative Educational Service Contract Via Bruckner's Truck Sales, Inc. for the sale of Medium and heavy duty trucks, truck bodies, accessories, parts and services. Initial RFP 2020-31B was awarded on July 17, 2020; Contract addendum I was completed on March 1, 2021. Contract number is 2020-31B-C106-ALL

3. **Procurement History:** **Second year of a four year contract**

Purchasing Officer Review: _____ Date: _____

Comment & Exceptions: _____

4. **Funding Source:** **Fund 510 including portion from Cash Balan** **Org / Object:** **5100334,5100335,57100**

Budget Officer Approval: _____ Date: _____

Comment & Exceptions: _____

Staff Contact who completed this form: **Lawrence Garcia** Phone # **505-955-2241**

Email: **lmgarcia@santafenm.gov**

To be recorded by City Clerk:

Clerk # _____

Date of Execution: _____

Bruckner Truck Sales, Inc.
CES Quote

Date:	October 7, 2021

CUSTOMER INFORMATION			EQUIPMENT INFORMATION	
Name:	City of Santa Fe		Stock #:	Factory Order
Name:				
Address:	1142 Siler Rd.		Year:	2023
CSZ:	Santa Fe, NM 87507		Make:	AUTOCAR
Phone:	505-955-2241	Cell:	Model:	ACX64
Fax:		Contact:	VIN:	
Email:	lmgarcia@santafenm.gov		Salesperson:	Ryan Linson

EQUIPMENT SPECIFICATIONS			
Engine Make:	Cummins ISX12N	Wheelbase:	210"
Horsepower:	350HP	Frame:	High Strength
Engine Brake:	None	Interior Trim:	Cloth
Transmission:	Allison 4500 RDS 6spd	Wheels Front:	Steel
Front Axle:	20,000lb	Wheels Rear:	Steel
Rear Axle:	20,000lb	Tire Size:	
Rear Suspension:	Hendrickson HMX460	Tire Front:	315/80R22.5
Ratio:	5.38	Tire Rear:	11R22.5

Chassis Includes the Following Local Extras:

PDI - Delivery Prep

36CY AMREP ASL - As Specified by MCT
5yr/200K Mile Cummins Engine Warranty
5yr Unlimted Mile Allison Transmission Warranty
5yr Meritor Drive Axle Warranty
Color: White with Bue & Black Stripes
CES Contract - Bruckners 2020-31B-C106-ALL

			Each	Multiple Total
Trade-In Information:	Trade 1:	Trade 2:	$435,480.00	$435,480.00
Allowances:			-	
VIN:				
Year:				
Make:				
Model:				
Payoff:			-	
Quantity	1			
OTHER CHARGES:				
Federal Retail Excise Tax				
Excise Tax, Title, and License Fees (Estimated):				-
Purchase Coverage	Type:		4,554.00	4,554.00
Insurance	Type:			-
VRS Temp Tag and Doc Fees:				-
Cash Down Payment:				
TOTAL:			$440,034.00	$440,034.00

Dealer Signature: _____ Customer Signature: _____

Date: 10/7/2021 Date: _____

A documentary fee is not an official fee. A documentary fee is not required by law, but may be charged to buyers for handling documents and performing services relating to the closing of a sale. A documentary fee may not exceed $50 for a motor vehicle contract or a reasonable amount agreed to by the parties for a heavy commercial vehicle contract. This notice is required by law.

Bruckner Truck Sales, Inc.
CES Quote

Date:	October 7, 2021

CUSTOMER INFORMATION			EQUIPMENT INFORMATION	
Name:	City of Santa Fe		Stock #:	Factory Order
Name:				
Address:	1142 Siler Rd.		Year:	2023
CSZ:	Santa Fe, NM 87507		Make:	AUTOCAR
Phone:	505-955-2241	Cell:	Model:	ACX64
Fax:		Contact:	VIN:	
Email:	lmgarcia@santafenm.gov		Salesperson:	Ryan Linson

EQUIPMENT SPECIFICATIONS			
Engine Make:	Cummins ISX12N	Wheelbase:	210"
Horsepower:	350HP	Frame:	High Strength
Engine Brake:	None	Interior Trim:	Cloth
Transmission:	Allison 4500RDS 6spd	Wheels Front:	Steel
Front Axle:	20,000lb	Wheels Rear:	Steel
Rear Axle:	46,000lb	Tire Size:	
Rear Suspension:	Hendrickson HMX460	Tire Front:	315/80R22.5
Ratio:	5.38	Tire Rear:	11R22.5

Chassis Includes the Following Local Extras:

PDI - Delivery Prep

36CY AMREP ASL - As Specified by MCT
5yr/200K Mile Cummins Engine Warranty
5yr Unlimted Mile Allison Transmission Warranty
5yr Meritor Drive Axle Warranty
Color: P3305EW Blue
CES Contract - Bruckners 2020-31B-C106-ALL

		Each	Multiple Total
Trade-In Information:	Trade 1: Trade 2:	$434,844.00	$434,844.00
Allowances:		-	
VIN:			
Year:			
Make:			
Model:			
Payoff:		-	
Quantity	1		
OTHER CHARGES:			
Federal Retail Excise Tax			
Excise Tax, Title, and License Fees (Estimated):			-
Purchase Coverage	Type: _____	4,554.00	4,554.00
Insurance	Type: _____		-
VRS Temp Tag and Doc Fees:			-
Cash Down Payment:			
TOTAL:		$439,398.00	$439,398.00

Dealer Signature: _____ Customer Signature: _____

Date: 10/7/2021 Date: _____

A documentary fee is not an official fee. A documentary fee is not required by law, but may be charged to buyers for handling documents and performing services relating to the closing of a sale. A documentary fee may not exceed $50 for a motor vehicle contract or a reasonable amount agreed to by the parties for a heavy commercial vehicle contract. This notice is required by law.

MCT, Inc.
7451 Pan American Freeway NE
Albuquerque, NM 87109
Phone (505) 345-8651
Fax (505) 345-2597
E-Mail mctindustries@mct-ind.com

Sales Quote
22058
Quoted 9/15/2021

Bill To
BRUCKNER'S TRUCK SALES, INC.
8101 DAYTONA RD. NW
ALBUQUERQUE, NM 87121

Ship To
8101 DAYTONA RD NW
ALBUQUERQUE, NM 87121

Contact
RYAN LINSON

Purchase Order	Ship Via	FOB	Reference	Entered By	Sales rep	Terms
				TMM 9/15/2021		Net 30

Product	Description	Ordered	Price	Amount
AMREP HARDOX AUTOMATED SIDE LO		1.00	176,995.79	$176,995.79
5 YEAR WARRANTY ON BODY		1.00	29,750.00	$29,750.00

TRUCK DEALER TO DROP SHIP AND PICK UP
TRUCK FROM AMREP
120 DAYS AFTER RECEIPT OF CHASSIS

BODY MODEL: AMHASLTPO19
Furnish and Install:One (1) Amrep Hardox Automated Side Loader Full Push Out AMHASLTPO-19 on Your 3-Axle Cab & Chassis
See Standard Specification Sheet - 19' Elliptical Body Style - 36 Cubic Yard Capacity, Full Push-Out Ejection, PTO and Pump
Body Material:Packer
Hopper Sides:4mm Hardox AR450, 175,000 PSI Steel;Dual Blade Packer System, Low Packer Blade and Follower
Body Lower:1/8" Hardox AR450, 175,000 PSI Steel;Wear Plates:2/16" Hardox AR450, 175,000 PSI Steel
Body Upper:1/8" Hardox AR450, 175,000 PSI Steel;Lighting:Amber Beacon, Low on Rear Door, Packer Light
PTO:Transmission Mounted PTO and Gear Pump;3 Strobe Box Lights
Clamp:60-60-90 Gallon Container Capacity
Controls:Single Joystick In Cab RH Side, Rocker Switch Controls RH Driver Door
Paint:Single Color - Body to Match Cab, Unless Otherwise Noted;Color Code:Default
Additional Items:Broom & Shovel Mounted on Body Shell;Camera(s):Rear Camera Bracket *Only*
Fire Extinguisher 20lb on Tandem Fender
Body Service Hoist;Chassis Must be RH or Dual Drive with Amrep ASL Body

TOOL BOX, STEEL FRAME MOUNT 36"
PETERSON 4 LIGHT STROBE PACKAGE, 4 CORNERS
HYDRAULIC HOPPER COVER
SPILL KIT, 5 GAL BUCKET WITH MOUNTING BRACKET

80 DGE CNG ROOF MOUNTY FUEL SYSTEM
MIDWEST AUTO- LUBE SYSTEM
INSTALLATION OF DEALER SUPPLIED CAMERA
STANDARD 1 YEAR WARRANTY
RETURN INLINE OIL FILTER & 20 LB FIRE EXTINGUISHER
PAINT ONE COLOR SOLID BLUE INCLUDED IN PRICE

TRUCK DEALER IS RESPONSIBLE FOR CNG WARRANTY
ADD STRIPES TO BODY - NO EXTRA CHARGE

Sub-total $206,745.79

Quote Good for 30 Days

Total $206,745.79

DocuSign Envelope ID: D42E5709-0D6F-42B6-89A1-C6AB987E5A33

Your New Mexico Purchasing Cooperative

CES

Since 1979

Contract Award Letter

July 17, 2020

Evan Smith
Bruckner Truck Sales, Inc.
8101 Daytona Rd NW
Albuquerque, NM87121

Re: ACCEPTANCE of OFFER and CONTRACT AWARD for:

CES RFP 2020-31B for CES Contract # 2020-31B-C106-ALL - Medium and Heavy Duty Trucks, Truck Bodies, Accessories, Parts and Services

Dear Procurement Partner,

Cooperative Educational Services (CES) thanks you for responding to CES RFP 2020-31B solicitation. The responses have been reviewed and it is our pleasure to inform you that your company has been selected to provide the products and services indicated in your response.

The enclosed Acceptance of Offer and Contract Award, in conjunction with the Bid documents that you submitted with your proposal, constitute the Agreement between the parties. Please retain all documents for your records. The term of this Indefinite Quantity Contract Award as defined in NMSA 13-1-63; is for four (4) years from the date of this letter, Pursuant to 13-1-150 NMSA.

It is the vendor's responsibility to keep pricing up-to-date, throughout the life of the contract.

Sincerely Yours,

Cooperative Educational Services

David Chavez
Executive Director
Ofc: 505.344.5470
Fax: 505.344.9343

Your New Mexico Purchasing Cooperative
CES
Since 1979

Contract Addendum I
CES Contract # 2020-31B-C106-ALL
Medium and Heavy Duty Trucks, Truck Bodies, Accessories, Parts and Service

Date: March 1, 2021

To: BRUCKNER TRUCK CENTERS OF NM

RE: Amending the CES Terms and Conditions for Direct Purchase:

This Amendment I is issued to incorporate the CES Direct Purchase Program for those Vendors that are participating in the program. Therefore, Amendment I is to supplement, the following for the procurement file and with immediate effect, to the CES Terms and Conditions.

The following sections are Amended as follows:

Administrative Fee: CES' one point two five percent (1.25%) administrative fee must be included in the Offeror's net price for all services and deliverables (material, labor rates, reimbursable and other fees/charges) that are invoiced to CES' member. The CES administrative fee will be paid by the Offeror to CES once payment is received from the CES Member/Participating Entity according to the payment schedule established by CES, if awarded a contract. In the event that an alternative pricing method is approved by CES, then CES will determine the administrative fee amount and payment arrangements.

Ordering Process - Direct Purchase: For CES Direct Purchase the Member/Participating Entity makes their purchase order (PO) out to the Offeror and sends it to CES for contract compliance. CES will stamp the PO "Approved" and will forward the PO to the Offeror. This will serve as the "authorization" for the Offeror to proceed with the purchase. Offeror will invoice the Member/Participating Entity directly and collect payment. Offeror will remit to CES the CES administrative fee on a monthly basis according to the payment schedule established by CES.

Payment by CES – This section is deleted in its entirety.

Progress Payments: Under this solicitation (RFP), CES, its Members, and Participating Entities may allow progress payments to be made on goods and/or services received and accepted under the following conditions:

1. The Member or Participating Entity and the Offeror agree to the terms and milestones of the project for progress payments in writing prior to issuing a purchase order to the Offeror.
2. The quote or proposal in which the purchase order is based must clearly identify and describe the amount(s) to be paid and the date(s) payment(s) are to be made for the service or goods delivered.
3. The Member or Participating Entity will provide a method or criteria of verifying progress payment.
4. The Offeror must obtain from the Member or Participating Entity written documentation identifying work completed and goods received to be submitted with progress payment request.
5. Payments will be made after actual goods and/or services are verified, received and accepted by the Member or Participating Entity.
6. Payments will be made in full compliance with Member or Participating Entity local administrative procedures, policies and any/all other applicable state rules, regulations and statutes.
7. If the estimate of work/and or goods received are not approved and certified by the Member or Participating Entity can withhold an amount from the progress payment that reasonably represents the deficiency identified in the Offeror's payment request. In such cases, the Offeror agrees to hold CES harmless for any deficiency of payment.
8. Acceptance of final payment is a waiver of all claims, except unsettled claims previously made in writing.

Agreed effective the above date:

Cooperative Educational Services
OF NM

David Chavez
Printed Name

By: David Chavez

Title: Executive Director

BRUCKNER TRUCK CENTERS

Evan Smith
Printed Name

By: [signature]

Title: GM