



# AGENDA

REGULAR MEETING OF  
THE QUALITY OF LIFE  
COMMITTEE  
SEPTEMBER 21, 2022  
5:00 PM  
COUNCIL CHAMBERS  
CITY HALL  
201 LINCOLN AVENUE

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## PROCEDURES FOR QUALITY OF LIFE COMMITTEE MEETING

**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.

**Written Public Comment:** Members of the public may submit written comments on legislation by clicking on the comment bubble to the right of the meeting on the public portal at <https://santafe.primegov.com/public/portal> three hours prior to the start of the meeting.

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. **PRESENTATIONS**
  - a. Updates from the Santa Fe Food Policy Council Advocacy: How Individuals, Groups and Local Government Influence Change. (David Sundberg, Chair, Santa Fe Food Policy Council: [davidsundbergnm@gmail.com](mailto:davidsundbergnm@gmail.com); Pam Roy, Council Member, :



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pam@farmtotablenm.org; Maria Sanchez-Tucker, Community Services Director, metucker@santafenm.gov, 505-955-6638)

- b. New Mexico Food, Farm and Hunger Initiative Advocacy. Overview of the Statewide Hunger Initiative, Legislative Session 2022. (David Sundberg, Chair, Santa Fe Food Policy Council: [davidsundbergnm@gmail.com](mailto:davidsundbergnm@gmail.com); Kendal Chavez, Food and Hunger Coordinator with the Office of the Governor, [kendal.chavez2@state.nm.us](mailto:kendal.chavez2@state.nm.us); Maria Sanchez-Tucker, Community Services Director, [metucker@santafenm.gov](mailto:metucker@santafenm.gov), 505-955-6638)

## 6. ACTION ITEMS: CONSENT

- a. Approval of Minutes for the September 7, 2022 Quality of Life Committee Meeting

**Committee Review:**

Quality of Life Committee 9/21/2021

- b. Request for Approval of Amendment No. 3 to Children, Youth and Families Department (CYFD) Contract Agreement #21-690-3200-20846-3 to Amend ARTICLE III Limitation of Cost to Reflect an Update in Language and a FY23 and FY24 Decrease of Program Growth by (\$13,361) for FY23 and FY24 for a Total of \$94,553, for a New Contract Total of \$383,351; Amend to Add Item Y - Trauma Response and Services Training Mandated by KEVIN S., et al. v. BLALOCK, et al., No. 1:18-cv-00896 Settlement Agreement; and Amend Budget to Reflect a Decrease in Overall Contract Amount for Fiscal Years 23 & 24.; (CYFD Alternatives to Detention Grant) (Julie Sanchez, Youth and Family Services Division Director: [jjsanchez@santafenm.gov](mailto:jjsanchez@santafenm.gov), 505-955-6678).

**Committee Review:**

Finance Committee: 09/19/2022

Quality of Life Committee: 09/21/2022

Governing Body: 09/28/2022

- c. Request for Approval of an American Rescue Plan Act (ARPA) Recovery Funds Subrecipient Contract in the Total Amount of \$900,000 for Early



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Childcare Job Development Services with the Santa Fe Community College Early Childhood Education Center of Excellence (SFCC-ECCOE) Under the First Statutory Category; to Respond to the COVID-19 Public Health Emergency or its Negative Economic Impacts (Julie Sanchez, Youth and Family Services Division Director: [jjsanchez@santafenm.gov](mailto:jjsanchez@santafenm.gov); 505-955-6678)

**Committee Review:**

Finance Committee: 09/19/2022  
Quality of Life Committee: 09/19/2022  
Governing Body: 09/28/2022

- d. Request for Approval of General Services Contract with Travers Mechanical Using ITB # 22/43/B for Refrigeration and Mechanical Services for the Ice Arena at GCCC in the Amount of \$245,000 (Expiring on June 30, 2026). (Tom Miller, Ice Arena Manager: [temiller@santafenm.gov](mailto:temiller@santafenm.gov), (505-955-4031)

**Committee Review:**

Quality of Life: 09/21/22  
Finance Committee: 10/03/2022  
Governing Body: 10/12/2022

- e. Request for Approval of Amendment No. 2 to Item #20-0306 between the City and Immix/UKG Contract for Support Upgrading Current Kronos Environment to Workforce Dimensions Environment. (Manuel Gonzales, ITT Director: [mmgonzales@santafenm.gov](mailto:mmgonzales@santafenm.gov) 505-231-1749; Jaclyn Henley, ITT Project Manager: [jlhenley@santafenm.gov](mailto:jlhenley@santafenm.gov) 505- 629-5914 )

**Committee Review:**

Finance Committee: 09/19/2022  
Quality of Life Committee: 09/21/2022  
Governing Body: 09/28/2022

- f. Request for the Approval of North Central New Mexico Economic Development District, Non-Metro Area Agency on Aging (AAA) State Funding in the Total Amount of \$109,484 for the Nutrition Services Incentive Program (NSIP), Term Ending June 30, 2023; North Central



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New Mexico Economic Development District, Non-Metro Area Agency on Aging (AAA); (Gino Rinaldi, Senior Services Division Director: earinaldi@santafenm.gov, 505-955-4710).

**Committee Review:**

Finance Committee: 09/19/2022

Quality of Life Committee: 09/21/2022

Governing Body: 09/28/2022

7. **MATTERS FROM STAFF**
8. **MATTERS FROM THE COMMITTEE**
9. **MATTERS FROM THE CHAIR**
10. **NEXT MEETING: Wednesday, October 5, 2022**
11. **ADJOURN**

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

# Farm Bill and Child Nutrition Reauthorization Priorities For New Mexico

In New Mexico, farming and ranching comprise our fourth largest economic sector. However, much of this economy is supported by community-based farms and ranches, many of which are owned by Indigenous peoples and other peoples who have historically been marginalized in the USDA model.



As we struggle to find ways to support farmers and ranchers, and feed our communities, we realize that supporting equity in all policies is central to this work. We appreciate the opportunity to share our recommendations for how the Farm Bill and Child Nutrition Reauthorization can better reflect these needs.

**Ensure Equity in All Policies**

**End Hunger in Our Communities**

**Increase Access to Farm Programs**

**Meet the Climate Crisis Head On**

**Ensure Safety and Dignity for Workers**

**Protect Farmers and Consumers**

# HEALTHY FOOD, HEALTHY ECONOMY, HEALTHY FUTURE

The New Mexico Food & Agriculture Policy Council is a statewide body representing farmers and ranchers, food service providers, hunger relief organizations and others who are invested in creating effective and integrated food systems. Working at the local, state and federal levels, we look for solutions to complex problems which allow communities to work together to provide nutritious, local and culturally-appropriate foods and to support our food and farming economies. Equity is at the heart of our approach to this work.

## Policies That Work For Everyone

The 2023 Farm Bill must confront the hard reality of past discrimination in communities that have historically been marginalized. We advocate for using the lens of **ensuring equity in all policies** as a way to offset this marginalization. Farmers in communities of color, Tribal Nations, and immigrants add immeasurable knowledge and value to our food and farm systems, and are essential to their economic and environmental viability. Ultimately, equity and justice must be at the center of every facet of the next Farm Bill if we hope to repair historical and ongoing discrimination against these communities and eliminate inequities throughout the food and farm economy.

### What we can do:

1. Provide **equitable access** to Black, Indigenous and People of Color (BIPOC) to all USDA programs and resources.
2. Provide a **sliding scale approach** to USDA programs access such as decreasing required matches depending on applicants' budgets and provide "turnkey" grants (no match required) for program requests less than \$50,000 for one-year requests.
3. Urge **set asides for specific programs** especially in Tribal and underserved communities.
4. Make **funding available within the year** of an approved loan or grant contract.
5. **Increase USDA staff and technical assistance** to meet the needs of all people and communities.
6. Strengthen protocols used in the **determination of minority preferences**.

## Ending Hunger and Increasing Access to Nutritious Food

In New Mexico **one in four families and individuals do not know where their next meal may come from**. To create greater food security, the Farm Bill must protect and strengthen food assistance programs to ensure sufficient resources and access to nutritious food for all people

who struggle against hunger and food insecurity, particularly among elder populations. This measure will increase resilience and will give students a greater chance to succeed.

The Farm Bill must improve nutrition security through consistent and equitable access to healthy, safe, affordable foods essential to optimal health and well-being for all.

### What we can do:

1. **Double the Senior Farmers' Market Nutrition Program** and make it equitable for all states to apply based on low-income senior eligibility.
2. **Increase the GusNIP "Double Up Food Bucks" Program**, one of the best ways to address food security and provide economic opportunities for farmers. New Mexico has one of the most effective programs in the country.
3. **Double funding for the Healthy Food Financing Initiative** and prioritize underserved, rural and Tribal communities.
4. **Double funding for the Community Food Project Grant Program.**

### For the Child Nutrition Reauthorization legislation:

School Nutrition Programs can be a lifeline to food security and nutritious meals.

### We support:

1. **Universal School Meals:** We need higher reimbursement rates to cover all food, staff, and supplies while reducing administrative burdens
2. **Prioritizing culturally significant foods** for example alternatives to grains, such as starchy vegetables, corn, potatoes and tubers
3. **Allowing protein alternatives**, with increased funding.
4. **Making it easier to have milk/dairy alternatives.**
5. **Increasing funding for equipment.**
6. **Prioritizing locally grown preferences.**
7. **Nutrition and garden education** in the classroom and on the school grounds.

## Increase Access to Farmer Support Programs

### What we can do:

1. Increase funding for the **Local Agriculture Marketing Program** including the Farmers' Market Promotion Program, Local Food Promotion Program, Value Added Producer Grants and Regional Food Systems Program.
  2. Increase funding for **Socially Disadvantaged Farmers, Ranchers, and Veterans Program.**
  3. Increase funding for **Farming Opportunities and Technical Outreach.**
- 

## Meet the Climate Crisis Head On

The Farm Bill needs to **support solutions to climate change** by investing in research, technical assistance, and financial incentives to enable farmers and ranchers to implement farming practices and labor policies that give them the ability to be better able to steward the land, grow and raise food for their communities, and make a living. The goal is to reward farmers and ranchers who are implementing healthy soils and conservation practices, while also enabling others to make these shifts, and discouraging farming practices that are harmful to the environment and public health.

### What we can do:

1. **Double funding for conservation program** such as EQIP, Grasslands Conservation Program, Conservation Stewardship Program (CSP), and the Rural Energy Assistance Program (REAP).
2. **Minimize barriers** to these programs while providing more technical assistance.

## Ensure Safety and Dignity for Food and Farm Workers

The pandemic revealed the vulnerability of the 20 million food and farm workers who are declared essential to feeding our nation. The Farm Bill must invest substantially in the people who plant, harvest, process, transport, sell, and serve our food, ensuring safety and a living wage, along with access to health care, clean housing, and the right to organize, while providing safe working conditions. Also needed are new avenues to support the aspirations of farmworkers and people who wish to become farmers, and access to citizenship for workers which does not tie them to exploitative labor practices and systems.

## Protect Farmers and Consumers

The Farm Bill can and must build on our efforts to **promote competition** in the food and agriculture sectors. Anti-competitive practices harm small-scale farmers, workers, and consumers, and result in hollowing out rural communities and damaging our environment. The Farm Bill should commit to an anti-competitive food and agriculture marketplace, while increasing long term investments in local and regional food processing and distribution. In this way, the Farm Bill can level the playing field for farmers and offer more and better choices to consumers.

**The New Mexico Food & Agriculture Policy Council supports these priorities through our mission and values.**

The mission of the New Mexico Food & Agriculture Policy Council is to advocate for food systems that strengthen the food and farm economies in New Mexico, and encourage and advance keeping food grown, raised, and processed in New Mexico, through support, education, and policy. Through our work we strive to enhance the health and wellness of people and communities, and to sustain natural resources.

A just, equitable, and sustainable food system is one that provides physical, economic and community health; regenerates, protects, and respects natural resources and animals; and ensures that all people live with dignity and freedom from oppression and exploitation.

Contact: Pam Roy, Farm to Table and the NM Food & Agriculture Policy Council, 505-660-8403  
pam@farmtotablenm.org, <https://nmfoodpolicy.org/>

# NEW MEXICO Food & Agriculture POLICY COUNCIL

## Federal Child Nutrition Reauthorization Policies

**What is CNR?** The Child Nutrition Act Reauthorization ("CNR") authorizes federal school meal and child nutrition programs including the National School Lunch Program, the School Breakfast Program, and the Child and Adult Care Food Program, among others. The package of bills that make up CNR is meant to be reauthorized every five years, but the last CNR to pass was the Healthy, Hunger-Free Kids Act of 2010. That makes this upcoming CNR a **once-in-a-decade** opportunity to strengthen the programs that feed our nation's kids.

We believe that building the next CNR on **these four shared community values** will move us closer to a just, equitable food system that promotes the health of all school children and benefits producers, workers, educators, and their communities:

- **Economic justice:** Farm to School and ECE isn't just about food miles, it's about the livelihoods of the people who grew, harvested, processed, and prepared this food. We have the chance to build relationships between producers, workers, and consumers in ways that enrich communities and address economic racial injustices.
- **Environmental justice:** Education and the purchasing power of meal programs can shift our food system away from practices that contribute to climate change and pollute communities of color, and towards a more equitable, sustainable use of our soil and water.
- **Health impact:** Farm to school and ECE activities go beyond getting kids the calories they need, but also give them the tools for childhood nourishment and lifelong health. In addition to key nutrients provided by school meals, kids should be empowered with the knowledge and skills to build healthy habits later in life and increase their sovereignty in our food system. School nutrition professionals should receive the equipment, training, and operational support to increase whole-ingredient, scratch cooking of healthier and tasty meals.
- **Prioritizing racial equity:** Progress towards a just food system requires us to address the historic and ongoing structural racism embedded in our food system and to actively promote food sovereignty and racial equity in farm to school and ECE activities.

In order for these values to be realized, it is important that the most impacted stakeholders in our communities have a core role in the development and implementation of the next CNR.

**Priorities:**

- Recognize the right of every child to nourishing meals by supporting the **Universal School Meals Program Act of 2021** to make school breakfasts and lunches free for all children. [Learn more here.](#)
- Funding that will adequately fund the program and ensure equitable access to the successful USDA Farm to School Grant Program with the **Farm to School Act of 2021**.

**Increase immediate opportunities for local- and values-based procurement by supporting:**

- The **Kids Eat Local Act**, which would make it easier for schools to source local food for school meals. [Learn more here.](#)
- The **Local School Foods Expansion Act** which gives schools in 14 states more flexibility to purchase more fresh, local, unprocessed or minimally processed fruit and vegetables for school meals through expanding the successful Unprocessed Fruit and Vegetable Pilot Program.
- The **Small Farm to School Act**, which would create a federal pilot of local procurement incentives that give school meal programs more resources to shift to local producers.

**Expand scratch cooking training and infrastructure by supporting:**

- The **Scratch Cooked Meals for Students Act**, which would provide grant funding for culinary training and technical assistance, kitchen equipment, and infrastructure, prioritizing grants to school districts with a high percentage of students receiving free and reduced-price lunch and districts with labor agreements. [Learn more here.](#)
- The **School Food Modernization Act**, which would provide the funding needed for schools to upgrade their kitchen equipment. [Learn more here.](#)

**Support our littlest eaters and their early care and education (ECE) providers with improvements to the Child and Adult Care Food Program, including:**

- The **Early Childhood Nutrition Improvement Act**, which would streamline administrative burdens for providers, making it easier for them to participate in CACFP. [Learn more here.](#)
- The **Access to Healthy Food for Young Children Act**, which would increase access to CACFP for kids in day care homes and provide funding for an additional meal or snack on long days. [Learn more here.](#)

The **NM Food & Agriculture Policy Council** and **NM School Nutrition Association** appreciate your consideration of our request. The following New Mexico based organizations have endorsed the **Universal School Meal Program Act** request.\*

Diné Food Sovereignty Alliance  
Our Lady of Guadalupe  
UNM Community Engagement Center  
CPLC NM & HELP NM  
New Mexico Center on Law and Poverty  
New Mexico Coalition of Educational Leaders  
Agri-Cultura Network / La Cosecha CSA  
Santo Nino Carson Food Bank  
Food Bank of Eastern New Mexico  
San Martin de Porres Soup Kitchen  
Economic Council Helping Others (ECHO), Inc.  
Farmington Municipal Schools  
Hobbs Municipal Schools  
Raices del Saber Xinachtli Community School  
Victory Life Church  
The Food Depot  
El Camino Real Academy After School Program  
Boys & Girls Clubs of Santa Fe  
Cooking with Kids, Inc.  
Farm to Table  
Los Amigos del Parque  
Shiprock Traditional Farmers Cooperative  
Rio Grande ATP  
Shared Table Food Pantry  
Truchas Services Center, Inc.  
Gonzales Community School  
Bright Beginnings CDC  
Eastern Plains CAA, CACFP  
New Mexico Association of Food Banks  
New Mexico PTA

\*Ref: Center for Science in the Public Interest and FRAC

Find more information: Pam Roy, New Mexico Food & Agriculture Policy Council,  
[pam@farmtotabenm.org](mailto:pam@farmtotabenm.org), 505-660-8403, <https://nmfoodpolicy.org/>

# NEW MEXICO Food & Agriculture POLICY COUNCIL

Farm Bill Priorities—**Working Document as of September 10, 2022**

The New Mexico Food & Agriculture Policy Council is focused on the **2023 Farm Bill and Child Nutrition Reauthorization**. As we consider a wide range of Farm Bill priorities, we appreciate the opportunity to share and highlight how programs are working in New Mexico and some recommendations to consider for the upcoming Farm Bill that may provide more equitable access to programs by individuals, families, communities, farmers, ranchers, support organizations, and agencies.

We want to thank New Mexico's Congressional Delegation and staff for the opportunity to meet in person with our group of farmers and support organizations to share our Farm Bill and Child Nutrition program highlights from our specific experiences and to provide a few recommendations.

## **Overarching Recommendations:**

- 1) Provide equitable access to Black, Indigenous and People of Color (BIPOC) who may have been historically discriminated against or marginalized, to all USDA programs and resources;
- 2) Provide a sliding scale approach to USDA programs access such as decreasing required matches depending on applicants' budgets and provide "turnkey" grants (no match required) for program requests less than \$50,000 for one-year requests;
- 3) Urge set asides for specific programs NRCS & FSA (specific EQIP, CSP, & CRP Grasslands).
- 4) Make funding available within the year of an approved loan or grant contract; and,
- 5) Increase USDA staff and technical assistance to meet the needs of all people and communities;
- 6) Strengthen protocols used in the determination of minority preference.

## **Title II: Conservation Programs**

Farming and ranching in the arid Southwest has unique needs, therefore conservation programs are very important to New Mexico. The following programs are some of the conservation programs that are important to the NMFAPC.

- It is important to have a **Targeted EQIP program in NM** so New Mexico agricultural producers can compete with agricultural producers from other western states that have targeted EQIP. This may be a State NRCS and not a Farm Bill issue.

### **Recommendation:**

- We request USDA support for **Targeted EQUIP** programs for all states.
  - We request options to make the **Conservation Reserve Program (CRP)** more flexible. CRP pays producers to take some land out of production for conservation purposes. This program was designed for producers in the Midwest to keep land from being converted to crop lands because so much of the great plains had been converted and was some of the cause of the dust bowl in the 1920s. We request that **CRP** and **CRP Grasslands** be made available to the green belts on smaller acreages in NM, so these lands are not lost to development.
- **Conservation Technical Assistance:** NRCS, FSA, and NIFA enter into equity agreements with different organizations to help these agencies with Technical Assistance.

### **Recommendation:**

- We request agencies be given the resources to hire additional engineers to keep up with current workload and avoid project delays.
- **Grazing Lands Conservation Program:** Grasslands CRP works similarly to regular CRP except Producers don't have to take the land out of production.

### **Recommendation:**

- We request that **CRP** and **CRP Grasslands** be made available to the green belts on smaller acreages in NM, so these lands are not lost to development.
- **Agriculture Resilience Act:** Supports soil health programs, on-farm renewable energy, food loss and waste programs, pasture-based livestock, and farmer viability through **LAMP**.

### **Recommendation:**

- We support the Agriculture Resilience ACT!

## **Title IV: Nutrition**

- **Senior Farmers' Market Nutrition Program (FMNP):** New Mexico's seniors and farmers have benefited from the Senior FMNP for close to two decades. Federal fund for the Senior and WIC FMNP leverage important federal funding. In 2020, 60,000 low-income residents purchased NM produce with federal and state dollars totaling \$408,351 (ref: NM Farmers' Marketing Association)

### **Recommendations:**

- Make the program accessible to all states to apply based on low-income and food insecure senior populations.
  - Increase funding to \$50 million annually (currently at \$25 million)
  - Additional Admin Funds for the use of Full Time employees, as the vision for the NM Senior Program is to expand our program and have 1-2 staff in each region to assist Markets, farmers and participant with a large Outreach to all Senior Programs within their Region.
  - Advertising Funds: Facebook has been a great help, however we would love to provide our Markets, Farmers, Senior Program, Community Programs, advertisement information of the program.
  - Additional Funding for Seniors to issue more than the \$50.00 for the Season. NM WIC & Senior Program issues once per year starting In July and we have many food insecure Seniors that have been asking if there is any possibility of receiving funds on a monthly basis as it truly helps them fill their fridges and canning storages
- 
- **GusNIP – Nutrition Incentive Program:** The Gus Schumacher Nutrition Incentive Program (GusNIP) provides grants on a competitive basis to projects that help low-income consumers access and purchase fresh fruits and vegetables through “cash” incentives that increase their purchasing power at locations like farmers markets. GusNIP consists of subprograms for both traditional “SNAP incentives” projects and “Produce Prescription” projects. In New Mexico: from 2019 - 2021 the GusNIP SNAP Double Up Food Bucks Program exceeded \$5,097,000 in sales of NM grown and raised foods benefiting 87,389 NM participants and more that 950 farmers through sales at 67 NM farmers' markets and 33 grocery stores. The GusNIP funded (\$500,000 for 3 years) produce prescription program FreshRx began year 2 of a 3 year project on July 1 of this year, serving 400 patients at 20 FQHCs across the state. The goals of the program include increasing nutrition access for patients with chronic health conditions and patients experiencing food insecurity by providing them with vouchers for free New Mexico grown produce throughout the growing season. Recent expansion funds (an additional \$500,000 for 3 years) have enabled the

program to begin serving an additional 84 patients this season, with expansion to a total of 800 patients served across the state beginning July 1, 2023. Currently, 18 farmers' markets participate in FreshRx, as well as La Cosecha, Anthony Youth Farm and New Mexico Harvest CSAs. GusNIP expansion funds will enable several additional farmers' markets to begin participating in 2023. This year, the state of New Mexico allocated \$166,000 to provide produce bags and boxes to 210 households feeding children across 9 tribal communities, as well as at the Indian Health Services Hospital in Santa Fe and at La Clinica de Familia in Las Cruces. These produce bags are provided by 4 CSA farms and MoGro. Nationally, evaluation of GusNIP produce prescription programs has shown an increase in the daily intake of fruits and vegetables among participants, one of the key indicators of program success.

Ref: New Mexico Farmers' Marketing Association

### **Recommendations:**

- Increase funding for SNAP incentives and Produce Prescription projects to \$200 million/year or 1% of total SNAP spending.
  - Reduce match requirements for SNAP incentives and Produce Prescription grants to 10%.
  - More targeted technical assistance and outreach to BIPOC / socially disadvantaged communities and organizations.
  - Clarify program design, that all three redemption models (produce for produce, SNAP for produce, produce for SNAP) should be allowable.
  - Provide dedicated funding for existing, statewide programs
  - Allow states to embed incentive directly on state EBT/SNAP card
- 
- **Geographic Preference for School Meals – *Kids Eat Local bill language*:** Clarifies and simplifies to improve on past efforts to increase local purchasing. Sponsored by: Senator Brown & Congresswoman Pingree
  
  - **USDA Farm to School Grant Program (*In the Child Nutrition Reauthorization*):** Farm to School Grant Program, administered by the Food and Nutrition Service, awards competitive grants of up to \$500,000 to schools, school districts, state and local governments, Native American tribal organizations, non-profits, and agricultural producers. This funding supports a wide range of activities that support the healthy development of children in ECE settings and students across the nation, including activities that increase diet quality and improve long-term nutrition skills. Farm to school activities help to develop partnerships, establish supply chains, create new menu items, provide nutrition education, establish school gardens, encourage increased consumption of fruits and vegetables, and organize field trips to agricultural operations. Farm to school activities have also been

found to increase student and teacher meal participation. Since 2013, New Mexico organizations and agencies have received 21 grants totalling close to \$1.46 million benefitting Tribal, rural, and urban communities and regions across the state including Anthony, Taos, Penasco, Des Moines, Magdalena, Espanola, Bernalillo, Silver City, Albuquerque, Santa Fe, Corrales and statewide initiatives. These funds have leveraged more than \$3 million state, local, private funds.

**Recommendations:**

- Increase funding
  - Maintain turnkey granting of \$50,000 or less
  - Decrease 1 for 1 match to a sliding scale based on applicants' annual budget
- **Produce Procurement Reform - NEW:** Learning from the pandemic, there is an opportunity to create a new fresh produce emergency distribution program prioritizing local, small & mid-sized, BIPOC producers based on the successful contracts from the **Local Food Purchase Assistance Program**. New Mexico just received a **Local Food Procurement Agreement Project** (more than \$2 million over two years), an example of what a federal program like this can do to benefit New Mexico's food insecure individuals and communities. New Mexico provides market opportunities for farmers, a partnership between the NM Department of Agriculture, NM Farmers' Marketing Association and the NM Association of Food Banks.
  - **Healthy Food Financing Initiative:** As part of the NM Food Farm and Hunger Initiative, the State has appropriated funds that can match federal dollars to support healthy food retail and food hub operations to strengthen and expand New Mexico local food systems and farming economy.

**Recommendation:**

- Refer to **Overarching Recommendations** on page one.
- **Community Food Project Grant Program:** has been a long-standing program that has helped many NM communities get food system initiatives off the ground including food hubs and rural grocery initiatives, increasing food access initiative in rural and underserved urban areas, farm to school programs.

**Recommendation:**

- Refer to **Overarching Recommendations** on page one
- Double funding

- **Food Distribution Program on Indian Reservations**

**Recommendation:** Provide local preference option

## **Title VI: Rural Development**

- **Value Added Producer Grants (VAPG):** Currently and historically this has been a very important program for New Mexico producers and processors in New Mexico. Since 2001 farmers, ranchers and businesses have received more than \$3.33 million benefiting the beginning and expansion of meat and chile processing facilities, greenhouses for year round production, and chile and wine businesses as examples.

### **Recommendations:**

- Increase funding
  - Reduce match for producers earning less than \$250, 000, AGI to 25%
  - Create new lending and loan guarantee authority for producers to purchase equipment and construction of facilities for value added products
  - Allow for loans to non-rural projects if a primary purpose is to benefit rural communities/producers
  - Priority for projects benefiting underserved communities
  - Loan and guarantee appropriations authorization of \$10 million/year
- **Rural Energy Assistance Program (REAP):** used by farmers and ranchers in NM.
  - **USDA Rural Development Guarantee Loan Program:**

### **Recommendation:**

- Preference should be grants to communities in need (low-income demographic)
- **Emergency Loans:** Will farmers and individuals be taxed for their emergency funds?

## **Title X: Horticulture**

- **Local Agriculture Marketing Program (LAMP):** LAMP is an umbrella program that consists of the following separate subprograms: the Farmers Market and Local Food Promotion Program (FMPP and LFPP), the Value Added Producer Grant (VAPG) Program, and the Regional Food Systems Partnership (RFSP) Program.

### **Recommendations:**

#### **Farmers' Market Nutrition Program (FMPP)**

- Increase funding

- Create turnkey grants for common projects of less than \$100K with no match requirement.
- Provide AMS authority to award priority points to ensure geographic diversity.
- Reduce match to 10% for organizations with annual budgets of less than \$350K.
- Allow for a limited amount of grant funds to be used for equipment.

#### **Local Food Promotion Program (LFPP)**

- Increase funding
- Create turnkey grants for common projects of less than \$100K with no match requirement.
- Provide AMS authority to provide priority points to ensure geographic diversity.
- Reduce match to 10% for organizations with annual budgets of less than \$350,000.
- Allow for a limited amount of grant funds to be used for equipment.

**Value Added Producer Grants (VAPG):** Currently and historically this has been a very important program for New Mexico producers and processors in New Mexico. Since 2001 farmers, ranchers and businesses have received more than \$3.33 million benefiting the beginning and expansion of meat and chile processing facilities, greenhouses for year round production, and chile and wine businesses as examples.

- Increase funding
- Reduce match

**Regional Food Systems Projects (RFSP):** New Mexico is one of the first recipients of this new program at close to \$1 million in grant funding over 4 years matched by state and private funds.

- Increase funding.
- Ensure that regional food chain coordination is a recognized activity for all programs.

#### **Farm & Ranch Support Programs**

- **Farming Opportunities Training and Outreach Program (FOTO)**, established in Section 12301 of the 2018 Farm Bill. The FOTO program merged the authorities for the **Beginning Farmer and Ranchers Development Program (BFRDP)** and the **Outreach and Assistance for Socially Disadvantaged and Veteran Farmers and Ranchers (OASDFRVP)** also known as 2501. Farmers, ranchers and communities in NM have benefitted from this program since its inception. Current OASDFRVP grantees include the NM Acequia Association, Taose County Economic Development Corporation (TCEDC) and Hispanic American Institute.

#### **Recommendations:**

→ **Increase OASDFRVP funds to \$10 million.** The \$10 million funding request would meet increased needs for the effective combination of education and training models designed to support new farmers and historically underserved producers.

- **Prioritize programs that support veterans in farming and ranching.**

**Recommendations:**

- Continue to fund the military veterans agricultural liaison position, and make sure the person holding that title has that role as their sole responsibility and support staff.
- Continue to support the enhancing agricultural opportunities for military veterans (agvets) grant program.
- Support the National Agrability Project

- **USDA Meat & Poultry Inspection Readiness Grant:** Agriculture Secretary, Tom Vilsack, announced on Nov. 22, 2021 that the US Department of Agriculture (USDA) would invest \$32 million in grants to 167 meat and poultry slaughter and processing facilities to support expanded capacity and efficiency. New Mexico awardees include C4 Enterprises Inc., award \$198,000 near Tierra Amarilla and the MGS Enterprises Award Amount: \$200,000 in the Four Corners Area.

**Recommendations:**

- Requesting support for the **Small and Very Small Processor Support Programs and FSIS Fees for small scale meat processing such as the C4 Farms ranch** near Tierra Amarilla.
- Strengthen protocols in determining minority determination and priority of programs.
- Allow land lessees to qualify for USDA resources.

## **Title XII: Miscellaneous**

- **Urban Agriculture:**

**Recommendations:**

- Support the continuation of the **Urban Agriculture Grant Program.** Numerous NM organizations and farms have applied to this new grant program.

- **Agriculture Labor:** The Farm Bill can and must build on our efforts to promote competition in the food and agriculture sectors. Anti-competitive practices are harming small-scale farmers, workers, and consumers, and result in hollowing out rural communities and damaging our environment. The Farm Bill should commit to an anti-competitive food and agriculture marketplace, while increasing long term investments in local and regional food processing and distribution. In this way, the Farm Bill can level the playing field for farmers and offer more and better choices to consumers.

**Recommendations:**

We support agricultural labor standards including:

- Worker protection standards regarding wage rates, health, safety, and housing conditions to migrant, seasonal, minority and other farm laborers and for education of their children.
- A livable wage that includes all compensation (includes wages, housing...). This helps to modify the Fair Labor Standards Act (of 1938) and the National Relations Act (of 1936); We support the creation of a program, similar to the Fair Food Program, assuring a voluntary, worker-driven collaborative process between farms and workers on farms to deliver certifiable, market rewarded, and market-enforced payment of products to benefit wages, profits, and livelihoods of workers and farmers.
- We ask USDA to create incentives for participation in the program. Programs like these could allow workers to gain more market share towards wages, accountability of employers for fair standards and hearing grievances, and buy-in from food product end users to ensure that goods are not purchased at low-production cost and labor rates.

- **Forest Management**

**Recommendations:**

- We urge the implementation of the appropriate management of our forests;
- We support appropriate and full compensation for those harmed by loss of control of management practices, whether by mismanagement or “Act of God”.

**Child Nutrition Reauthorization – School Nutrition Programs:**

**Recommendations:**

- Support **Universal School Meals:** Need higher reimbursement rates to cover all food, staff, and supplies.
- Prioritize culturally significant foods – additional grain alternatives such as starchy vegetables like corn potatoes and tubers.
- Allow protein alternative’s and increase funding.
- Make it easier to have milk/dairy alternatives.

- Increase funding for equipment.
- Prioritize locally grown preferences.
- Reduce administrative burdens.
- Prioritize funding for food and farm experiential learning programs in school classrooms and outdoors.

The **New Mexico Food & Agriculture Policy Council** continues to research and refine its **Farm Bill and Child Nutrition Reauthorization recommendations for 2022 – 2023**. We look forward to continued education and unifying our priorities to share with **Senator Ben Ray Lujan** and the New Mexico Delegation for your support and leadership.

Recommendations and suggestions as of September 9, 2022

*Contact: Pam Roy, Farm to Table and the NM Food & Agriculture Policy Council, 505-660-8403, [pam@farmtotablenm.org](mailto:pam@farmtotablenm.org), <https://nmfoodpolicy.org/>*



# The Power of Advocacy

How Individuals, Groups and Local Government  
Influence Change

Locally, State-Wide, and Nationally

Pam Roy and David Sundberg

Santa Fe Food Policy Council



## Farm Bill and Child Nutrition Reauthorization Priorities For New Mexico

Ensure Equity in All Policies

End Hunger in Our Communities

Increase Access to Farm Programs

Meet the Climate Crisis Head On

Ensure Safety and Dignity for Workers

Protect Farmers and Consumers



# How Child Nutrition Reauthorization Policies Impact Santa Fe

- Universal School Meals
- Farm to School Programs and Funding
- Scratch Cooked Meals and Culturally Appropriate Foods
- Early Childhood Nutrition



# How Farm Bill Policies Impact Santa Fe

- Conservation Programs
- Nutrition Programs (SNAP, GusNIP, FMNP)
- Local Foods to Meals Programs
- Rural Development
- Economic Development
- Labor Force Development

# Local Impact Recommendations

- Public Procurement of Local Foods
- Shift Policies to Provide Intergenerational Meals
- Simplify Purchasing Agreements for Local Vendors
- Assess and Coordinate Government and Private Infrastructure for Food Storage and Transportation
- Support Agricultural and Food System Workforce Programs



# NEW MEXICO

FOOD, FARM, & HUNGER INITIATIVE

---

“Statewide Hunger Initiative”  
Legislative Session  
2022





# Mission & Goals

To cultivate a just food system that measurably reduces hunger, provides equitable access to nutritious, culturally meaningful foods, and honors the wisdom of our land-based tradition.



## Community Food Programs

Integrate and innovate NM's hunger relief and nutrition security efforts so resources can be optimized for health, equity and efficiency.



## New Mexico Grown

Invest in NM producers through the intentional and values-based expansion of NM's farm to institution programs.



## Supply Chain

Inventory and measurably improve food supply chain infrastructure to address gaps, weak linkages, and regulatory roadblocks



## Sustainability

Work with the legislature and other partners to create a sustainable financial model to support our mission

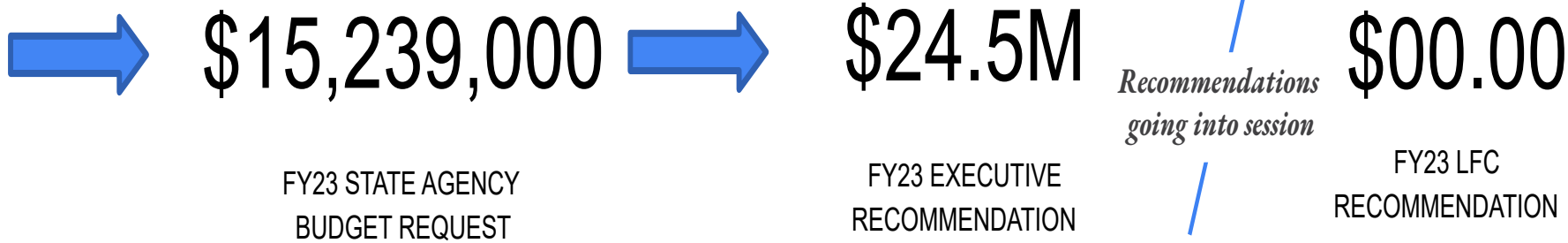




# State Budget as a Tool for Policy Change

*Eight of twelve* participating state agencies included funding requests for the statewide hunger initiative in their FY23 appropriation requests to the Department and Finance and Administration (DFA) and Legislative Finance Committee (LFC).

*Before Session*



*Session*





**HB 2**

**PUBLIC TRACKING DASHBOARD**

**DFA**

Funding included in HB 2, funds appropriated to DFA

Food Security Innovation Grant Program  
\$10 million

DFA develops data dashboard and shared metrics across agency collaborative, DFA allocates funds to 8 partner agencies, DFA tracks progress and manages impact data, DFA recommends system improvements across agency collaborative.

<b>ALTSB</b>	NM Grown for Seniors, Senior Food Boxes, Food Access FTE \$1.2 million
<b>DOH</b>	Mobile Technology for WIC and Senior Farmers Market Program, Fruit and Vegetable Prescription Program (FreshRx) \$608,400
<b>ECECD</b>	New Mexico Grown for Preschools, Summer and Afterschool Nutrition Support \$1.8 million
<b>EDD</b>	Healthy Food Financing Initiative, Food System Specialist FTE \$331,000
<b>HED</b>	College Food Insecurity Pilot \$1 million
<b>HSD</b>	Meal Gap Funding, Food Access FTE \$6 million
<b>NMDA</b>	Double Up Food Bucks, Healthy Soil Program, Agricultural Workforce Development Act, Approved Supplied Program, 2 FTEs for expansion projects, Farm to Foodbank/Gleaning Program \$2.6 million
<b>PED</b>	New Mexico Grown for School Meals \$800,000



# NEW MEXICO FOOD, FARM, AND HUNGER INITIATIVE

**\$24.7M  
PASSED**

## ESTIMATED IMPACT HIGHLIGHTS

**3,025**

more seniors receiving  
food boxes  
(84 meals each)

**1,960**

households with  
increased access to  
fresh produce through  
the Fruit and Vegetable  
Prescription Program

**9,975**

additional children will  
be served in new or  
expanded summer and  
afterschool nutrition  
programs

**17,500**

food insecure college  
students served

**150,340**

additional New  
Mexicans receiving  
food bank assistance

**260,000**

children and seniors  
can eat locally through  
NM Grown

**219**

additional farmers  
trained and approved  
to sell to schools,  
senior centers, pre-  
schools, and grocery  
stores

**64**

additional healthy soil  
projects





Funding to groups in  
City of Santa Fe  
\$1,654,664

Food Security  
Innovation Grant  
Program \$10M

Funding to groups  
in Santa Fe  
County \$125,443

<b>YouthWorks</b>	\$219,403 for building out a kitchen, training and staffing
<b>Food Depot</b>	\$1,386,301 for a Food Mobile to take fresh, nutritious food into communities
<b>Santa Fe Indian School</b>	\$48,960 for food distribution to students and their families
<b>Reunity Resources</b>	\$78,182 for building a processing kitchen to preserve fresh foods in harvest season
<b>Barrios Unidos</b>	\$47,261 for building a high tunnel and buying equipment for growing in Chimayo





THANK YOU



# NEW MEXICO Food & Agriculture POLICY COUNCIL

## Federal Child Nutrition Reauthorization Policies

**What is CNR?** The Child Nutrition Act Reauthorization ("CNR") authorizes federal school meal and child nutrition programs including the National School Lunch Program, the School Breakfast Program, and the Child and Adult Care Food Program, among others. The package of bills that make up CNR is meant to be reauthorized every five years, but the last CNR to pass was the Healthy, Hunger-Free Kids Act of 2010. That makes this upcoming CNR a **once-in-a-decade** opportunity to strengthen the programs that feed our nation's kids.

We believe that building the next CNR on **these four shared community values** will move us closer to a just, equitable food system that promotes the health of all school children and benefits producers, workers, educators, and their communities:

- **Economic justice:** Farm to School and ECE isn't just about food miles, it's about the livelihoods of the people who grew, harvested, processed, and prepared this food. We have the chance to build relationships between producers, workers, and consumers in ways that enrich communities and address economic racial injustices.
- **Environmental justice:** Education and the purchasing power of meal programs can shift our food system away from practices that contribute to climate change and pollute communities of color, and towards a more equitable, sustainable use of our soil and water.
- **Health impact:** Farm to school and ECE activities go beyond getting kids the calories they need, but also give them the tools for childhood nourishment and lifelong health. In addition to key nutrients provided by school meals, kids should be empowered with the knowledge and skills to build healthy habits later in life and increase their sovereignty in our food system. School nutrition professionals should receive the equipment, training, and operational support to increase whole-ingredient, scratch cooking of healthier and tasty meals.
- **Prioritizing racial equity:** Progress towards a just food system requires us to address the historic and ongoing structural racism embedded in our food system and to actively promote food sovereignty and racial equity in farm to school and ECE activities.

In order for these values to be realized, it is important that the most impacted stakeholders in our communities have a core role in the development and implementation of the next CNR.

**Priorities:**

- Recognize the right of every child to nourishing meals by supporting the **Universal School Meals Program Act of 2021** to make school breakfasts and lunches free for all children. [Learn more here.](#)
- Funding that will adequately fund the program and ensure equitable access to the successful USDA Farm to School Grant Program with the **Farm to School Act of 2021**.

**Increase immediate opportunities for local- and values-based procurement by supporting:**

- The **Kids Eat Local Act**, which would make it easier for schools to source local food for school meals. [Learn more here.](#)
- The **Local School Foods Expansion Act** which gives schools in 14 states more flexibility to purchase more fresh, local, unprocessed or minimally processed fruit and vegetables for school meals through expanding the successful Unprocessed Fruit and Vegetable Pilot Program.
- The **Small Farm to School Act**, which would create a federal pilot of local procurement incentives that give school meal programs more resources to shift to local producers.

**Expand scratch cooking training and infrastructure by supporting:**

- The **Scratch Cooked Meals for Students Act**, which would provide grant funding for culinary training and technical assistance, kitchen equipment, and infrastructure, prioritizing grants to school districts with a high percentage of students receiving free and reduced-price lunch and districts with labor agreements. [Learn more here.](#)
- The **School Food Modernization Act**, which would provide the funding needed for schools to upgrade their kitchen equipment. [Learn more here.](#)

**Support our littlest eaters and their early care and education (ECE) providers with improvements to the Child and Adult Care Food Program, including:**

- The **Early Childhood Nutrition Improvement Act**, which would streamline administrative burdens for providers, making it easier for them to participate in CACFP. [Learn more here.](#)
- The **Access to Healthy Food for Young Children Act**, which would increase access to CACFP for kids in day care homes and provide funding for an additional meal or snack on long days. [Learn more here.](#)

The **NM Food & Agriculture Policy Council** and **NM School Nutrition Association** appreciate your consideration of our request. The following New Mexico based organizations have endorsed the **Universal School Meal Program Act** request.\*

Diné Food Sovereignty Alliance  
Our Lady of Guadalupe  
UNM Community Engagement Center  
CPLC NM & HELP NM  
New Mexico Center on Law and Poverty  
New Mexico Coalition of Educational Leaders  
Agri-Cultura Network / La Cosecha CSA  
Santo Nino Carson Food Bank  
Food Bank of Eastern New Mexico  
San Martin de Porres Soup Kitchen  
Economic Council Helping Others (ECHO), Inc.  
Farmington Municipal Schools  
Hobbs Municipal Schools  
Raices del Saber Xinachtli Community School  
Victory Life Church  
The Food Depot  
El Camino Real Academy After School Program  
Boys & Girls Clubs of Santa Fe  
Cooking with Kids, Inc.  
Farm to Table  
Los Amigos del Parque  
Shiprock Traditional Farmers Cooperative  
Rio Grande ATP  
Shared Table Food Pantry  
Truchas Services Center, Inc.  
Gonzales Community School  
Bright Beginnings CDC  
Eastern Plains CAA, CACFP  
New Mexico Association of Food Banks  
New Mexico PTA

\*Ref: Center for Science in the Public Interest and FRAC

Find more information: Pam Roy, New Mexico Food & Agriculture Policy Council,  
[pam@farmtotabenm.org](mailto:pam@farmtotabenm.org), 505-660-8403, <https://nmfoodpolicy.org/>



# MINUTES

REGULAR MEETING OF  
THE QUALITY OF LIFE  
COMMITTEE  
SEPTEMBER 07, 2022  
5:00 PM  
VIRTUAL MEETING

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## 1. CALL TO ORDER

The meeting of the Quality of Life Committee was called to order by Councilor Cassutt, Chair, at 5:00 pm, on Wednesday, September 7, 2022, at City Hall in the City Council Chambers.

## 2. ROLL CALL

### **Members Present:**

Councilor Amanda Chavez  
Councilor Lee Garcia  
Councilor Michael Garcia  
Councilor Jamie Cassutt  
Councilor Renee Villarreal

### **Members Excused:**

None

### **Others Attending:**

Loretta Olguin, Clerk

## 3. APPROVAL OF AGENDA

**MOTION:** Councilor Garcia moved, seconded by Councilor Villarreal, to approve the as presented.

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

**For:** Councilor Chavez, Councilor Garcia, Councilor Cassutt, Councilor Villarreal

**Against:** None

**Abstain:** None

## 4. APPROVAL OF CONSENT AGENDA



# MINUTES

REGULAR MEETING OF  
THE QUALITY OF LIFE  
COMMITTEE  
SEPTEMBER 07, 2022  
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VIRTUAL MEETING

---

There were no items pulled from the Consent Agenda for discussion.

**MOTION:** Councilor Garcia moved, seconded by Councilor Chavez, to approve the as presented.

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

**For:** Councilor Chavez, Councilor Garcia, Councilor Cassutt, Councilor Villarreal

**Against:** None

**Abstain:** None

## 5. APPROVAL OF MINUTES

- a. Approval of Minutes for the August 17, 2022 Quality of Life Committee Meeting

**MOTION:** Councilor Chavez moved, seconded by Councilor Garcia, to approve the minutes as presented.

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

**For:** Councilor Chavez, Councilor Garcia, Councilor Cassutt, Councilor Villarreal

**Against:** None

**Abstain:** None

## 6. PRESENTATION

- a. Community Services Update – Highlights and Updates from the Community Services Department (Maria Sanchez-Tucker, Director, Community Services Department: [metucker@santafenm.gov](mailto:metucker@santafenm.gov), 505-955-6638; Gino Rinaldi, Division Director, Senior Services: [earinaldi@santafenm.gov](mailto:earinaldi@santafenm.gov), 505-955-4710; Margaret Neill,



# MINUTES

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COMMITTEE  
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VIRTUAL MEETING

Division Director, Library Services: mmneill@santafenm.gov, 505-955-6788; Brian Stinett, Recreation Division Director, bjstinnett@santafenm.gov, 505-479-1470)

A presentation was given including highlights and updates from the Community Services Department.

- b. Presentation of the Overview and Status of the General Plan and Land Development Code Updates (Heather Lamboy, Assistant Director of Planning & Land Use: hllamboy@santafenm.gov, 505-955-6598; Daniel J. Alvarado, Planning Senior: djalvarado@santafenm.gov, 505-955-6670)

A presentation was given including an overview and status of the General Plan and Land Development Code Updates.

## 7. ACTION ITEMS: CONSENT

- a. Request for Approval of the 2021-22 Consolidated Annual Performance Evaluation Report (CAPER) for Submittal to the United States Department of Housing and Urban Development (HUD) as a Condition of the City's Community Development Block Grant (CDBG). (Cody Minnich, Office of Affordable Housing, Housing Grant Manager: cjminnich@santafenm.gov, 505-316-6574).

### **Committee Review:**

Finance Committee: 9/06/2022

Quality of Life Committee: 9/07/2022

Governing Body Public Hearing : 9/14/2022

**MOTION:** Councilor Garcia moved, seconded by Councilor Chavez, to approve the action plan as presented.

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

**For:** Councilor Chavez, Councilor Garcia, Councilor Cassutt, Councilor Villarreal

**Against:** None

**Abstain:** None



# MINUTES

REGULAR MEETING OF  
THE QUALITY OF LIFE  
COMMITTEE  
SEPTEMBER 07, 2022  
5:00 PM  
VIRTUAL MEETING

Approved on consent.

- b. Request for Approval of FY2023 Budget Adjustment Resolution (BAR) in the Amount of \$1,897,084 for the Community Development Block Grant (CDBG) Budget, in Order for the City's Internal Budget to Match what is Available in the City's Federal Line of Credit. (Alexandra Ladd, Director, Office of Affordable Housing, [agladd@santafenm.gov](mailto:agladd@santafenm.gov); Cody Minnich, Housing Grant Manager, Office of Affordable Housing, [cjminnich@santafenm.gov](mailto:cjminnich@santafenm.gov))

**Committee Review:**

Finance Committee: 09/06/2022

Quality of Life Committee: 09/07/2022

Governing Body: 09/14/2022

**MOTION:** Councilor Garcia moved, seconded by Councilor Chavez, to approve the budget adjustment resolution (BAR) as presented.

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

**For:** Councilor Chavez, Councilor Garcia, Councilor Cassutt, Councilor Villarreal

**Against:** None

**Abstain:** None

Approved on consent.

- c. Request for the Approval of Agreement with North Central New Mexico Economic Development District, Non-Metro Area Agency on Aging (AAA) in the Total Amount of \$33,937 to Fund the Senior Employment Program (SEP), Term Ending June 30, 2023; North Central New Mexico Economic Development District, Non-Metro Area Agency on Aging (AAA). (Gino Rinaldi, [earinaldi@santafenm.gov](mailto:earinaldi@santafenm.gov), 505-955-4710).

**Committee Review:**

Finance Committee: 09/06/2022



# MINUTES

REGULAR MEETING OF  
THE QUALITY OF LIFE  
COMMITTEE  
SEPTEMBER 07, 2022  
5:00 PM  
VIRTUAL MEETING

Quality of Life Committee: 09/07/2022  
Governing Body: 09/14/2022

**MOTION:** Councilor Garcia moved, seconded by Councilor Chavez, to approve the contract as presented.

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

**For:** Councilor Chavez, Councilor Garcia, Councilor Cassutt, Councilor Villarreal

**Against:** None

**Abstain:** None

Approved on consent.

d. **CONSIDERATION OF RESOLUTION NO. 2022-\_\_.** (Councilor Michael Garcia)

A Resolution Accepting a Local Government Road Fund Grant Administered by the New Mexico Department of Transportation for the Planning, Design, Construction, Pavement Rehabilitation, and Improvements to Buckman Road, Identified as Control #L500489. (Romella Glorioso-Moss, Projects Administrator: rsglorioso-moss@santafenm.gov, 955-6623)

**Committee Review:**

Introduced: 08/31/22

Quality of Life Committee: 09/7/22

Public Works and Utilities Committee: 09/12/22

Finance Committee: 09/19/22

Governing Body: 09/28/22

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

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

**For:** Councilor Chavez, Councilor Garcia, Councilor Cassutt,



# MINUTES

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THE QUALITY OF LIFE  
COMMITTEE  
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5:00 PM  
VIRTUAL MEETING

Councilor Villarreal

**Against:** None

**Abstain:** None

Approved on consent.

- e. CONSIDERATION OF RESOLUTION NO. 2022-\_\_\_. (Mayor Webber, Councilor Cassutt, Councilor Chavez)  
A Resolution Affirming the Partnership of Santa Fe County and the City of Santa Fe to Develop Strategies and Actions to End Homelessness. (Kyra Ochoa, Community Health and Safety Director: krochoa@santafenm.gov, 955-6603)

**Committee Review:**

Governing Body (Introduced): 08/31/2022

Quality of Life Committee: 09/07/2022

Finance Committee: 09/19/2022

Governing Body: 09/28/2022

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

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

**For:** Councilor Chavez, Councilor Garcia, Councilor Cassutt, Councilor Villarreal

**Against:** None

**Abstain:** None

8. **MATTERS FROM STAFF**

9. **MATTERS FROM THE COMMITTEE**



# MINUTES

REGULAR MEETING OF  
THE QUALITY OF LIFE  
COMMITTEE  
SEPTEMBER 07, 2022  
5:00 PM  
VIRTUAL MEETING

---

10. **MATTERS FROM THE CHAIR**
11. **NEXT MEETING: September 21 2022**
12. **ADJOURN**

There being no further business before the Committee, the meeting adjourned at 7:06 pm.

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Liaison

---

Chair



# City of Santa Fe, New Mexico

## Memorandum



**DATE:** June 22, 2022

**TO:** Mayor Alan M. Webber and City Council  
Quality of Life and Finance Committee

**VIA:** Alexis Lotero, Acting Finance Department Director  
Fran Dunaway, Chief Procurement Officer  
Kyra Ochoa, Community Health and Safety Department Director *KO*  
KO

**FROM:** Julie Sanchez, Youth and Family Services Division Director *jjs*

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### ITEM AND ISSUE:

Request for approval of Amendment No. 3 to Children, Youth and Families Department (CYFD) Contract Agreement #21-690-3200-20846-3 to Amend ARTICLE III Limitation of Cost to reflect an update in language and a FY23 and FY24 decrease of Thirteen Thousand Three Hundred Sixty-One Dollars and Zero Cents (\$13,361.00) each for a new FY23 and FY24 total of Ninety-Four Thousand Five Hundred Fifty-Three Dollars and Zero Cents (\$94,553.00), for a new contract total of Three Hundred Eighty-Three Thousand Three Hundred Fifty-One Dollars and Zero Cents (\$383,351.00); Amend Attachment 1 to add Item Y - Trauma Response and Services Training mandated by KEVIN S., et al. v. BLALOCK, et al., No. 1:18-cv-00896 Settlement Agreement; and Amend Attachment 2 - Budget to reflect increase in compensation for Item A. Increase in overall contract amount for Fiscal Years 23 & 24.; (CYFD Alternatives to Detention Grant) (Julie Sanchez, [jjsanchez@santafenm.gov](mailto:jjsanchez@santafenm.gov), 505-955-6678).

### BACKGROUND AND SUMMARY:

The Children and Youth Commission (CYC) is one of the City of Santa Fe's oldest standing committees, which was formed by Resolution and then Ordinance to serve in an advisory capacity to the City Council concerning policy recommendations related to child development and youth issues. In fall of 2019 the Santa Fe Regional Juvenile Justice Board merged with the CYC. The Commission is one of twenty continuum-sites statewide that focus on juvenile justice issues. The Commission is tasked yearly with grant management, program planning, service integration, data analysis and program evaluation on alternative to detention programs that serve youth at risk or youth offenders. The Commission collaborates with the City of Santa Fe Youth and Family Services for support and to enhance ongoing and upcoming projects.

On May 30<sup>th</sup>, CYFD requested all subgrantees review and sign Amendment No. 3 to CYFD contract #21-690-3200-20846-3, City agreement #21-20846.

Amendment to **ARTICLE III Limitation of Cost** to read as follows:

The Agency shall pay to the Contractor for services satisfactorily performed as outlined in the budget which is made a part of this Agreement as Attachment 2 - Budget. The total amount of monies payable to the Contractor under this Agreement shall not exceed **Three Hundred Eighty-Three Thousand Three Hundred Fifty-One Dollars and Zero Cents (\$383,351.00)**.

Amendment to **Scope of Work** to add the following:

Y. Receive and demonstrate through competency assessments and self-reporting that Contractor, its staff, employees, and other prospective subcontractors have received adequate training as identified in Attachment 3, Trauma-Responsive and Coaching Training Plan in accordance with KEVIN S., et al. v. BLALOCK, et al., No. 1:18-cv-00896.

**All other articles of this contract and previous amendments remain the same.**

To fulfill the conditions of the state grant the Youth and Family Services Division will coordinate services through the Children and Youth Commission which is outlined in the CYFD scope of work.

**PROCUREMENT METHOD:**

N/A the City of Santa Fe Community Services Department applied under a CYFD approved state healthcare exemption.

**MUNIS CONTRACT NUMBER:** 3202736

**PROJECT LEDGER NUMBER:** ALTERNDET

**FUNDING SOURCE:**

The funding source is:

**Fund Name/Number:** 223/ Juvenile Justice Fund

**Munis Org Name/Number:** 2230123/Juvenile Justice Programs

**Munis Obj Name/Number(s):** 510340/Other Consulting; 560550/In State Transportation;  
562975/Stipends

**ACTION REQUESTED:**

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

**Signature:** Kyra Ochoa  
Kyra Ochoa (Jun 22, 2022 14:26 MDT)

**Email:** krochoa@santafenm.gov



## CITY OF SANTA FE PROCUREMENT CHECKLIST

Contractor Name: State of New Mexico Children, Youth & Families Department (CYFD)

Procurement Title: Amendment #3 to CYFD Contract Agreement #21-690-3200-20846

Procurement Method: State Price Agreement  Cooperative  Sole Source  Other

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

Department Requesting Community Health & Safety Staff Name Julie Sanchez

### Procurement Requirements:

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

### REQUIRED DOCUMENTS FOR APPROVAL BY PURCHASING\*

YES N/A

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

Melissa Perea Contracts Administrator 06/24/2022

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

 Contracts Supervisor Aug 10, 2022

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 # 3202736

Contractor: State of New Mexico - Children, Youth and Families Department (CYFD)

Description: Amendment No. 3 to CYFD Contract Agreement 21-690-3200-20846-3 to amend Article III Limitation of Cost to reflect an update in language and a FY23 and FY24 decrease of \$13,361.00 each for a new FY23 and FY24

Contract  Agreement  Lease / Rent  Amendment

Term Start Date: When signed Term End Date: 06/30/2025

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

### Contract / Lease: Professional Service Agreement

Amendment # 3 to the Original Contract / Lease # 21-20846

Increase/(Decrease) Amount \$ \$13,361.00

Extend Termination Date to: NA

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

### Amendment is for: Scope of Work and Budget

2. **HISTORY of Contract, Amendments & Lease / Rent - Please Elaborate** (option: attach spreadsheet if multiple amendments)  
**N//aAmendment 1: Per CYFD Request: Scope of Service and Budge Language Update to Reflect the use of a new CYFD mandated Database - No change to contract funding allocations.**

**Amendment 2: Amend Article 1 Term of Agreement and Amend Article III Limitation of Cost.**

3. Procurement History: NA

[Signature] Aug 10, 2022  
Purchasing Officer Review: \_\_\_\_\_ Date: \_\_\_\_\_  
Comment & Exceptions: State grant received from CYFD Decrease in overall contract amount

4. Funding Source: 223/Juvenile Justice Proarams

Andy Hopkins Aug 10, 2022  
Andy Hopkins (Aug 10, 2022 12:19 MDT) Org / Object: 2230123:510340-560550-562975  
Budget Officer Approval: \_\_\_\_\_ Date: \_\_\_\_\_  
Comment & Exceptions: \_\_\_\_\_

Staff Contact who completed this form: Melissa Perea Phone # (505) 955-6826

Email: maperea@santafenm.gov

To be recorded by City Clerk:

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

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

STATE OF NEW MEXICO  
CHILDREN, YOUTH AND FAMILIES DEPARTMENT  
Continuum of Graduated Sanctions  
Agreement # 21-690-3200-20846  
Amendment Three (3)

THIS AGREEMENT is made and entered into by and between the State of New Mexico, **CHILDREN, YOUTH AND FAMILIES DEPARTMENT**, hereinafter referred to as the “Agency,” and **City of Santa Fe** hereinafter referred to as the “Contractor,” and is effective as of the date set forth below upon which it is executed by the Agency.

**PURPOSE OF AMENDMENT:**

1. Amend **ARTICLE III Limitation of Cost** to reflect an update in language and a FY23 and FY24 decrease of **Thirteen Thousand Three Hundred Sixty-One Dollars and Zero Cents (\$13,361.00)** each for a new FY23 and FY24 total of **Ninety-Four Thousand Five Hundred Fifty-Three Dollars and Zero Cents (\$94,553.00)**, for a new contract total of **Three Hundred Eighty-Three Thousand Three Hundred Fifty-One Dollars and Zero Cents (\$383,351.00)**.
2. Amend **Attachment 1** to add Item Y - Trauma Response and Services Training mandated by *KEVIN S., et al. v. BLALOCK, et al., No. 1:18-cv-00896 Settlement Agreement*.
3. Amend **Attachment 2 – Budget** to reflect increase in compensation for Item A. decrease in overall contract amount for Fiscal Years 23 & 24.

**IT IS MUTALLY AGREED BETWEEN THE PARTIES THAT THE FOLLOWING PROVISIONS OF THE ABOVE-REFERENCE CONTRACT ARE AMENDED AS FOLLOWS:**

1. **ARTICLE III Limitation of Cost** is hereby amended to read as follows:  
The Agency shall pay to the Contractor for services satisfactorily performed as outlined in the budget which is made a part of this Agreement as Attachment 2 – Budget. The total amount of monies payable to the Contractor under this Agreement shall not exceed **Three Hundred Eighty-Three Thousand Three Hundred Fifty-One Dollars and Zero Cents (\$383,351.00)**. The annual budget is attached hereto as “Attachment 2 – Budget,” and incorporated herein by reference.

Contractor shall utilize the dollars allocated within the service components listed in Attachment 2 to best meet the needs of the Clients. Funding may be shifted between service components with the prior written approval of the Agency’s Special Programs Manager and/or Division Deputy Director of an approved Budget Adjustment Form submitted by Contractor. Approved Budget Adjustments shall result in an updated Attachment 2 with any adjustment in total compensation, increase or decrease, made by amendment to the contract.

3. Amend **Attachment 1 Scope of Work** to add the following:  
Y. Receive and demonstrate through competency assessments and self-reporting that Contractor, its staff, employees, and other prospective subcontractors have received adequate training as identified in Attachment 3, Trauma-Responsive and Coaching Training Plan in accordance with *KEVIN S., et al. v. BLALOCK, et al., No. 1:18-cv-00896*.

**All other articles of this contract and previous amendments remain the same.**

IN WITNESS WHEREOF, the Agency and the Contractor have caused this Agreement to be executed, said Agreement to become effective as of the date set forth below upon which it is executed by Agency Secretary or Designee.

**Contractor – City of Santa Fe**

\_\_\_\_\_  
Alan M. Webber, Mayor

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

Attest:

\_\_\_\_\_  
Kristine Bustos Mihelcic, City Clerk

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

City Attorney’s Office:  
Marcos Martinez  
Marcos Martinez (Jul 28, 2022 08:33 MDT)  
\_\_\_\_\_  
Senior Assistant City Attorney

Date: Jul 28, 2022

Approved for Finances:

\_\_\_\_\_  
Alexis Lotero, Acting Finance Director

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

**Agency – New Mexico Children, Youth and Families Department**

\_\_\_\_\_  
Secretary or Designee, CYFD

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

\_\_\_\_\_  
Chief Financial Officer, CYFD

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

**Approved as to legal form and sufficiency.**

\_\_\_\_\_  
Office of General Counsel, CYFD

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

**Attachment 2 – Budget  
City of Santa Fe**

A.	Continuum Coordinator	\$22	x	700 Hours	=	\$15,400.00
	Travel				=	\$465.00
	Youth Committee Members				=	\$300.00
	5% Program Support				=	<u>\$12,333.00</u>
						<b>\$28,498.00</b>
B.	<u>Strengthening Families Program:</u>					
	Based on serving 50 Youth					
	Youth Group	\$165	x	84 Session	=	\$13,860.00
	Adult Group	\$165	x	60 Session	=	<u>\$13,860.00</u>
						<b>\$27,720.00</b>
C.	<u>Intensive Community Monitoring Program:</u>					
	Based on serving 34 Youth					
	Intake/Assessment	\$65	x	34 Youth	=	\$2,210.00
	Case Management	\$40	x	294 Hours	=	\$11,760.00
	Family Support	\$40	x	136 Hours	=	\$5,440.00
	Home Visit	\$40	x	100 Visits	=	\$4,000.00
	Discharge Plan	\$75	x	34 Youth	=	<u>\$2,550.00</u>
						<b>\$25,960.00</b>
D.	<u>Restorative Justice:</u>					
	Based on serving 50 Youth					
	Pre/Post	\$55	x	150 Hours	=	\$8,250.00
	Circles	\$165	x	25 Circles	=	<u>\$4,125.00</u>
						<b>\$12,375.00</b>

**Grant Award for the period FY23 shall not exceed the annual amount of:** **\$94,553.00**

Contractor shall be required to source a minimum of forty-percent (40%) of the total budgeted grant amount with local matching funds. The local matching funds may consist of money, land, equipment or in-kind services. Matching funds should be expended at the same rate as the grant funds and must be reported on the monthly invoices.

Budgeted and contracted Grant Amount	\$94,553.00
40% Minimum Match Liability for City of Santa Fe	<u>\$37,822.00</u>
Projected Budgeted Amount	\$132,375.00

\*Per Diem and Mileage rates based upon the Administration (DFA) Rule 2.42.2.

**FUNDING INFORMATION:**

Juvenile Continuum Grant Fund (State General Fund)

**FOR THE PERIOD OF FY23: July 1, 2022, through June 30, 2024:**

**The total amount of the contract for FY23& FY24 shall not exceed \$94,553.00**

State General Fund FY21:	<b><u>\$86,331.00</u></b>
State General Fund FY22:	<b><u>\$107,914.00</u></b>
State General Fund FY23:	<b><u>\$94,553.00</u></b>
State General Fund FY24:	<b><u>\$94,553.00</u></b>
Total =	<b><u>\$383,351.00</u></b>

**Attachment 3 – Trauma Responsive Care and Services Training Requirements**

Revised 04.29.2022

The Children, Youth and Families Department (CYFD) seeks to achieve safety, permanency, and well-being of children by implementing systems and services that are *trauma responsive*; providing *community-based therapeutic supports in the most family-like setting*; understanding the importance of and maintaining the *cultural connections and tribal sovereignty* of children, families, and tribes; honoring and centering *youth and family voice and choice*; and ensuring we use *collaborative, team-based* decision-making with families. We are committed to building a workforce worthy of trust through continual *professional growth and development* and a standard of *cultural humility practice*.

To achieve this, CYFD contracted Contractors must understand and apply the required principles of trauma responsive care to their programming, policy and procedures and interactions with all children/youth and their families, especially those children/youth in or at risk of entering state custody and their families. Those who contract with CYFD are mandated to:

1. Complete training on trauma responsive care and service delivery. Contractor staff will complete the curriculum determined to be most appropriate for their job position and level of interaction with children/youth and families as identified by the Cross-Departmental Training Review Committee (Human Services Department and CYFD representatives). Training shall be completed within the first three (3) months of hire and annually thereafter.
2. Approved trainings and training requirements on trauma responsive care and service delivery, as identified by the Cross-Departmental Training Review Committee. CYFD will provide a list of approved trainings to Contractors prior to the effective date of the Agreement, and quarterly or upon request thereafter.
  - a. For trainings on trauma responsive care and service delivery not previously identified/or approved by the Cross-Departmental Training Review Committee, Contractors may submit request to its Program Manager for approval by the Cross-Departmental Training Review Committee which meets quarterly.
  - b. The list of approved trainings will include those that are of no cost to the Contractor. Funding for Contractor Loss of Productivity will be negotiated between the Contractor and Program Manager for inclusion in the budget.
3. Contractor staff includes those who have direct contact with children/youth (ages 0-21) in state custody or at-risk children/youth, administrative staff and Management or Executive level position (“leaders”).
4. On a monthly basis, Contractors will provide a Trauma Training Tracking Sheet with their invoice or encounter submission that includes the following information:
  - a. Report current leaders and staff who have direct contact with children who have worked for the Contractor for more than three months, and
  - b. Provide certification of completion for those who have completed the initial training requirements.
5. At least seventy (70) percent of the Contractor’s staff must have completed required trauma responsive training as identified by Cross-Departmental Training Review Committee within three (3) months of hire for Contractor to continue billing for services.

6. Trauma responsive care and service delivery training completed by Contractor staff prior to hire, and if taken less than six (6) months prior to hire, may be submitted for approval of the Cross-Departmental Training Review Committee, via the Contractor's Program Manager.
7. When scope of work is being performed by Subcontractor or Subawardee, Contractors are responsible for ensuring that the Subcontractor or Subawardee's staff receive the mandated trauma responsive care and service delivery training as outlined above.

CYFD Program Managers will:

1. Facilitate access to the mandated trauma responsive care and service delivery training so Contractor staff can meet the minimum requirements.
2. For trainings on trauma responsive care and service delivery not previously identified/or approved by the Cross-Departmental Training Review Committee, Contractor may submit request to its Program Manager. The Program Manager will route the request to Cross-Departmental Training Review Committee for approval and provide written notice of the Committee's decision to the Contractor within ten (10) working days following the Committee's quarterly meeting.

ITEM #22-0076

Agreement No. 21-690-3200-20846-2

STATE OF NEW MEXICO  
CHILDREN, YOUTH AND FAMILIES DEPARTMENT  
Continuum of Graduated Sanctions  
Agreement # 21-690-3200-20846  
Amendment Two (2)

THIS AGREEMENT is made and entered into by and between the State of New Mexico, CHILDREN, YOUTH AND FAMILIES DEPARTMENT, hereinafter referred to as the "Agency," and City of Santa Fe hereinafter referred to as the "Contractor," and is effective as of the date set forth below upon which it is executed by the Agency.

**PURPOSE OF AMENDMENT:**

1. Amend **ARTICLE 1 Term of Agreement** to correct the expiration date of the Agreement.
2. Amend **ARTICLE III Limitation of Cost** to reflect an update in language and an increase of Sixty-Four Thousand Seven Hundred Forty-Nine Dollars and Zero Cents (\$64,749.00), for a new contract total of **Four Hundred Ten Thousand Seventy-Three Dollars and Zero Cents (\$410,073.00)**.
3. Amend **Attachment 2 – Budget** to reflect the addition of Restorative Justice Programs for Item D. Continuum and Board Activities reduced Item A and removal of Gender Specific activities due to changes in community needs, as well as added expanded programing at 25% of total yearly funding award for \$21,583.00 annually.

**IT IS MUTALLY AGREED BETWEEN THE PARTIES THAT THE FOLLOWING PROVISIONS OF THE ABOVE-REFERENCE CONTRACT ARE AMENDED AS FOLLOWS:**

1. **ARTICLE I Term of Agreement** is hereby amended to read as follows:

THIS AGREEMENT SHALL BECOME EFFECTIVE ON THE DATE UPON WHICH IT IS EXECUTED BY THE AGENCY SECRETARY OR DESIGNEE. This Agreement shall terminate on **June 30, 2024**, unless terminated pursuant to Article VI (Termination of Agreement), or Article XXIII (Appropriations).

2. **ARTICLE III Limitation of Cost** is hereby amended to read as follows:

The Agency shall pay to the Contractor for services satisfactorily performed as outlined in the budget which is made a part of this Agreement as **Attachment 2 – Budget**. The total amount of monies payable to the Contractor under this Agreement shall not exceed **Four Hundred Ten Thousand Seventy-Three Dollars and Zero Cents (\$410,073.00)**. The annual budget is attached hereto as "**Attachment 2 – Budget**," and incorporated herein by reference.

Contractor shall utilize the dollars allocated within the service components listed in **Attachment 2** to best meet the needs of the Clients. Funding may be shifted between service components with the prior written approval of the Agency's Special Programs

Agreement No. 21-690-3200-20846-2

**Manager and/or Division Deputy Director of an approved Budget Adjustment Form submitted by Contractor. Approved Budget Adjustments shall result in an updated Attachment 2 with any adjustment in total compensation, increase or decrease, made by amendment to the contract.**

**All other articles of this contract and previous amendments remain the same.**

Agreement No. 21-690-3200-20846-2

IN WITNESS WHEREOF, the Agency and the Contractor have caused this Agreement to be executed, said Agreement to become effective as of the date set forth below upon which it is executed by Agency Secretary or Designee.

**CONTRACTOR – City of Santa Fe**


  
\_\_\_\_\_  
Authorized Signatory  
Alan Webber, Mayor  
\_\_\_\_\_  
Printed Title of Authorized Signatory

Date: Feb 28, 2022

Attest:   
\_\_\_\_\_  
Kristine Bustos Mihelcic, City Clerk  
GB MTG 02/23/2022 

Date: Feb 28, 2022

  
\_\_\_\_\_  
Senior Assistant City Attorney,  
City Attorney's Office

Approved for Finances:  
  
\_\_\_\_\_  
Mary McCoy, Finance Director

**Agency – New Mexico Children, Youth and Families Department**

DocuSigned by:  
  
\_\_\_\_\_  
6C03B17B6B0E4C4  
Secretary or Designee, CYFD

Date: 3/6/2022

DocuSigned by:  
  
\_\_\_\_\_  
BCD3DB1F3A6842B  
Chief Financial Officer, CYFD

Date: 3/4/2022

**Approval as to legal form and sufficiency.**

DocuSigned by:  
  
\_\_\_\_\_  
BB970E3D4C444CB  
Office of General Counsel, CYFD

Date: 3/3/2022

**Attachment 2 – Budget  
City of Santa Fe**

A.	Continuum Coordinator	\$22 x 700 Hours	=	\$15,400
	Travel		=	0
	Youth Committee Members		=	285
	5% Program Support		=	<u>4,111</u>
				\$19,796
B.	<u>Strengthening Families Program:</u>			
	Based on serving 50 Youth			
	Youth Group	\$165 x 84 Session	=	\$13,860
	Adult Group	\$165 x 60 Session	=	<u>13,860</u>
				\$27,720
C.	<u>Intensive Community Monitoring Program:</u>			
	Based on serving 34 Youth			
	Intake/Assessment	\$65 x 34 Youth	=	\$2,210
	Case Management	\$40 x 306 Hours	=	12,240
	Family Support	\$40 x 136 Hours	=	5,440
	Home Visit	\$40 x 100 Visits	=	4,000
	Discharge Plan	\$75 x 34 Youth	=	<u>\$2,550</u>
				\$26,440
D.	<u>Restorative Justice:</u>			
	Based on serving 50 Youth			
	Pre/Post	\$55 x 150 Hours	=	\$8,250
	Circles	\$165 x 25 Circles	=	<u>4,125</u>
				\$12,375
E.	25% Program Growth			\$21,583
<b>Total Grant Award for FY22, FY23 and FY24 shall not exceed the annual amount of:</b>				<b>\$107,914.00</b>

Contractor shall be required to source a minimum of forty percent (40%) of the total budgeted grant amount with local matching funds. The local matching funds may consist of money, land, equipment or in-kind services. Matching funds should be expended at the same rate as the grant funds and must be reported on the monthly invoices.

Budgeted and contracted Grant Amount	\$107,914
40% Minimum Match Liability for City of Santa Fe	<u>\$43,166</u>
Projected Budgeted Amount	\$151,080

\*Per Diem and Mileage rates based upon the Administration (DFA) Rule 2.42.2.

**FUNDING INFORMATION:**

Juvenile Continuum Grant Fund (State General Fund)

State General Fund FY21:	\$86,331.00
State General Fund FY22:	<u>\$107,914.00</u>
State General Fund FY23:	<u>\$107,914.00</u>
State General Fund FY24:	<u>\$107,914.00</u>
Total =	<u>\$410,073.00</u>

**STATE OF NEW MEXICO  
CHILDREN, YOUTH AND FAMILIES DEPARTMENT  
Continuum of Graduated Sanctions  
Agreement # 21-690-3200-20846  
Amendment 1**

THIS AGREEMENT is made and entered into by and between the State of New Mexico, **CHILDREN, YOUTH AND FAMILIES DEPARTMENT**, hereinafter referred to as the “Agency,” and **City of Santa Fe**, hereinafter referred to as the “Contractor,” and is effective as of the date set forth below upon which it is executed by the Agency.

**PURPOSE OF AMENDMENT:**

1. Amend Attachment 1 – Scope of Work to reflect updated language throughout.
2. Amend Attachment 2 – Budget to reflect updated Funding Information.

Attachment 1 – Scope of Work is hereby amended to read as follows:

**Attachment 1 – Scope of Work  
City of Santa Fe**

**Goal:**

To improve the Juvenile Justice System and decrease the incidences of juvenile delinquency in the community while increasing the emphasis on prevention and early intervention in juvenile justice services.

**Objective:**

To provide a continuum of cost effective services and temporary, non-secure alternatives to detention for youth who have been arrested or referred to the juvenile probation office or are at risk of such referral.

**Activities:**

The Contractor shall:

- A. Develop and maintain a juvenile justice advisory board, herein referred to as the “Community Advisory Board (CAB)”, as required by statute under the Juvenile Continuum Act and the New Mexico Administrative Code 8.14.13.7(E). The Contractor, through the Juvenile Justice Continuum Coordinator (refer to paragraph B), will organize and coordinate regular meetings of the CAB.

The CAB will:

1. Develop and improve the “Comprehensive Strategic Plan” for juvenile justice and detention reform in the City of Santa Fe to be updated a minimum of once per year;
  2. Set policy for the Comprehensive Strategic Plan and the activities supported under this Agreement;
  3. Determine the duties and responsibilities of the Juvenile Justice Continuum Coordinator, in accordance with the Scope of Work;
  4. Provide oversight for the programs/service identified in the Scope of Work;
  5. Continue to collaborate with the City and County to ensure improvements in the operational collaboration of local resources and service providers; and
  6. Maintain a plan for sustainability of the programs/services implemented by the CAB.
  7. Comply with, plan and implement strategies to address racial and ethnic disparities among youth who come into contact with the juvenile justice system, to assure equal treatment for all of the State’s youth; and
  8. Help jurisdictions through, Juvenile Detention Alternatives Initiative, establish more effective and efficient systems, so youth involved in the juvenile justice system will have opportunities to develop into healthy adults.
- B. Contract with or hire a Juvenile Justice Continuum Coordinator who will:
1. Organize, coordinate and provide staff support for the CAB; this will include board development activities in conjunction with the CAB chair;
  2. Inform the Agency’s Program Manager of the date of each meeting and submit a copy of the written minutes of each meeting, within thirty (30) days of the meeting;
  3. Coordinate/oversee the programmatic delivery of subcontract requirements of local Continuum service providers;
  4. Submit to the Agency’s Program Manager monthly requests for reimbursement. Such requests will be submitted on Agency Program Invoice and Expenditure Report forms, signed and sated by an authorized agent of the Contractor, to ensure that requests for reimbursement are submitted by the due date of the fifteenth (15) day of the following month, unless otherwise approved by the Agency’s Program Manager, in advance;
  5. Provide data reports as required by the federal government, corresponding to the activities described in this Scope of Work. The Agency’s Program Manager will provide the data report format. Programmatic data reports will be submitted monthly to the Agency and must accompany the monthly invoice. Failure to submit such programmatic data and financial reports may result in notice to the Contractor of non-availability of funds and/or the denial of payment by the Agency.
  6. Provide the Agency standardized progress reports monthly;
  7. Submit to the Agency a written “Final Report” no later than 15 days after the termination of this Agreement and such other reports deemed necessary by the Agency. The Final Report shall contain at a minimum, but not be restricted to:
    - a. accomplishments/milestones achieved during this Agreement period;
    - b. reporting on program specific performance measures and related outcomes;
    - c. statements regarding obstacles and progress made;
    - d. continuing development and improvement of the Comprehensive Strategic Plan for the continuum programs and services; and

- e. provide plan for sustainability of programs/services.
  - 8. Attend meetings as required by the Agency.
- C. The Contractor, based upon their application for the Juvenile Justice Continuum Grant and Title II Formula, Grant, submitted for state fiscal year 2022, and incorporated herein by reference, agrees to contract with or hire to provide the following services as detailed in the aforementioned grant application which has been incorporated by reference, to youth, referred by the required partners or that are at risk of receiving such a referral, reimbursed based upon the fixed prices and number of youth to be served listed in Attachment 2 – Budget:
- 1. Strengthening Families;
  - 2. Intensive Community Monitoring; and
  - 3. Gender Specific.

**Duties and Responsibilities:**

The Contractor shall:

- A. Ensure that the CAB meets all goals and objectives and completes activities as specified in this contract and in compliance with all applicable state and federal laws.
- B. The Contractor agrees that funds received under this award will not be used to supplant state or local funds, but will be used to increase the amounts of such funds that would, in the absence of federal funds, be made available for program activities.
- C. The Contractor understands that the Agency reserves the right to conduct periodic on-site monitoring visits upon reasonable notice to the Contractor and sub-contractors prior to each visit.
- D. The Contractor understands that it will be subject to additional financial and programmatic on-site monitoring, which may be on short notice, and agrees that it will cooperate with any such monitoring.
- E. Attend meetings and trainings as required by the Agency.
- F. Provide copies of the CAB's meeting minutes within thirty (30) days of the meeting.
- G. The Contractor agrees to demonstrate an emphasis on effective, evidence-based strategies.
- H. Ensure that all programs must commence and be operational within ninety (90) days of the last signatory executing this Agreement. If the Contractor's program has not commenced or is not operational within that timeframe, the Contractor must report in writing to the Agency the steps taken to initiate the program, the reasons for the delay, and the expected starting date prior to the end of the ninety (90) days. If this justification is not received prior to the end of the ninety (90) days, the Contractor's program, at the Agency's

discretion, may be terminated and the funds allocated to that program redistributed to other sites or programs.

- I. Submit activities and supporting documentation in the Salesforce Platform to the Agency by the fifteenth (15th) day of each month. At a minimum, invoice documentation must include:
  - 1. Any supporting documentation the Agency requires to verify the expense. This includes, but is not limited to invoices, receipts, time sheets, payroll registers, general ledger account reports, match and proof of payment.
- J. The data required shall be determined by the Agency.
- K. Submit a final closeout report outlining all accomplishments, measurement of goals and objectives, and barriers to successful implementation or completion of this program within fifteen (15) days of the termination date of this Agreement. The submission of all reports are to be in the Agency provided form and format and is unacceptable in any other formats or handwritten.
- L. The Contractor agrees to comply with any and all additional reporting requirements or informational requests imposed by the Agency, Department of Justice, Office of Justice Programs, or the New Mexico Legislature. The Agency will notify the Contractor of any additional reporting requirements as they are imposed.
- M. Through the Budget Adjustment Request (BAR) form, submit to the Agency any amendments by the Contractor to request changes and/or corrections for any programmatic, administrative, or financial element associated with this Agreement. The Agency, by written notice, has the right to deny any amendment request. All final BAR forms must be submitted to the Agency no later than forty-five (45) days prior to the end of the fiscal year. Requests submitted after that date may not be accepted or approved. Upon BAR approval the line items in Attachment 2-Budget will be updated. A contract amendment will be processed in the event that the total compensation is increased or decreased.
- N. Communication and details concerning this Agreement shall be directed to the following representative:

**Agency**

Consuelo Garcia  
Grant Management Unit Grant Manager  
Children, Youth and Families Department  
P.O. Drawer 5160, Room 541  
Santa Fe, NM 87502  
(P) 505-470-7494

**Contractor**

Julie Sanchez  
Youth & Family Services Division  
Director  
City of Santa Fe  
500 Market St, Ste. 200  
Santa Fe, NM 87504  
(P) 505-955-6678

- O. The Contractor's obligation to the Agency shall not end until all close out requirements are completed. Activities during this period shall include, but are not limited to: making final

payments, disposing of program assets (including the return of all unused materials, equipment, program income balances, and accounts receivable to the Agency), performance measurement reports and determining the custodianship of records.

- P. The Contractor shall obtain written approval from the Agency for any travel outside the State of New Mexico with funds provided under this Agreement. Per Diem and mileage, and other miscellaneous expense, will be paid in accordance with the Department of Finance and Administration (DFA) Rule 2.42.2 NMAC. The request will be in the Agency provided form and format.
- Q. The Contractor will include all applicable provisions of this Agreement in every sub-contract or purchase order, specifically or by reference, so that such provisions will be binding upon each of its own sub-contractors.
- R. The Contractor, as well as all sub-contractors, is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities, sectarian or religious activities, lobbying, political patronage, and nepotism activities.
- S. The Contractor agrees to comply with applicable restrictions on sub-contracts that do not acquire and provide a Data Universal Numbering System (DUNS) number. This special condition does not apply to an award to an individual who received the award as a natural person (i.e., unrelated to any business or non-profit organization that he or she may own or operate in his or her name).
- T. The Contractor agrees that award funds may not be used to maintain or establish a computer network unless such network blocks the viewing, downloading, and exchanging of pornography.
- This restriction does not apply to the use of funds for any federal, state, tribal or local law enforcement agency or any other entity carrying out criminal investigations, prosecution, or adjudication activities. Any such activity funded under this Agreement must be reported to the Agency immediately.
- U. The Contractor is encouraged to adopt and enforce policies banning employees from text messaging while driving any vehicle during the course of performing work funded by this contract, and to establish workplace safety policies and conduct education, awareness, and other outreach to decrease crashes caused by distracted drivers, as pursuant to Executive Order 13513. "Federal Leadership on Reducing Text Messaging While Driving", 74 Fed. Reg. 51225 (October 1, 2009).
- V. The Contractor understand and agrees that any training or training materials developed or delivered with funding provided under this contract must adhere to the Office of Justice Programs Training Guiding Principles for Grantee and Sub-grantees, available at <http://www.ojp.usdoj.gov/funding/ojptrainingguidingprinciples.htm>.

- W. Mandatory Reporting Information: Under New Mexico law, all persons are mandatory reporters of suspected abuse or neglect of children. If the contractor suspects abuse or neglect in the audited facilities, the contractor must contact the New Mexico Statewide Central Intake Hotline (SCI) at 1-855-333-SAFE or #SAFE from a cellphone.
- X. CYFD fingerprint-based criminal background checks for all staff, volunteers, and subcontractors are completed prior to directly working with youth, as required by 8.8.3 NMAC.

The Agency shall:

- A. Reimburse Contractor for verified services provided and incurred costs as stated in Attachment 2 – Budget.
- B. Provide information and/or make referrals for training and technical assistance.
- C. Based on periodic program and fiscal reviews, the Agency retains the sole discretion to reduce the budget of Contractors who do not provide sufficient services, do not submit the required programmatic and financial reports as required, or do not expend funds under this Agreement in a timely manner. The Agency retains the sole discretion to reduce contract amount and reallocate the resulting funds to a Contractor that is able to provide the required services during the contract period. Additionally, any funds not used per the budget as stated in Attachment 2 – Budget shall revert unless otherwise allowed by the Agency in writing.
- D. The Agency will review:
  - 1. Sub-contracts and programs for accomplishment of Outcomes and Performance Measures as set forth in this Agreement.
  - 2. The Community Advisory Board activities and member participation in periodic meetings of the CAB, including minutes of each Board meeting to be provided to the Agency.
  - 3. Any additional funding received by the Contractor for the specific activities and programs included in this Agreement, including efforts by the Contractor to sustain and enhance funding for these programs. The Agency also retains the sole discretion to adjust amounts received under this Agreement if funds are received by the Contractor from other sources for the same services and activities to be performed under this Agreement.

**Data Collection (Salesforce):**

As a condition of funding, the Contractor agrees to report, at minimum, the following demographics, core measures and performance measurements.

Demographics:

- A. Name, Date of Birth, Address, City, State and Zip Code for each youth served;
- B. Race/Ethnicity;
- C. Population Served:
  - 1. At-Risk Youth;
  - 2. First Time Offender;
  - 3. Repeat Offender;
  - 4. Sex Offender;
  - 5. Status Offender; and
  - 6. Violent Offender.
- D. Youth Currently in Detention;
- E. Gender:
  - 1. Male;
  - 2. Female; or
  - 3. Transgender.
- F. Month and Year of Birth;
- G. Geographic Location:
  - 1. Urban;
  - 2. Tribal;
  - 3. Rural; or
  - 4. Frontier.
- H. Other Population Information:
  - 1. Mental Health;
  - 2. Substance Abuse;
  - 3. Truant/Dropout; or
  - 4. Pregnant.
- I. Surveys:
  - 1. A Youth and Staff Survey will be conducted for each youth and recorded into the Salesforce Platform upon completion of each program;
  - 2. Continuums will enter results into provided platform and maintain a hardcopy on file for audit purposes.

Core Measures:

- A. New youth admissions during this reporting period;
- B. Number of program youth carried over from previous reporting period;
- C. Total number of youth in the program;
- D. Total number of youth who exited the program during the reporting period;
- E. Number of youth who exited the program having completed the program requirements during the reporting period;
- F. Percent of youth who successfully completed the program;
- G. How many youth is your program designed to serve;
- H. Number of current program youth who had an arrest during the reporting period;
- I. Number of current program youth who were committed to a juvenile facility during the reporting period;

- J. Number of program youth who had a re-arrest during the reporting period;
- K. Number of program youth who were re-committed during the reporting period;
- L. Number of program youth who were re-sentenced/received a subsequent consequence during the reporting period;
- M. Number of program youth with gang activity; and
- N. Number of program youth who reported being satisfied with the program.

Program Specific Performance Measures:

- A. Strengthening Families Program:
  - 1. Increased academic success measured by parents, school and student reports;
  - 2. Increased school engagement;
  - 3. Increased behavioral component;
  - 4. Decreased alcohol use;
  - 5. Decreased drug use; and
  - 6. Increased parent-child relationship.
- B. Intensive Community Monitoring Program:
  - 1. Decreased recidivism; and
  - 2. Less time served in detention during the follow-up period of seven hundred ninety (790) days.
- C. Gender Specific:
  - 1. Decreased drug use;
  - 2. Increased social competence (both parent and teacher observed);
  - 3. Increased cumulative GPA; and
  - 2. Student attitude toward drug use.

Local Site-Specific Performance Measures:

- A. Strengthening Families Program:
  - 1. Parent competence and engagement in school;
  - 2. Student substance abuse related risk;
  - 3. Increased attendance measured by five percent (5%) increase in attendance, five percent (5%) increase in grades and five percent (5%) promotion to next grade;
  - 4. Academic success; and
  - 5. Targeted negative behavior reduction.
- B. Intensive Community Monitoring Program:
  - 1. Decrease of five percent (5%) in negative criminal behavior;
  - 2. Increase of five percent (5%) in grades, attendance and overall behavior in school or educational setting;
  - 3. Decreased number of contacts made with each client;
  - 4. Number of clients who successfully complete the program requirements; and
  - 5. Reduced recidivism six (6) months after exiting the program

- C. Gender Specific:
  - 1. Reduced bullying and other negative behaviors among both genders;
  - 2. Reduced body image issues;
  - 3. Increased team building;
  - 4. Increased understanding that both genders have similar issues that need to be addressed and remedied; and
  - 5. Increased attendance at school, better grades and better behavior.

Attachment 2 – Budget is hereby amended to read as follows:

**Attachment 2 – Budget  
City of Santa Fe**

A. <u>Continuum and Board Activities:</u>			
Continuum Coordinator	\$22	x 700 Hours	= \$15,400
Travel			= 480
Youth Committee Members			= 300
5% Program Support			= <u>4,111</u>
			\$20,291
B. <u>Strengthening Families Program:</u>			
Based on serving 50 Youth			
Youth Group	\$165	x 84 Session	= \$13,860
Adult Group	\$165	x 60 Session	= <u>13,860</u>
			\$27,720
C. <u>Intensive Community Monitoring Program:</u>			
Based on serving 34 Youth			
Intake/Assessment	\$65	x 34 Youth	= \$2,210
Case Management	\$40	x 306 Hours	= 12,240
Family Support	\$40	x 136 Hours	= 5,440
Home Visit	\$40	x 100 Visits	= 4,000
Discharge Plan	\$75	x 34 Youth	= <u>\$2,550</u>
			\$26,440
D. <u>Gender Specific:</u>			
Based on serving 50 Youth			
Girls Circle	\$165	x 32 Circles	= \$5,280
Boys Council	\$165	x 40 Sessions	= <u>6,600</u>
			\$11,880

**Total Grant Award not to exceed: \$86,331**

The Contractor shall be required to source a minimum of forty percent (40%) of the total budgeted grant amount with local matching funds. The local matching funds may consist of money, land, equipment or in-kind services. Matching funds should be expended at the same rate as the grant funds and must be reported on the monthly invoices.

Budgeted and contracted Grant Amount	\$86,331
40% Minimum Match Liability for City of Santa Fe	<u>\$34,532</u>
Projected Budgeted Amount	\$120,863

\*Per Diem and Mileage rates based upon the Administration (DFA) Rule 2.42.2.

**FUNDING INFORMATION:**

Juvenile Continuum Grant Fund (State General Fund)

**FOR THE PERIOD OF FY22: July 1, 2021 through June 30, 2022:**

**The total amount of the contract for FY22 shall not exceed \$86,331.00**

State General Fund: FY21: \$86,331.00  
State General Fund: FY22: \$86,331.00  
State General Fund: FY23: \$86,331.00  
State General Fund: FY24: \$86,331.00  
Total = \$345,324.00

**All other articles of this Agreement remain the same.**

IN WITNESS WHEREOF, the Agency and the Contractor have caused this Agreement to be executed, said Agreement to become effective as of the date set forth below upon which it is executed by Agency Secretary or Designee.

**CONTRACTOR – City of Santa Fe**

*Am*  
Authorized Signatory

Date: Jul 15, 2021

Mayor  
Printed Title of Authorized Signatory

Attest: *Kristine Mihelcic*  
Kristine Mihelcic (Jul 18, 2021 23:51 MDT)  
City Clerk GB MTG 6/30/21 *XIV*

Date: Jul 18, 2021

*Marcos Martinez*  
Marcos Martinez (May 3, 2021 08:05 MDT)  
Legal Counsel, Contractor

Date: May 3, 2021

*Alexis Lotero*  
Alexis Lotero (Jul 15, 2021 16:38 MDT)  
Finance Director

Date: Jul 15, 2021

**Agency – New Mexico Children, Youth and Families Department**

Terry L. Locke Digitally signed by Terry L. Locke  
Date: 2021.08.18 18:39:03 -06'00'  
Secretary or Designee, CYFD

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

Judy White Digitally signed by Judy White  
Date: 2021.08.18 08:46:29 -06'00'  
Chief Financial Officer, CYFD

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

**Approval as to legal form and sufficiency.**

James Cowan Digitally signed by James Cowan  
Date: 2021.08.17 11:38:46 -06'00'  
Office of General Counsel, CYFD

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

STATE OF NEW MEXICO  
**CHILDREN, YOUTH AND FAMILIES DEPARTMENT**  
Continuum of Graduated Sanctions  
**AGREEMENT No. 21-690-3200-20846**

THIS AGREEMENT is made and entered into by and between the State of New Mexico, **CHILDREN, YOUTH AND FAMILIES DEPARTMENT**, hereinafter referred to as the “Agency,” and **City of Santa Fe** hereinafter referred to as the “Contractor,” and is effective as of the date set forth below upon which it is executed by the Agency.

**WHEREAS**, the Agency is the State agency designated to receive and administer federal funds and desires to engage and the contractor is willing to provide the services outlined pursuant to Article II - Scope of Work.

**NOW THEREFORE**, the Agency and the Contractor in consideration of mutual covenants and agreements herein contained, do hereby agree as follows:

**ARTICLE I. Term of Agreement**

THIS AGREEMENT SHALL BECOME EFFECTIVE ON THE DATE UPON WHICH IT IS EXECUTED BY THE AGENCY SECRETARY OR DESIGNEE. This Agreement shall terminate on **June 30, 2025** unless terminated pursuant to Article VI (Termination of Agreement), or Article XXIII (Appropriations).

**ARTICLE II. Scope of Work**

The Contractor shall provide the program of services as set forth in the scope of work which is attached hereto as “**Attachment 1 – Scope of Work**” and incorporated herein by reference, unless amended or terminated pursuant to Article VI (Termination of Agreement), or Article XXIII (Appropriations), *infra*. In consideration for the provision of those services, the Agency agrees to purchase and the Contractor agrees to perform the services identified in the Scope of Work.

If applicable to the performance of the scope of work herein (direct service delivery to a child or other care recipient by staff and employees of child-care facilities, including every facility or program having primary custody of children for twenty hours or more per week, juvenile treatment facilities, and direct provider of care for children in the following settings: Children’s behavioral health services and licensed and registered child care, including shelter care), or if the performance of the scope of work places Contractor in the position of coming into contact with client data, Contractor and its staff and employees, and other prospective subcontractors are required to obtain a Background Check (a screen of the Children, Youth and Families Department’s information databases, state and federal criminal records and any other reasonably reliable information about an applicant) in accordance with 8.8.3.2 NMAC - Rp, 8.8.3.2 NMAC, 03/31/06.

**ARTICLE III. Limitation of Cost**

The Agency shall pay to the Contractor for services satisfactorily performed as outlined in the budget which is made part of this Agreement as **Attachment 2 – Budget**. The total amount of the monies payable to the Contractor under this Agreement shall not exceed **Three Hundred Forty Five Thousand Three Hundred Twenty Four Dollars and Zero Cents (\$345,324.00)**. The annual budget is attached hereto as “**Attachment 2 – Budget**” and incorporated herein by reference.

**ARTICLE IV. Payment**

The Agency shall make monthly payments to the Contractor for services and costs specified in **Attachment 2 - Budget**. The Contractor shall submit certified and documented invoices and vouchers monthly for actual work performed and expenses incurred to the Agency. The Contractor's failure to submit such payment vouchers, invoices, and supporting documentation within fifteen (15) days after they are due may result in the non-availability of funds for payment and/or the denial of payment by the Agency.

**ARTICLE V. Return of Funds**

Upon termination of this Agreement, or after the services provided for herein have been rendered, surplus money, if any, shall be returned by the Contractor to the Agency.

**ARTICLE VI. Termination of Agreement**

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

B. Notice: Agency Opportunity to Cure.

1. Except as otherwise provided in Article (VI)(B)(3), the Agency shall give Contractor written notice of termination at least thirty (30) days prior to the intended date of termination.

2. Contractor 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. Contractor'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 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 Agency; (ii) if, during the term of this Agreement, the Contractor is suspended or debarred by the State Purchasing Agent; or (iii) the Agreement is terminated pursuant to Article XXIII, "Appropriations", of this Agreement.

C. Liability. Except as otherwise expressly allowed or provided under this Agreement, the Agency'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 AGENCY'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THIS AGREEMENT.*

D. Termination Management. If this agreement is terminated pursuant to its provisions, or if the parties mutually agree to discontinue their contractual relationship, or upon expiration of the term of the AGREEMENT, immediately upon expiration or receipt by either the Agency 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 Agency, except as provided in part (4) of this paragraph, below; 2) comply with all directives issued by the Agency in the notice of termination as to the performance of work under this agreement; and 3) take such action as the Agency shall direct for the protection, preservation, retention or transfer of all property titled to the Agency and records generated under this agreement, and 4) if providing health services or client support as part of the scope of work of this agreement, continue to provide essential services and supports to ensure the health and safety of individual clients as directed by the Agency during the period of termination management. This requirement is not avoided by an inadvertent expiration of term for the agreement. In this event the Agency may temporarily extend the term, enter into a new short-term agreement or otherwise enter into an agreement, consistent with the New Mexico Procurement Code until all transition of services are completed. As of the date of termination of this agreement, the Contractor shall furnish to the Agency: (a) a complete detailed inventory of nonexpendable Agency property or equipment provided to or purchased by the Contractor with agreement funds as defined in Article 31 (Property) of this agreement, and (b) a final closing of the financial records and books of accounts which were required to be kept by the Contractor under the provisions of this agreement regarding financial records. Any non-expendable personal property or equipment provided to or purchased by the Contractor with agreement funds shall become property of the Agency upon termination and shall be submitted to the agency as soon as practicable.

#### **ARTICLE VII. Funds Accountability**

The parties shall provide for strict accountability of all monies made subject to this Agreement. The Contractor shall maintain fiscal records, follow generally accepted accounting principles, and account for all receipts and disbursements of funds transferred to the Contractor pursuant to this Agreement. The Contractor will include all monies made subject to this Agreement in the annual audit and will provide the Agency with a copy of the annual audit.

#### **ARTICLE VIII. Maintenance of Records**

A. 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 Agency, the Department of Finance and Administration and the State Auditor. The Agency shall have the right to audit billings both before and after payment. Payment under this agreement shall not foreclose the right of the Agency to recover excessive or illegal payments.

B. If Contractor receiving state or federal funds from the Agency shall comply, if applicable, with auditing requirements under the Single Audit Act (31 U.S.C. §7501, et seq.) and the New Mexico State Auditor's rules and regulations. If the Contractor is determined to be a sub recipient and not a vendor under the federal Single Audit Act, the Contractor shall comply with the audit requirements of the Single Audit Act. This includes the Contractor retaining its financial records for a period five years after the time the audit was released.

C. If the Contractor receives more than \$250,000 in federal funding, or more than \$750,000 from the Agency, in any single fiscal year, the Contractor shall prepare annual financial statements and obtain an audit of, or an opinion on, the financial statements from an external Certified Public Accountant.

D. The Contractor shall maintain the financial statements for a period of no less than six years and shall make the financial statements and the CPA's audit or opinion available to the Agency upon request.

E. Applicable annual financial reports shall be submitted to the Agency no later than six months following the close of the Contractor's fiscal year.

F. To ensure proper delivery and receipt, the Contractor shall submit their annual audit report or financial reports (if no audit was required to):

Children, Youth and Families Department  
Contract Audit Unit  
1120 Paseo de Peralta, Room  
103 Santa Fe, New Mexico  
87501

G. The Agency may take corrective action as deemed necessary for Contractor's failure to comply with 19-A through 19-F above. Corrective action may include, but is not limited to, termination of agreement and preclusion from engaging Contractor in the future.

**ARTICLE IX. 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 Agency.

The Contractor shall maintain complete confidential records for the benefit of clients, sufficient to fulfill the provisions of the Scope of Work, and to document the services rendered under the Scope of Work. All records maintained pursuant to this provision shall be available for inspection by the Agency. The Contractor shall comply with the Federal Health Insurance Portability and Accountability Act (HIPAA) of 1996, the Health Information Technology for Economic and Clinical Health Act of 2009 (HITECH Act) and applicable regulations and all other state and federal rules, regulations and laws protecting the confidentiality of information. If the Contractor may reasonably be expected to have access to Agency's Protected Health Information (PHI) and will perform business associate functions as defined by HIPAA, Contractor shall execute the HIPAA/HITECH Business Associate Agreement as a separately executed mandatory agreement which is hereby incorporated by reference into and made part of this agreement. Failure to execute the HIPAA/HITECH Business Associate Agreement when required by the Agency shall constitute grounds for termination of this agreement in accordance with Article 4 (Termination) of this agreement.

**ARTICLE X. Amendments**

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 Agency 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 VI herein, or to agree to the reduced funding.

**ARTICLE XI. 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 Agency.

**ARTICLE XII. 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 exclusive 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.

**ARTICLE XIII. Acquisition of Property**

The parties agree that neither party shall acquire any property as the result of this Agreement, unless approved by the Agency or defined in the scope of work.

**ARTICLE XIV. Liability**

Each party shall be solely responsible for fiscal or other sanctions occasioned as a result of its own violation or alleged violation or requirements applicable to the performance of the Agreement. Each party shall be liable for its actions according to this Agreement subject to the immunities and limitations of the New Mexico Tort Claims Act, Sections 41-4-1, et. seq., NMSA 1978, as amended.

**ARTICLE XV. Execution of Documents**

The Agency and the Contractor agree to execute any document(s) necessary to implement the terms of this Agreement.

**ARTICLE XVI. Sub-Contracts**

The Contractor shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval by the Agency Secretary or Designee. No such subcontract shall relieve the primary Contractor from any obligations and liabilities under this Agreement, nor shall subcontract obligate direct payment from the Agency. Contractor must notify subcontractors that they are subject to Article VIII - Maintenance of Records of this agreement.

**ARTICLE XVII. Equal Opportunity Compliance**

The Contractor agrees to abide by all federal and state laws, rules and regulations, and executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws of the State of New Mexico, the 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.

**ARTICLE XVIII. 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 Agency.

**ARTICLE XIX. Lobbying Certification**

The Contractor, by signing below, certifies to the best of his/her knowledge and belief, that:

No federal appropriated funds have been paid or will be paid by or on the behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, or an employee of a member of Congress in connection with the awarding of any Federal contract, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement. If any funds other than Federal appropriated funds have been

paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit a Standard Form LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions. The undersigned shall require that the language of this certification be included in the award document for sub-awards at all tiers (including sub-contracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly. This certification is a material representation of facts upon which reliance is placed when this transaction is made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S.C. (United States Code). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000.00 and not more than \$100,000.00 for each such failure.

**ARTICLE XX. New Mexico Employees Health Coverage**  
*(Governmental entities are excluded from this provision)*

A. If Contractor 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, Contractor certifies, by signing this agreement, to have in place, and agrees to maintain for the term of the contract, health insurance for those employees and offer that health insurance to those employees no later than July 1, 2010 if the expected annual value in the aggregate of any and all contracts between Contractor and the State exceed \$250,000 dollars.

B. Contractor agrees to maintain a record of the number of 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 of New Mexico.

C. Contractor agrees to advise all employees of the availability of State publicly financed health care coverage programs.

**ARTICLE XXI. Background Checks**

Agency contractors that have or could have primary custody of children for at least twenty hours per week are required to comply with NMAC 8.8.3 et. seq. requiring background checks on any employee, staff, volunteer or student intern, that has direct care responsibilities or potential unsupervised physical access to clients. Additionally, all Information Technology (IT) contractors are required to have a background check. The contractor must submit to Agency Background Check Unit fingerprint cards and the appropriate fee for such employees, volunteers or staff required to have background checks. The Agency Background Check Unit will conduct nationwide, state and abuse and neglect background checks on required staff or volunteers in accordance with NMAC 8.8.3 standards. An Agency eligibility letter must be in the employee, volunteer or staff member's personnel file prior to that individual having any unsupervised direct contact or unsupervised potential access to clients.

**ARTICLE XXII. Product of Service -- Copyright.**

A. All materials developed or acquired by the Contractor under this Agreement shall become the property of the State of New Mexico and shall be delivered to the Agency no later than the termination date of this Agreement. Nothing 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.

B. Client information developed under this agreement may not be used by the Contractor or be transferred to a third party in any form, including aggregate data, without the express written permission of the Agency, except to fulfill the provisions of the Scope of Work under this agreement.

#### **ARTICLE XXIII. Appropriations**

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, this Agreement shall terminate immediately upon written notice being given by the Agency to the Contractor. The Agency's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. If the Agency 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.

#### **ARTICLE XXIV. Property**

A. Title to all property furnished by the Agency shall remain in the Agency. Title to all property acquired by the Contractor, including acquisition through lease-purchase agreement, for the cost of which the Contractor is to be reimbursed as a direct item of cost under this agreement shall immediately vest in the Agency upon delivery of such property to the Contractor. Title to other property, the costs of which is to be reimbursed to the Contractor under this agreement, shall immediately vest in the Agency upon 1) issuance for use of such property in the performance of this agreement or 2) use of such property in the performance of this agreement or 3) reimbursement of the cost thereof by the Agency, whichever first occurs.

B. Title to the Agency property shall not be affected or lose its identity by reason of affixation to any realty or attachment at law.

C. The Contractor shall maintain a property inventory and administer a program of maintenance, repair, and protection of Agency property so as to assure its full availability and usefulness for performance under this agreement. In the event the Contractor is indemnified, reimbursed, or otherwise compensated for any loss or destruction of, or damage to Agency property during the period of this agreement, it shall use the proceeds to repair or replace the Agency property.

#### **ARTICLE XXV. Licensure**

If required for the performance of the Scope of Work herein, the Contractor agrees to retain professional licensure, accreditation, credentialing or continuing education required to perform the scope of professional services provided for the Agency. The Contractor agrees to make evidence of licensure or other regulatory requirements for the scope of professional services available to the Agency if requested in writing.

#### **ARTICLE XXVI. Federal Grant or Other Federally Funded Agreements.**

A. Lobbying. The Contractor shall not use any funds provided under this agreement, either directly or indirectly, for the purpose of conducting lobbying activities or hiring a lobbyist or lobbyists on its behalf at the federal, state, or local government level, as defined in the Lobbyist Regulation Act, NMSA 1978, Sections 2-11-1, *et. seq.*, and applicable federal law. No federal

appropriated funds can be paid or will be paid, by or on behalf of the Contractor, or any person for influencing or attempting to influence an officer or employee of any Department, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal agreement, or the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, or modification of any federal agreement, grant, loan, or cooperative agreement. If any funds other than federal appropriated funds have been paid or will be paid to any person influencing or attempting to influence an officer or employee of any Department, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection of any applicable federal agreement, grant, loan, or cooperative agreement, the Contractor shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

B. **Suspension and Debarment.** For agreements that involve the expenditure of federal funds, each party represents that neither it, nor any of its management or any other employees or independent contractors who will have any involvement in the services or products supplied under this agreement, have been excluded from participation in any government healthcare program, debarred from or under any other federal program (including but not limited to debarment under the Generic Drug Enforcement Act), or convicted of any offense defined in 42 U.S.C. Section 1320a-7, and that it, its employees, and independent contractors are not otherwise ineligible for participation in federal healthcare or education programs. Further, each party represents that it is not aware of any such pending action(s) (including criminal actions) against it or its employees or independent contractors. Each party shall notify the other party immediately upon becoming aware of any pending or final action in any of these areas.

C. **Fiscal and Administrative Standards.** Contractors shall adhere to all local, state and federal regulations as applicable to their operations. For Agreements that involve the expenditure of federal funds, Contractors shall adhere to fiscal and administrative standards in accordance with:

- Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance)
- <https://www.federalregister.gov/articles/2013/12/26/2013-30465/uniform-administrative-requirements-cost-principles-and-audit-requirements-for-federal-awards>
- State of New Mexico Manual of Model Accounting Practices (MAP's) issued by the New Mexico Department of Finance and Administration-Financial Control Division
- <http://www.nmdfa.state.nm.us/Manuals.aspx>
- The State of New Mexico State Auditor, State Audit Rule
- [http://www.saonm.org/state\\_auditor\\_rule](http://www.saonm.org/state_auditor_rule)
- Title 2 CFR, Chapter 1, Part 170, Reporting Sub-award and Executive Compensation Information.
- Title 2 Grants and -Agreements Subtitle A Chapter II Part 200,
- FASB and AICPA Statements and Professional Pronouncements.
- U.S. General Accounting Office, Government Auditing Standards, (The Yellow Book, current revision).
- FASB and AICPA Statements and Professional Pronouncements.

D. **Political Activity.** No funds hereunder shall be used for any partisan political activity or to further the election or defeat of any candidate for public office.

E. Grantor and Contractor Information.

1. If applicable, funding under this agreement is from the Catalog of Federal Domestic Assistance (CFDA) Program:
  - i. CFDA Number - XXX, OR N/A
  - ii. Program Title - XXX, OR N/A
  - iii. AGENCY/OFFICE - XXX, OR N/A
  - iv. GRANT NUMBER - XXX, OR N/A
2. CONTRACTOR'S Dun and Bradstreet Data Universal Numbering System Number (DUNS Number) is XXX, OR N/A

F. Contractor Employee Whistleblower Rights and Requirement to Inform Employees of Whistleblower Rights (Sept. 2013) [Federal Grant funded projects only].

3. This agreement and employees working on this agreement will be subject to the whistleblower rights and remedies in the pilot program on Contractor employee whistleblower protections established at 41 U.S.C. 4712 by section 828 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112-239) and FAR 3.908.
4. The Contractor shall inform its employees in writing, in the predominant language of the workforce, of employee whistleblower rights and protections under 41 U.S.C. 4712, as described in section 3.908 of the Federal Acquisition Regulation.
5. The Contractor shall insert the substance of this clause, including this paragraph (3), in all subcontracts over the simplified acquisition threshold.

G. For agreements and subgrants that involve the expenditure of federal funds for amounts in excess of \$150,000, requires the Contractor to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

H. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) — For agreements that involve the expenditure of federal funds, Contractors that apply or bid for an agreement exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal agreement, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier up to the non-federal award.

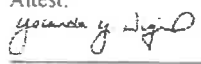
I. For agreements that involve the expenditure of federal funds, Contractor must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

IN WITNESS WHEREOF, the Agency and the Contractor have caused this Agreement to be executed, said Agreement to become effective as of the date set forth below upon which it is executed by Agency Secretary or Designee.

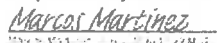
**Contractor – City of Santa Fe**

  
\_\_\_\_\_  
Alan M. Webber, Mayor

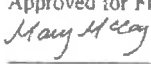
Date: \_\_\_\_\_

Attest:  
  
\_\_\_\_\_  
Yolanda Y. Vigil, City Clerk  
GB 07/08/20

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

City Attorney's Office:  
  
\_\_\_\_\_  
Marcos Martinez, City Attorney  
Senior Assistant City Attorney

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

Approved for Finances:  
  
\_\_\_\_\_  
Mary McCoy, Finance Director

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

**Agency – New Mexico Children, Youth and Families Department**

**Terry L. Locke** Digitally signed by Terry L. Locke  
\_\_\_\_\_  
Secretary or Designee, CYFD  
Date: 2020.07.27 12:34:47 -06'00'

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

**Phillipe Rodriguez** Digitally signed by Phillippe Rodriguez  
\_\_\_\_\_  
Chief Financial Officer, CYFD  
Date: 2020.07.28 15:14:36 -06'00'

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

Approved as to legal form and sufficiency.

  
\_\_\_\_\_  
Office of General Counsel, CYFD

Date: 7/20/2020

**Attachment 1 – Scope of Work**  
**City of Santa Fe**

**Goal:**

To improve the Juvenile Justice System and decrease the incidences of juvenile delinquency in the community while increasing the emphasis on prevention and early intervention in juvenile justice services.

**Objective:**

To provide a continuum of cost effective services and temporary, non-secure alternatives to detention for youth who have been arrested or referred to the juvenile probation office or are at risk of such referral.

**Activities:**

The Contractor shall:

- A. Develop and maintain a juvenile justice advisory board, herein referred to as the “Community Advisory Board (CAB)”, as required by statute under the Juvenile Continuum Act and the New Mexico Administrative Code 8.14.13.7(E). The Contractor, through the Juvenile Justice Continuum Coordinator (refer to paragraph B), will organize and coordinate regular meetings of the CAB.

The CAB will:

- 1. Develop and improve the “Comprehensive Strategic Plan” for juvenile justice and detention reform in the City of Santa Fe to be updated a minimum of once per year;
  - 2. Set policy for the Comprehensive Strategic Plan and the activities supported under this Agreement;
  - 3. Determine the duties and responsibilities of the Juvenile Justice Continuum Coordinator, in accordance with the Scope of Work;
  - 4. Provide oversight for the programs/service identified in the Scope of Work;
  - 5. Continue to collaborate with the City and County to ensure improvements in the operational collaboration of local resources and service providers; and
  - 6. Maintain a plan for sustainability of the programs/services implemented by the CAB.
  - 7. Comply with, plan and implement strategies to address racial and ethnic disparities among youth who come into contact with the juvenile justice system, to assure equal treatment for all of the State’s youth; and
  - 8. Help jurisdictions through, Juvenile Detention Alternatives Initiative, establish more effective and efficient systems, so youth involved in the juvenile justice system will have opportunities to develop into healthy adults.
- B. Contract with or hire a Juvenile Justice Continuum Coordinator who will:
    - 1. Organize, coordinate and provide staff support for the CAB; this will include board development activities in conjunction with the CAB chair;

2. Inform the Agency's Program Manager of the date of each meeting and submit a copy of the written minutes of each meeting, within thirty (30) days of the meeting;
  3. Coordinate/oversee the programmatic delivery of subcontract requirements of local Continuum service providers;
  4. Submit to the Agency's Program Manager monthly requests for reimbursement. Such requests will be submitted on Agency Program Invoice and Expenditure Report forms, signed and sated by an authorized agent of the Contractor, to ensure that requests for reimbursement are submitted by the due date of the fifteenth (15) day of the following month, unless otherwise approved by the Agency's Program Manager, in advance;
  5. Provide data reports as required by the federal government, corresponding to the activities described in this Scope of Work. The Agency's Program Manager will provide the data report format. Programmatic data reports will be submitted monthly to the Agency and must accompany the monthly invoice. Failure to submit such programmatic data and financial reports may result in notice to the Contractor of non-availability of funds and/or the denial of payment by the Agency.
  6. Provide the Agency standardized progress reports monthly;
  7. Submit to the Agency a written "Final Report" no later than 15 days after the termination of this Agreement and such other reports deemed necessary by the Agency. The Final Report shall contain at a minimum, but not be restricted to:
    - a. accomplishments/milestones achieved during this Agreement period;
    - b. reporting on program specific performance measures and related outcomes;
    - c. statements regarding obstacles and progress made;
    - d. continuing development and improvement of the Comprehensive Strategic Plan for the continuum programs and services; and
    - e. provide plan for sustainability of programs/services.
  8. Attend meetings as required by the Agency.
- C. The Contractor, based upon their application for the Juvenile Justice Continuum Gant and Title II Formula, Grant, submitted for state fiscal year 2021, and incorporated herein by reference, agrees to contract with or hire to provide the following services as detailed in the aforementioned grant application which has been incorporated by reference, to youth, referred by the required partners or that are at risk of receiving such a referral, reimbursed based upon the fixed prices and number of youth to be served listed in Attachment 2 – Budget:
1. Strengthening Families;
  2. Intensive Community Monitoring; and
  3. Gender Specific.

**Duties and Responsibilities:**

The Contractor shall:

- A. Ensure that the CAB meets all goals and objectives and completes activities as specified in this contract and in compliance with all applicable state and federal laws.

- B. The Contractor agrees that funds received under this award will not be used to supplant state or local funds, but will be used to increase the amounts of such funds that would, in the absence of federal funds, be made available for program activities.
- C. The Contractor understands that the Agency reserves the right to conduct periodic on-site monitoring visits upon reasonable notice to the Contractor and sub-contractors prior to each visit.
- D. The Contractor understands that it will be subject to additional financial and programmatic on-site monitoring, which may be on short notice, and agrees that it will cooperate with any such monitoring.
- E. Attend meetings and trainings as required by the Agency.
- F. Provide copies of the CAB's meeting minutes within thirty (30) days of the meeting.
- G. The Contractor agrees to demonstrate an emphasis on effective, evidence-based strategies.
- H. Ensure that all programs must commence and be operational within ninety (90) days of the last signatory executing this Agreement. If the Contractor's program has not commenced or is not operational within that timeframe, the Contractor must report in writing to the Agency the steps taken to initiate the program, the reasons for the delay, and the expected starting date prior to the end of the ninety (90) days. If this justification is not received prior to the end of the ninety (90) days, the Contractor's program, at the Agency's discretion, may be terminated and the funds allocated to that program redistributed to other sites or programs.
- I. Submit reimbursement invoices to the Agency no later than fifteen (15) days after the end of each month. At a minimum, invoice documentation must include:
  - 1. The approved Agency's Program Invoice and Expenditure Report forms; and
  - 2. Any supporting documentation the Agency requires to verify the expense. This includes, but is not limited to invoices, receipts, time sheets, payroll registers, general ledger account reports, and proof of payment.
- J. Submit monthly programmatic data reports no later than fifteen (15) days after the end of each month. The submission of all reports are to be in the Agency provided form and format and is unacceptable in any other formats or handwritten.
- K. Submit a final closeout report outlining all accomplishments, measurement of goals and objectives, and barriers to successful implementation or completion of this program within fifteen (15) days of the termination date of this Agreement. The submission of all reports are to be in the Agency provided form and format and is unacceptable in any other formats or handwritten.
- L. The Contractor agrees to comply with any and all additional reporting requirements or informational requests imposed by the Agency, Department of Justice, Office of Justice

Programs, or the New Mexico Legislature. The Agency will notify the Contractor of any additional reporting requirements as they are imposed.

- M. Through the Budget Adjustment Request (BAR) form, submit to the Agency any amendments by the Contractor to request changes and/or corrections for any programmatic, administrative, or financial element associated with this Agreement. The Agency, by written notice, has the right to deny any amendment request. All final BAR forms must be submitted to the Agency no later than forty-five (45) days prior to the end of the fiscal year. Requests submitted after that date may not be accepted or approved. Upon BAR approval the line items in Attachment 2-Budget will be updated. A contract amendment will be processed in the event that the total compensation is increased or decreased.
- N. Communication and details concerning this Agreement shall be directed to the following representative:

<u>Agency</u>	<u>Contractor</u>
Consuelo Garcia	Kyra Ochoa
Grant Management Unit Grant Manager	Community Services Dept. Director
Children, Youth and Families Department	City of Santa Fe
P.O. Drawer 5160, Room 541	500 Market St, Ste. 200
Santa Fe, NM 87502	Santa Fe, NM 87504
(P) 505-470-7494	(P) 505-955-6603

- O. The Contractor's obligation to the Agency shall not end until all close out requirements are completed. Activities during this period shall include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, program income balances, and accounts receivable to the Agency), performance measurement reports and determining the custodianship of records.
- P. The Contractor shall obtain written approval from the Agency for any travel outside the State of New Mexico with funds provided under this Agreement. Per Diem and mileage, and other miscellaneous expense, will be paid in accordance with the Department of Finance and Administration (DFA) Rule 2.42.2 NMAC. The request will be in the Agency provided form and format.
- Q. The Contractor will include all applicable provisions of this Agreement in every sub-contract or purchase order, specifically or by reference, so that such provisions will be binding upon each of its own sub-contractors.
- R. The Contractor, as well as all sub-contractors, is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities, sectarian or religious activities, lobbying, political patronage, and nepotism activities.
- S. The Contractor agrees to comply with applicable restrictions on sub-contracts that do not acquire and provide a Data Universal Numbering System (DUNS) number. This special condition does not apply to an award to an individual who received the award as a natural

person (i.e., unrelated to any business or non-profit organization that he or she may own or operate in his or her name).

- T. The Contractor agrees that award funds may not be used to maintain or establish a computer network unless such network blocks the viewing, downloading, and exchanging of pornography.

This restriction does not apply to the use of funds for any federal, state, tribal or local law enforcement agency or any other entity carrying out criminal investigations, prosecution, or adjudication activities. Any such activity funded under this Agreement must be reported to the Agency immediately.

- U. The Contractor is encouraged to adopt and enforce policies banning employees from text messaging while driving any vehicle during the course of performing work funded by this contract, and to establish workplace safety policies and conduct education, awareness, and other outreach to decrease crashes caused by distracted drivers, as pursuant to Executive Order 13513. "Federal Leadership on Reducing Text Messaging While Driving", 74 Fed. Reg. 51225 (October 1, 2009).

- V. The Contractor understand and agrees that any training or training materials developed or delivered with funding provided under this contract must adhere to the Office of Justice Programs Training Guiding Principles for Grantee and Sub-grantees, available at <http://www.ojp.usdoj.gov/funding/ojptrainingguidingprinciples.htm>.

- W. Mandatory Reporting Information: Under New Mexico law, all persons are mandatory reporters of suspected abuse or neglect of children. If the contractor suspects abuse or neglect in the audited facilities, the contractor must contact the New Mexico Statewide Central Intake Hotline (SCI) at 1-855-333-SAFE or #SAFE from a cellphone.

The Agency shall:

- A. Reimburse Contractor for verified services provided and incurred costs as stated in Attachment 2 – Budget.
- B. Provide information and/or make referrals for training and technical assistance.
- C. Based on periodic program and fiscal reviews, the Agency retains the sole discretion to reduce the budget of Contractors who do not provide sufficient services, do not submit the required programmatic and financial reports as required, or do not expend funds under this Agreement in a timely manner. The Agency retains the sole discretion to reduce contract amount and reallocate the resulting funds to a Contractor that is able to provide the required services during the contract period. Additionally, any funds not used per the budget as stated in Attachment 2 – Budget shall revert unless otherwise allowed by the Agency in writing.

- D. The Agency will review:
1. Sub-contracts and programs for accomplishment of Outcomes and Performance Measures as set forth in this Agreement.
  2. The Community Advisory Board activities and member participation in periodic meetings of the CAB, including minutes of each Board meeting to be provided to the Agency.
  3. Any additional funding received by the Contractor for the specific activities and programs included in this Agreement, including efforts by the Contractor to sustain and enhance funding for these programs. The Agency also retains the sole discretion to adjust amounts received under this Agreement if funds are received by the Contractor from other sources for the same services and activities to be performed under this Agreement.

**Data Collection:**

As a condition of funding, the Contractor agrees to report, at minimum, the following demographics, core measures and performance measurements.

Demographics:

- A. City, State and Zip Code for each youth served;
- B. Race/Ethnicity;
- C. Population Served:
  1. At-Risk Youth;
  2. First Time Offender;
  3. Repeat Offender;
  4. Sex Offender;
  5. Status Offender; and
  6. Violent Offender.
- D. Youth Currently in Detention;
- E. Gender:
  1. Male;
  2. Female; or
  3. Transgender.
- F. Month and Year of Birth;
- G. Geographic Location:
  1. Urban;
  2. Tribal;
  3. Rural; or
  4. Frontier.
- H. Other Population Information:
  1. Mental Health;
  2. Substance Abuse;
  3. Truant/Dropout; or
  4. Pregnant.

Core Measures:

- A. New youth admissions during this reporting period;
- B. Number of program youth carried over from previous reporting period;
- C. Total number of youth in the program;
- D. Total number of youth who exited the program during the reporting period;
- E. Number of youth who exited the program having completed the program requirements during the reporting period;
- F. Percent of youth who successfully completed the program;
- G. How many youth is your program designed to serve;
- H. Number of current program youth who had an arrest during the reporting period;
- I. Number of current program youth who were committed to a juvenile facility during the reporting period;
- J. Number of program youth who had a re-arrest during the reporting period;
- K. Number of program youth who were re-committed during the reporting period;
- L. Number of program youth who were re-sentenced/received a subsequent consequence during the reporting period;
- M. Number of program youth with gang activity; and
- N. Number of program youth who reported being satisfied with the program.

Program Specific Performance Measures:

- A. Strengthening Families Program:
  - 1. Increased academic success measured by parents, school and student reports;
  - 2. Increased school engagement;
  - 3. Increased behavioral component;
  - 4. Decreased alcohol use;
  - 5. Decreased drug use; and
  - 6. Increased parent-child relationship.
- B. Intensive Community Monitoring Program:
  - 1. Decreased recidivism; and
  - 2. Less time served in detention during the follow-up period of seven hundred ninety (790) days.
- C. Gender Specific:
  - 1. Decreased drug use;
  - 2. Increased social competence (both parent and teacher observed);
  - 3. Increased cumulative GPA; and
  - 2. Student attitude toward drug use.

Local Site-Specific Performance Measures:

- A. Strengthening Families Program:
  - 1. Parent competence and engagement in school;
  - 2. Student substance abuse related risk;
  - 3. Increased attendance measured by five percent (5%) increase in attendance, five percent (5%) increase in grades and five percent (5%) promotion to next grade;
  - 4. Academic success; and

5. Targeted negative behavior reduction.
- B. Intensive Community Monitoring Program:
1. Decrease of five percent (5%) in negative criminal behavior;
  2. Increase of five percent (5%) in grades, attendance and overall behavior in school or educational setting;
  3. Decreased number of contacts made with each client;
  4. Number of clients who successfully complete the program requirements; and
  5. Reduced recidivism six (6) months after exiting the program
- C. Gender Specific:
1. Reduced bullying and other negative behaviors among both genders;
  2. Reduced body image issues;
  3. Increased team building;
  4. Increased understanding that both genders have similar issues that need to be addressed and remedied; and
  5. Increased attendance at school, better grades and better behavior.

**Attachment 2 – Budget  
City of Santa Fe**

<b>A. <u>Continuum and Board Activities:</u></b>			
Continuum Coordinator	\$22	x 700 Hours	= \$15,400
Travel			= 480
Youth Committee Members			= 300
5% Program Support			= <u>4,111</u>
			<b>\$20,291</b>
<b>B. <u>Strengthening Families Program:</u></b>			
Based on serving 50 Youth			
Youth Group	\$165	x 84 Session	= \$13,860
Adult Group	\$165	x 60 Session	= <u>13,860</u>
			<b>\$27,720</b>
<b>C. <u>Intensive Community Monitoring Program:</u></b>			
Based on serving 34 Youth			
Intake/Assessment	\$65	x 34 Youth	= \$2,210
Case Management	\$40	x 306 Hours	= 12,240
Family Support	\$40	x 136 Hours	= 5,440
Home Visit	\$40	x 100 Visits	= 4,000
Discharge Plan	\$75	x 34 Youth	= <u>\$2,550</u>
			<b>\$26,440</b>
<b>D. <u>Gender Specific:</u></b>			
Based on serving 50 Youth			
Girls Circle	\$165	x 32 Circles	= \$5,280
Boys Council	\$165	x 40 Sessions	= <u>6,660</u>
			<b>\$11,880</b>
<b>Total Grant Award not to exceed:</b>			<b><u>\$86,331</u></b>

The Contractor shall be required to source a minimum of forty percent (40%) of the total budgeted grant amount with local matching funds. The local matching funds may consist of money, land, equipment or in-kind services. Matching funds should be expended at the same rate as the grant funds and must be reported on the monthly invoices.

Budgeted and contracted Grant Amount	\$86,331
40% Minimum Match Liability for City of Santa Fe	<u>\$34,532</u>
Projected Budgeted Amount	\$120,863

\*Per Diem and Mileage rates based upon the Administration (DFA) Rule 2.42.2.

**FUNDING INFORMATION:**

Juvenile Continuum Grant Fund (State General Fund)

**FOR THE PERIOD OF FY21: July 1, 2020 through June 30, 2021:  
The total amount of the contract for FY21 shall not exceed \$86,331.00**

State General Fund: FY21: <u>\$86,331.00</u>
State General Fund: FY22: <u>\$86,331.00</u>
State General Fund: FY23: <u>\$86,331.00</u>
State General Fund: FY24: <u>\$86,331.00</u>
Total = <u>\$345,324.00</u>



# CITY OF SANTA FE PROCUREMENT CHECKLIST

Contractor Name: SFCC - Early Childhood Center of Excellence (ECCOE)

Procurement Title: ARPA Funded Early Childcare Job Development Services

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 Comm. Health and Safety Staff Name Julie Sanchez

### 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:

Julie Sanchez, Youth and Family Services Division Director 8/10/2022

<u>Department Rep Printed Name (attesting that all information included)</u>	<u>Title</u>	<u>Date</u>
	Contracts Supervisor	Sep 2, 2022

<u>Purchasing Officer (attesting that all information is reviewed)</u>	<u>Title</u>	<u>Date</u>
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Include all other substantive documents and records of communication that pertain to the procurement and contract.




# City of Santa Fe, New Mexico

## Memorandum



**DATE:** August 10, 2022

**TO:** Mayor Webber and City Council  
Finance and Quality of Life Committee

**VIA:** Alexis Lotero, Acting Finance Department Director  
Fran Dunaway, Chief Procurement Officer  
Kyra Ochoa, Community Health and Safety Department Director   
KO

**FROM:** Julie Sanchez, Youth and Family Services Division Director *jjs*

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### ITEM AND ISSUE:

Request for Approval of an American Rescue Plan Act (ARPA) Recovery Funds Subrecipient Contract in the Total Amount of \$900,000 for Early Childcare Job Development Services with the Santa Fe Community College Early Childhood Education Center of Excellence (SFCC-ECCOE) under the first statutory category; to respond to the COVID-10 public health emergency or its negative economic impacts (Julie Sanchez, Youth and Family Services Division Director, [jjsanchez@santafenm.gov](mailto:jjsanchez@santafenm.gov); 505-955-6678)

### BACKGROUND AND SUMMARY:

The City, as a recipient of a State and Local Fiscal Recovery Funds (SLFRF) award, the Youth and Family Services Division has been allocated \$5,000,000 of the total award to impact areas of homelessness, violence intervention, early childcare job development, and support to nonprofits impacted by the pandemic. The City, as a recipient has substantial discretion to use the award funds in the ways that best suit the needs of the City if such use fits into one of the following four statutory categories:

1. To respond to the COVID-19 public health emergency or its negative economic impacts;
2. To respond to workers performing essential work during the COVID-19 public health emergency by providing premium pay to eligible workers of the recipient that are performing such essential work, or by providing grants to eligible employers that have eligible workers who perform essential work;
3. For the provision of government services, to the extent of the reduction in revenue of such recipient due to the COVID-19 public health emergency, relative to revenues collected in the most recent full fiscal year of the recipient prior to the emergency; or
4. To make necessary investments in water, sewer, or broadband infrastructure;

The Division is allocating \$900,000 of its \$5,000,000 to support increasing the capacity of the early childcare workforce which falls under the first statutory category, to respond to the COVID-10 public health emergency or its negative economic impacts.

The Santa Fe Community College's Early Childcare Center of Excellence is positioned to build and sustain a job development program; the Center has been in existence since 2014, and uses a multi-generation approach to early childhood education and training, by providing affordable and accessible education and professional development opportunities; and has the capacity to work collaboratively in the Santa Fe community to support new workforce development initiatives in early childhood through education and training.

The Santa Fe Community College Early Childhood Pre-Apprenticeship Program (APRENDE) is an opportunity to create an innovative associate-level residency program that builds on the strengths of the workforce as they are working towards certificates and degrees in New Mexico. The professionalization of

the early childhood workforce has come slowly as early childhood teachers juggle full time jobs and families while trying to attend school in the evening. For many students, it can take ten years to earn an associate degree. The SFCC ECTAP will bring new teachers to the early childhood profession and honor the work that current teachers are doing by redesigning the early childhood courses to be competency-based through work done in the classroom as apprentices.

In addition, this program will help stabilize the early care and education sector in Santa Fe by creating a workforce pipeline and placing students in teacher assistant and floater positions in Santa Fe area early childhood centers.

- Teachers will work 20-40 hours a week as an apprentice or as a full-time teacher with coursework competencies embedded in the work they do every day with children.
- Coursework will be offered in a hybrid online format with occasional face to face meetings
- Mentor teachers at the site will be trained Early Childhood Mentor Network (ECMN) teachers and will receive a stipend from the mentor network and potential additional compensation and training.
- Sites will pay teachers and apprentices for their work in the classroom and partner with SFCC ECTAP to create teacher schedules to accommodate coursework.
- ECECD Scholarships will support tuition and books for qualified participants.
- 2-year structured cohort program that leads to an accelerated associate degree in early childhood education while students earn certificates along the way.

The program is slated to start Fall 2022 and recruit 20-30, Spanish-speaking and English-speaking teacher apprentice candidates.

**PROCUREMENT METHOD:**

The procurement method is exempt, as the Santa Fe Community College is a governmental institution, the contract expires June 30, 2026, funding covers costs incurred from March.

**CONTRACT NUMBER:**

The FY23 Munis contract number is 3203606.

**PROJECT LEDGER:**

The project ledger number is COM222400A

**FUNDING SOURCE:**

The funding source is:

**Fund Name/Number:** Fund 240

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

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

**ACTION REQUESTED:**

The Community Health and Safety Department respectfully requests your review and approval of the Recovery Funds Subrecipient Contract with SFCC-ECCOE.

**RECOVERY FUNDS SUBRECIPIENT  
CONTRACT BETWEEN CITY OF SANTA FE AND SANTA FE COMMUNITY  
COLLEGE EARLY CHILDHOOD CENTER OF EXCELLENCE  
FOR EARLY CHILDCARE JOB DEVELOPMENT SERVICES**

THIS AGREEMENT is made and entered into by and between the CITY OF SANTA FE, herein after referred to as the “City”, and SANTA FE COMMUNITY COLLEGE - EARLY CHILDHOOD CENTER OF EXCELLENCE, a local public body, herein after referred to as the “Contractor.”

**RECITALS**

**WHEREAS**, the City, as a recipient of a State and Local Fiscal Recovery Funds (SLFRF) award, has substantial discretion to use the award funds in the ways that best suit the needs of the City if such use fits into one of the following four statutory categories:

1. To respond to the COVID-19 public health emergency or its negative economic impacts;
2. To respond to workers performing essential work during the COVID-19 public health emergency by providing premium pay to eligible workers of the recipient that are performing such essential work, or by providing grants to eligible employers that have eligible workers who perform essential work;
3. For the provision of government services, to the extent of the reduction in revenue of such recipient due to the COVID–19 public health emergency, relative to revenues collected in the most recent full fiscal year of the recipient prior to the emergency; or
4. To make necessary investments in water, sewer, or broadband infrastructure;

**WHEREAS**, this agreement falls within the first, statutory category;

**WHEREAS**, recipients are responsible for ensuring that any procurement using SLFRF funds, or payments under procurement contracts using such funds, Coronavirus State and Local Fiscal Recovery Funds Compliance and Reporting Guidance are consistent with the procurement standards set forth in the Uniform Guidance at 2 CFR 200.317 through 2 CFR 200.327, as applicable;

**WHEREAS**, the Uniform Guidance establishes in 2 CFR 200.319 that all procurement transactions for property or services must be conducted in a manner providing full and open competition, consistent with standards outlined in 2 CFR 200.320, which allows for non-competitive procurements only in circumstances where at least one of the conditions below is true: the item is below the micro-purchase threshold; the item is only available from a single source; the public exigency or emergency will not permit a delay from publicizing a competitive solicitation; or after solicitation of a number of sources, competition is determined inadequate;

**WHEREAS**, Subrecipients under the SLFRF program are entities that receive a subaward from a recipient to carry out the purposes (program or project) of the SLFRF award on behalf of the recipient; and

**WHEREAS**, Santa Fe Community College (SFCC) and the Early Childhood Center of Excellence (ECCOE) understands that this contract represents a subaward of SLFRF funds, agrees to maintain records to satisfy all compliance requirements for use of SLFRF, and agrees to all reporting requirements for expenditures of SLFRF funds.

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

1. **Definitions**

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

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

C. "Subrecipient" means an entity, usually but not limited to non-Federal entities, that receives a subaward from a pass-through entity to carry out part of a Federal award; but does not include an individual that is a beneficiary of such award. 2 C.F.R. § 200.1

D. "You" and "your" refers to Santa Fe Community College – Early Childhood Center of Excellence. "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 work:

- 1) SFCC-ECCOE will recruit, and support individuals interested in early childhood education and track student success through external program evaluation and success metrics aligned to program completion, retention, and effectiveness.
- 2) SFCC-ECCOE will offer/develop coursework in a hybrid format to accommodate work schedules and support demonstration of competency in the field through the apprenticeship model.
- 3) SFCC-ECCOE will support students in applying for ECECD scholarships and additional financial aid available to them in addition to stipends offered through the program.
- 4) SFCC-ECCOE will provide students with resource navigation and support to ensure student success.
- 5) SFCC-ECCOE will work with students and employers to ensure that they are eligible for state certification and credentials that lead to higher wages in the field.

6) SFCC-ECCOE will hire a program manager to run the early childhood workforce development initiatives and programs.

B. Performance measures. Recognizing the disproportionate public health and negative economic impacts of the pandemic on many households, communities, and other entities, recipients must report whether certain types of projects are targeted to impacted and disproportionately impacted communities. Recipients will be asked to respond to the following:

- 1) a. What Impacted and/or Disproportionately Impacted population does this project primarily serve? Please select the population primarily served.
- 2) b. If this project primarily serves more than one Impacted and/or Disproportionately Impacted population, please select up to two additional populations served.
- 3) % recruited
- 4) # finishing the program
- 5) % entering the workforce

C. Reporting Requirements. In order to meet the City's reporting obligations to the U.S. Treasury the City will also require the following measures:

1) Obligations and Expenditures: Once a project is entered, the recipient will be able to report on the project's obligations and expenditures. Recipients will be asked to report:

- a. Current period obligation
- b. Cumulative obligation
- c. Current period expenditure
- d. Cumulative expenditure

2) Project Status: Once a project is entered the recipient will be asked to report on project status each reporting period, in four categories:

- a. Not Started
- b. Completed less than 50 percent
- c. Completed 50 percent or more
- d. Completed

### 3. Compensation

Compensation Schedule. The City shall pay the Contractor quarterly based upon approved expenditures in that quarter:

A. Payment. The total compensation under this Agreement shall not exceed nine hundred thousand dollars [\$900,000.00] including New Mexico gross receipts tax. This amount is a maximum and not a guarantee that the work assigned to be performed by Contractor under this Agreement shall equal the amount stated herein. The Parties do not intend for the Contractor to continue to provide Services without compensation when the total compensation amount is reached. Contractor is responsible for notifying the City when the Services provided under this Agreement reach the total compensation amount. In no event will the Contractor be paid for

Services provided in excess of the total compensation amount without this Agreement being amended in writing prior to services, in excess of the total compensation amount being provided.

B. Payment shall be made upon Acceptance of each Deliverable and upon the receipt and Acceptance of a detailed, certified Payment Invoice. Payment will be made to the Contractor's designated mailing address. In accordance with Section 13-1-158 NMSA 1978, payment shall be tendered to the Contractor within thirty (30) days of the date of written certification of Acceptance. All Payment Invoices MUST BE received by the City no later than fifteen (15) days after the termination of this Agreement. Payment Invoices received after such date WILL NOT BE PAID.

C. Retainage. Not Applicable. The Parties agree there is no retainage.

D. Performance Bond. Not Applicable. The Parties agree there is no Performance Bond.

E. The Contractor may use SLFRF funds to cover eligible costs incurred during the period that begins on March 3, 2021 and ends on December 31, 2024, if the award funds for the obligations incurred by December 31, 2024 are expended by December 31, 2026. Costs for projects incurred by the subrecipient prior to March 3, 2021 are not eligible, as provided for in Treasury's final rule. Any funds not obligated or expended for eligible uses by the timelines above must be returned to Treasury, including any unobligated or unexpended funds that have been provided to subrecipients and contractors as part of the award closeout process pursuant to 2 C.F.R. 200.344(d).

4. **Term**

THIS AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED IN WRITING BY THE CITY. This Agreement shall begin on date approved by the City and end on June 30, 2026. In no event will the term exceed the duration allowed by statute, NMSA 1978, § 13-1-150.

5. **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.

6. **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.**

7. **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.

8. **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.

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. **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.

12. **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.

13. **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.

14. **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.

15. **Records and Audit**

During the term of this Agreement and for five 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. Subrecipients that expend more than \$750,000 in Federal awards during their fiscal year will be subject to an audit under the Single Audit Act and its implementing regulation at 2 CFR Part 200, Subpart F regarding audit requirements.

16. **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.

17. **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.

18. **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.

19. **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.

20. **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.

21. **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.

22. **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.

23. **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.

24. **New Mexico Tort Claims Act**

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

25. **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, § 38-3-2. 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.

26. **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.

27. **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.

28. **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.

29. **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.

30. **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.

31. **Insurance**

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

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

**B. 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.

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

32. **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.

33. **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.

34. **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.

36. **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.

37. **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.

**38. 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 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.

**39. Notification**

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

To the City: Julie Sanchez Youth and Family Services Division Director, PO Box 909, Santa Fe NM 87504, [jjsanchez@santafenm.gov](mailto:jjsanchez@santafenm.gov)

To the Contractor: Catron Allred, SFCC – ECCOE Director, 6401 Richards Avenue, Santa Fe NM 87508, [catron.allred@sfcc.edu](mailto:catron.allred@sfcc.edu)

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: Catron Allred, SFCC – ECCOE Director, 6401 Richards Avenue, Santa Fe NM 87508, [catron.allred@sfcc.edu](mailto:catron.allred@sfcc.edu)

40. **Succession**

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

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

CITY OF SANTA FE:

CONTRACTOR:  
SFCC - ECCOE

\_\_\_\_\_  
ALAN M. WEBBER, MAYOR

*Becky Rowley*  
\_\_\_\_\_  
DR. BECKY ROWLEY, PRESIDENT  
SFCC

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

DATE: August 3, 2022  
CRS# 01-197245-00-9

Registration # 232866

ATTEST:

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

CITY ATTORNEY'S OFFICE:

*Marcos Martinez*  
\_\_\_\_\_  
Marcos Martinez (Aug 2, 2022 11:21 MDT)  
SENIOR ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

\_\_\_\_\_  
ALEXIS LOTERO, ACTING FINANCE DIRECTOR



2400122.510400 *AH*  
Org.Name/Org.# AH

# City of Santa Fe, New Mexico

# memo

**Date:** June 6, 2022

**To:** Fran Dunaway, Chief Procurement Officer

**From:** Kyra Ochoa, Community Health and Safety Department Director   
Julie Sanchez, Youth and Family Services Division Director 

**Subject:** Exemption Determination Request, NMSA 13-1-98, local public body

Youth and Family Services Division respectfully request exempt determination to be approved by the City's Chief Procurement Officer (CPO), Fran Dunaway, for the following scope of work (SOW) for a professional services agreement (PSA) with the Santa Fe Community College (SFCC):

Using allocated ARPA funds to build and implement a project which will subsidize students who attend SFCC to obtain their credentials in early childcare to provide much needed childcare services in the City of Santa Fe. The approach is to build the pipeline of providers; as students obtain their credentials, they will also be doing a practicum to provide childcare and fill vacancies, both supporting teachers and keeping up the staff to child ratios. The proposal includes opportunities for both job training and paid flexible internships.

City of Santa Fe follows the New Mexico State Procurement Code (NMPC) & City of Santa Fe Procurement Manual (COSPM).

**NMPC, NMSA, 1978 13-1-98 & COSPM, Item VI. Exemptions from the Procurement Code.**

***NMSA 1978, 13-1-98 A. "Procurement of items of tangible personal property or services by a state agency or a local public body (City of SF -municipality) from a state agency, a local public body (SFCC-educational institutions, school districts or local school boards/13-1-67 definition; local public body)***

**Amount:** \$900,000.00

**Term:** Fiscal Year 23-26

**Approved Exemption**

  
Fran Dunaway (Jun 8, 2022 12:38 MDT)

Fran Dunaway, Chief Procurement Officer





AGENCY CUSTOMER ID: \_\_\_\_\_

LOC #: \_\_\_\_\_



# ADDITIONAL REMARKS SCHEDULE

Page \_\_\_\_\_ of \_\_\_\_\_

AGENCY Poms & Associates Insurance Brokers		NAMED INSURED New Mexico Public Schools Insurance Authority	
POLICY NUMBER		EFFECTIVE DATE:	
CARRIER	NAIC CODE		

## ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,  
 FORM NUMBER: \_\_\_\_\_ FORM TITLE: : Notes

**Summary of New Mexico Tort Claims Act Section 41-4-19:**  
**Maximum Liability Governmental entities and agencies, including public schools, public charter schools and community colleges and universities are granted immunity from liability.**  
**Commercial General Liability Products and Completed Operations Professional Liability Contractual Liability**  
**Imposed by New Mexico Tort Claims Act [ NMSA 1975 §41-4-1 through 41-4-29]**  
**\$400,000 Bodily Injury Per Person**  
**\$200,000 Property Damage Per Property Address**  
**\$300,000 Medical**  
**\$750,000 Per Occurrence**  
**\$1,050,000 Combined Limit/Maximum Liability**



## City of Santa Fe

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

## BUSINESS REGISTRATION

**Business Name:** SANTA FE COMMUNITY COLLEGE  
DBA: SANTA FE COMMUNITY  
COLLEGE

**Business Location:** 6401 RICHARDS AVE  
SANTA FE, NM 87508

**CRS Number:** 01197245009

**Owner:** SANTA FE COMMUNITY COLLEGE

**License Number:** 232866

**License Type:** Business License - Renewable

**Issued Date:** May 23, 2022

**Classification:** Out of Jurisdiction Business License

**Expiration Date:** May 23, 2023

**Fees Paid:** \$10.00

SANTA FE COMMUNITY COLLEGE  
6401 RICHARDS AVE  
SANTA FE, NM 87508

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 # 3203606

Contractor: Santa Fe Community College - Early Childcare Center of Excellence

Description: **ARPA Recovery Funds Subrecipient Contract for Early Childcare Job Development - funds may cover incurred costs from March 3, 2021 per federal guidelines.**

Contract  Agreement  Lease / Rent  Amendment

Term Start Date: 07/01/2020 Term End Date: 06/30/2026

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

### **Contract / Lease: ARPA Recovery Funds Subrecipient Contract**

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: Exempt, NMSA 13-1-98, local public body**

Sep 2, 2022  
Purchasing Officer Review: \_\_\_\_\_ Date: \_\_\_\_\_

Comment & Exceptions: 13-1-98-A

4. **Funding Source: 240/Human Services Fund - ARPA** Org / Object: 2400122.510400

Sep 2, 2022  
Budget Officer Approval: \_\_\_\_\_ Date: \_\_\_\_\_

Comment & Exceptions: **Project Ledger: COM222400A**

Staff Contact who completed this form: Julie Sanchez Phone # 505-955-6678

Email: jjsanchez@santafenm.gov

### To be recorded by City Clerk:

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

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



## Early Childhood Teacher Apprenticeship Program

APRENDE Pre-Apprenticeship is for people interested in gaining work experience in early childhood, receiving a Child Development Certificate, and earning a generous stipend working with children to make a difference in their community.



## Gain Education and Work Experience!



### EARN

Earn \$1500 a term for completing coursework in early childhood education

Earn \$2000 a term for 150 hours of field based learning in an early childhood classroom



### LEARN

Complete coursework in early childhood

Earn a state Child Development Certificate

Free tuition and books scholarships



### TEACH

Become qualified as a Teacher Assistant

Participants qualify for associate degree apprenticeship program

For more information and to apply:

[www.sfcc.edu/aprende](http://www.sfcc.edu/aprende)

Questions?

Email: [aprende@sfcc.edu](mailto:aprende@sfcc.edu)



# APRENDE

Programa de aprendizaje  
de educadores de primera  
infancia

El programa de "APRENDE" Pre-Aprendiz es para personas interesadas en obtener experiencia trabajando en la educación de la primera infancia, recibir un Certificado de Desarrollo Infantil y ganar un generoso incentivo trabajando con niños para hacer una diferencia en su comunidad.



## ¡Obtén educación y experiencia de trabajo!



### GANAR

Gana \$1500 por semestre por completar cursos en educación de la primera infancia

Gana \$2000 por semestre por 150 horas de experiencia en un aula de la primera infancia



### APRENDE

Toma clases en la primera infancia

Obtén un Certificado de Desarrollo Infantil

Colegiatura y libros gratuitos a través de becas



### ENSEÑAR

Capacítate como Asistente de Maestro

Los participantes califican para el programa de aprendizaje

Para más información y para aplicar,  
visita nuestro sitio de internet:  
[www.sfcc.edu/aprende](http://www.sfcc.edu/aprende)

¿Preguntas?

Email: [aprende@sfcc.edu](mailto:aprende@sfcc.edu)





# City of Santa Fe, New Mexico

## Memorandum



**DATE:** August 31, 2022

**TO:** Quality of Life  
Finance Committee  
Governing Body

**VIA:** Kyra R. Ochoa, Community Health & Safety Director Kyra Ochoa  
Maria Sanchez-Tucker, Community Services Director MT  
Brian Stinett, Recreation Director Brian Stinett

**FROM:** Tom Miller, Ice Arena Manager

**RE:** Award – ITB 22/43/B - Refrigeration and Mechanical Service for the Ice Arena at the Genoveva Chavez Community Center (GCCC)

---

### ITEM AND ISSUE:

The GCCC is requesting the approval of the award to Travers Mechanical Services for Refrigeration and Mechanical Services for the Ice Arena at GCCC. The prior agreement, 18-1301, Munis #3202156 with Travers Mechanical expired on 6/30/22. This contract will expire on June 30, 2026.

### BACKGROUND AND SUMMARY:

Due to the current agreement expiring, GCCC staff initiated a new ITB in March of 2022. Travers Mechanical has provided service for the GCCC Ice Arena for 15 years. Travers installed the new \$700,000.00 chillers in 2020. The GCCC Staff is confident that Travers Mechanical will continue to provide the same required service moving forward. The total for this agreement will not exceed \$245K over 4 years, (FY23 \$95K, FY24 \$50K, FY25 \$50K, FY26 \$50K).

### PROCUREMENT METHOD:

The procurement method was an Invitation to bid (ITB) 22/43/B, which was advertised in both the Albuquerque Journal, and the Santa Fe New Mexican and posted The ITB was on the City of Santa Fe website, [https://www.santafenm.gov/bids\\_rfps](https://www.santafenm.gov/bids_rfps). The opening for the bid was on 7/14/22 at 2pm. Travers Mechanical was the only respondent and was the lowest qualified bidder.

### CONTRACT NUMBER:

The FY23 Munis contract number is 3203602

### FUNDING SOURCE:

**Fund Name/Number:** Recreation/ Ice Arena

**Munis Org Name/Number:** 5500265

**Munis Object Name/Number:** 520100 Repair and Maintenance, Building/Structure

### ACTION REQUESTED:

GCCC/Recreation respectfully requests your review and approval.

**Signature:** *Maria Tucker*

**Email:** metucker@santafenm.gov

**Signature:** *Kyra Ochoa*  
Kyra Ochoa (Aug 31, 2022 14:58 MDT)

**Email:** krochoa@santafenm.gov

**Signature:** *Brian Stinett*  
Brian Stinett (Aug 31, 2022 14:59 MDT)

**Email:** bjstinett@santafenm.gov





# CITY OF SANTA FE PROCUREMENT CHECKLIST

Contractor Name: Travers Mechanical Services , LLC

Procurement Title: Refrigeration and Mechanical Sercies for the Ice Arena at the (GCCC)

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 (GCCC)/Recreation Staff Name Tom Miller

### Procurement Requirements:

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

### REQUIRED DOCUMENTS FOR APPROVAL BY PURCHASING\*

YES N/A

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

Tom Miller Ice Arena Manager/ Recreation 7/26/22

Department Rep Printed Name (attesting that all information included)	Title	Date
	Contracts Supervisor	Sep 2, 2022

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

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



## City of Santa Fe

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

## BUSINESS REGISTRATION

**Business Name:** TRAVERS MECHANICAL SERVICES  
DBA: TRAVERS MECHANICAL SERVICES

**Business Location:** 3704 SPYGLASS LP  
RIO RANCH, NM 87124

**Owner:** TRAVERS MECHANICAL SERVICES

**License Number:** 233335

**Issued Date:** August 10, 2022

**Expiration Date:** August 10, 2023

**CRS Number:** 03067920006

**License Type:** Business License - Renewable

**Classification:** Out of Jurisdiction Contractor - Specialty

**Fees Paid:** \$10.00

TRAVERSMECHANICAL SERVICES  
3704 SPYGLASS LP  
RIO RANCHO, NM 87124

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

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

**TO BE POSTED IN A CONSPICUOUS PLACE**



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

06/16/2022

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 Downey & Company 6565 AMERICAS PARKWAY NE SUITE 750 ALBUQUERQUE NM 87110	CONTACT NAME: Maria Ankeny	PHONE (A/C, No, Ext): (505) 881-0300	FAX (A/C, No): (505) 881-0908
	E-MAIL ADDRESS: mankeny@downeyandco.com		
INSURED Travers Mechanical Services, LLC 1380 Rio Rancho Blvd SE Suite #365 Rio Rancho NM 87124	INSURER(S) AFFORDING COVERAGE		NAIC #
	INSURER A: Donegal Insurance Group		13692
	INSURER B:		
	INSURER C:		
	INSURER D:		
	INSURER E:		
INSURER F:			

COVERAGES CERTIFICATE NUMBER: 22/23 Multi w/IF REVISION NUMBER:

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:			CPT9341709	06/19/2022	06/19/2023	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY			CA9341709	06/19/2022	06/19/2023	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ Medical payments \$ 10,000
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 10,000			CXL9341709	06/19/2022	06/19/2023	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000 \$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	WC 1000007361	06/19/2022	06/19/2023	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
A	Installation Floater			CPT9341709	06/19/2022	06/19/2023	Limit \$50,000

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

RE: GENOVEVA CHAVEZ COMMUNITY CENTER 3221 RODEO RD, SANTA FE, NM 87507 CITY OF SANTA FE IS RECOGNIZED AS ADDITIONAL INSURED WITH REGARD GENERAL LIABILITY AS THEIR INTEREST MAY APPEAR.

**CERTIFICATE HOLDER****CANCELLATION**

CITY OF SANTA FE P.O. BOX 909  SANTA FE NM 87504	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE  <i>Maria Ankeny</i>

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

**CITY OF SANTA FE  
GENERAL SERVICES CONTRACT**

**REFRIGERATION AND MECHANICAL SERVICE FOR THE ICE ARENA AT THE  
GENOVEVA CHAVEZ COMMUNITY CENTER (GCCC)**

THIS AGREEMENT is made and entered into by and between the City of Santa Fe, herein after referred to as the "City", and TRIVERS MECHANICAL SERVICES, LLC herein after referred to as the "Contractor."

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

**1. Definitions**

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

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

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


**2. Scope of Work**

Refrigeration, Mechanical, Plumbing and Electrical Services for the Ice Arena at the Genoveva Chavez Community Center (GCCC) The area to be serviced is 17,000 square feet located at the:

Genoveva Chavez Community Center (GCCC)  
3221 Rodeo Road  
Santa Fe, NM 87507

The Contractor will provide services for both Repair and Maintenance which include, but are not limited to, mechanical and electrical services to the refrigeration plant and associated mechanical systems that support the environment and ice conditions and (HVAC) Heating, Ventilation and Air Conditioning. All efforts to service the below equipment will be made during *normal business hours, Monday through Friday 8am – 5pm* but it might be necessary to service the equipment on weekends and after normal business hours. This would be considered Emergency/On-Call. If the Contractor is contacted via phone by an authorized GCCC representative, it is considered a critical item. All other items needing attention will be scheduled through e-mails.

All work shall be in strict compliance with the national and state building mechanical, plumbing and electrical codes including (SMACNA) Sheet Metal and Air Conditioning Contractors' National Association, and (ASHRAE) American Society of Heating, Refrigerating and Air-Conditioning Engineers standards. Any work involving disconnect or switching of electrical service to a work area shall utilize lockout tagout identification practices. The Contractor MUST follow all City and State Licensing requirements for work listed in this agreement and must provide proof of licenses at any time requested by the City of Santa Fe or GCCC. These licenses must remain valid throughout the term of the agreement. Scheduled visits would be for a particular item or scheduled maintenance.

Contractor and the lead journeyman/technician shall have at least five (5) years' experience with maintenance and repair of ice rink, ice arena equipment used in the GCCC Ice Arena or similar equipment. 



### **MATERIALS AND PARTS:**


The GCCC requires that all materials be new and of the highest quality and at the best attainable price available for the type of work being performed. No used materials shall be used on the project unless they are recycled materials specifically prepared for reuse and meet (LEED) Leadership in Energy and Environmental Design certification.

The Contractor shall provide an itemized quantifiable list of materials needed to complete projects and maintenance. Billings shall be submitted based on actual cost for materials, less any applicable percentage for discounts. Contractor shall provide verification that materials purchased were used for the project. Any unused, billed for materials shall be turned over to the GCCC.


### **CLEAN UP:**

The Contractor shall provide all clean-up for its operations and control of all construction debris. All work areas shall be maintained in a neat and workmanlike manner. All construction debris shall be removed from the work areas and disposed of at an approved waste disposal site. The GCCC trash container for the building shall not be used for disposal of any construction debris.

### **SAFETY:**

Safety shall be of main concern and enforced by the Contractor on site and will be periodically inspected by the State's qualified safety personnel. The selected Contractor will comply with all local, state, and federal laws governing safety, health, and sanitation. The on-site Journeyman shall always have a minimum (OSHA) Occupational Safety and Health Administration 10 and preferably OSHA 30 card with him when on the jobsite. 

The City shall not in any way be responsible for any fines set forth for such violations of codes, OSHA standards or any other governing agency having justification at the work site. The Contractor shall provide all needed safeguards, safety devices and protective equipment and take any actions necessary to protect the life and health of the Contractor, city employees, the public and to protect the property of the GCCC during the performance of the work covered by this Agreement while on site.

Any technician servicing EPA (Environmental Protection Act) regulated refrigerants in HVAC units MUST have a valid EPA Section 608 Certification covering the applicable refrigerant.  The Contractor will assume responsibility for all EPA fines including those attributable to the City if the Contractor is found to be illegally, intentionally, or accidentally releasing any regulated refrigerant. Prior to working on any regulated refrigerant-containing equipment, the Contractor shall provide a written statement certifying that they will use EPA-certified refrigerant recovery and recycling equipment when applicable.

### **MAINTENANCE:**

All maintenance and repairs will be performed according to industry and equipment manual standards. These industry standards are determined by the manuals for the equipment located in the Ice Technicians office or via on-line authorized service manuals. The equipment that is to be serviced is listed in the 'Equipment' Section below. The GCCC Ice Technician/Ice Arena Manager will work with/coordinate with the Contractor on the dates for the site visit and discuss filters, lubrication, pumps, motors, and Preventive Maintenance Service (PMS). **All replaced parts will have the manufacturer warranty (of at least 30 days, this could be longer depending on the part) all service performed on GCCC equipment will have a 30-day warranty.**

**EQUIPMENT:** The equipment to be maintained includes but is not limited to:

- Quantity 2** - Compressors - Mycom "W" Series Reciprocating Compressors
- Quantity 2** - Chillers - Cimco CCS80WE R507A / Bitzer Compressors and DX chiller  
Cold and warm floor ice making loops
- Quantity 1** - Water cooling towers - Cimco Tormont Model # LSTA4121
- Quantity 2** - (HVAC) Heating Ventilation and Air Conditioner units –York Model #  
Y14EN74A2AABAA
- Quantity 1** - Dehumidification unit Exhaust fans – MUNTERS Model # AM30G
- Quantity 2** - Evaporative coolers - Cimco Tormont Model # LSTA4121
- Various Pumps
- Various Motors
- Various Condensers
- Various Water treatment system Support
- All computer operated controls associated with the above equipment

*Note: If equipment is not listed above, the Contractor must be licensed to maintain/repair that part and receive prior authorization from the GCCC.*

#### **QUARTERLY RESPONSIBILITIES:**

- A. Submit a quarterly written report of tasks performed to the Ice Technician/Ice Arena Manager, findings of work needed, and status of mechanical and electrical systems to date. Communicate via an approved GCCC written report once a month regarding status of work, issues, and invoices. This includes four regularly scheduled visits, which shall occur in August, October, January, and April. The Contractor will report to the Ice Technician/Ice Arena Manager upon arrival, and when departing for the day.
- B. Perform a quarterly inspection of the operation of all moving parts of each piece of equipment listed and all supporting automated systems. An approved GCCC quarterly visual inspection written report will be submitted. This report will be kept for audit and reference purposes.
- C. Inspect belts in refrigeration plant Compressor's number 1 thru 4 and all Roof Top Units (RTU's) quarterly as needed. (Belts & pulleys will be provided by GCCC if needed)
- D. During one of the quarterly inspections, perform leak check tests on the condenser/chiller systems for Skid Number 1 and 2.
- E. Quarterly inspection of the MUNTERS Dehumidification system and check both desiccant wheel belts for wear and adjustments. Check both motor blower belts for wear and tension. Refer to manual for additional tests and other maintenance specifications. GCCC will provide the either the hardcopy or electronic manual if requested to ensure proper maintenance instructions.
- F. The Contractor shall also provide quarterly comprehensive inspections, repair of the equipment and service of HVAC system on west-side locker room roof that follows the recommended service in the equipment manual.
- G. Repair any issues found during the quarterly inspections upon GCCC approval.

**Quarterly inspections are an all-inclusive flat rate. If additional approved repairs or maintenance is needed, then the hourly rate will be used.**

**ANNUAL RESPONSIBILITIES:**

- A. Inspect and clean the water cooling towers annually (September). Inspect fans, drive shaft, and belts in Tower Number 1 and Tower Number 2 for wear and necessary adjustments. Annually clean and flush both towers.
- B. Annually inspect and clean both HVAC Units Number 6 and 7 condenser coils inside and out to prevent high head pressure on these self-contained Roof Top Units (RTU).

If an item is discovered to need repair during a routine or other inspection, Contractor shall note the repair needed, the system impacted, and the cost to provide the repair. A written report that includes the quote will be provided. No work shall commence by the Contractor until an approved Purchase Order (PO) is created.

**Annual inspections are an all-inclusive flat rate. If additional approved repairs or maintenance are needed, then the hourly rate will be used.**

**ON-CALL /EMERGENCY RESPONSIBILITIES:**

The Contractor shall respond within three (3) hours after receipt of the notification call for required service. Scheduling of the weekly inspections will be at the discretion of both parties. Weekly inspections include visual inspection, operational test, and diagnostics on all systems equipment. The Contractor will provide an approved GCCC weekly visual inspection report on the status of all equipment. Repair any issues found during the weekly inspections upon GCCC approval. The receipt of notification will be logged by a GCCC representative with the date and time. Unless otherwise authorized by the GCCC, the Contractor must physically be on site at the GCCC. The GCCC does reserve the right to schedule a time and date outside of the 3-hour window with the Contractor if needed. These calls may be in the evening, weekends, and holidays. Repair any issues found during the on-call/emergency response upon GCCC approval.

3. **Compensation**

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

<u>Deliverable item:</u>	<u>U/I (unit of issue)</u>	<u>Price</u>
01 - NOT AWARDED	N/A	N/A
02 - Quarterly Inspection (As Listed Above)	Quarterly	\$4,660.00
03 - Annual Inspection (As Listed Above)	Annually	\$4,660.00
04 - Plumber Technician	Hourly (Over and Under \$60K)	\$110.00
05 - Refrigeration Technician	Hourly (Over and Under \$60K)	\$130.00
06 - Electrician, Journeyman	Hourly (Over and Under \$60K)	\$130.00
07 - Laborer Rate	Hourly (Over and Under \$60K)	\$130.00
08 - On-Call/Emergency 8:00am through 5:00pm (Per Technician) Note: Prior Authorization Must be given by the GCCC if more than one Technician is needed	Hourly (Over and Under \$60K)	\$130.00
09 - On-Call/Emergency 5:01pm through 7:59am (Per Technician on Site) Note: Prior Authorization Must be given by the GCCC if more than one Technician is needed	Hourly (Over and Under \$60K)	\$195.00

10	- On-Call/Emergency 8:00am through 5:00pm (Per Laborer on Site) Note: Prior Authorization Must be given by the GCCC if more than one Laborer is needed	Hourly (Over and Under \$60K)	\$130.00
11	- On-Call/Emergency 5:01pm through 7:59am (Per Laborer on Site) Note: Prior Authorization Must be given by the GCCC if more than one Laborer is needed	Hourly (Over and Under \$60K)	\$195.00
12	- % Discount off of current catalog price for parts, Equipment, and other supplies needed for service, repair, and replacement.	%	0%

The total compensation under this Agreement shall not exceed two hundred forty-five thousand dollars excluding New Mexico Gross Receipt Tax. The breakdown is as follows: FY23 \$95,000, FY24 \$50,000, FY25 \$50,000, FY26 \$50,000.

4. **Payment Provisions**

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

- A. Acceptance - In accordance with Section 13-1-158 NMSA 1978, the City shall determine if the product or services provided meet specifications. Until the products or services have been accepted in writing by the City, the City shall not pay for any products or services. Unless otherwise agreed upon between the City and the Contractor, within thirty (30) days from the date the City receives written notice from the Contractor that payment is requested for services or within thirty (30) days from the receipt of products, the City shall issue a written certification (by letter or email) of complete or partial acceptance or rejection of the products or services. Unless the City gives notice of rejection within the specified time period, the products or services will be deemed to have been accepted.
- B. Payment of Invoice - Upon acceptance that the products or services have been received and accepted, payment shall be tendered to the Contractor within thirty (30) days after the date of invoice. After the thirtieth day from the date that written certification of acceptance is issued, late payment charges shall be paid on the unpaid balance due on the contract to the Contractor at the rate of 1.5 % per month. Contractor may submit invoices for payment no more frequently than monthly. Payment will be made to the Contractor's designated mailing address. Payment on each invoice shall be due within 30 days from the date of the acceptance of the invoice. The City agrees to pay in full the balance shown on each account's statement, by the due date shown on said statement.

5. **Term**

THIS AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED IN WRITING BY THE CITY. This Agreement shall begin on date approved by the City, and end on **June 30, 2026**. 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, § 38-3-2. By execution of this Agreement, Contractor acknowledges and agrees to the jurisdiction of the courts of the State of New Mexico over any and all lawsuits arising under or out of any term of this Agreement.

28. **Limitation of Liability**

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

29. **Incorporation by Reference and Precedence**

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

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

30. **Workers' Compensation**

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

31. **Inspection**

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

32. **Inspection of Services**

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

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

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

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

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

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

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

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

33. **Insurance**

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

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

**B. 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.

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

34. **Impracticality of Performance**

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

35. **Invalid Term or Condition**

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

36. **Enforcement of Agreement**

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

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

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

- 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:

Tom E. Miller / Ice Arena Manager / Recreation / City of Santa Fe  
Genoveva Chavez Community Center  
3221 Rodeo Road  
Santa Fe, NM 87507

To the Contractor:

Travers Mechanical Services  
Attn: Mike Travers  
6609 Edith NE  
Albuquerque, NM 87113

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:

Travers Mechanical Services  
Attn: Mike Travers  
6609 Edith NE  
Albuquerque, NM 87113

42. **Succession**

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

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

CITY OF SANTA FE:

CONTRACTOR: Travers Mechanical Services

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

Mike Travers (Signature)  
Mike Travers

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

MANAGER  
TITLE

DATE: 8-25-2022  
CRS#03-679920-00-6

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

ATTEST:

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

CITY ATTORNEY'S OFFICE:

Marcos Martinez  
Marcos Martinez (Sep 1, 2022 08:56 MDT)  
SENIOR ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

\_\_\_\_\_  
FINANCE DIRECTOR

Recreation/Ice Arena / 5500265 AH  
Org.Name/Org.# AH



# City of Santa Fe, New Mexico


## Memorandum



**DATE:** August 31, 2022

**TO:** Quality of Life  
Finance Committee  
Governing Body

**VIA:** Kyra R. Ochoa, Community Health & Safety Director Kyra Ochoa  
Maria Sanchez-Tucker, Community Services Director MT  
Brian Stinett, Recreation Director Brian Stinett

**FROM:** Tom Miller, Ice Arena Manager Tom 

**RE:** Award – ITB 22/43/B - Refrigeration and Mechanical Service for the Ice Arena at the Genoveva Chavez Community Center (GCCC)

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### ITEM AND ISSUE:

The GCCC is requesting the approval of the award to Travers Mechanical Services for Refrigeration and Mechanical Services for the Ice Arena at GCCC. The prior agreement, 18-1301, Munis #3202156 with Travers Mechanical expired on 6/30/22. This contract will expire on June 30, 2026.

### BACKGROUND AND SUMMARY:

Due to the current agreement expiring, GCCC staff initiated a new ITB in March of 2022. Travers Mechanical has provided service for the GCCC Ice Arena for 15 years. Travers installed the new \$700,000.00 chillers in 2020. The GCCC Staff is confident that Travers Mechanical will continue to provide the same required service moving forward. The total for this agreement will not exceed \$245K over 4 years, (FY23 \$95K, FY24 \$50K, FY25 \$50K, FY26 \$50K).

### PROCUREMENT METHOD:

The procurement method was an Invitation to bid (ITB) 22/43/B, which was advertised in both the Albuquerque Journal, and the Santa Fe New Mexican and posted. The ITB was on the City of Santa Fe website, [https://www.santafenm.gov/bids\\_rfps](https://www.santafenm.gov/bids_rfps). The opening for the bid was on 7/14/22 at 2pm. Travers Mechanical was the only respondent and was the lowest qualified bidder.

### CONTRACT NUMBER:

The FY23 Munis contract number is 3203602

### FUNDING SOURCE:

**Fund Name/Number:** Recreation/ Ice Arena

**Munis Org Name/Number:** 5500265

**Munis Object Name/Number:** 520100 Repair and Maintenance, Building/Structure

### ACTION REQUESTED:

GCCC/Recreation respectfully requests your review and approval.

**Signature:** *Maria Tucker*

**Email:** metucker@santafenm.gov

**Signature:** *Kyra Ochoa*  
Kyra Ochoa (Aug 31, 2022 14:58 MDT)

**Email:** krochoa@santafenm.gov

**Signature:** *Brian Stinett*  
Brian Stinett (Aug 31, 2022 14:59 MDT)

**Email:** bjstinett@santafenm.gov



# City of Santa Fe

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

### Section to be completed by department

1. Munis Contract # 3203602

Contractor: Travers Mechanical Services

Description: Refrigeration and Mechanical Service for the Ice Arena at the Genoveva Chavez Community Center (GCCC)

Contract  Agreement  Lease / Rent  Amendment

Term Start Date: As Approved Term End Date: 6/30/2026

Approved by Council Date: Pending

**Contract / Lease:** Contract/\$245,000

Amendment # N/A to the Original Contract / Lease # N/A

Increase/(Decrease) Amount \$ N/A

Extend Termination Date to: N/A

Approved by Council Date: N/A

### Amendment is for:

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

This agreement will Terminate on 6/30/26. The ITB process for 22/43/B started in March 2022. Travers Mechanical Services (TMS) was the only respondent to the ITB. Over the past 15 years, TMS has provided the Refrigeration and Mechanical Services for the Ice Rink at the GCCC. The GCCC Staff is confident that TMS will continue to provide the same required service moving forward. The total for this agreement will not exceed \$245K over 4 years, (FY23 \$95K, FY24 \$50K, FY25 \$50K, FY26 \$50K).

3. Procurement History: ITB 22/43/B - Bid Opening 7/14/22 @ 2pm

Purchasing Officer Review: \_\_\_\_\_ Date: \_\_\_\_\_

Comment & Exceptions: Travers, the only lowest respondent bidder.

4. Funding Source: Recreation/Ice Arena Org / Object: 5500265/520100

Budget Officer Approval: \_\_\_\_\_ Date: \_\_\_\_\_

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

Staff Contact who completed this form: Tom Miller Phone # 505-955-4031

Email: temiller@santafenm.gov

### To be recorded by City Clerk:

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

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



# CITY OF SANTA FE PROCUREMENT CHECKLIST

Contractor Name: Travers Mechanical Services , LLC

Procurement Title: Refrigeration and Mechanical Sercies for the Ice Arena at the (GCCC)

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 (GCCC)/Recreation Staff Name Tom Miller

### 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:

Tom Miller	Ice Arena Manager/ Recreation	7/26/22
<hr/>		
Department Rep Printed Name (attesting that all information included)	Title	Date
Raymond 'Scott' Gunter	Procurement Manager	7/26/22
<hr/>		
Purchasing Officer (attesting that all information is reviewed)	Title	Date

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



## City of Santa Fe

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

## BUSINESS REGISTRATION

**Business Name:** TRAVERS MECHANICAL SERVICES  
DBA: TRAVERS MECHANICAL SERVICES

**Business Location:** 3704 SPYGLASS LP  
RIO RANCH, NM 87124

**Owner:** TRAVERS MECHANICAL SERVICES

**License Number:** 233335

**Issued Date:** August 10, 2022

**Expiration Date:** August 10, 2023

**CRS Number:** 03067920006

**License Type:** Business License - Renewable

**Classification:** Out of Jurisdiction Contractor -  
Specialty

**Fees Paid:** \$10.00

TRAVERS MECHANICAL SERVICES  
3704 SPYGLASS LP  
RIO RANCHO, NM 87124

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

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

**TO BE POSTED IN A CONSPICUOUS PLACE**



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
06/16/2022

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 Downey & Company 6565 AMERICAS PARKWAY NE SUITE 750 ALBUQUERQUE NM 87110	CONTACT NAME: Maria Ankeny	
	PHONE (A/C, No, Ext): (505) 881-0300 FAX (A/C, No): (505) 881-0908 E-MAIL ADDRESS: mankeny@downeyandco.com	
INSURED Travers Mechanical Services, LLC 1380 Rio Rancho Blvd SE Suite #365 Rio Rancho NM 87124	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A: Donegal Insurance Group	13692
	INSURER B:	
	INSURER C:	
	INSURER D:	
	INSURER E:	

COVERAGES CERTIFICATE NUMBER: 22/23 Multi w/IF 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 SUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:		CPT9341709	06/19/2022	06/19/2023	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COM/PO/AGG \$ 2,000,000
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS NON-OWNED AUTOS ONLY		CA9341709	06/19/2022	06/19/2023	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ Medical payments \$ 10,000
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 10,000		CXL9341709	06/19/2022	06/19/2023	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N N/A	WC 1000007361	06/19/2022	06/19/2023	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
A	Installation Floater		CPT9341709	06/19/2022	06/19/2023	Limit \$50,000

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

RE: GENOVEVA CHAVEZ COMMUNITY CENTER 3221 RODEO RD, SANTA FE, NM 87507 CITY OF SANTA FE IS RECOGNIZED AS ADDITIONAL INSURED WITH REGARD GENERAL LIABILITY AS THEIR INTEREST MAY APPEAR.

## CERTIFICATE HOLDER

## CANCELLATION

CITY OF SANTA FE P.O. BOX 909  SANTA FE NM 87504	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.  AUTHORIZED REPRESENTATIVE  <i>Maria Ankeny</i>
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Item# \_\_\_\_\_  
Munis Contract# \_\_\_\_\_

**CITY OF SANTA FE  
GENERAL SERVICES CONTRACT**

**REFRIGERATION AND MECHANICAL SERVICE FOR THE ICE ARENA AT THE  
GENOVEVA CHAVEZ COMMUNITY CENTER (GCCC)**

THIS AGREEMENT is made and entered into by and between the City of Santa Fe, herein after referred to as the "City", and TRAVERS MECHANICAL SERVICES, LLC herein after referred to as the "Contractor."

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

**1. Definitions**

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

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

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


**2. Scope of Work**

Refrigeration, Mechanical, Plumbing and Electrical Services for the Ice Arena at the Genoveva Chavez Community Center (GCCC) The area to be serviced is 17,000 square feet located at the:

Genoveva Chavez Community Center (GCCC)  
3221 Rodeo Road  
Santa Fe, NM 87507

The Contractor will provide services for both Repair and Maintenance which include, but are not limited to, mechanical and electrical services to the refrigeration plant and associated mechanical systems that support the environment and ice conditions and (HVAC) Heating, Ventilation and Air Conditioning. All efforts to service the below equipment will be made during *normal business hours, Monday through Friday 8am – 5pm* but it might be necessary to service the equipment on weekends and after normal business hours. This would be considered Emergency/On-Call. If the Contractor is contacted via phone by an authorized GCCC representative, it is considered a critical item. All other items needing attention will be scheduled through e-mails.

All work shall be in strict compliance with the national and state building mechanical, plumbing and electrical codes including (SMACNA) Sheet Metal and Air Conditioning Contractors' National Association, and (ASHRAE) American Society of Heating, Refrigerating and Air-Conditioning Engineers standards. Any work involving disconnect or switching of electrical service to a work area shall utilize lockout tagout identification practices. The Contractor MUST follow all City and State Licensing requirements for work listed in this agreement and must provide proof of licenses at any time requested by the City of Santa Fe or GCCC. These licenses must remain valid throughout the term of the agreement. Scheduled visits would be for a particular item or scheduled maintenance.

Contractor and the lead journeyman/technician shall have at least five (5) years' experience with maintenance and repair of ice rink, ice arena equipment used in the GCCC Ice Arena or similar equipment. 



### **MATERIALS AND PARTS:**


The GCCC requires that all materials be new and of the highest quality and at the best attainable price available for the type of work being performed. No used materials shall be used on the project unless they are recycled materials specifically prepared for reuse and meet (LEED) Leadership in Energy and Environmental Design certification.

The Contractor shall provide an itemized quantifiable list of materials needed to complete projects and maintenance. Billings shall be submitted based on actual cost for materials, less any applicable percentage for discounts. Contractor shall provide verification that materials purchased were used for the project. Any unused, billed for materials shall be turned over to the GCCC.


### **CLEAN UP:**

The Contractor shall provide all clean-up for its operations and control of all construction debris. All work areas shall be maintained in a neat and workmanlike manner. All construction debris shall be removed from the work areas and disposed of at an approved waste disposal site. The GCCC trash container for the building shall not be used for disposal of any construction debris.

### **SAFETY:**

Safety shall be of main concern and enforced by the Contractor on site and will be periodically inspected by the State's qualified safety personnel. The selected Contractor will comply with all local, state, and federal laws governing safety, health, and sanitation. The on-site Journeyman shall always have a minimum (OSHA) Occupational Safety and Health Administration 10 and preferably OSHA 30 card with him when on the jobsite. 

The City shall not in any way be responsible for any fines set forth for such violations of codes, OSHA standards or any other governing agency having justification at the work site. The Contractor shall provide all needed safeguards, safety devices and protective equipment and take any actions necessary to protect the life and health of the Contractor, city employees, the public and to protect the property of the GCCC during the performance of the work covered by this Agreement while on site.

Any technician servicing EPA (Environmental Protection Act) regulated refrigerants in HVAC units MUST have a valid EPA Section 608 Certification covering the applicable refrigerant.  The Contractor will assume responsibility for all EPA fines including those attributable to the City if the Contractor is found to be illegally, intentionally, or accidentally releasing any regulated refrigerant. Prior to working on any regulated refrigerant-containing equipment, the Contractor shall provide a written statement certifying that they will use EPA-certified refrigerant recovery and recycling equipment when applicable.

### **MAINTENANCE:**

~~All maintenance and repairs will be performed according to industry and equipment manual standards. These industry standards are determined by the manuals for the equipment located in the Ice Technicians office or via on-line authorized service manuals. The equipment that is to be serviced is listed in the 'Equipment' Section below. The GCCC Ice Technician/Ice Arena Manager will work with/coordinate with the Contractor on the dates for the site visit and discuss filters, lubrication, pumps, motors, and Preventive Maintenance Service (PMS). All replaced parts will have the manufacturer warranty (of at least 30 days, this could be longer depending on the part) all service performed on GCCC equipment will have a 30-day warranty.~~

**EQUIPMENT:** The equipment to be maintained includes but is not limited to:

- Quantity 2** - Compressors - Mycom "W" Series Reciprocating Compressors
- Quantity 2** - Chillers - Cimco CCS80WE R507A / Bitzer Compressors and DX chiller  
Cold and warm floor ice making loops
- Quantity 1** - Water cooling towers - Cimco Tormont Model # LSTA4121
- Quantity 2** - (HVAC) Heating Ventilation and Air Conditioner units – York Model #  
Y14EN74A2AABAA
- Quantity 1** - Dehumidification unit Exhaust fans – MUNTERS Model # AM30G
- Quantity 2** - Evaporative coolers - Cimco Tormont Model # LSTA4121
- Various Pumps
- Various Motors
- Various Condensers
- Various Water treatment system Support
- All computer operated controls associated with the above equipment

*Note: If equipment is not listed above, the Contractor must be licensed to maintain/repair that part and receive prior authorization from the GCCC.*

#### **QUARTERLY RESPONSIBILITIES:**

- A. Submit a quarterly written report of tasks performed to the Ice Technician/Ice Arena Manager, findings of work needed, and status of mechanical and electrical systems to date. Communicate via an approved GCCC written report once a month regarding status of work, issues, and invoices. This includes four regularly scheduled visits, which shall occur in August, October, January, and April. The Contractor will report to the Ice Technician/Ice Arena Manager upon arrival, and when departing for the day.
- B. Perform a quarterly inspection of the operation of all moving parts of each piece of equipment listed and all supporting automated systems. An approved GCCC quarterly visual inspection written report will be submitted. This report will be kept for audit and reference purposes.
- C. Inspect belts in refrigeration plant Compressor's number 1 thru 4 and all Roof Top Units (RTU's) quarterly as needed. (Belts & pulleys will be provided by GCCC if needed)
- D. During one of the quarterly inspections, perform leak check tests on the condenser/chiller systems for Skid Number 1 and 2.
- E. Quarterly inspection of the MUNTERS Dehumidification system and check both desiccant wheel belts for wear and adjustments. Check both motor blower belts for wear and tension. Refer to manual for additional tests and other maintenance specifications. GCCC will provide the either the hardcopy or electronic manual if requested to ensure proper maintenance instructions.
- F. The Contractor shall also provide quarterly comprehensive inspections, repair of the equipment and service of HVAC system on west-side locker room roof that follows the recommended service in the equipment manual.
- G. Repair any issues found during the quarterly inspections upon GCCC approval.

**Quarterly inspections are an all-inclusive flat rate. If additional approved repairs or maintenance is needed, then the hourly rate will be used.**

**ANNUAL RESPONSIBILITIES:**

- A. Inspect and clean the water cooling towers annually (September). Inspect fans, drive shaft, and belts in Tower Number 1 and Tower Number 2 for wear and necessary adjustments. Annually clean and flush both towers.
- B. Annually inspect and clean both HVAC Units Number 6 and 7 condenser coils inside and out to prevent high head pressure on these self-contained Roof Top Units (RTU).

If an item is discovered to need repair during a routine or other inspection, Contractor shall note the repair needed, the system impacted, and the cost to provide the repair. A written report that includes the quote will be provided. No work shall commence by the Contractor until an approved Purchase Order (PO) is created.

**Annual inspections are an all-inclusive flat rate. If additional approved repairs or maintenance are needed, then the hourly rate will be used.**

**ON-CALL /EMERGENCY RESPONSIBILITIES:**

The Contractor shall respond within three (3) hours after receipt of the notification call for required service. Scheduling of the weekly inspections will be at the discretion of both parties. Weekly inspections include visual inspection, operational test, and diagnostics on all systems equipment. The Contractor will provide an approved GCCC weekly visual inspection report on the status of all equipment. Repair any issues found during the weekly inspections upon GCCC approval. The receipt of notification will be logged by a GCCC representative with the date and time. Unless otherwise authorized by the GCCC, the Contractor must physically be on site at the GCCC. The GCCC does reserve the right to schedule a time and date outside of the 3-hour window with the Contractor if needed. These calls may be in the evening, weekends, and holidays. Repair any issues found during the on-call/emergency response upon GCCC approval.

3. **Compensation**

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

<u>Deliverable item:</u>	<u>U/I (unit of issue)</u>	<u>Price</u>
01 - NOT AWARDED	N/A	N/A
02 - Quarterly Inspection (As Listed Above)	Quarterly	\$4,660.00
03 - Annual Inspection (As Listed Above)	Annually	\$4,660.00
04 - Plumber Technician	Hourly (Over and Under \$60K)	\$110.00
05 - Refrigeration Technician	Hourly (Over and Under \$60K)	\$130.00
06 - Electrician, Journeyman	Hourly (Over and Under \$60K)	\$130.00
07 - Laborer Rate	Hourly (Over and Under \$60K)	\$130.00
08 - On-Call/Emergency 8:00am through 5:00pm (Per Technician) Note: Prior Authorization Must be given by the GCCC if more than one Technician is needed	Hourly (Over and Under \$60K)	\$130.00
09 - On-Call/Emergency 5:01pm through 7:59am (Per Technician on Site) Note: Prior Authorization Must be given by the GCCC if more than one Technician is needed	Hourly (Over and Under \$60K)	\$195.00

10	- On-Call/Emergency 8:00am through 5:00pm (Per Laborer on Site) Note: Prior Authorization Must be given by the GCCC if more than one Laborer is needed	Hourly (Over and Under \$60K)	\$130.00
11	- On-Call/Emergency 5:01pm through 7:59am (Per Laborer on Site) Note: Prior Authorization Must be given by the GCCC if more than one Laborer is needed	Hourly (Over and Under \$60K)	\$195.00
12	- % Discount off of current catalog price for parts, Equipment, and other supplies needed for service, repair, and replacement.	%	0%

The total compensation under this Agreement shall not exceed two hundred forty-five thousand dollars excluding New Mexico Gross Receipt Tax. The breakdown is as follows: FY23 \$95,000, FY24 \$50,000, FY25 \$50,000, FY26 \$50,000.

4. **Payment Provisions**

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

- A. Acceptance - In accordance with Section 13-1-158 NMSA 1978, the City shall determine if the product or services provided meet specifications. Until the products or services have been accepted in writing by the City, the City shall not pay for any products or services. Unless otherwise agreed upon between the City and the Contractor, within thirty (30) days from the date the City receives written notice from the Contractor that payment is requested for services or within thirty (30) days from the receipt of products, the City shall issue a written certification (by letter or email) of complete or partial acceptance or rejection of the products or services. Unless the City gives notice of rejection within the specified time period, the products or services will be deemed to have been accepted.
- B. Payment of Invoice - Upon acceptance that the products or services have been received and accepted, payment shall be tendered to the Contractor within thirty (30) days after the date of invoice. After the thirtieth day from the date that written certification of acceptance is issued, late payment charges shall be paid on the unpaid balance due on the contract to the Contractor at the rate of 1.5 % per month. Contractor may submit invoices for payment no more frequently than monthly. Payment will be made to the Contractor's designated mailing address. Payment on each invoice shall be due within 30 days from the date of the acceptance of the invoice. The City agrees to pay in full the balance shown on each account's statement, by the due date shown on said statement.

5. **Term**

THIS AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED IN WRITING BY THE CITY. This Agreement shall begin on date approved by the City, and end on **June 30, 2026**. 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, § 38-3-2. By execution of this Agreement, Contractor acknowledges and agrees to the jurisdiction of the courts of the State of New Mexico over any and all lawsuits arising under or out of any term of this Agreement.

28. **Limitation of Liability**

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

29. **Incorporation by Reference and Precedence**

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

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

30. **Workers' Compensation**

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

31. **Inspection**

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

32. **Inspection of Services**

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

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

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

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

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

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

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

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

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

(2) terminate the contract for default.

33. **Insurance**

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

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

**B. 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.

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

34. **Impracticality of Performance**

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

35. **Invalid Term or Condition**

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

36. **Enforcement of Agreement**

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

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

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

- 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:

Tom E. Miller / Ice Arena Manager / Recreation / City of Santa Fe  
Genoveva Chavez Community Center  
3221 Rodeo Road  
Santa Fe, NM 87507

To the Contractor:

Travers Mechanical Services  
Attn: Mike Travers  
6609 Edith NE  
Albuquerque, NM 87113

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:

Travers Mechanical Services  
Attn: Mike Travers  
6609 Edith NE  
Albuquerque, NM 87113

42. **Succession**

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

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

CITY OF SANTA FE:

CONTRACTOR: Travers Mechanical Services

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

Mike Travers (Signature)  
Mike Travers

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

MANAGER  
TITLE

DATE: 8-25-2022  
CRS#03-679920-00-6

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

ATTEST:

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

CITY ATTORNEY'S OFFICE:

Marcos Martinez  
Marcos Martinez (Sep 1, 2022 08:56 MDT)  
SENIOR ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

\_\_\_\_\_  
FINANCE DIRECTOR

Recreation/Ice Arena / 5500265  
Org.Name/Org.#




# City of Santa Fe, New Mexico

## Memorandum



**DATE:** September 1, 2022

**TO:** Governing Body  
Finance Committee  
Quality of Life Committee

**VIA:** John Blair, City Manager  
Emily Oster, Finance Director  
Fran Dunaway, Chief Procurement Officer  
Manuel Gonzales, ITT Director 

**FROM:** David C. Tapia, Procurement Coordinator

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**ITEM AND ISSUE:**

ITT Request for Approval of Amendment No. 2 to Item #20-0306 between the City and Immix/UKG Contract in the Amount of \$309,514.60 for Support Upgrading Current Kronos Environment to Workforce Dimensions Environment. (Manuel Gonzales, ITT Director: [mmgonzales@santafenm.gov](mailto:mmgonzales@santafenm.gov) (505) 231-1749; Jackie Henley, ITT Project Manager: [jhenley@santafenm.gov](mailto:jhenley@santafenm.gov) (505) 629-5914 )

**BACKGROUND AND SUMMARY:**

ITT is in process of updating the current Timekeeping management system Kronos and Telestaff to the most current version Kronos Dimensions. As the City is also in process of an upgrade to the Tyler Munis system this upgrade will allow the updated version of Kronos to interact with upgraded version of Tyler and minimize the manual entry process currently in place.

**PROCUREMENT METHOD:**

The procurement method is the NM GSA Contract #GS-35F-0265X which expires on March 2, 2026.

**CONTRACT NUMBER:**

The FY23 Munis contract number is 3201928 (Change Order).

**FUNDING SOURCE:**

The funding source is:

**Fund Name/Number:** Services of Other Dept/620

**Munis Org Name/Number:** ITT EAS/6203600

**Munis Object Name/Number:** Software Subscriptions/530710

**ACTION REQUESTED:**

ITT respectfully requests your review and approval.



# CITY OF SANTA FE PROCUREMENT CHECKLIST

Contractor Name: Immix Technology Inc. \_\_\_\_\_

Procurement Title: GSA Contract #GS-35F-0265X which expires on March 2, 2026

Procurement Method: State Price Agreement  Cooperative  Sole Source  Other  GS-35F-0265X

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

Department Requesting \_\_\_\_\_ ITT \_\_\_\_\_ Staff Name David C. Tapia

### Procurement Requirements:

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

### REQUIRED DOCUMENTS FOR APPROVAL BY PURCHASING\*

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

David C. Tapia Procurement Coordinator 09/01/2022

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

[Signature] Contracts Supervisor Sep 12, 2022

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 # 3201928

Contractor: Immix Technology Inc.

Description: ITT is in process of updating the current Timekeeping management system Kronos and Telestaff to the most current version Kronos Dimensions.

Contract  Agreement  Lease / Rent  Amendment

Term Start Date: 06/24/2020 Term End Date: 06/30/2024

Approved by Council Date: 10/15/2020

### Contract / Lease: Contract

Amendment # 2 to the Original Contract / Lease # 20-0306

Increase/(Decrease) Amount \$ 309,514.60

Extend Termination Date to: June 30, 2024

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

### Amendment is for: Necessary Update to the Current Timekeeping System Kronos to the newest version

2. **HISTORY** of Contract, Amendments & Lease / Rent - Please Elaborate (option: attach spreadsheet if multiple amendments)  
Original contract established for Kronos in 07/01/2020 with original expiration of 06/30/2023. This original contract was only for time keeping city wide and did not include Emergency Bidding (Telestaff) for Police and Fire. Therefore, amendment #1 was generated to increase compensation and in Telestaff for the original term. The current version of Kronos is getting ready to expire creating the need to upgrade the system to Demension. Amendment #2 will include both pieces of software and increase compensation and the Term through 06/30/2024

3. Procurement History: GSA Contract #GS-35F-0265X which expires on March 2, 2026

[Signature] Sep 12, 2022  
Purchasing Officer Review: \_\_\_\_\_ Date: \_\_\_\_\_

Comment & Exceptions: Amendment #2

4. Funding Source: ITT EAS Software Subscriptions Org / Object: 6203600.530710

Andy Hopkins Sep 9, 2022  
Andy Hopkins (Sep 9, 2022 11:25 MDT) \_\_\_\_\_ Date: \_\_\_\_\_

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

Staff Contact who completed this form: David C. Tapia Phone # 505-955-5523

Email: dctapia@santafenm.gov

To be recorded by City Clerk:

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

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

Item# \_\_\_\_\_  
Munis Contract# 3201928

**CITY OF SANTA FE  
AMENDMENT No. 2 TO  
Immix Technology Inc, AGREEMENT  
ITEM#20-0306**

This AMENDMENT No. 2 (the "Amendment") amends the CITY OF SANTA FE AGREEMENT, dated 06/24/20 (the "Agreement"), between the City of Santa Fe (the "City") and Immix Technology Inc., (the "Contractor"). The date of this Amendment shall be the date when it is executed by the City and the Contractor whichever occurs last.

**RECITALS:**

A. Under the terms of the Agreement, Contractor has agreed to provide the Kronos Workforce Telestaff Software Enterprise Licensing, Bidding Functionality and Cloud Hosting Services 07/1/2020-06/30/2024.

B. Pursuant to Article 8 of the Agreement, and for good and valuable consideration, the receipt and sufficiency of which are acknowledged by the parties, the City and the Contractor agree as follows:

1. SCOPE OF SERVICES

Article 2 of the Agreement is amended to upgrade Kronos workforce solutions and Telestaff to current version Kronos Dimensions, so that Article 2 reads as follows: Kronos Dimensions shall provide service as stated in Exhibit "K" of this agreement. incorporated herein. The relevant portions of GSA Contract #GS-35F-0265:X, Terms and Conditions, and State Price Agreement are also attached hereto.

2. COMPENSATION.

Article 3, of the Agreement is amended to increase the amount of compensation by a total of \$309,514.60 including Gross Receipts Tax so that Article 3, paragraph A reads in its entirety as follows:

<u>Deliverable item:</u>	<u>U/I (unit of issue)</u>	<u>Price</u>
1. Initial Upgrade Services Cost, September 30, 2022 (FY23)		\$69,895.75
2. SaaS Fee, September 30, 2022 (FY23)		\$175,407.00
3. Initial Tax, September 30, 2022 (FY23)		\$8,770.35
4. Fire and Police, September 30, 2022 (FY23)		\$23,073.60
5. Telestaff, March 30, 2023 (FY23)		\$32,367.90
6. TOTAL COST FISCAL YEAR 2023		\$309,514.60
TOTAL COMPENSATION OF AMENDMENT #2		\$309,514.60

The total compensation under this Agreement shall not exceed eight hundred four thousand two hundred thirty-five dollars and sixty cents (\$804,235.60) including applicable gross receipts taxes as described in Exhibit "K" attached hereto and incorporated herein

3. TERM:

Article 5 of the Agreement is hereby deleted in its entirety and substitute the following Article 5 in its place:

THIS AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED IN WRITING BY THE CITY. This Agreement shall begin on date approved by the City, and end on 06/30/2024 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.

4. AGREEMENT IN FULL FORCE.

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

IN WITNESS WHEREOF, the parties have executed this Amendment No. 2 to the Agreement as of the dates set forth below.

CITY OF SANTA FE:

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

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

CONTRACTOR:

Immix Technology Inc.,

**Megha** Digitally signed  
by Meghan

NAME Cohen

n Date:

\_\_\_\_\_  
TITLE Cohen 2022.08.31  
18:33:15 -04'00'

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

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

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

ATTEST:

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

CITY ATTORNEY'S OFFICE:

**Marcos Martinez**

Marcos Martinez (Aug 31, 2022 13:58 MDT)

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

APPROVED FOR FINANCES:

\_\_\_\_\_  
EMILY OSTER, FINANCE DIRECTOR

6203600.530710 ITT EAS Software Subscriptions

Org. Name/Org.#

*AH*  
AH

Manuel Gonzales  
CITY OF SANTA FE  
, PH: 505-231-1749  
mmgonzales@santafenm.gov

**Contract No.:** GS-35F-0265X

**CAGE Code:** 3CA29  
**DUNS No.:** 09-869-2374  
**TAX ID#:** 54-1912608  
**Terms:** NET 30  
**FOB:** Destination

**Quote Number:** QUO-1322272-Q0R0S7  
**Quote Date:** 8/25/2022  
**Expiration Date:** 9/24/2022

Order Address:  
immixTechnology, Inc.  
8444 Westpark Drive, Suite 200  
McLean, VA 22102  
PH: 703-752-0610 FX: 703-752-0611

**immixTechnology, Inc. Contact:** Stutts, Brian  
+1 770-625-7661 Brian.Stutts@immixgroup.com

**Manufacturer Quote #:** Q-102756 / 698023-1  
**Manufacturer Ref #:**

**Manufacturer Contact:** Coppi, Jason  
512-731-1739 jason.coppi@Kronos.com

Please reference ImmixTechnology's "QUO" quote number and Government Contract number on any purchase orders issued against this quote.

PLEASE DO NOT MAIL PURCHASE ORDERS VIA US POSTAL SERVICE. Please email purchase order to kronos@immixgroup.com.

PLEASE REFERENCE THE 'NET TERMS' ON THE PURCHASE ORDER.

Please include any tax-exempt certificates, where applicable.

Initial Term: 12 months  
Renewal Term: 12 months  
Billing Start Date: 180 Days from Execution of Order  
Data Center Location: USA

**Order Notes:**

The parties agree that Customer is migrating from their existing Workforce Central Software as a Service applications (the "Existing Applications") to the UKG Dimensions Software as a Service offering ("WFD SaaS"). Customer's Software as a Service Agreement on the Existing Applications will continue for a period of one hundred eighty (180) days from the execution of this Order Form. After such period, Customer's rights to use the Existing Applications, along with the associated Software as a Service Agreement, will be terminated, unless otherwise noted herein.

UKG Dimensions Monthly Service Fees shall be invoiced at the Billing Frequency indicated on this Order Form, commencing on the Billing Start Date. As of the Billing Start Date, Customer will be credited for any pre-paid but unused Monthly Service Fees for Existing Applications being migrated. Customer may apply credits against any amounts owed until such credit is expended. Customer understands that they remain responsible for payment of Monthly Service Fees on the Existing Applications until the UKG Dimensions Billing Start Date.

The Scope Statement attached to this Order Form is a summary of the Implementation Services to be provided by UKG for the Implementation Services Fees outlined in this Order Form and incorporated herein by reference. The fees for the Applications are invoiced 60 days prior to the Billing Start Date.

Before including any health related questions in UKG Dimensions Timekeeping please consult with your legal counsel to ensure you are compliant with applicable privacy laws and regulations

Notwithstanding any terms to the contrary in the Reseller Agreement between Immix and Vendor, access to KnowledgeMap Live is included as part of the fees customer is paying for the UKG Dimension services.

**SaaS Services**  
Billing Frequency: Annual in Advance

**Professional Services:**  
Fixed Fee  
Billing Frequency: Billed 100% upon Execution of Order

**Tiered Pricing Application**  
Billing Frequency: Annual in Advance

**One Time Setup Fee**  
Billing Frequency: Billed 100% upon Execution of Order

**A La Carte Services**  
Billing Frequency: Billed 100% upon Execution of Order

**INCLUDED AT NO CHARGE:**  
8604551-000 - UKG DIMENSIONS TELESTAFF INTEGRATION QTY: 415

All Pricing information is confidential

999WFD4-SMB - TIMEKEEPING - Additional Employee Pay Group(s) QTY: 1  
 9999005-SEV - UKG DIMENSIONS MIGRATION SMB - Analytics Consultant QTY: 1  
 9999005-SEV - UKG DIMENSIONS MIGRATION SMB - Kronos Consultant QTY: 1  
 9999005-SEV - UKG DIMENSIONS MIGRATION SMB - Integration Consultant QTY: 1  
 9999005-SEV - UKG DIMENSIONS MIGRATION SMB - Technology Consultant QTY: 1

Item	Part Number	Contract	Trans Type	Product Description	Qty	Price	Extended Price
1	8604538-000A	GS-35F-0265X	XAAS	UKG DIMENSIONS TIMEKEEPING HOURLY - STANDARD LIC, PEPM (1700 lic x 12 months)** TRUSTED PRODUCT**	20400	\$5.9000	\$120,360.00
2	8604540-000A	GS-35F-0265X	XAAS	UKG DIMENSIONS LEAVE (Includes Accruals) - STANDARD LIC, PEPM (1700 lic x 12 months)** TRUSTED PRODUCT**	20400	\$1.1800	\$24,072.00
3	SAAS-WFD-ADD-TENANTS	GS-35F-0265X	XAAS	WORKFORCE DIMENSIONS NON-PROD ADDITIONAL TENANT SAAS - PER EMPLOYEE PER MONTH (1700 lic x 12 months)** TRUSTED PRODUCT**	20400	\$0.2500	\$5,100.00
4	8604543-000A	GS-35F-0265X	XAAS	UKG DIMENSIONS ANALYTICS - STANDARD LIC, PEPM (1700 lic x 12 months)** TRUSTED PRODUCT**	20400	\$1.2000	\$24,480.00
5	8604956-000SAAS1	GS-35F-0265X	XAAS	UKG DIMENSIONS OUTLOOK INTEGRATION 1-2499 (1700 lic x 12 months)** TRUSTED PRODUCT**	12	\$116.2500	\$1,395.00
Group Total:							\$175,407.00
6	9990002-EDU	GS-35F-0265X	SVC	Workforce Dimensions User Adoption Services (per hour)/ 9990058-EDU: WFD USER ADOPTION ASSESSMENT* Fixed Fee - 100% at Signing*** TRUSTED PRODUCT**** TRUSTED PRODUCT**	12	\$214.4800	\$2,573.76
7	9990002-EDU	GS-35F-0265X	SVC	Workforce Dimensions User Adoption Services (per hour)/ 9990057-EDU: Train The Trainer Package * Fixed Fee - 100% at Signing*** TRUSTED PRODUCT** TRUSTED PRODUCT**	24	\$214.4800	\$5,147.52
8	9990118-PRO	GS-35F-0265X	SVC	Workforce Dimensions Onboarding Services SMB (per hour)/ ONE TIME SETUP FEE* Fixed Fee - 100% Signing*** TRUSTED PRODUCT** at Signing*** TRUSTED PRODUCT**** TRUSTED PRODUCT**	33	\$199.9100	\$6,597.03
9	9990118-PRO	GS-35F-0265X	SVC	Workforce Dimensions Onboarding Services SMB (per hour)/ 999WFD4-SMB Enhanced Business Data Automation* Fixed Fee - 100% at Signing*** TRUSTED PRODUCT**** TRUSTED PRODUCT**	16	\$107.2400	\$1,715.84
10	9990118-PRO	GS-35F-0265X	SVC	Workforce Dimensions Onboarding Services SMB (per hour)/ 999WFD4-SMB** FIXED FEE - Outlook Office 365 Integration** TRUSTED PRODUCT**	2	\$202.9100	\$405.82
11	9990118-PRO	GS-35F-0265X	SVC	Workforce Dimensions Onboarding Services SMB (per hour)/ 999WFD4-SMB WFC Historical Access Setup Services* Fixed Fee - 100% at Signing*** TRUSTED PRODUCT**** TRUSTED PRODUCT**	30	\$107.2400	\$3,217.20

# Sales Quotation

12	9990118-PRO	GS-35F-0265X	SVC	Workforce Dimensions Onboarding Services SMB (per hour)/ 999WFD4-SMB ** FIXED FEE - UKG TeleStaff Product Link** TRUSTED PRODUCT **	42	\$202.9100	\$8,522.22	
Group Total:							\$28,179.39	
13	9990118-PRO	GS-35F-0265X	SVC	TELESTAFF Onboarding Services SMB (per hour)/ Additional business unit with continuous 24/7 staffing requirements (Examples: Patrol, Jail, Fire Suppression, Communications)- 9990007-SMB *Fixed Fee - 100% at Signing** TRUSTED PRODUCT **	100	\$107.2400	\$10,724.00	
14	9990118-PRO	GS-35F-0265X	SVC	TELESTAFF Onboarding Services SMB (per hour)/ Bidding (1 position or 1 vacation) - 9990007-SMB *Fixed Fee - 100% at Signing** TRUSTED PRODUCT **	39	\$107.2400	\$4,182.36	
15	9990118-PRO	GS-35F-0265X	SVC	TELESTAFF Onboarding Services SMB (per hour)/ Implementation TSG Saas SMB - 9990006-SMB** TRUSTED PRODUCT **	250	\$107.2400	\$26,810.00	
Group Total:							\$41,716.36	
							<b>SERVICES</b>	\$69,895.75
							<b>ANYTHING AS A SERVICE</b>	\$175,407.00
							<b>NM TAX (XAAS)@ 5%</b>	\$8770.35
							<b>Grand Total</b>	<b>\$254,073.10</b>

The Professional Services TSG SMB implementation guidelines are attached to this Order Form

Subject to the Terms and Conditions of GSA MAS Contract Number GS-35F-0265X; See GSA elibrary: <http://www.gsaelibrary.gsa.gov/ElibMain/home.do>

Taxes: Sales tax shall be added at the time of an invoice, unless a copy of a valid tax exemption or resale certificate is provided.

All Purchase Orders must include: End User Name, Phone Number, Email Address, Purchase Order Number, Government Contract Number and Our Quote Number, Bill-To and Ship-To Address (Cannot ship to a PO Box), Period of Performance (if applicable), and a Signature of a duly Authorized Representative.

The identified line items are Trusted Products under the immixGroup Trusted Supplier Program. immixGroup Trusted Supplier Program Policies, Commitments and Guarantees/Warranties can be obtained at: [http://www.immixgroup.com/uploadedFiles/Trusted-Supplier-Program\\_Guarantee-and-Warranty.pdf](http://www.immixgroup.com/uploadedFiles/Trusted-Supplier-Program_Guarantee-and-Warranty.pdf)

**Order Form - Workforce Central SaaS for SMB**

Quote #: 698023-1  
 Expires: 5/11/2022  
 Prepared By: Bryan Driscoll

Order Type: Upgrade  
 Date: 4/12/2022

Bill To: Attn: Accounts Payable  
**Immix Technology, Inc.**  
 PO Box 6513  
 Englewood, CO 80155

Ship To: Attn: Manuel M. Gonzales  
**City of Santa Fe**  
 301 Montezuma  
 Santa Fe, NM 87504

Solution ID: 6105679  
 Currency: US  
 Customer PO #:  
 Data Center: USA  
 Executive Name: Manuel M. Gonzales  
 Executive Email: mmgonzales@santafenm.gov  
 Program Manager Name: Manuel M. Gonzales  
 Program Manager Email: mmgonzales@santafenm.gov

Email: [exception@kronos.com](mailto:exception@kronos.com)  
 FOB: Shipping Point  
 Ship Method: FedEx Ground  
 Freight Terms: Prepay & Add

**Notes:**

This order is a transfer of the Applications listed herein from Santa Fe Police Department ("Assignor"), SID 6156299, to Sante Fe Fire ("Assignee"), SID 6105679.

The license capacity listed herein is not incremental to Assignee's total employee count.

Initial Term: Co-term  
 Billing Start Date: Upon execution of Order Form  
 Renewal Term: One Year  
 Payment Terms: Net 30  
 Billing Frequency (unless otherwise noted, all invoices are due per the payment terms noted above):  
 Applications: Monthly in arrears  
 Professional Services: Fixed Fee, 100% at signing

**APPLICATIONS**

Item	License/Qty	PEPM	Monthly Price	Annual Price
UKG Telestaff Enterprise Bundle v7.4+ - 8604981-000	230	\$8.36	\$1,922.80	\$23,073.60
<b>Monthly Total:</b>			<b>\$1,922.80</b>	<b>\$23,073.60</b>

**SUMMARY**

Item	Total Price	Annual Price
Monthly Application Fee	\$1,922.80	\$23,073.60
<b>Total Monthly Service Fees:</b>	<b>\$1,922.80</b>	

**City of Santa Fe**

**Immix Technology, Inc**

By: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Date: \_\_\_\_\_

By: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Date: \_\_\_\_\_

# Sales Quotation

David Tapia  
 CITY OF SANTA FE  
 2651 SIRINGO RD, BUILDING F  
 SANTA FE, NM 87504  
 PH: 505 955-5523  
 dctapia2@santafenm.gov

**Contract No.:** GS-35F-0265X  
**CAGE Code:** 3CA29  
**DUNS No.:** 09-869-2374  
**TAX ID#:** 54-1912608  
**Terms:** NET 30  
**FOB:** Destination

**Quote Number:** QUO-1320953-H0J1N4  
**Quote Date:** 8/25/2022  
**Expiration Date:** 9/30/2022

**Order Address:**  
 immixTechnology, Inc.  
 8444 Westpark Drive, Suite 200  
 McLean, VA 22102  
 PH: 703 752-0610 FX: 703-752-0611

**immixTechnology, Inc. Contact:** Stutts, Brian  
 +1 770-625-7661 Brian.Stutts@immixgroup.com

**Manufacturer Quote #:**  
**Manufacturer Ref #:**

**Manufacturer Contact:** Shaw, Gina  
 978-947-8418 gina.shaw@Kronos.com

Please reference ImmixTechnology's "QUO" quote number and Government Contract number on any purchase orders issued against this quote.

IM03148- SID - 6156299  
 03/28/23 - 03/27/24

Item	Part Number	Contract	Trans Type	Product Description	Qty	Price	Extended Price
1	8604489-000-SAAS	GS-35F-0265X	XAAS	WORKFORCE TELESTAFF BIDDING- PEPM V7.1+ ** TRUSTED PRODUCT **	230	\$17.6600	\$4,061.80
Period of Performance: 3/28/2023 to 6/30/2024.							
2	8604488-000-BUNDLE-SAAS	GS-35F-0265X	XAAS	Workforce TeleStaff Enterprise v7.1+ BUNDLE (includes TSG Enterprise, Global Access, Gateway Manager, Institution Focus, and Contact Manager) - per Employee per Month ** TRUSTED PRODUCT **	230	\$123.0700	\$28,306.10
Period of Performance: 3/28/2023 to 6/30/2024.							
<b>ANYTHING AS A SERVICE</b>							<b>\$32,367.90</b>
<b>Grand Total</b>							<b>\$32,367.90</b>

Subject to the Terms and Conditions of GSA MAS Contract Number GS-35F-0265X; See GSA eLibrary:  
<http://www.gsaelibrary.gsa.gov/ElibMain/home.do>

Taxes: Sales tax shall be added at the time of an invoice, unless a copy of a valid tax exemption or resale certificate is provided.

All Purchase Orders must include: End User Name, Phone Number, Email Address, Purchase Order Number, Government Contract Number and Our Quote Number, Bill-To and Ship-To Address (Cannot ship to a PO Box), Period of Performance (if applicable), and a Signature of a duly Authorized Representative.

The identified line items are Trusted Products under the immixGroup Trusted Supplier Program. immixGroup Trusted Supplier Program Policies, Commitments and Guarantees/Warranties can be obtained at:  
[http://www.immixgroup.com/uploadedFiles/Trusted-Supplier-Program\\_Guarantee-and-Warranty.pdf](http://www.immixgroup.com/uploadedFiles/Trusted-Supplier-Program_Guarantee-and-Warranty.pdf)

# Scope Statement

## Purpose and Overview of Scope Statement

This Scope Statement outlines the scope of services to be provided by Kronos for the Setup Fees indicated on the applicable Order Form, to CITY OF SANTA FE (“Customer”), related to the Core entitlements, Value-add entitlements, and/or Additional Services contained in this document. Our Professional Services engagements are designed to help our Customers successfully deploy Core entitlements, as well as easily layer Value-add entitlements and functionality over time based on your priorities, schedule, and resources.

The UKG Dimensions™ Scope Statement described herein is fixed scope based and is subject to the terms and conditions governing your UKG Dimensions Agreement (the “Agreement”). Unless otherwise defined herein, words and expressions defined in the Agreement shall have the same meaning in this Scope Statement.

## UKG Dimensions Solution

CITY OF SANTA FE and Kronos are onboarding the following UKG Dimensions entitlements with:

Core Entitlement	On-boarding Type	Number of Employees
UKG Dimensions Timekeeping Hourly	Enhanced Migration	1700
Value-add Entitlements	On-boarding Type	Number of Employees
UKG Dimensions Leave	Enhanced Migration	1700
UKG Dimensions Analytics	Net New	1700

## On-boarding approach for the Migration

Kronos will complete a solution readiness review with the customer project team to confirm that the migration of agreed upon existing configuration can commence in a non-production environment. Kronos will assess and deploy the approved Business Structure and other configuration unique to UKG Dimensions to complete validation of the migrated solution. Upon completion of user acceptance testing by customer, Kronos will cutover the approved solution to the production environment.

### Enhanced Migration

Enhanced Migration assumes a full deployment cycle, relying on calibration of recommended configuration, workflow and policy.

### Net New

Net New assumes a full deployment cycle, relying on calibration of recommended configuration, workflow and policy of an entitlement not previously subscribed to.

## CITY OF SANTA FE and Kronos Collaboration

A successful project requires close collaboration between CITY OF SANTA FE and Kronos. The Kronos Professional Services team is equipped to help keep you on target for meeting project milestones and requirements, as well as to assist you in configuring and deploying the UKG Dimensions solution in support of your organization’s business outcomes. Your organization’s participation and commitment to the project goals and timeline are critical to ensure success.

The Kronos onboarding process is driven by value and enabling business outcomes. This approach is focused on accelerated time to value using tools and techniques, such as industry and region-specific configuration, Kronos process recommendations, dynamic documentation, and accelerated testing

processes. All project information is available online to allow project team members access to project status, contact information, issues log, test case tracking, training plan, etc. at any time.

The onboarding process will be completed in three iterative phases: Initiate, Collaborate, and Adopt. Please review the Kronos Paragon™ Overview for the project life cycle, roles & responsibilities in more detail in the following link: [Kronos Paragon Overview](#).

## Project Overview

### Project Management services include:

- Kronos Project Manager working with Customer Project Manager to jointly run the project.
- Transition to Kronos Global Support after the first deployment go-live.
- Maintain project workspace, work plan, issues and risks management, weekly status calls and reports.

### Implementation:

- Fixed scope implementations are designed to deliver value quickly to your organization. Project timelines generally span 6-8months depending on the number of entitlements selected. Onboarding support for these time spans are included in the scope. Extended project timelines requested by customers can be supported with additional professional services and will be agreed via change order.

### Remote Implementation approach:

- Kronos will conduct one Solution Development Workshop with the customer project team to create one solution design for the customer's organization.
- The customer team will conduct one testing cycle to accept that solution, which Kronos will support.
- Kronos will support one production go-live and provide knowledge transfer to allow you to be self-sufficient in any subsequent phased go-lives you choose to conduct for that module.

### Deployed Solution:

- Two tenants (1 Production, 1 Non-Production) will be designed and deployed with entitlements. The Non-Production environment may be refreshed from Production to support testing and training activities. Onboarding work will deliver configured solutions that operate on all supported desktop and mobile client platforms.
- Kronos will deliver the integrations using the Boomi™ UKG Dimensions Integration Platform. Integrations are based on predefined templates and are assumed to be low to medium complexity. Interfaces are scheduled via UKG Dimensions and transfers data via flat files (CSV) to the UKG Dimensions secure FTP (SFTP) environment.

### Educational Services:

Effective training is the key to high user adoption rates. Training that results in self-sufficient administrators, managers, and employees increases the efficiency of use of the Application(s) and Customer's business processes.

Kronos' training model includes a role-based learning plan. Each role within Customer's organization has a specific set of courses required at specific points in the deployment methodology. Having role-based training classes ensures Customer's team members are trained on the processes they will use in their day-to-day interactions with the system. The timing of this training is key. Kronos aims to provide the training with as little time between training delivery date and system usage as possible. This provides for Customer's users to have an opportunity to reinforce the training through real-life application before they begin to lose the skills gained in training. End users (i.e. Managers and Employees) use a train the trainer model for learning. Customer is responsible for train the trainer learning for their managers and employees.

### Virtual Learning Environment Training

Kronos shall provide its live, hands-on classroom training, including a comprehensive agenda and facilitation by a trained and knowledgeable instructor, delivered to Customer's personnel via the Internet. Training is intended for the following audiences:

- Core Team training to help key functional and technical users make informed solution design and configuration decisions, and to provide fundamental product knowledge.

- Application & System Administrator to prepare functional and technical super users to perform their most common tasks in the solution

### Self-Paced Training

Kronos shall provide self-paced product training.

Note: Kronos also offers fee-based consulting services that are not included under the terms of the Training Services referenced above.

#### Education Services:

Qty	Service	Description
1	User Adoption Assessment	<p>A Kronos User Adoption Consultant will work with work with designated customer resources to ensure ongoing user adoption including:</p> <ul style="list-style-type: none"> <li>• Evaluation of user adoption needs</li> <li>• User Adoption Action Plan</li> <li>• Adaptable change management and user training templates</li> </ul>
2	Train the Trainer Package	<p>A Kronos Certified Instructor will work with designated customer training resources to support the delivery of user training utilizing a train the trainer approach including:</p> <ul style="list-style-type: none"> <li>• Workshop focused on user training delivery for manager and employee roles with a Kronos User Adoption Consultant</li> <li>• Review of manager level course for 1-5 participants</li> <li>• Editable manager level course PowerPoint and participant guide (Manager Tasks and Outcomes course)</li> <li>• Standard hands-on captured exercises created in Adobe Captivate with the most common tasks for managers</li> <li>• Each Train the Trainer package purchased is for 1 workshop session</li> </ul>

### Core Deliverables

Working in close collaboration, CITY OF SANTA FE and Kronos will on-board the following core entitlements and functionality:

Core	Kronos Delivered Value
<b>Timekeeping</b>	<p>UKG Dimensions Timekeeping gets you started with the ability to accept punches and pay employees accurately through these core capabilities:</p> <ul style="list-style-type: none"> <li>• Time capture and workflow automation</li> <li>• Adherence to policy through automated pay calculations</li> <li>• Automated time collection</li> <li>• Time-off balance tracking</li> <li>• Access to timekeeping information and self-service workflows</li> <li>• Visibility into labor tracking and accounting</li> <li>• Access to schedules</li> <li>• Mitigation of compliance risk</li> <li>• Proactive exceptions management</li> </ul> <p><b>Scope assumptions:</b></p> <ul style="list-style-type: none"> <li>• Employee Pay Groups <ul style="list-style-type: none"> <li>• Up to 8 total Employee Pay Groups to be used across core entitlements noted in your UKG Dimensions Solution above.</li> <li>• Employee Pay Groups are a group of employees who are governed by a set of similar workforce management policy rules (e.g. overtime, shift premiums, holiday zones, etc.).</li> </ul> </li> <li>• User Personas and Roles</li> </ul>

Core	Kronos Delivered Value
	<ul style="list-style-type: none"> <li>• Up to 5 functional and data security Personas:               <ul style="list-style-type: none"> <li>• 1 payroll administrator role</li> <li>• 2 types of manager roles</li> <li>• 2 types of employee roles (e.g. "Payroll Admin", "Manager", "Salaried Employee", "Hourly Employee").</li> </ul> </li> <li>• We will also provide knowledge transfer to the customer team to configure additional Personas as you require them.</li> <li>• 2 Yes / No questions for employees to attest with workflows</li> <li>• Data collection devices               <ul style="list-style-type: none"> <li>• Configure up to 5 Timekeeper Terminals with Biometrics (TouchID or TouchFree ID) and provide knowledge transfer for customer to configure remaining terminals.</li> </ul> </li> <li>• Business Data Automation: One-time initial loads of business structure and labor categories to avoid manual and time-consuming entry tasks before go-live.</li> <li>• Standard integration templates:               <ul style="list-style-type: none"> <li>• Accrual Reset Import</li> <li>• Payroll Export that runs at the end of the pay period</li> <li>• Recurring person import for employee demographic data</li> </ul> </li> <li>• Strategic Technical Advisor (STA) service included. The STA functions as the customer's single point of contact for technology related considerations. They will engage with the customer's technical teams and Kronos Technology Partners to assist with network infrastructure assessment, client access methods such as desktop, mobile, data collection devices and technology partner solutions. Additionally, the STA will advise, mentor and guide clients throughout solution implementation and adoption. The STA provides:               <ul style="list-style-type: none"> <li>• Technical readiness plan</li> <li>• Clock migration plan</li> <li>• Successful SSO deployment</li> <li>• Technical guidance &amp; knowledge transfer</li> </ul> </li> </ul> <p><b>A la carte items selected:</b></p> <ul style="list-style-type: none"> <li>• 12 Employee Group(s) in addition to 8 provided</li> <li>• Additional integration template(s) described as: 2 Custom Attestation Workflows</li> <li>• Additional integration template(s) described as: 1 Standard Roster Feed</li> </ul>

### Value-Add Deliverables

Once your core functionality is deployed, Kronos will work in close collaboration with CITY OF SANTA FE to deploy the following Value-Add entitlements and/or functionality over time in short, iterative, deployments aligned with your priorities, schedule, and resources.

Value-Add	Kronos Delivered Value
<p><b>Leave</b></p>	<p>UKG Dimensions Leave adds comprehensive administration of leave cases through:</p> <ul style="list-style-type: none"> <li>• Access to timekeeping information and self-service workflows</li> <li>• Efficient and accurate leave management</li> <li>• Automated accruals policy</li> <li>• Mitigation of compliance risk</li> <li>• Time-off balance tracking</li> <li>• Visibility into labor tracking and accounting</li> </ul> <p><b>Scope assumptions:</b></p> <ul style="list-style-type: none"> <li>• Up to 10 configurable accrual policies</li> <li>• Federal Leave policies and 2 state policies, one-time load of existing leave history per Kronos provided format.</li> </ul>

Value-Add	Kronos Delivered Value
<b>Analytics</b>	<p>UKG Dimensions Analytics provides valuable insight to your workforce through the following capabilities:</p> <ul style="list-style-type: none"> <li>• Empowering decision-makers with real-time labor analytics</li> <li>• Proactive exception managements</li> <li>• Visibility into labor tracking and accounting</li> <li>• Pay code analysis and mapping to KPI requirements</li> </ul>

### Product Link Standard Integration:

Integrations listed in this section are considered core product and to satisfy predefined use-cases or Kronos to Kronos productized integration.

- UKG TeleStaff

### Technology Partner Integrations:

- Microsoft Outlook Integration

### Additional Services:

Service	Description
<b>Enhanced Business Data Automation</b>	<p>Kronos provides the ability to keep your Workforce Management systems' business structure refreshed as your business organization changes to support new business goals, reorganizations, new locations, acquisitions, divestures, etc.</p> <p>In addition to the business data automation included, this service provides additional recurring and fully automated (adds and changes) integrations to help eliminate costly and time-consuming manual entries through the following:</p> <ul style="list-style-type: none"> <li>• Labor Category List Import</li> <li>• Labor Category Profile Import</li> <li>• Organizational Sets Import</li> <li>• Employee Group Import</li> </ul>
<b>WFC Historical Access Setup Services with Upgrade</b>	<p>Customer is leaving the Kronos Private Cloud (KPC) and is requesting assistance from Kronos to install a historical reporting version of Workforce Central system on-premise. A copy of the customer's production data base will be moved to the customer's on-premise historical reporting system. Workforce functionality will be limited to viewing and reporting purposes.</p> <p>Kronos will:</p> <ul style="list-style-type: none"> <li>• Provide hardware recommendations to support historical system.</li> <li>• Assist with restoring Kronos database received from the Kronos Cloud.</li> <li>• Install base Workforce Central applications to allow viewing employee records or report running purposes. Modules such as WDM, WIM, custom features, SSO will be omitted from the scope</li> <li>• Custom Reports will be moved to historical environment. <ul style="list-style-type: none"> <li>• Reports will be migrated as is.</li> </ul> </li> </ul> <p>Licensing</p> <ul style="list-style-type: none"> <li>• If you are a current WFC hosted customer, you will receive a copy of your license files which you can restore to an on-premise WFC historical instance or simply keep the files.</li> <li>• If you are a current WFC SaaS customer, you need to purchase the required number of Workforce Central Manager licenses to access your on-premise WFC historical system and data.</li> </ul> <p>Assumptions</p> <ul style="list-style-type: none"> <li>• Customers will provide Hardware, Operating System and Microsoft SQL Server to support Historical system per Kronos compatibility matrix</li> </ul>

Service	Description
	<ul style="list-style-type: none"> <li>• Customer will request a copy of their Kronos Cloud database once they have discontinued collecting additional data into that database prior to decommissioning. Customers have 15 days from termination to retrieve their data.</li> <li>• Kronos will perform one-time upgrade, with current service release, mandatory patches and touch test of the historical system.</li> <li>• Customer will perform User Acceptance Testing</li> <li>• Kronos will deliver the scope of this service utilizing a remote approach</li> </ul> <p>Once the service is completed, Kronos does not provide maintenance, full version upgrades, or service packs to the on-premise historical system unless mutually agreed at then current rates.</p>

# UKG Telestaff SMB Implementation Services Guideline

The following applies to all entitlements within UKG TeleStaff™ SaaS SMB implementations:

UKG Delivered Value	
<p><b>UKG TeleStaff Entitlement</b></p>	<p><b>UKG Paragon™ Implementation methodology:</b> UKG SaaS SMB fixed scope, fixed duration, remote implementations follow our UKG Paragon methodology - an iterative, collaborative approach, driven by value and realized through collaboration. UKG Paragon is bolstered by tools, techniques, and UKG™ (Ultimate Kronos Group) process recommendations.</p> <p><b>Project Management</b> services including:</p> <ul style="list-style-type: none"> <li>• Creation and maintenance of an online project workspace, work plan, issues and risks management, status calls and reports.</li> <li>• UKG Project Manager will work with customer Project Manager to jointly run project.</li> <li>• Project Management includes transition to UKG Global Support after the first deployment go-live.</li> </ul> <p><b>Implementation approach:</b></p> <ul style="list-style-type: none"> <li>• UKG will conduct one remote assessment with your project team to create one solution design for your organization.</li> <li>• Your team will conduct one testing cycle to accept that solution, which UKG will support.</li> <li>• UKG will support one production cutover.</li> </ul> <p><b>Technical Architecture:</b> Two environments (1 Production, 1 Development)</p> <p><b>Training:</b> Through KnowledgeMap/KnowledgePass, we provide training for your core team, and provide you with collateral and toolsets to train your end-users. UKG training curriculums can be reviewed on the UKG customer website.</p> <p><b>Rapid Implementation:</b> UKG SaaS SMB fixed scope implementations are designed to deliver value quickly to your organization. Project timelines span up to 6 months. Implementation support for this time span is included in the package. Extended project timelines beyond 6 months must be supported with additional professional services agreed via change order.</p>

## UKG TeleStaff Standard Services

UKG Delivered Value	
<b>UKG TeleStaff Scope</b>	<p>One-time data import of customer supplied person data in UKG format</p> <p>Leave Requests</p> <p>Shift Trades</p> <p>Accrual Management with a one-time data import of customer supplied accrual data in UKG format</p> <p>Event Deployment</p> <p>Signup Processes</p> <p>Overtime/Off Duty Scheduling Processes</p> <p>Minimum Staffing</p> <p>Fatigue Rules</p> <p>SMS Configuration (Text via Twilio)</p> <p>Bidding (see below)</p> <p>Standard Payroll Export</p> <p>Standard Reports</p> <p>Authentication (SSO/LDAP)</p> <p>One 8-hour remote consultant training session: Admin, Bid Admin, or Scheduler</p> <p>Standard integration with UKG timekeeping product</p> <p>One production cutover</p> <p><b>Assumptions:</b></p> <ul style="list-style-type: none"> <li>• Includes 1 Institution: <ul style="list-style-type: none"> <li>○ Includes 1 unique business unit with continuous 24/7 staffing requirements (Examples: Patrol, Jail, Fire Suppression, Communications)</li> <li>○ Includes 1 administrative schedule group with no staffing rules</li> </ul> </li> <li>• Customer is responsible for data setup for: <ul style="list-style-type: none"> <li>○ Events</li> <li>○ Assignment Templates</li> </ul> </li> <li>• Bidding: <ul style="list-style-type: none"> <li>○ One type of award (i.e. one PTO Type/Assignment) is included</li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>o Includes one bidding group. A bidding group is defined as having a unique set of qualifying rules that determines the bid order.</li> <li>o The execution of the bid includes 1 bid, 1 win, and 1 award cycle.</li> <li>o Cloning of Bids is the customer's responsibility</li> <li>o Additional award types, bidding groups, execution steps, or cloning will require Additional Scoped Services to be defined</li> </ul>
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## UKG TeleStaff Value Added Services

The following value-added services are available for UKG TeleStaff Saas SMB implementations for an additional fee and if identified on the Order Form. Refer to the UKG order form for a list of a la carte services included with your purchase.

UKG Delivered Value	
<b>UKG TeleStaff</b>	{#} Additional business unit with continuous 24/7 staffing requirements (Examples: Patrol, Jail, Fire Suppression, Communications)  Extra Duty Event Management  Other Scoped Services

# immixTechnology, Inc.

a subsidiary of  immixGroup



*General Services Administration  
Federal Supply Service  
Multiple Award Schedule  
Authorized Federal Supply Schedule Pricelist  
GS-35F-0265X*

*Period Covered by Contract: March 3, 2011 through March 2, 2026.*

*Pricelist current through Modification #PO-2406 dated August 3, 2022.*



**GENERAL SERVICES ADMINISTRATION  
FEDERAL SUPPLY SERVICE  
MULTIPLE AWARD SCHEDULE  
AUTHORIZED FEDERAL SUPPLY SCHEDULE PRICE  
LIST**

*On-line access to contract ordering information, terms and conditions, up-to-date pricing, and the option to create an electronic delivery order are available through GSA Advantage!®, a menu-driven database system. The INTERNET address GSA Advantage!® is: [GSAAAdvantage.gov](http://GSAAAdvantage.gov).*

**Contract Number:**  
GS-35F-0265X

For more information on ordering from Federal Supply Schedules click on the FSS Schedules button at <https://www.gsa.gov/buying-selling/purchasing-programs/gsa-schedules>.

**Contract Period:**  
March 3, 2011 through March 2, 2026

Pricelist current through Modification #PO-2406 dated August 3, 2022.

**Contractor:**  
immixTechnology, Inc.  
8444 Westpark Drive, Suite 200  
McLean, VA 22102

**Phone:**  
703-752-0610

**Email:**  
[GSAteam@immixgroup.com](mailto:GSAteam@immixgroup.com)

**Website:**  
<https://www.immixgroup.com/contract-vehicles/gsa/it-70/0265X/>

**Business Size:**  
Other than small

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**CUSTOMER INFORMATION**

**1a. Table of awarded special item number(s) with appropriate cross-reference to item descriptions and awarded price(s).**

SIN	SIN Title
811212	Maintenance of Equipment, Repair Services and/or Repair/Spare Parts
511210	Software Licenses
54151	Software Maintenance Services
518210C	Cloud and Cloud-Related IT Professional Services
611420	Information Technology Training
54151ECOM	Electronic Commerce and Subscription Services
517312	Wireless Mobility Solutions
33411	Purchasing of new electronic equipment

**1b. Identification of the lowest priced model number and lowest unit price for that model for each special item number awarded in the contract. This price is the Government price based on a unit of one, exclusive of any quantity/dollar volume, prompt payment, or any other concession affecting price. Those contracts that have unit prices based on the geographic location of the customer, should show the range of the lowest price, and cite the areas to which the prices apply.**

See attached authorized price list – Attachment B

**1c. If the Contractor is proposing hourly rates, a description of all corresponding commercial job titles, experience, functional responsibility and education for those types of employees or subcontractors who will perform services shall be provided. If hourly rates are not applicable, indicate “Not applicable” for this item.**

Not Applicable

## 2. Maximum order.

SIN	SIN Title	Maximum Order (\$)
811212	Maintenance of Equipment, Repair Services and/or Repair/Spare Parts	500,000
511210	Software Licenses	500,000
54151	Software Maintenance Services	500,000
518210C	Cloud and Cloud-Related IT Professional Services	500,000
611420	Information Technology Training	250,000
54151ECOM	Electronic Commerce and Subscription Services	500,000
517312	Wireless Mobility Solutions	500,000
33411	Purchasing of new electronic equipment	500,000

## 3. Minimum order.

\$100.00

## 4. Geographic coverage (delivery area).

Domestic delivery

## 5. Point(s) of production (city, county, and State or foreign country).

For a current list of all Authorized Service and Distribution points by Manufacturer, visit: <https://www.immixgroup.com/contract-vehicles/gsa/it-70/0265X/>

## 6. Discount from list prices or statement of net price.

Prices shown herein are Net (discounts deducted)

## 7. Quantity discounts.

None unless otherwise specified in the pricelist

## 8. Prompt payment terms. Note: Prompt payment terms must be followed by the statement "Information for Ordering Offices: Prompt payment terms cannot be negotiated out of the contractual agreement in exchange for other concessions."

0% - Net 30 days from receipt of invoice or date of acceptance, whichever is later

## 9a. Notification that Government purchase cards are accepted at or below the micro-purchase threshold.

Government purchase cards are accepted at or below the micro-purchase threshold but above the Minimum order threshold.

## 9b. Notification whether Government purchase cards are accepted or not accepted above the micro-purchase threshold.

Government purchase cards are accepted above the micro-purchase threshold

## 10. Foreign items (list items by country of origin).

See attached authorized price list – Attachment B

## 11a. Time of delivery. (Contractor insert number of days.)

The Contractor shall deliver to destination within thirty (30) calendar days after receipt of order (ARO), unless set forth

otherwise on the Schedule Contract Pricelist to this schedule pricelist appended hereto and incorporated herein

## 11b. Expedited Delivery. The Contractor will insert the sentence "Items available for expedited delivery are noted in this price list." under this heading. The Contractor may use a symbol of its choosing to highlight items in its price lists that have expedited delivery.

Quicker delivery times than those set forth in the Schedule Contract Pricelist are available from the Contractor based on the availability of product inventory. Improved delivery times in the number of days after receipt of an order (ARO) if available, are as negotiated between the ordering activity and the Contractor or its Authorized Government Resellers

## 11c. Overnight and 2-day delivery. The Contractor will indicate whether overnight and 2-day delivery are available. Also, the Contractor will indicate that the schedule customer may contact the Contractor for rates for overnight and 2-day delivery.

Unless otherwise specified by Manufacturer in the Schedule Contract Pricelist, when ordering activities require overnight or 2-day delivery, ordering activities are encouraged to contact the Contractor for the purpose of obtaining accelerated delivery. Overnight and 2-day delivery times are subject to the availability of product inventory

## 11d. Urgent Requirements. The Contractor will note in its price list the "Urgent Requirements" clause of its contract and advise agencies that they can also contact the Contractor's representative to affect a faster delivery.

When the Federal Supply Schedule contract delivery period does not meet the bona fide urgent delivery requirements of an ordering activity, ordering activities are encouraged, if time permits, to contact the Contractor for the purpose of obtaining accelerated delivery. The Contractor shall reply to the inquiry within 3 workdays after receipt. (Telephonic replies shall be confirmed by the Contractor in writing.) If the Contractor offers an accelerated delivery time acceptable to the Ordering Activity, any order(s) placed pursuant to the agreed upon accelerated delivery time frame shall be delivered within this shorter delivery time and in accordance with all other terms and conditions of the contract

## 12. F.O.B. point(s).

Destination

## 13a. Ordering address(es).

immixTechnology, Inc.  
8444 Westpark Drive, Suite 200  
McLean, VA 22102

Or

See Authorized Dealers Listing by Manufacturer for Ordering Address and Contact Information at:  
<https://www.immixgroup.com/contract-vehicles/gsa/it-70/0265X/>

## 13b. Ordering procedures: For supplies and services, the ordering procedures, information on Blanket Purchase Agreements (BPA's) are found in Federal Acquisition Regulation (FAR) 8.405-3.

## 14. Payment address(es).

immixTechnology, Inc.

8444 Westpark Drive, Suite 200  
McLean, VA 22102

Or

See Authorized Dealers Listing by Manufacturer for Ordering  
Address and Contact Information at:  
<https://www.immixgroup.com/contract-vehicles/gsa/it-70/0265X/>

## 15. Warranty provision.

See attached Contractor Supplemental Pricelist Information and  
Incorporated Terms – Attachment A

## 16. Export packing charges, if applicable.

Not applicable

## 17. Terms and conditions of Government purchase card acceptance (any thresholds above the micro-purchase level).

None

## 18. Terms and conditions of rental, maintenance, and repair (if applicable).

See attached Contractor Supplemental Pricelist Information and  
Incorporated Terms – Attachment A

## 19. Terms and conditions of installation (if applicable).

See attached Contractor Supplemental Pricelist Information and  
Incorporated Terms – Attachment A

## 20. Terms and conditions of repair parts indicating date of parts price lists and any discounts from list prices (if applicable).

See attached Contractor Supplemental Pricelist Information and  
Incorporated Terms – Attachment A

## 20a. Terms and conditions for any other services (if applicable).

See attached Contractor Supplemental Pricelist Information and  
Incorporated Terms – Attachment A

## 21. List of service and distribution points (if applicable).

For a current list of all Authorized Service and Distribution points  
by Manufacturer, visit: <https://www.immixgroup.com/contract-vehicles/gsa/it-70/0265X/>

## 22. List of participating dealers (if applicable).

For a current list of all Authorized Service and Distribution points  
by Manufacturer, visit: <https://www.immixgroup.com/contract-vehicles/gsa/it-70/0265X/>

## 23. Preventive maintenance (if applicable).

See attached Contractor Supplemental Pricelist Information and  
Incorporated Terms – Attachment A

## 24a. Special attributes such as environmental attributes (e.g., recycled content, energy efficiency, and/or reduced pollutants).

Please contact immixTechnology, Inc. at  
[GSAteam@immixgroup.com](mailto:GSAteam@immixgroup.com)

**24b. If applicable, indicate that Section 508 compliance  
information is available on Electronic and Information  
Technology (EIT) supplies and services and show where full  
details can be found (e.g. contractor's website or other  
location.) The EIT standards can be found at:  
[www.Section508.gov/](http://www.Section508.gov/).**

Please contact immixTechnology, Inc. at  
[GSAteam@immixgroup.com](mailto:GSAteam@immixgroup.com)

## 25. Data Universal Number System (DUNS) number.

098692374

## 26. Notification regarding registration in System for Award Management (SAM) database.

Registration active

## 27. Integration:

The Non-Disclosure provisions set forth in Section 9b.(7), the IP  
Infringement provisions set forth in Section 9b.(9) and the  
Limitation of Liability provisions set forth in Section 3c. of the  
Terms and Conditions Applicable to Software Licenses (Special  
Item Number 511210) and Software Maintenance Services  
(Special Item Number 54151) of General Purpose Commercial  
Information Technology Software are hereby incorporated into and  
made a part of the terms applicable to all SINS.

## 28. Glossary of Definitions:

- a. **“Contractor”** means immixTechnology, Inc.
- b. **“Contractor and its affiliates”** and “Contractor or its  
affiliates” refers to the Contractor, its chief executives,  
directors, officers, subsidiaries, affiliates,  
subcontractors at any tier, and consultants and any joint  
venture involving the Contractor, any entity into or with  
which the Contractor subsequently merges or affiliates,  
or any other successor or assignee of the Contractor.
- c. **“Manufacturer”** shall mean a manufacturer, supplier  
or producer of Equipment (as defined below) or a  
publisher or developer of Software or related Training  
Materials (as defined below) provided to Contractor  
through a letter of supply to be licensed or sold to  
Ordering Activities under this contract.
- d. **“Ordering Activity”** shall mean, 1) any entity  
authorized to use GSA sources of supply and services  
as set forth in GSA Directive OGP 4800.2I or such later  
issued version, and 2) any entity acting on behalf of an  
Ordering Activity pursuant to a properly issued letter of  
authorization per Section 24 above – “Prime Contractor  
Ordering from Federal Supply Schedules” under  
Information for Ordering Activities applicable to All  
Special Item Numbers.

## 29. Responsibilities of Contractor:

The parties understand and agree that Contractor acts as a reseller  
of all Equipment, Software, Documentation, and services offered  
under this contract. With regard to Equipment, Software, and  
Documentation, Contractor represents that it has the requisite right  
and authority under its reseller agreements with the Manufacturers  
to offer the products and grant the rights specified in this contract,  
and Manufacturers shall have no privity of contract with an  
Ordering Activity hereunder. With regard to services, while some  
or all of the services ordered hereunder may be physically

performed by Manufacturer, Service Provider, or other third-party personnel (as is specified under applicable SINs) acting under a subcontract or similar arrangement with Contractor, and while the scope and price of such services are defined by the applicable provider's policies (such as Maintenance Services Policies, Electronic Commerce Service Policies, or Wireless Services plans), Contractor remains solely responsible to the Ordering Activity for all such performance.

## TERMS AND CONDITIONS APPLICABLE TO PURCHASE OF GENERAL-PURPOSE COMMERCIAL INFORMATION TECHNOLOGY HARDWARE SUBCATEGORY, PURCHASING OF NEW ELECTRONIC EQUIPMENT (SPECIAL ITEM NUMBER 33411)

### 1. GLOSSARY OF DEFINITIONS

- a. **“Documentation”** shall mean Manufacturer’s then current help guides, specifications and operating manuals issued by Manufacturer and made generally available by Manufacturer for the Equipment whether on-line or in hard copy.
- b. **“Equipment”** shall mean the computer hardware identified on Attachment B to this schedule pricelist.

### 2. MATERIAL AND WORKMANSHIP

All Equipment furnished hereunder must substantially perform the function for which it is intended as set forth in the accompanying Documentation.

### 3. ORDER

Written orders, EDI orders (GSA Advantage! and FACNET), credit card orders, and orders placed under blanket purchase agreements (BPA) agreements shall be the basis for purchase in accordance with the provisions of this contract. If time of delivery extends beyond the expiration date of the contract, the Contractor will be obligated to meet the delivery and installation date specified in the original order.

For credit card orders and BPAs, telephone orders are permissible.

### 4. TRANSPORTATION OF EQUIPMENT

**FOB DESTINATION.** Prices cover Equipment delivery to destination, for any location within the geographic scope of this contract.

### 5. INSTALLATION AND TECHNICAL SERVICES

- a. **INSTALLATION.** When the Equipment provided under this contract is not normally self-installable, the Contractor its Manufacturer or other authorized service provider’s technical personnel shall be available to the Ordering Activity, at the Ordering Activity’s location, to install the Equipment and to train Ordering Activity personnel in the use and maintenance of the Equipment. The charges, for such services are listed by Manufacturer, in the schedule pricelist.
- b. **OPERATING AND MAINTENANCE MANUALS.** The Contractor or its Manufacturer shall furnish the Ordering Activity with one (1) copy of all Documentation, which is normally provided with the Equipment being purchased. For Documentation only available on-line,

Contractor or its Manufacturer shall provide Ordering Activity access to such Documentation.

### 6. INSPECTION/ACCEPTANCE

The Contractor shall only deliver those items ordered that substantially conform to the requirements of this contract and the applicable Manufacturer’s Documentation. Therefore, items delivered shall be deemed accepted upon delivery to Ordering Activity’s designated receiving facility. The Ordering Activity reserves the right to inspect or test any equipment that has been delivered. The Ordering Activity may require repair or replacement of nonconforming equipment at no increase in contract price. The ordering activity must exercise its post-acceptance rights (1) within the applicable warranty period as set forth below; and (2) before any substantial change occurs in the condition of the item, unless the change is due to the defect in the item.

### 7. WARRANTY

- a. Unless specified otherwise in this contract, the warranties extended to the Ordering Activity for Equipment and Documentation, and the exclusions and disclaimers applicable to such warranties, shall be as set forth on Attachment A to this schedule pricelist (Contractor Supplemental Pricelist Information and Incorporated Terms). Notwithstanding anything to the contrary that may be marked on or provided with the Equipment or Documentation, the parties understand and agree that such warranties, exclusions and disclaimers follow the applicable Manufacturer’s standard commercial warranties, exclusions and disclaimers but are provided to the Ordering Activity by the Contractor, who will be responsible to the Ordering Activity for all compliance, service and remedies thereunder.
- b. **Limitation of Liability**
  - i. **Exclusion of Consequential Damages.** EXCEPT FOR A) A CLAIM OF IP INFRINGEMENT HEREUNDER, OR B) AS PROVIDED IN SUBSECTION (b)(iii) BELOW, IN NO EVENT SHALL CONTRACTOR BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES, INCLUDING WITHOUT LIMITATION DAMAGES FOR LOSS OF PROFITS, DATA OR USE, INCURRED BY EITHER PARTY OR ANY THIRD PARTY, WHETHER IN AN ACTION IN CONTRACT OR TORT, EVEN IF THE OTHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
  - ii. **Limitation of Direct Damages.** Except for a) a claim of IP Infringement, hereunder, or b) as provided in subsection (b)(iii) below, the aggregate and cumulative liability of Contractor for damages hereunder shall in no event exceed the amount of fees paid by Ordering Activity under the order giving rise to such liability,

and if such damages relate to particular Equipment such liability shall be limited to fees paid for the relevant Equipment.

- iii. Non-Applicability to Statutory or Regulatory Rights. Nothing herein shall operate to impair or prejudice the U.S. Government's right (a) to recover for fraud or crimes arising out of or relating to this contract under any Federal fraud statute, including without limitation the False Claims Act (31 USC §§3729 through 3733), or (b) to express remedies provided under any FAR, GSAR or Schedule 70 solicitation clauses incorporated into this contract, including without limitation the GSAR 552.215-72 Price Adjustment – Failure to Provide Accurate Information (August 1997) or GSAR 552.238-75 Price Reductions (May 2004) Alternate I (May 2003).

- c. Inspection and repair of defective Equipment under this warranty may be performed, at the option of the Contractor, at a service facility/plant authorized by the Contractor. The Ordering Activity may not return defective Equipment to the Contractor, the Manufacturer or its authorized service provider for repair or replacement without prior consultation and instruction.

## 8. PURCHASE PRICE FOR ORDERED EQUIPMENT

The purchase price that the Ordering Activity will be charged will be the Ordering Activity purchase price in effect at the time of order placement (which shall not exceed the price agreed to at the time of award of the GSA Schedule contract, as may be revised from time to time through a contract modification agreed to and issued by the GSA Schedule contracting officer), or the Ordering Activity purchase price in effect on the installation date (or delivery date when installation is not applicable), whichever is less. Provided, however, that the Ordering Activity shall only be entitled to a lower price if the installation date is no longer than thirty (30) days after the date of order placement.

## 9. RESPONSIBILITIES OF THE CONTRACTOR

The Contractor shall comply with all laws, ordinances, and regulations (Federal, State, City or otherwise) covering work of this character, and shall include all costs, if any, of such compliance in the prices quoted in this offer.

## 10. TRADE-IN OF INFORMATION TECHNOLOGY EQUIPMENT

When an Ordering Activity determines that Information Technology Equipment will be replaced, the Ordering Activity shall follow the contracting policies and procedures in the Federal Acquisition Regulation (FAR), the policies and procedures regarding disposition of information technology excess personal property in the Federal Property Management Regulations (FPMR) (41 CFR 101-43.6), and the policies and procedures on exchange/sale contained in the FPMR (41 CFR part 101-46).

## TERMS AND CONDITIONS APPLICABLE TO PURCHASE OF GENERAL-PURPOSE COMMERCIAL INFORMATION TECHNOLOGY HARDWARE SUBCATEGORY,

## COMPUTER AND OFFICE MACHINE REPAIR AND MAINTENANCE (SPECIAL ITEM NUMBER 811212)

### 1. GLOSSARY OF DEFINITIONS

- a. **“Documentation”** shall mean Manufacturer’s then current help guides, specifications and operating manuals issued by Manufacturer and made generally available by Manufacturer for the Equipment whether on-line or in hard copy.
- b. **“Maintenance Services”** shall mean the services provided by Contractor through an applicable Manufacturer under this contract in accordance with the Manufacturer’s then current Maintenance Services Policy.
- c. **“Maintenance Services Policy”** shall mean the commercial terms describing a Manufacturer’s standard maintenance and support offerings, policies and procedures for its Equipment, a copy of which is set forth in Attachment A to this schedule pricelist.
- d. **“Equipment”** shall mean the computer hardware identified on Attachment B to this schedule pricelist.

### 2. SERVICE AREAS

- a. The types/levels of maintenance, geographic scope of availability, and applicable rates vary by Manufacturer and are generally set forth in an applicable Manufacturer’s Maintenance Services Policy. If any additional charge is to apply because of distance from the Contractor’s service locations, the mileage rate or other distance factor shall be negotiated at the Task Order level.
- b. When repair services cannot be performed at the Ordering Activity installation site, the repair services will be performed at the Contractor’s, Manufacturer’s or authorized service provider’s plant(s).

### 3. MAINTENANCE ORDER

- a. Agencies may use written orders, EDI orders, credit card orders, or BPAs, for ordering maintenance under this contract. The Contractor shall confirm orders within fifteen (15) calendar days from the date of receipt, except that confirmation of orders shall be considered automatic for renewals for maintenance (Special Item Number 132-12). Automatic acceptance of order renewals for maintenance service shall apply for machines which may have been discontinued from use for temporary periods of time not longer than 120 calendar days. If the order is not confirmed by the Contractor as prescribed by this paragraph, the order shall be considered to be confirmed by the Contractor.
- b. The Contractor shall honor orders for Maintenance Services for the duration of the contract period or a lesser period of time, for the Equipment shown in the schedule pricelist. Maintenance Services shall commence on a mutually agreed upon date, which will be written into the maintenance order. Maintenance orders

shall not be made effective before the expiration of any applicable maintenance and parts guarantee/warranty period associated with the purchase of Equipment. Orders for Maintenance Service shall not extend beyond the end of the contract period.

- c. Maintenance Services may be discontinued by the Ordering Activity on thirty (30) calendar days written notice, or shorter notice when agreed to by the Contractor; such notice to become effective thirty (30) calendar days from the date on the notification. However, the Ordering Activity may extend the original discontinuance date upon written notice to the Contractor, provided that such notice is furnished at least ten (10) calendar days prior to the original discontinuance date.
- d. Annual Funding. When annually appropriated funds are cited on a maintenance order, the period of maintenance shall automatically expire on September 30th of the contract period, or at the end of the contract period, whichever occurs first. Renewal of a maintenance order citing the new appropriation shall be required, if maintenance is to continue during any remainder of the contract period.
- e. Cross-year Funding Within Contract Period. Where an Ordering Activity's specific appropriation authority provides for funds in excess of a 12-month, fiscal year period, the Ordering Activity may place an order under this schedule contract for a period up to the expiration of the contract period, notwithstanding the intervening fiscal years.
- f. Ordering Activities should notify the Contractor in writing thirty (30) calendar days prior to the expiration of Maintenance Services, if maintenance is to be terminated at that time. Orders for continued maintenance will be required if maintenance is to be continued during the subsequent period.

#### 4. REPAIR SERVICE AND REPAIR PARTS/SPARE PARTS ORDERS

Repair service and repair parts/spare parts orders are not available under the scope of this schedule contract.

#### 5. LOSS OR DAMAGE

- a. When the Contractor, through the Manufacturer, or its authorized service provider removes equipment to its establishment for repairs, the Contractor shall be responsible for any damage or loss, from the time the Equipment is removed from the Ordering Activity installation, until the equipment is returned to such installation.
- b. When Equipment is returned by Ordering Activity to the Contractor through the Manufacturer's or its authorized service provider's facility for repairs, the Ordering Activity shall be responsible for any loss or damage to the Equipment being returned by the Ordering Activity for repair. Contractor shall only be responsible for any loss or damage while the Equipment is at the Contractor's or its Manufacturer's or authorized

service provider's facility and until it is returned to the Ordering Activity's location.

#### 6. SCOPE

- a. In exchange for the applicable fees, the Contractor, through the Manufacturer or its authorized service provider shall provide Maintenance Services for all Equipment listed herein, as requested by the Ordering Activity during the contract term. Repair service and repair parts/spare parts shall apply exclusively to the Equipment types/models within the scope of this Information Technology Schedule.
- b. Equipment placed under Maintenance Service shall be in good operating condition.
  - 1) In order to determine that the Equipment is in good operating condition, the Equipment shall be subject to inspection by the Contractor through the Manufacturer or its authorized service provider without charge to the Ordering Activity.
  - 2) Costs of any repairs performed for the purpose of placing the Equipment in good operating condition shall be borne by the Contractor, provided the Equipment was under the Contractor's guarantee/warranty or maintenance responsibility prior to the effective date of the maintenance order.
  - 3) If the Equipment was not under the Contractor's responsibility, the costs necessary to place the Equipment in proper operating condition shall be borne by the Ordering Activity, in accordance with the provisions of Special Item Number 132-12 (or outside the scope of this contract).
  - 4) Contractor shall have no obligation to provide Maintenance Services for Equipment that has been modified by Ordering Activity, is in disrepair or subject to any other exclusions as set out in Manufacturer's Maintenance Services Policy.

#### 7. RESPONSIBILITIES OF THE ORDERING ACTIVITY

- a. Ordering Activity personnel shall not perform maintenance or attempt repairs to Equipment while such Equipment is under the purview of a maintenance order, unless agreed to by the Contractor. The Ordering Activity will follow Contractor's designated procedures when returning Equipment to Contractor's, Manufacturer's or its authorized service provider's facility for repairs.
- b. Subject to security regulations, the Ordering Activity shall permit access to the Equipment, which is to be maintained or repaired by Contractor, Manufacturer or its authorized service provider.

- c. If the Ordering Activity desires a factory authorized/certified service personnel, then this should be clearly stated in the task or delivery order.

## 8. RESPONSIBILITIES OF THE CONTRACTOR

- a. For Equipment not covered by a maintenance contract or warranty, the Contractor, through the Manufacturer's or its authorized service provider's repair service personnel shall complete repairs as soon as reasonably possible after notification by the Ordering Activity that service is required.
- b. If the Ordering Activity task or delivery order specifies factory authorized/certified service personnel then the Contractor is obligated to provide such factory authorized/certified service personnel for the Equipment to be repaired or serviced, unless otherwise agreed to in advance between the Ordering Activity and the Contractor.

## 9. MAINTENANCE RATE PROVISIONS

- a. For Equipment under monthly Maintenance Services, the Contractor shall bear all costs of maintenance, including labor, parts, and such other expenses as are necessary to keep the Equipment in good operating condition, provided that the required repairs are not occasioned by fault or negligence of the Ordering Activity.
- b. **REGULAR HOURS.** The basic monthly rate for each makes and model of Equipment shall entitle the Ordering Activity to the Maintenance Services as set forth in the applicable Manufacturer's Maintenance Services Policy.
- c. **AFTER HOURS.** Should the Ordering Activity require that maintenance be performed outside of Regular Hours, charges for such maintenance, if any, will be specified in the pricelist or in the applicable Manufacturer's Maintenance Services Policy. Periods of less than one hour will be prorated to the nearest quarter hour.
- d. **TRAVEL AND TRANSPORTATION.** If any charge is to apply, over and above the regular maintenance rates, because of the distance between the Ordering Activity location and the Contractor's service area, the charge will be negotiated at the Task Order level.
- e. **QUANTITY DISCOUNTS.** Quantity discounts from listed Maintenance Services rates for multiple Equipment owned and/or leased by a Ordering Activity are not provided under this schedule contract unless otherwise specified by a Manufacturer in the pricelist.

## 10. REPAIR SERVICE RATE PROVISIONS

Repair service rate fees and provisions for Equipment not under monthly Maintenance Services are not available under the scope of this schedule contract.

## 11. REPAIR PARTS/SPARE PARTS RATE PROVISIONS

Repair parts/spare parts rate provisions after the expiration of the guarantee/warranty provisions are not available under the scope of this schedule contract.

## 12. GUARANTEE/WARRANTY—REPAIR SERVICE AND REPAIR PARTS/SPARE PARTS

Guarantee/warranty-repair parts/spare parts after the expiration of the guarantee/warranty provisions are not available under the scope of this schedule contract.

## 13. INVOICES AND PAYMENTS

Invoices for Maintenance Services shall be submitted by the Contractor on a quarterly or monthly basis, after the completion of such period. Maintenance charges must be paid in arrears (31 U.S.C. 3324). PROMPT PAYMENT DISCOUNT, IF APPLICABLE, SHALL BE SHOWN ON THE INVOICE.

Payment for Maintenance Services of less than one month's duration shall be prorated at 1/30th of the monthly rate for each calendar day.

## TERMS AND CONDITIONS APPLICABLE TO PURCHASE OF GENERAL-PURPOSE COMMERCIAL INFORMATION TECHNOLOGY SOFTWARE SUBCATEGORY, SOFTWARE LICENSES (SPECIAL ITEM NUMBER 511210) AND SOFTWARE MAINTENANCE SERVICES (SPECIAL ITEM NUMBER 54151)

## 1. GLOSSARY OF DEFINITIONS

- a. **“Documentation”** shall mean Manufacturer's then current help guides, and manuals issued by Manufacturer and made generally available by Manufacturer for the Software whether on-line or in hard copy. Documentation shall include any updated Documentation that Manufacturer provides with any updates.
- b. **“Maintenance Services”** shall mean the Software maintenance and support services provided by Contractor through an applicable Manufacturer under this contract in accordance with the Manufacturer's then current Maintenance Services Policy.
- c. **“Maintenance Services Policy”** shall mean the commercial terms describing a Manufacturer's standard Software maintenance and support offerings, policies and procedures, a copy of which is located on Attachment A to this schedule pricelist.
- d. **“Software”** shall mean (i) the version of the computer program identified on Attachment B and (ii) updates to such programs.

## 2. INSPECTION/ACCEPTANCE

The Contractor shall only deliver those items ordered that substantially conform to the requirements of this contract and the Software's Documentation. Therefore, items delivered shall be deemed accepted upon delivery. The Ordering Activity reserves the right to inspect or test any Software that has been delivered. The Ordering Activity may require repair or replacement of nonconforming Software at no increase in contract price. The Ordering Activity must exercise its post-acceptance rights (1) within the warranty period as set forth below; and (2) before any

substantial change occurs in the condition of the Software, unless the change is due to the defect in the Software.

### 3. GUARANTEE/WARRANTY

a. Unless specified otherwise in this contract, the warranties extended to the Ordering Activity for Software and Documentation, and the exclusions and disclaimers applicable to such warranties, shall be as set forth on Attachment A to this schedule pricelist (Contractor Supplemental Pricelist Information and Incorporated Terms). Notwithstanding anything to the contrary that may be marked on or provided with the Software or Documentation, the parties understand and agree that such warranties, exclusions and disclaimers follow the applicable Manufacturer's standard commercial warranties, exclusions and disclaimers but are provided to the Ordering Activity by the Contractor, who will be responsible to the Ordering Activity for all compliance, service and remedies thereunder.

b. Limitation of Liability.

- (1) Exclusion of Consequential Damages. EXCEPT FOR A) A CLAIM OF IP INFRINGEMENT HEREUNDER, OR B) AS PROVIDED IN (b)(iii) BELOW, IN NO EVENT SHALL CONTRACTOR BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES, INCLUDING WITHOUT LIMITATION DAMAGES FOR LOSS OF PROFITS, DATA OR USE, INCURRED BY EITHER PARTY OR ANY THIRD PARTY, WHETHER IN AN ACTION IN CONTRACT OR TORT, EVEN IF THE OTHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES provided however, that in the event Ordering Activity makes unauthorized copies of the Software, Contractor shall be entitled to recover the full amount of any license fees that would relate to such copies.
- (2) Limitation of Direct Damages. Except for a) a claim of IP Infringement hereunder, or b) as provided in (b)(iii) below, the aggregate and cumulative liability of Contractor and licensors for damages hereunder shall in no event exceed the amount of fees paid by Ordering Activity under the order giving rise to such liability, and if such damages relate to particular Software or Maintenance Services, such liability shall be limited to fees paid for the relevant Software or Maintenance Services giving rise to the liability.
- (3) Non-Applicability to Statutory or Regulatory Rights. Nothing herein shall operate to impair or prejudice the U.S. Government's right (a) to recover for fraud or crimes arising out of or

relating to this contract under any Federal fraud statute, including without limitation the False Claims Act (31 USC §§3729 through 3733), or (b) to express remedies provided under any FAR, GSAR or Schedule 70 solicitation clauses incorporated into this contract, including without limitation the GSAR 552.215-72 Price Adjustment – Failure to Provide Accurate Information (August 1997) or GSAR 552.238-75 Price Reductions (May 2004) Alternate I (May 2003).

### 4. TECHNICAL SERVICES

A hot line technical support number for the purpose of providing user assistance and guidance to the Ordering Activity in the implementation of the Software may be provided as part of Maintenance Services.

### 5. SOFTWARE MAINTENANCE

a. Software maintenance as it is defined:

- (1) Software Maintenance as a Product (SIN 511210)

Software maintenance as a product includes the publishing of bug/defect fixes via patches and updates/upgrades in function and technology to maintain the operability and usability of the software product. It may also include other no charge support that is included in the purchase price of the product in the commercial marketplace. No charge support includes items such as user blogs, discussion forums, on-line help libraries and FAQs (Frequently Asked Questions), hosted chat rooms, and limited telephone, email and/or web-based general technical support for user's self-diagnostics.

Software maintenance as a product does NOT include the creation, design, implementation, integration, etc. of a software package. These examples are considered software maintenance as a service.

Software Maintenance as a product is billed at the time of purchase.

- (2) Software Maintenance as a Service (SIN 54151)

Software maintenance as a service creates, designs, implements, and/or integrates customized changes to software that solve one or more problems and is not included with the price of the software. Software maintenance as a service includes person-to-person communications regardless of the medium used to communicate: telephone support, on-line technical support, customized

support, and/or technical expertise which are charged commercially. Software maintenance as a service is billed arrears in accordance with 31 U.S.C. 3324.

Software maintenance as a service is billed arrears in accordance with 31 U.S.C. 3324.

- b. If purchased by Ordering Activity, Contractor, through the applicable Manufacturer, shall provide Maintenance Services for the Software pursuant to the applicable Manufacturer's then current Maintenance Services Policy. Fees or rates for such Maintenance Services are set forth in Attachment B.
- c. Invoices for maintenance service shall be submitted by the Contractor on a quarterly or monthly basis, after the completion of such period. Maintenance charges must be paid in arrears (31 U.S.C. 3324) for Maintenance as a Service. **PROMPT PAYMENT DISCOUNT, IF APPLICABLE, SHALL BE SHOWN ON THE INVOICE.**

## 6. PERIODS OF TERM LICENSES AND MAINTENANCE

- a. The Contractor shall honor orders for periods for the duration of the contract period or a lesser period of time.
- b. Term licenses and/or maintenance may be discontinued by the Ordering Activity on thirty (30) calendar days written notice to the Contractor.
- c. Annual Funding. When annually appropriated funds are cited on an order for term licenses and/or maintenance, the period of the term licenses and/or maintenance shall automatically expire on September 30 of the contract period, or at the end of the contract period, whichever occurs first. Renewal of the term licenses and/or maintenance orders citing the new appropriation shall be required, if the term licenses and/or maintenance is to be continued during any remainder of the contract period.
- d. Cross-Year Funding Within Contract Period. Where an Ordering Activity's specific appropriation authority provides for funds in excess of a 12-month (fiscal year) period, the Ordering Activity may place an order under this schedule contract for a period up to the expiration of the contract period, notwithstanding the intervening fiscal years.
- e. Ordering Activities should notify the Contractor in writing thirty (30) calendar days prior to the expiration of an order, if the term licenses and/or maintenance is to be terminated at that time. Orders for the continuation of term licenses and/or maintenance will be required if the term licenses and/or maintenance is to be continued during the subsequent period.

## 7. CONVERSION FROM TERM LICENSE TO PERPETUAL LICENSE

Conversion from term licenses to perpetual licenses for any or all Software is not available under the scope of this contract.

Outside the scope of this contract, the Ordering Activity may contact the Manufacturer directly to discuss the permissibility, costs and operation of such conversion(s). Contractor agrees to reasonably assist Ordering Activity in this regard.

## 8. TERM LICENSE CESSATION

If a term Software license granted hereunder terminates for any reason, Ordering Activity shall (i) cease using the applicable Software, Documentation, and related Confidential Information, and (ii) certify to Contractor within thirty (30) days after termination that Ordering Activity has destroyed, or has returned to Contractor or its Manufacturer the Software, Documentation, related Confidential Information of Contractor and all copies thereof, whether or not modified or merged into other materials.

## 9. UTILIZATION LIMITATIONS (SIN 511210 AND SIN 54151)

- a. Software acquisition is limited to commercial computer software defined in FAR Part 2.101.
- b. When acquired by the Ordering Activity, commercial computer Software and related Documentation shall be subject to the following:
  - (1) Title to and ownership of the Software and Documentation shall remain with the Contractor or its Manufacturer or licensors, unless otherwise specified. Contractor and its Manufacturers reserve all rights in and to the Software and Documentation not expressly granted to Ordering Activity herein.
  - (2) United States Government Legends. The Software, Documentation and any other technical data provided hereunder is commercial in nature and developed solely at private expense. The Software is delivered as "Commercial Computer Software" as defined in DFARS 252.227-7014 (June 1995) or as a "Commercial Item" as defined in FAR 2.101(a) and as such is provided with only such rights as are provided in Manufacturer's standard commercial license for the Software. Technical data is provided with limited rights only as provided in DFAR 252.227-7015 (Nov. 1995) or FAR 52.227-14 (June 1987), whichever is applicable.

Contractor grants Ordering Activity only those utilization rights (and reserves the same utilization limitations) as specified in the applicable Manufacturer's commercial license terms, a description of which is set forth on Attachment A to this schedule pricelist and incorporated herein.

Notwithstanding the forgoing, Contractor acknowledges and agrees that Ordering Activity shall have the minimum restricted rights as set forth in 9.b(4) below.

- (3) Except as is provided in paragraph 9.b(2) above, the Ordering Activity shall not provide or otherwise make available the Software or Documentation, or any portion thereof, in any form, to any third party without the prior written approval of the Contractor. Third parties do not include prime Contractors, subcontractors and agents of the Ordering Activity who have the Ordering Activity's permission to use the licensed software and documentation at the facility, and who have agreed to use the licensed Software and Documentation only in accordance with these restrictions. This provision does not limit the right of the Ordering activity to use Software, Documentation, or information therein, which the Ordering Activity may already have or obtains without restrictions.
- (4) The Ordering Activity shall have the right to use the computer Software and Documentation with the computer for which it is acquired at any other facility to which that computer may be transferred, or in cases of Disaster Recovery, the Ordering Activity has the right to transfer the Software to another site if the Ordering Activity site for which it is acquired is deemed to be unsafe for Ordering Activity personnel; to use the computer Software and Documentation with a backup computer when the primary computer is inoperative; and to copy computer Software for safekeeping (archive) or backup purposes; to modify the software and documentation or combine it with other software, provided that the unmodified portions shall remain subject to these restrictions.
- (5) "Commercial Computer Software" may be marked with the Contractor's standard commercial restricted rights legend, but the schedule contract and schedule pricelist, including this clause, "Utilization Limitations" are the only governing terms and conditions, and shall take precedence and supersede any different or additional terms and conditions included in the standard commercial legend.
- (6) The Software and Documentation hereunder is offered by the Contractor under licenses customarily provided to the public. The Contractor does not

furnish technical information related to commercial computer Software (or commercial computer software Documentation) that is not customarily provided to the public. Further, the Contractor does not relinquish rights to use, modify, reproduce, release, perform, display, or disclose commercial computer Software (or commercial computer Software Documentation) except as mutually agreed to by the parties. See 48 CFR 12.212.

- (7) Nondisclosure. Ordering Activity may have access to information that is confidential to Contractor or its Manufacturers ("Confidential Information"). Confidential Information shall include any information that is clearly identified in writing at the time of disclosure as confidential as well as any information that, based on the circumstances under which it was disclosed, a reasonable person would believe to be confidential. Contractor's Confidential Information shall include, but not be limited to, the Software, Documentation, all materials provided to Ordering Activity in the course of performing Maintenance Services hereunder, formulas, methods, know how, processes, designs, new products, developmental work, marketing requirements, marketing plans, customer names, prospective customer names, and the terms and pricing hereunder, regardless of whether such information is identified as confidential. Confidential Information includes all information received from third parties that Contractor is obligated to treat as confidential.

Confidential Information shall not include information that (i) is or becomes a part of the public domain through no act or omission of the other party; (ii) was in the other party's lawful possession prior to the disclosure and had not been obtained by the other party either directly or indirectly from the disclosing party; (iii) is lawfully disclosed to the other party by a third party without restriction on disclosure; (iv) is independently developed by the other party without use of or reference to the other party's Confidential Information. In addition, if Ordering Activity recommends to Contractor additional features, functionality, or performance or if Contractor retains generalized information hereunder that Contractor or its Manufacturer subsequently incorporates into its product or service offerings, then with respect to such recommendations and information, Ordering Activity hereby (a) grants

Contractor a worldwide, non-exclusive, royalty-free, perpetual right and license to use and incorporate such recommendations and such information into such offerings, and (b) acknowledges that all right and title to such offerings incorporating such recommendations and information shall be the sole and exclusive property of Contractor or its Manufacturer and all such recommendations and information shall be free from any confidentiality restrictions that might otherwise be imposed upon Contractor pursuant to this section.

Further, this section will not be construed to prohibit disclosure of Confidential Information to the extent that such disclosure is required by law or valid order of a court or other governmental authority.

Ordering Activity shall not disclose the results of any performance tests of the Software to any third party without Contractor's prior written approval. Ordering Activity agrees to hold Confidential Information in confidence and to take all reasonable steps to ensure that Confidential Information is not disclosed or distributed by its employees or agents in breach of these Terms and Conditions. Ordering Activity acknowledges and agrees that, due to the unique nature of Confidential Information, there can be no adequate remedy at law for breach of this section, and that such breach would cause irreparable harm to Contractor; therefore, Contractor shall be entitled to seek immediate injunctive relief, in addition to whatever remedies it might have at law or under these terms and conditions.

- (8) **Verification.** At Contractor's written request, but not more frequently than annually, Ordering Activity shall furnish Contractor with a document signed by Ordering Activity's authorized representative verifying that the Software is being used pursuant to the provisions of this contract. To the extent permitted by and subject to an Ordering Activity's security requirements (including, but not limited to, use of cleared personnel, badging and other requirements). Contractor reserves the right to audit Ordering Activity's use of the Software no more than once annually at Contractor's expense. Contractor shall schedule any audit at least thirty (30) days in advance. Any such audit shall be conducted during regular business hour at Ordering Activity's facilities and shall not unreasonably

interfere with Ordering Activity's business.

- (9) **Intellectual Property Infringement.** If a third party makes a claim against Ordering Activity that the Software directly infringes any patent, copyright, or trademark or misappropriates any trade secret ("IP Claim"); Contractor will (i) assist in defending Ordering Activity against the IP Claim at Contractor's cost and expense, and (ii) pay all costs, damages and expenses (including reasonable legal fees) finally awarded against Ordering Activity by a court of competent jurisdiction or agreed to in a written settlement agreement signed by Contractor arising out of such IP Claim; provided that: (i) Ordering Activity promptly notifies Contractor in writing no later than sixty (60) days after Ordering Activity's receipt of notification of a potential claim and (ii) Ordering Activity provides Contractor, at Contractor's request and expense, with the assistance, information and authority necessary to perform Contractor's obligations under this Section. Notwithstanding the foregoing, Contractor shall have no liability for any claim of infringement based on (a) the use of a superseded or altered release of the Software if the infringement would have been avoided by the use of a current unaltered release of the Software, (b) the modification of the Software, (c) the use of the Software other than in accordance with the Documentation or this contract, or (d) any materials or information provided to Contractor by Ordering Activity, for which Ordering Activity shall be solely responsible.

If the Software is held to infringe or are believed by Contractor to infringe, Contractor shall have the option, at its expense, to (a) replace or modify the Software to be non-infringing, or (b) obtain for Ordering Activity a license to continue using the Software. If it is not commercially reasonable to perform either of the foregoing options, then Contractor may terminate the Program license for the infringing Software and refund the license fees paid for the Software upon return of the Software by Ordering Activity. This section states Contractor's entire liability and Ordering Activity's exclusive remedy for any claim of infringement.

- (10) **Delivery.** All Software and Documentation provided by Contractor hereunder shall be deemed to be delivered by Contractor: 1) Upon physical delivery, or 2) Once the Software is made available to Ordering

Activity via electronic download by provision of a license key, link to a website, FTP site or similar site from which the Ordering Activity can electronically download or otherwise access the Software and Documentation.

**10. SOFTWARE CONVERSIONS**

Conversion from one version of the Software to another such as the result of a change in operating system, or from one computer system to another is not available under the scope of the contract.

Outside the scope of this contract, the Ordering Activity may contact the Manufacturer directly to discuss the permissibility, costs and operation of such conversion(s). Contractor agrees to reasonably assist Ordering Activity in this regard.

**11. DESCRIPTIONS AND EQUIPMENT COMPATIBILITY**

For information concerning supported hardware or compatibility requirements the Ordering Activity is advised to contact the Contractor or the applicable Manufacturer.

**12. RIGHT TO COPY PRICING**

Right-to-copy license pricing is not available under the scope of this contract unless specifically specified in the pricelist. The Ordering Activity must contact the Manufacturer directly to discuss the applicability and associated costs of right-to-copy pricing.

**TERMS AND CONDITIONS APPLICABLE TO PURCHASE OF GENERAL-PURPOSE COMMERCIAL INFORMATION TECHNOLOGY SOLUTIONS SUBCATEGORY, CLOUD AND CLOUD-RELATED IT PROFESSIONAL SERVICES (SPECIAL ITEM NUMBER 518210C)**

**1. SCOPE**

The prices, terms and conditions stated under Special Item Number (SIN) 518210C Cloud Computing Services apply exclusively to Cloud Computing Services within the scope of this Information Technology Schedule.

This SIN provides ordering activities with access to technical services that run-in cloud environments and meet the NIST Definition of Cloud Computing Essential Characteristics. Services relating to or impinging on cloud that do not meet all NIST essential characteristics should be listed in other SINs.

The scope of this SIN is limited to cloud capabilities provided entirely as a service. Hardware, software and other artifacts supporting the physical construction of a private or other cloud are out of scope for this SIN. Currently, an Ordering Activity can procure the hardware and software needed to build on premise cloud functionality, through combining different services on other Federal Supply Schedule SINs (e.g. 54151S).

Sub-categories in scope for this SIN are the three NIST Service Models: Software as a Service (SaaS), Platform as a Service (PaaS), and Infrastructure as a Service (IaaS). Offerors may optionally select a single sub-category that best fits a proposed cloud service offering. Only one sub-category may be selected per each proposed cloud service offering. Offerors may elect to submit multiple cloud service offerings, each with its own single sub-category. The selection of one of three sub-categories does not

prevent Offerors from competing for orders under the other two sub-categories.

See service model guidance for advice on sub-category selection.

Sub-category selection within this SIN is optional for any individual cloud service offering, and new cloud computing technologies that do not align with the aforementioned three sub-categories may be included without a sub-category selection so long as they comply with the essential characteristics of cloud computing as outlined by NIST.

See Table 1 for a representation of the scope and sub-categories.

**Table 1: Cloud Computing Services SIN**

SIN Description	Sub-Categories <sup>1</sup>
<ul style="list-style-type: none"> <li>● Commercially available cloud computing services</li> <li>● Meets the National Institute for Standards and Technology (NIST) definition of Cloud Computing essential characteristics</li> <li>● Open to all deployment models (private, public, community or hybrid), vendors specify deployment models</li> </ul>	<p><b>1. Software as a Service (SaaS):</b> Consumer uses provider’s applications on cloud infrastructure. Does not manage/control platform or infrastructure. Limited application level configuration may be available.</p> <p><b>2. Platform as a Service (PaaS):</b> Consumer deploys applications onto cloud platform service using provider-supplied tools. Has control over deployed applications and some limited platform configuration but does not manage the platform or infrastructure.</p> <p><b>3. Infrastructure as a Service (IaaS):</b> Consumer provisions computing resources. Has control over OS, storage, platform, deployed applications and some limited infrastructure configuration, but does not manage the infrastructure.</p>

<sup>1</sup> Offerors may optionally select the single sub-category that best fits each cloud service offering, per Service Model Guidance, or select no sub-category if the offering does not fit an existing NIST service model.

**2. DESCRIPTION OF CLOUD COMPUTING SERVICES AND PRICING**

a. Service Description Requirements for Listing Contractors

The description requirements below are in addition to the overall Schedule 70 evaluation criteria described in SCP-FSS-001-N Instructions Applicable to New Offerors (Alternate I – MAR 2016) or SCP-FSS-001-S Instructions Applicable to Successful FSS Program Contractors, as applicable, SCP-FSS-004 and other relevant publications.

Refer to overall Federal Supply Schedule requirements for timelines related to description and other schedule updates, including but not limited to clauses 552.238-81 – section E and clause I-FSS-600.

Table 2 summarizes the additional Contractor-provided description requirements for services proposed under the Cloud Computing Services SIN. All mandatory description requirements must be complete, and adequate according to evaluation criteria.

In addition, there is one “Optional” reporting description which exists to provide convenient service selection by relevant criteria. Where provided, optional description requirements must be complete and adequate according to evaluation criteria:

- (1) The NIST Service Model provides sub-categories for the Cloud SIN and is strongly encouraged, but not required. The Service Model based sub-categories provide this SIN with a structure to assist ordering activities in locating and comparing services of interest. Contractors may optionally select the single service model most closely corresponding to the specific service offering.
- (2) If a sub-category is selected it will be evaluated with respect to the NIST Service Model definitions and guidelines in “Guidance for Contractors”.

**Table 2: Cloud Service Description Requirements**

#	Descriptions Requirement	Reporting Type	Instructions
1	Provide a brief written description of how the proposed cloud computing services satisfies each individual essential NIST Characteristic	Mandatory	The cloud service must be capable of satisfying each of the five NIST essential Characteristics as outlined in NIST Special Publication 800-145. See ‘GUIDANCE FOR CONTRACTORS: NIST Essential Characteristics’ below in this document for detailed overall direction, as well as guidance on inheriting essential characteristics.
2	Select NIST deployment models for the cloud computing service proposed.	Mandatory	Contractors must select at least one NIST deployment model as outlined in NIST Special Publication 800-145 describing how the proposed cloud computing service is deployed. Select multiple deployment models if the service is offered in more than one deployment model. See ‘GUIDANCE FOR CONTRACTORS: NIST Deployment Model’ below in this document for detailed direction on how to best categorize a service for the NIST deployment models.
3	Optionally select the most appropriate NIST service model that will be the designated sub-category or may select no sub-category.	Optional	Contractor may select a single NIST Service model to sub-categorize the service as outlined in NIST Special Publication 800-145. Sub-category selection is optional but recommended. See ‘GUIDANCE FOR CONTRACTORS: NIST Service Model’ below in this document for detailed direction on how to best categorize a service for the NIST IaaS, PaaS, and SaaS service models.

b. Pricing of Cloud Computing Services

All current pricing requirements for Schedule 70, including provision SCP-FSS-001-N (Section III Price Proposal), SCP-FSS-001-S, SCP-FSS-004 (Section III Price Proposal), and clause I-FSS-600 Contract Price Lists, apply. At the current time there is no provision for reducing or eliminating standard price list posting requirements to accommodate rapid cloud price fluctuations.

In addition to standard pricing requirements, all pricing models must have the core capability to meet the NIST Essential Cloud Characteristics, particularly with respect to on-demand self-service, while allowing alternate variations at the task order level at agency discretion, pursuant to the guidance on NIST Essential Characteristics.

**3. RESPONSIBILITIES OF THE CONTRACTOR**

The Contractor shall comply with all laws, ordinances, and regulations (Federal, State, City, or otherwise) covering work of this character.

a. Acceptance Testing

Any required Acceptance Test Plans and Procedures shall be negotiated by the Ordering Activity at task order level. The Contractor shall perform acceptance testing of the systems for Ordering Activity approval in accordance with the approved test procedures.

b. Training

If training is provided commercially the Contractor shall provide normal commercial installation, operation, maintenance, and engineering interface training on the system. Contractor is responsible for indicating if there are separate training charges.

c. Information Assurance/Security Requirements

The contractor shall meet information assurance/security requirements in accordance with the Ordering Activity requirements at the Task Order level.

d. Related Professional Services

The Contractor is responsible for working with the Ordering Activity to identify related professional services and any other services available on other SINs that may be associated with deploying a complete cloud solution. Any additional substantial and ongoing professional services related to the offering such as integration, migration, and other cloud professional services are out of scope for this SIN.

e. Performance of Cloud Computing Services

The Contractor shall respond to Ordering Activity requirements at the Task Order level with proposed capabilities to Ordering Activity performance specifications or indicate that only standard specifications are offered. In all cases the

Contractor shall clearly indicate standard service levels, performance and scale capabilities.

The Contractor shall provide appropriate cloud computing services on the date and to the extent and scope agreed to by the Contractor and the Ordering Activity.

f. Reporting

The Contractor shall respond to Ordering Activity requirements and specify general reporting capabilities available for the Ordering Activity to verify performance, cost and availability.

In accordance with commercial practices, the Contractor may furnish the Ordering Activity/user with a monthly summary Ordering Activity report.

**4. RESPONSIBILITIES OF THE ORDERING ACTIVITY**

The Ordering Activity is responsible for indicating the cloud computing services requirements unique to the Ordering Activity. Additional requirements should not contradict existing SIN or IT Schedule 70 Terms and Conditions. Ordering Activities should include (as applicable) Terms & Conditions to address Pricing, Security, Data Ownership, Geographic Restrictions, Privacy, SLAs, etc.

Cloud services typically operate under a shared responsibility model, with some responsibilities assigned to the Cloud Service Provider (CSP), some assigned to the Ordering Activity, and others shared between the two. The distribution of responsibilities will vary between providers and across service models. Ordering activities should engage with CSPs to fully understand and evaluate the shared responsibility model proposed. Federal Risk and Authorization Management Program (FedRAMP) documentation will be helpful regarding the security aspects of shared responsibilities, but operational aspects may require additional discussion with the provider.

a. Ordering Activity Information Assurance/Security Requirements Guidance

- (1) The Ordering Activity is responsible for ensuring to the maximum extent practicable that each requirement issued is in compliance with the Federal Information Security Management Act (FISMA) as applicable.
- (2) The Ordering Activity shall assign a required impact level for confidentiality, integrity and availability (CIA) prior to issuing the initial statement of work.<sup>1</sup>

The Contractor must be capable of meeting at least the minimum-security requirements assigned against a low-impact information system in each CIA assessment area (per FIPS 200) and must detail the FISMA capabilities

of the system in each of CIA assessment area.

- (3) Agency level FISMA certification, accreditation, and evaluation activities are the responsibility of the Ordering Activity. The Ordering Activity reserves the right to independently evaluate, audit, and verify the FISMA compliance for any proposed or awarded Cloud Computing Services.
- (4) The Ordering Activity has final responsibility for assessing the FedRAMP status of the service, complying with and making a risk-based decision to grant an Authorization to Operate (ATO) for the cloud computing service, and continuous monitoring. A memorandum issued by the Office of Management and Budget (OMB) on Dec 8, 2011 outlines the responsibilities of Executive departments and agencies in the context of FedRAMP compliance.<sup>2</sup>
- (5) Ordering activities are responsible for determining any additional information assurance and security related requirements based on the nature of the application and relevant mandates.

b. Deployment Model

If a particular deployment model (Private, Public, Community, or Hybrid) is desired, Ordering Activities are responsible for identifying the desired model(s). Alternately, Ordering Activities could identify requirements and assess Contractor responses to determine the most appropriate deployment model(s).

c. Delivery Schedule

The Ordering Activity shall specify the delivery schedule as part of the initial requirement. The Delivery Schedule options are found in Information for Ordering Activities Applicable to All Special Item Numbers.

d. Interoperability

Ordering Activities are responsible for identifying interoperability requirements. Ordering Activities should clearly delineate requirements for API implementation and standards conformance.

e. Performance of Cloud Computing Services

The Ordering Activity should clearly indicate any custom minimum service levels, performance and scale requirements as part of the initial requirement.

<sup>1</sup> Per Federal Information Processing Standards Publication 199 & 200 (FIPS 199, "Standards for Security Categorization of Federal Information and Information Systems") (FIPS 200, "Minimum Security Requirements for Federal Information and Information Systems")

<sup>2</sup> MEMORANDUM FOR CHIEF INFORMATION OFFICERS: Security Authorization of Information Systems in Cloud Computing Environments. December 8, 2011

f. Reporting

The Ordering Activity should clearly indicate any cost, performance or availability reporting as part of the initial requirement.

g. Privacy

The Ordering Activity should specify the privacy characteristics of their service and engage with the Contractor to determine if the cloud service is capable of meeting Ordering Activity requirements. For example, a requirement could be requiring assurance that the service is capable of safeguarding Personally Identifiable Information (PII), in accordance with NIST SP 800-1224<sup>3</sup> and OMB memos M-06-16<sup>4</sup> and M-07-16<sup>5</sup>. An Ordering Activity will determine what data elements constitute PII according to OMB Policy, NIST Guidance and Ordering Activity policy.

h. Accessibility

The Ordering Activity should specify the accessibility characteristics of their service and engage with the Contractor to determine the cloud service is capable of meeting Ordering Activity requirements. For example, a requirement could require assurance that the service is capable of providing accessibility based on Section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d).

i. Geographic Requirements

Ordering activities are responsible for specifying any geographic requirements and engaging with the Contractor to determine that the cloud services offered have the capabilities to meet geographic requirements for all anticipated task orders. Common geographic concerns could include whether service data, processes and related artifacts can be confined on request to the United States and its territories, or the continental United States (CONUS).

j. Data Ownership and Retrieval and Intellectual Property

Intellectual property rights are not typically transferred in a cloud model. In general, CSPs retain ownership of the Intellectual Property (IP) underlying their services and the customer retains ownership of its intellectual property. The CSP gives the customer a license to use the cloud services for the duration of the contract without transferring rights. The government retains ownership of the IP and data they bring to the customized use of the service as spelled out in the FAR and related materials.

General considerations of data ownership and retrieval are covered under the terms of Schedule 70 and the FAR and other laws, ordinances, and regulations (Federal, State, City, or otherwise).

Because of considerations arising from cloud shared responsibility models, ordering activities should engage with the Contractor to develop more cloud-specific understandings of the boundaries between data owned by the government and that owned by the cloud service provider, and the specific terms of data retrieval.

In all cases, the Ordering Activity should enter into an agreement with a clear and enforceable understanding of the boundaries between government and cloud service provider data, and the form, format and mode of delivery for each kind of data belonging to the government.

The Ordering Activity should expect that the Contractor shall transfer data to the government at the government's request at any time, and in all cases when the service or order is terminated for any reason, by means, in formats and within a scope clearly understood at the initiation of the service. Example cases that might require clarification include status and mode of delivery for:

- Configuration information created by the government and affecting the government's use of the cloud provider's service.
- Virtual machine configurations created by the government but operating on the cloud provider's service.
- Profile, configuration and other metadata used to configure SaaS application services or PaaS platform services.

The key is to determine in advance the ownership of classes of data and the means by which Government owned data can be returned to the Government.

k. Service Location Distribution

The Ordering Activity should determine requirements for continuity of operations and performance and engage with the Contractor to ensure that cloud services have adequate service location distribution to meet anticipated requirements. Typical concerns include ensuring that:

- (1) Physical locations underlying the cloud are numerous enough to provide continuity of operations and geographically separate enough to avoid an anticipated single point of failure within the scope of anticipated emergency events.
- (2) Service endpoints for the cloud are able to meet anticipated performance

<sup>3</sup> NIST SP 800-122, "Guide to Protecting the Confidentiality of Personally Identifiable Information (PII)"

<sup>4</sup> OMB memo M-06-16: Protection of Sensitive Agency Information Hyperlink: <http://www.whitehouse.gov/sites/default/files/omb/memoranda/fy2006/m06-16.pdf>

<sup>5</sup> OMB Memo M-07-16: Safeguarding Against and Responding to the Breach of Personally Identifiable Information. Hyperlink:

<http://www.whitehouse.gov/sites/default/files/omb/memoranda/fy2007/m07-16.pdf>

requirements in terms of geographic proximity to service requestors.

Note that cloud providers may address concerns in the form of minimum distance between service locations, general regions where service locations are available, etc.

## 1. Related Professional Services

Ordering activities should engage with Contractors to discuss the availability of limited assistance with initial setup, training and access to the services that may be available through this SIN.

Any additional substantial and ongoing professional services related to the offering such as integration, migration, and other cloud professional services are out of scope for this SIN. Ordering activities should consult the appropriate GSA professional services schedule.

### TERMS AND CONDITIONS APPLICABLE TO PURCHASE OF GENERAL-PURPOSE COMMERCIAL INFORMATION TECHNOLOGY SOLUTIONS SUBCATEGORY, CONTINUOUS DIAGNOSTICS AND MITIGATION (CDM) TOOLS (SPECIAL ITEM NUMBER 541519CDM)

## 1. GLOSSARY OF DEFINITIONS

- a. **“Documentation”** shall mean Manufacturer’s then current help guides, specifications and operating manuals issued by Manufacturer and made generally available by Manufacturer for the Equipment and/or Software whether on-line or in hard copy.
- b. **“Equipment”** shall mean the computer hardware identified on Attachment B to this schedule pricelist.
- c. **“Equipment Maintenance Services”** shall mean the Equipment maintenance services provided by Contractor through an applicable Manufacturer under this contract in accordance with the Manufacturer’s then-current Maintenance Services Policy.
- d. **“Software Maintenance Services”** shall mean the Software maintenance and support services provided by Contractor through an applicable Manufacturer under this contract in accordance with the Manufacturer’s then current Maintenance Services Policy.
- e. **“Maintenance Services Policy”** shall mean the commercial terms describing a Manufacturer’s standard Equipment or Software maintenance and support offerings, policies and procedures, a copy of which is located on Attachment A to this schedule pricelist.
- f. **“Services”** shall mean services associated with products, other than Software Maintenance Services, Equipment Maintenance Services, and training.

- g. **“Software”** shall mean (i) the version of the computer program identified on Attachment B and (ii) updates to such programs.

## 2. SCOPE

- a. Special Item Number (SIN) 541519CDM Continuous Diagnostics and Mitigation (CDM) Tools is a solutions SIN. This SIN includes both Equipment and Software products and any associated services for the products to include installation, maintenance, and training.
- b. In addition to the terms and conditions of this CDM SIN: the terms and conditions of SIN 33411 shall apply to the purchase of Equipment provided under the CDM SIN; the terms and conditions of SIN 811212 shall apply to Equipment Maintenance Services provided under the CDM SIN; the terms and conditions of SINs 511210 and 54151 shall apply to Software and Software Maintenance Services provided under the CDM SIN; and the terms and conditions of SIN 611420 shall apply to the purchase of training courses provided under the CDM SIN.
- c. 541519CDM - Continuous Diagnostics and Mitigation Tools - SUBJECT TO COOPERATIVE PURCHASING - Includes Continuous Diagnostics and Mitigation (CDM) Approved Products List (APL) Equipment and Software products/tools and associated Services and Maintenance Services. The full complement of CDM subcategories includes tools, associated Maintenance Services, and other related activities such as training.
- d. The 5 subcategories CDM capabilities specified under this SIN are:
  - (1) Manage “What is on the network?”: Identifies the existence of hardware, software, configuration characteristics and known security vulnerabilities.
  - (2) Manage “Who is on the network?”: Identifies and determines the users or systems with access authorization, authenticated permissions and granted resource rights.
  - (3) Manage “How is the network protected?”: Determines the user/system actions and behavior at the network boundaries and within the computing infrastructure.
  - (4) Manage “What is happening on the network?”: Prepares for events/incidents, gathers data from appropriate sources; and identifies incidents through analysis of data.
  - (5) Emerging Tools and Technology: Includes CDM cybersecurity tools and technology not in any other subcategory.

5 subcategories represent the scope of the CDM program and reflect widely exercised functional

and operational scenarios that CDM is interested in identifying, monitoring and addressing from a security perspective.

To provide a holistic security approach, these capabilities adhere to the National Institute of Science and Technology (NIST) Cybersecurity Framework security functions to identify, protect, detect, respond and recover. CDM also supports and can be used in the NIST Risk Management Framework (RMF) to achieve ongoing assessment and authorization.

As shown in Table 1, the 5 CDM Tools SIN subcategories cover the previous CDM BPA 15 CDM Tool Functional Areas (TFAs) and allow for future innovation.

**Table 1: SIN to TFA mapping**

5 SIN Subcategories	15 CDM BPA TFAs
1. Manage “What is on the network?”	<ul style="list-style-type: none"> <li>● TFA 1 – Hardware Asset Management</li> <li>● TFA 2 – Software Asset Management</li> <li>● TFA 3 – Configuration Settings Management</li> <li>● TFA 4 – Vulnerability Management</li> </ul>
2. Manage “Who is on the network?”	<ul style="list-style-type: none"> <li>● TFA 6 – Manage Trust in People Granted Access</li> <li>● TFA 7 – Manage Security-Related Behavior</li> <li>● TFA 8 – Manage Credential and Authentication</li> <li>● TFA 9 – Manage Account/Access/Manage Privileges</li> </ul>
3. Manage “How is the boundary protected?” for BOUND	<ul style="list-style-type: none"> <li>● TFA 5 – Manage Network Access Controls</li> </ul>
4. Manage “What is happening on the network?” for MNGEVT	<ul style="list-style-type: none"> <li>● TFA 10 – Prepare for Contingencies and Incidents</li> <li>● TFA 11 – Respond to Contingencies and Incidents</li> </ul>
4. Manage “What is happening on the network?” for DBS	<ul style="list-style-type: none"> <li>● TFA 12 – Design and Build in Requirements Policy and Planning</li> <li>● TFA 13 – Design and Build in Quality</li> </ul>
4. Manage “What is happening on the network?” for OMI	<ul style="list-style-type: none"> <li>● TFA 14 – Manage Audit Information</li> <li>● TFA 15 – Manage Operation Security</li> </ul>
5. Emerging Tools and Technologies	Future innovations

**(1) Manage “What is on the network?”**

Focus: The primary focus of Manage Assets is to identify “What is on the network?”; that is, to identify the existence of hardware, software, configuration characteristics and known security vulnerabilities.

Manage hardware and software baseline system inventory is based on Phase 1 Hardware Asset Management (HWAM) and Software Asset Management (SWAM) requirements that requires the discovery and identification of devices to define a baseline of inventory hardware and software assets to establish the Agency’s span of control.

Hardware and software configurations are based on Phase 1 Configuration Settings Management (CSM) requirements to ensure

that hardware and software (specifically the operating system and installed applications) assets are securely configured and hardened.

Manage vulnerabilities is based on Phase 1 Vulnerability Management (VUL) requirements to identify and manage vulnerabilities in software installed on network devices to minimize exploitation of known software weaknesses.

These CDM capabilities cover verification and validation for the existence of hardware infrastructure devices; the accurate identification of approved software components; verification and validation that hardware devices have the correct security configuration settings, and system platform is hardened to reduce the platform attack surface; and the identification and management of risks presented by known software weaknesses that are subject to exploitation.

These CDM capabilities support the Cybersecurity Framework functions of: identify, protect and detect.

**(2) Manage “Who is on the network?”**

Focus: The primary focus of Manage People is to determine “Who is on the network?”; that is, identify and determine the users or systems with authorized access.

Manage People is based on Phase 2 PRIV, CRED, TRUST and BEHAVE requirements that require the management of users/accounts as an asset to assure the appropriate individual has the right access to the right resource.

This CDM capability covers the verification and validation of allowed user privileges, issuance and management of user owned credentials, appropriate user security behavior training, trustworthiness, authenticated permissions, and management of resource access rights granted to users.

These CDM capabilities support the Cybersecurity Framework functions of: identify, protect and detect.

**(3) Manage “How is the boundary protected?”**

Focus: The primary focus of Manage Boundary Protection is to determine “How is the boundary protected?”; that is, to determine the user/system actions and behavior at the physical/logical network boundaries and within the computing infrastructure.

“How is the boundary protected?” is based on Phase 3 BOUND requirements to defend physical and logical network boundaries and identify abnormal behavior (of networks and users) that may identify that an incident has occurred.

This CDM capability covers verification and validation of logical and physical network interfaces to reduce intrusive, malicious, and disruptive attacks; cryptographic mechanisms ensure confidentiality and integrity of data on the network; and methods to identify security incidents.

These CDM capabilities support the Cybersecurity Framework functions of: identify, protect and detect.

**(4) Manage “What is happening on the network?”**

Due to the complexity to manage “What is happening on the network?”; this area is covered by three focus areas:

- a. Manage Events (MNGEVT)
- b. Operate, Monitor and Improve (OMI)
- c. Design and Build in Security (DBS)

**Manage Events**

Focus: Manage Events is responsible for preparing for events/incidents, gathering appropriate audit data from appropriate sources, identifying incidents through analysis of data, and performing ongoing assessment.

Manage Events is based on the Phase 3 MNGEVT requirements to prepare for incidents/events (through processes, policies, and procedures), gather appropriate audit/log data from appropriate sources, and identify events/incidents (network and user abnormal behavior) through the analysis of audit/log data.

Manage Events supports the runtime collection of attributes (actual state) and continuous monitoring of the policies related to attributes for Ongoing Assessment (actual state vs. desired state) to enhance current or apply new security and privacy controls and countermeasures. The results of the Ongoing Assessment will be used as inputs to OMI Ongoing Authorization risk assessment process to determine if the level of risk remains acceptable for a given information system to support continued authorization and operation.

Ongoing Assessment is the continuous process of comparing security related attributes between the Actual State and the Desired State. This comparison is performed by the CDM Policy Decision Point (PDP). The discrepancy between Actual State and Desired state impacts the security posture of the implementation of NIST SP 800-53 controls and countermeasures. The results of the Ongoing Assessment are used to evaluate the changes in risk posture associated with the discrepancy. Ideally, the Ongoing Assessment process is fully automated with the Desired State being encoded in the CDM PDP and the Actual State being measured using CDM sensors.

This CDM capability covers verification and validation of processes, policies, and procedures supporting cybersecurity preparation, audit and log data collection, security analysis of audit/log data, incident reporting to provide forensic evidence of malicious or suspicious behavior, and ongoing assessment.

To provide a holistic security approach, this capability adheres to the Cybersecurity Framework security functions to identify, protect, detect, respond and recover CDM also supports and can be used in the NIST Risk Management Framework (RMF) to achieve ongoing assessment and authorization.

### **Operate, Monitor and Improve**

Focus: Operate, Monitor and Improve is responsible for audit data aggregation, correlation, and analysis, incident prioritization and response, and post-incident activities (e.g., information sharing).

Operate, Monitor and Improve is based on Phase 3 OMI requirements for audit data aggregation, correlation and analysis, incident prioritization and response, and post incident activities (e.g., information sharing).

Ongoing Authorization is the continuous evaluation of the change in risk level related to changes in security policies concerning static object attributes (i.e., actual state and desired state) for threat behaviors that impact the security posture. This impact to security is measured by capturing changes in existing safeguards (e.g., NIST SP 800-53 controls and countermeasures) and identification of new component weaknesses and vulnerabilities.

This CDM capability covers verification and validation of processes/procedures to aggregate, correlate, and analyze audit/log data, to prioritize incidents and associated response actions, to quickly mitigate the impact of an incidents, to take appropriate remediation actions to eliminate the impact (restore normal

operations) of the same incident, to support information sharing and collaboration (both internal and external) to minimize or prevent impact of future incidents, and ongoing authorization.

To provide a holistic security approach, this capability adheres to the Cybersecurity Framework security functions to identify, protect, detect, respond and recover. CDM also supports and can be used in the NIST Risk Management Framework (RMF) to achieve ongoing assessment and authorization.

### **Design and Build in Security**

Focus: Design and Build in Security is responsible for preventing exploitable vulnerabilities from being effective in the software/system while in development or deployment. The Design and Build in Security process is focused on identifying, controlling and removing weaknesses/vulnerabilities from the software/system. Exploitable vulnerabilities may include software/system design, coding errors, software/system designs that leave a large and complex attack surface that cannot be defended, and weaknesses that can only be exploited during system/software execution.

Design and Build in Security is based on the Phase 3 DBS requirements that extend the focus of Phase 1 Software Asset Management and Vulnerability Management to achieve a level of confidence that software is free from vulnerabilities, either intentionally designed into the software or accidentally inserted at any time during its life cycle and that the software functions in the intended manner.

The U.S. government and critical infrastructure sectors are increasingly dependent on commercial products and systems, which present significant benefits including low cost, interoperability, rapid innovation, a variety of product features, and choice among competing vendors. However, with some of these benefits there is an increase in the risk of a threat event which can directly or indirectly affect the supply chain, which often go undetected, and may result in risks to the acquirer. The purpose of Supply Chain Risk Management (SCRM) is to enable the provisioning of the least vulnerable solutions to agencies, through a robust assessment of supply chain risks, communication about those risks to the agencies, and appropriate response and monitoring of those risks throughout the entire system lifespan.

This CDM capability covers verification and validation of processes/procedures to prevent and detect software vulnerabilities, to determine the provenance of system components, and to measure software assurance for built and acquired software components.

To provide a holistic security approach, this capability adheres to the Cybersecurity Framework security functions to identify, protect, detect, respond and recover to security infractions due to malicious behavior and unintentional user actions during normal operations.

### **(5) Emerging Tools and Technologies**

Focus: Innovative capabilities to cybersecurity not currently encompassed by the other capability areas.

## **3. STANDARDS COMPLIANCE**

Contractors providing offerings through the CDM Tools SIN must provide compliant products and services in accordance with the laws and standards cited herein. Additional laws and standards may be applicable to specific orders and Blanket Purchase Agreements.

## 4. ORDER

- a. Written orders, EDI orders (GSA Advantage! and FACNET), credit card orders, and orders placed under blanket purchase agreements (BPA) agreements shall be the basis for purchase in accordance with the provisions of this contract. If time of delivery extends beyond the expiration date of the contract, the Contractor will be obligated to meet the delivery and installation date specified in the original order.
- b. All delivery or task orders are subject to the terms and conditions of the contract. In the event of conflict between an order and the contract, the contract will take precedence.

## 5. ENTERPRISE USER LICENSE AGREEMENTS REQUIREMENTS (EULA)/COMMERCIAL SUPPLIER AGREEMENTS (CSAs)

The Contractor shall provide all Commercial Supplier Agreements (CSAs) to include End User License Agreements (EULAs) or Terms of Service (ToS) in an editable Microsoft Office (Word) format.

## 6. TECHNICAL SERVICES

A hotline technical support number for the purpose of providing user assistance and guidance in the implementation of any software provided as part of Equipment Maintenance Services or Software Maintenance Services.

## 7. PERFORMANCE OF SERVICES ASSOCIATED WITH PRODUCTS

- a. The Contractor shall commence performance of Services on the date agreed to by the Contractor and the Ordering Activity.
- b. The Contractor agrees to render Services during normal working hours, unless otherwise agreed to by the Contractor and the Ordering Activity.
- c. The Ordering Activity should include the criteria for satisfactory completion of each order. Services shall be completed in a good and workmanlike manner.
- d. Any Contractor travel required in the performance of the CDM Tools SIN for a specific requirement at the order level must comply with the Federal Travel Regulation or Joint Travel Regulations, as applicable, in effect on the date(s) the travel is performed. Established Federal Government per diem rates will apply to all Contractor travel. Contractors cannot use GSA city pair contracts. All travel will be agreed upon with the Ordering Activity prior to the Contractor's travel.

## 8. RESPONSIBILITIES OF THE CONTRACTOR

- a. The Contractor shall comply with all laws, ordinances, and regulations (Federal, State, City, or otherwise) covering work of this character. If the end product of an order is custom-developed software, FAR 52.227-14 Rights in Data may apply.

- b. The Contractor shall comply with contract clause (FAR 52.204-21) for the basic safeguarding of contractor information systems that process, store, or transmit Federal contract information (as defined in the contract clause) received by the Contractor in performance of the contract.

## 9. INVOICES FOR SERVICES

The Contractor, upon completion of the Services ordered, shall submit invoices. FAR 52.212-4 in the contract contains terms for commercial items. Progress payments may be authorized by the ordering activity on individual orders if appropriate. Progress payments shall be based upon completion of defined milestones or interim products. Invoices shall be submitted monthly for recurring Services performed during the preceding month

## 10. DESCRIPTION OF PRODUCTS AND SERVICES AND PRICING

The Contractor shall provide a description of offerings under CDM Tools SIN in the same manner as the Contractor sells to its commercial and Ordering Activity customers. The Contractor shall provide pricing and a description with part numbers for products and the associated services that have been approved as part of the Product Qualification Requirements of the SIN. Any applicable delivery and licensing terms should be included.

## 11. TOTAL SOLUTION

Labor categories/qualifications are not included in this SIN; however, ordering activities may acquire a total solution to meet a specific requirement for an order or BPA involving multiple Federal Supply Schedule SINs. Contractors report the sales to GSA under the SINs the items are sold. For example, an agency may post an RFQ requesting a total solution anticipating offerings from multiple SINs, such as IT Professional Services 54151S or Highly Adaptive Cybersecurity Services (HACS) 54151HACS along with CDM Tools 541519CDM for products and product associated services.

## TERMS AND CONDITIONS APPLICABLE TO PURCHASE OF GENERAL-PURPOSE COMMERCIAL INFORMATION TECHNOLOGY TRAINING SUBCATEGORY, INFORMATION TECHNOLOGY TRAINING (SPECIAL ITEM NUMBER 611420)

### 1. GLOSSARY OF DEFINITIONS

- a. **“Training Materials”** shall mean the, manuals, handbooks, texts, handouts, etc. normally provided with course offerings.
- b. **“Training Catalog”** shall mean the document setting out a description of the training services and courses offered along with the related policies and procedures in regard to such training.

### 2. SCOPE

- a. The Contractor through the Manufacturer shall provide training courses normally available to commercial customers, which will permit Ordering Activity users to make full, efficient use of general-purpose commercial IT products. Training is restricted to training courses for those products within the scope of this solicitation.
- b. The Contractor shall provide training at the Contractor's or Manufacturer's facility and/or at

the Ordering Activity's location, as agreed to by the Contractor and the Ordering Activity.

### 3. ORDER

Written orders, EDI orders (GSA Advantage! and FACNET), credit card orders, and orders placed under blanket purchase agreements (BPAs) shall be the basis for the purchase of training courses in accordance with the terms of this contract. Orders shall include the student's name, course title, course date and time, and contracted dollar amount of the course.

### 4. TIME OF DELIVERY

The Contractor or its Manufacturer shall conduct training on the date (time, day, month, and year) agreed to by the Contractor and the Ordering Activity.

### 5. CANCELLATION AND RESCHEDULING

- a. Terms and conditions governing a Manufacturer's cancellation and rescheduling policies are as set forth in the applicable Manufacturer's Training Catalog.
- b. The Ordering Activity reserves the right to substitute one student for another up to the first day of class.
- c. In the event the Contractor is unable to conduct training on the date agreed to by the Contractor and the Ordering Activity, Contractor must notify the Ordering Activity at least seventy-two (72) hours before the scheduled training date.

### 6. FOLLOW-UP SUPPORT

Follow-up support to training courses is not available under the scope of this schedule contract unless expressly set forth in an applicable Manufacturer's Training Catalog and, in that case, follow-up support shall be provided as stated therein.

### 7. PRICE FOR TRAINING

The price that the Ordering Activity will be charged will be the Ordering Activity training price in effect at the time of order placement, or the Ordering Activity price in effect at the time the training course is conducted, whichever is less.

### 8. INVOICES AND PAYMENT

Invoices for training shall be submitted by the Contractor after Ordering Activity completion of the training course. Charges for training must be paid in arrears (31 U.S.C. 3324). PROMPT PAYMENT DISCOUNT, IF APPLICABLE, SHALL BE SHOWN ON THE INVOICE.

### 9. FORMAT AND CONTENT OF TRAINING

- a. The Contractor or its Manufacturer shall provide the Training Materials normally provided with course offerings. Unless stated otherwise in an applicable Manufacturer's Training Catalog, such documentation will become the property of the student upon completion of the training class, provided, however, Contractor and or its Manufacturer shall retain all right, title and interest to the intellectual property rights contained therein (e.g., copyrights) and provided further, however, that such Training Materials

shall be considered the Confidential Information of Manufacturer and subject to the non-disclosure provisions set forth above in the terms applicable to SINs 511210 and 54151.

- b. For hands-on training courses, there must be a one-to-one assignment of IT equipment to students.
- c. The Contractor shall provide each student with a Certificate of Training at the completion of each training course.
- d. The Training Catalog shall provide most of the following information for each training course offered:
  - (1) The course title and a brief description of the course content, to include the course format (e.g., lecture, discussion, hands-on training);
  - (2) The length of the course;
  - (3) Mandatory and desirable prerequisites for student enrollment;
  - (4) The minimum and maximum number of students per class;
  - (5) The locations where the course is offered;
  - (6) Class schedules; and
  - (7) Price (per student, per class (if applicable)).
- e. For those courses conducted at the Ordering Activity's location, instructor travel charges (if applicable), including mileage and daily living expenses (e.g., per diem charges) are governed by Pub. L. 99-234 and FAR Part 31.205-46, and are reimbursable by the ordering activity on orders placed under the Multiple Award Schedule, as applicable, in effect on the date(s) the travel is performed. Contractors cannot use GSA city pair contracts. The Industrial Funding Fee does NOT apply to travel and per diem charges.
- f. For Online Training Courses, a copy of all training material must be available for electronic download by the students.

### 10. "NO CHARGE" TRAINING

"No charge" training is not available under the scope of this schedule contract.

## TERMS AND CONDITIONS APPLICABLE TO PURCHASE OF GENERAL-PURPOSE COMMERCIAL INFORMATION TECHNOLOGY ELECTRONIC COMMERCE SUBCATEGORY, ELECTRONIC COMMERCE AND SUBSCRIPTION SERVICES (SPECIAL ITEM NUMBER 54151ECOM)

### 1. GLOSSARY OF DEFINITIONS

- a. "Service Provider" shall mean a provider of the Electronic Commerce Services

offered to Contractor through a letter of supply to be sold to Ordering Activities under this contract.

- b. “Statement of Work” shall mean the mutually agreed upon document between Contractor and Ordering Activity setting forth the description of services to be performed including milestones, any specifications and evaluation criteria.

## 2. SCOPE

- a. The prices, terms and conditions stated under Special Item Number 54151ECOM Electronic Commerce (EC) Services apply exclusively to EC Services within the scope of this Information Technology Schedule.
- b. The Contractor, through Service Provider, shall provide services at a location, as agreed to by the Contractor and the Ordering Activity.

## 3. PERFORMANCE INCENTIVES I-FSS-60 Performance Incentives (April 2000)

- a. Performance incentives may be agreed upon between the Contractor and the Ordering Activity on individual fixed price orders or Blanket Purchase Agreements under this contract.
- b. The Ordering Activity must establish a maximum performance incentive price for the services and/or total solutions on individual orders or Blanket Purchase Agreements.
- c. Incentives should be designed to relate results achieved by the contractor to specified targets. To the maximum extent practicable, Ordering Activities shall consider establishing incentives where performance is critical to the Ordering Activity’s mission and incentives are likely to motivate the contractor. Incentives shall be based on objectively measurable tasks.

## 4. ORDER

- a. Agencies may use written orders, EDI orders, blanket purchase agreements, individual purchase orders, or task orders for ordering services under this contract. Blanket Purchase Agreements shall not extend beyond the end of the contract period; all services and delivery shall be made, and the contract terms and conditions shall continue in effect until the completion of the order. Orders for tasks which extend beyond the fiscal year for which funds are available shall include FAR 52.232-19 (Deviation – May 2003) Availability of Funds for the Next Fiscal Year. The purchase order shall specify the availability of funds and the period for which funds are available.

- b. All task orders are subject to the terms and conditions of the contract. In the event of conflict between a task order and the contract, the contract will take precedence.

## 5. PERFORMANCE OF SERVICES

- a. The Contractor shall commence performance of services on the date agreed to by the Contractor and the Ordering Activity.
- b. The Ordering Activity should include the criteria for satisfactory completion for each task in the Statement of Work or Delivery Order. Services shall be completed in a good and workmanlike manner.
- c. Any Contractor travel required in the performance of EC Services must comply with the Federal Travel Regulation or Joint Travel Regulations, as applicable, in effect on the date(s) the travel is performed. Established Federal Government per diem rates will apply to all Contractor travel. Contractors cannot use GSA city pair contracts.

## 6. STOP-WORK ORDER (FAR 52.242-15) (AUG 1989)

- a. The Contracting Officer may, at any time, by written order to the Contractor, require the Contractor to stop all, or any part, of the work called for by this contract for a period of 90 days after the order is delivered to the Contractor, and for any further period to which the parties may agree. The order shall be specifically identified as a stop-work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Within a period of 90 days after a stop-work is delivered to the Contractor, or within any extension of that period to which the parties shall have agreed, the Contracting Officer shall either:
  - i. Cancel the stop-work order; or
  - ii. Terminate the work covered by the order as provided in the Default, or the Termination for Convenience of the Government, clause of this contract.
- b. If a stop-work order issued under this clause is canceled or the period of the order or any extension thereof expires, the Contractor shall resume work. The Contracting Officer shall make an equitable adjustment in the delivery schedule or contract price, or both, and the contract shall be modified, in writing, accordingly, if-
- c. The stop-work order results in an increase in the time required for, or in the Contractor's cost properly allocable to, the performance of any part of this contract; and

- d. The Contractor asserts its right to the adjustment within 30 days after the end of the period of work stoppage; provided, that, if the Contracting Officer decides the facts justify the action, the Contracting Officer may receive and act upon the claim submitted at any time before final payment under this contract.
- e. If a stop-work order is not canceled and the work covered by the order is terminated for the convenience of the Government, the Contracting Officer shall allow reasonable costs resulting from the stop-work order in arriving at the termination settlement.

## 7. INSPECTION OF SERVICES

The Inspection of Services–Fixed Price (AUG 1996) (Deviation – May 2003) clause at FAR 52.246-4 applies to firm-fixed price orders placed under this contract. The Inspection–Time and Materials and Labor-Hour (MAY 2001) (Deviation – May 2003) clause at FAR 52.246-6 applies to time and materials and labor-hour orders placed under this contract.

## 8. RESPONSIBILITIES OF THE CONTRACTOR

The Contractor shall comply with all laws, ordinances, and regulations (Federal, State, City, or otherwise) covering work of this character. If the end product (i.e., deliverable) of a Statement of Work is custom developed software, then FAR 52.227-14 (Deviation – May 2003) Rights in Data – General, may apply.

## 9. RESPONSIBILITIES OF THE ORDERING ACTIVITY

Subject to security regulations, the Ordering Activity shall permit Contractor access to all facilities necessary to perform the requisite EC Services.

## 10. INDEPENDENT CONTRACTOR

All EC Services performed by the Contractor under the terms of this contract shall be as an independent Contractor, and not as an agent or employee of the Ordering Activity.

## 11. ORGANIZATIONAL CONFLICTS OF INTEREST

- a. Definitions.

An “Organizational conflict of interest” exists when the nature of the work to be performed under a proposed Ordering Activity contract, without some restriction on ordering activities by the Contractor and its affiliates, may either (i) result in an unfair competitive advantage to the Contractor or its affiliates or (ii) impair the Contractor’s or its affiliates’ objectivity in performing contract work.
- b. To avoid an organizational or financial conflict of interest and to avoid prejudicing the best interests of the Ordering Activity, ordering activities may place restrictions on the Contractors, its affiliates, chief executives, directors, subsidiaries and subcontractors at any tier when placing orders against schedule contracts. Such restrictions shall be consistent with FAR 9.505 and shall be designed to avoid, neutralize, or mitigate organizational

conflicts of interest that might otherwise exist in situations related to individual orders placed against the schedule contract. Examples of situations, which may require restrictions, are provided at FAR 9.508.

## 12. INVOICES

The Contractor, upon completion of the work ordered, shall submit invoices for EC services. Progress payments may be authorized by the Ordering Activity on individual orders if appropriate. Progress payments shall be based upon completion of defined milestones or interim products. Invoices shall be submitted monthly for recurring services performed during the preceding month.

## 13. PAYMENTS

- a. For firm-fixed price orders the Ordering Activity shall pay the Contractor, upon submission of proper invoices or vouchers, the prices stipulated in this contract for service rendered and accepted. Progress payments shall be made only when authorized by the order. For time and materials orders, the Payments under Time and Materials and Labor Hour Contracts at FAR 52.212-4 (MAR 2009) (ALTERNATE I – OCT 2008) (DEVIATION I – FEB 2007) applies to time and materials orders placed under this contract. For labor hour orders, the Payment under Time and Materials and Labor Hour Contracts at FAR 52.212-4 (MAR 2009) (ALTERNATE I – OCT 2008) (DEVIATION I – FEB 2007) applies to labor hour orders placed under this contract. 52.216-31(Feb 2007) Time-and-Materials/Labor-Hour Proposal Requirements—Commercial Item Acquisition. As prescribed in 16.601(e)(3), insert the following provision:
- b. The Government contemplates award of a Time-and-Materials or Labor-Hour type of contract resulting from this solicitation.
- c. The offeror must specify fixed hourly rates in its offer that include wages, overhead, general and administrative expenses, and profit. The offeror must specify whether the fixed hourly rate for each labor category applies to labor performed by—
  - i. The offeror;
  - ii. Subcontractors; and/or
  - iii. Divisions, subsidiaries, or affiliates of the offeror under a common control.

## 14. INCIDENTAL SUPPORT COSTS

Incidental support costs are available outside the scope of this contract. The costs will be negotiated separately with the Ordering Activity in accordance with the guidelines set forth in the FAR.

## 15. APPROVAL OF SUBCONTRACTS

The Ordering Activity understands that Contractor, as an authorized reseller, will ultimately subcontract or furnish any of the work called for in a task order or Statement of Work through an applicable Service Provider.

## 16. DESCRIPTION OF ELECTRONIC COMMERCE (EC) SERVICES AND PRICING

- a. A description of each type of EC Service offered under Special Item Numbers 54151ECOM E-Commerce is set forth in Attachment A. Services and rates should be presented in the same manner as the Contractor sells to its commercial customers and other Ordering Activity customers.
- b. Pricing for all EC Services shall be in accordance with the Contractor's customary commercial practices: e.g., hourly rates, monthly rates, term rates, unit prices and/or fixed prices.

### TERMS AND CONDITIONS APPLICABLE TO PURCHASE OF GENERAL-PURPOSE COMMERCIAL INFORMATION TECHNOLOGY TELECOMMUNICATIONS SUBCATEGORY, WIRELESS MOBILITY SOLUTIONS (SPECIAL ITEM NUMBER 517312)

#### 1. GLOSSARY OF DEFINITIONS

- a. "Service Provider" shall mean a provider of the Wireless Services offered to Contractor through a letter of supply to be sold to Ordering Activities under this contract.

#### 2. ACCEPTANCE TESTING

The Contractor shall provide acceptance test plans and procedures for ordering activity approval. The Contractor shall perform acceptance testing of the systems for ordering activity approval in accordance with the approved test procedures.

#### 3. EQUIPMENT

The Contractor shall make available cellular voice and data devices. The cellular devices offered shall be compatible with the cellular access standards employed within the geographical scope of contract.

The Contractor shall provide programming of any cellular telephone device, including Contractor-provided and ordering activity-furnished devices, that conforms to the cellular service furnished by the Contractor.

#### 4. WARRANTY

The Contractor shall provide a warranty covering each Contractor-provided device. The minimum duration of the warranty shall be the duration of the manufacturer's commercial warranty.

The warranty shall commence upon the later of the following:

- a. Activation of the user's service
- b. Installation/delivery of the equipment

The Contractor, by repair or replacement of the defective item, shall use reasonable commercial efforts to complete all warranty services promptly upon notification of the defect. Warranty service shall be deemed complete when the user has possession of the repaired or replaced item. If the Contractor renders warranty service by replacement, the user shall return the defective item(s) to the Contractor as soon as possible but not later than ten (10) working days after notification.

#### 5. MANAGEMENT AND OPERATIONS PRICING

The Contractor shall provide management and operations pricing on a uniform basis. All management and operations requirements for which pricing elements are not specified shall be provided as part of the basic service.

#### 6. TRAINING

The Contractor shall provide normal commercial installation, operation, maintenance, and engineering interface training on the system at the prices specified in Attachment B.

#### 7. MONTHLY REPORTS

In accordance with commercial practices, the Contractor may furnish the Ordering Activity/user with a monthly summary Ordering Activity report.

#### 8. WIRELESS SERVICE PLAN

The wireless service plans offered by Contractor hereunder are listed by applicable Service Provider in Attachment A.

### USA COMMITMENT TO PROMOTE SMALL BUSINESS PARTICIPATION PROCUREMENT PROGRAMS

#### PREAMBLE

(Name of Company) provides commercial products and services to ordering activities. We are committed to promoting participation of small, small disadvantaged and women-owned small businesses in our contracts. We pledge to provide opportunities to the small business community through reselling opportunities, mentor-protégé programs, joint ventures, teaming arrangements, and subcontracting.

#### COMMITMENT

To actively seek and partner with small businesses.

To identify, qualify, mentor and develop small, small disadvantaged and women-owned small businesses by purchasing from these businesses whenever practical.

To develop and promote company policy initiatives that demonstrate our support for awarding contracts and subcontracts to small business concerns.

To undertake significant efforts to determine the potential of small, small disadvantaged and women-owned small business to supply products and services to our company.

To insure procurement opportunities are designed to permit the maximum possible participation of small, small disadvantaged, and women-owned small businesses.

To attend business opportunity workshops, minority business enterprise seminars, trade fairs, procurement conferences, etc., to identify and increase small businesses with whom to partner.

To publicize in our marketing publications our interest in meeting small businesses that may be interested in subcontracting opportunities.

We signify our commitment to work in partnership with small, small disadvantaged and women-owned small businesses to promote and increase their participation in ordering activity contracts.

**SUGGESTED FORMATS FOR BLANKET PURCHASE AGREEMENTS**

**BEST VALUE  
BLANKET PURCHASE AGREEMENT  
FEDERAL SUPPLY SCHEDULE**

(Insert Customer Name)

In the spirit of the Federal Acquisition Streamlining Act (ordering activity) and (Contractor) enter into a cooperative agreement to further reduce the administrative costs of acquiring commercial items from the General Services Administration (GSA) Federal Supply Schedule Contract(s) \_\_\_\_\_.

Federal Supply Schedule contract BPAs eliminate contracting and open market costs such as: search for sources; the development of technical documents, solicitations and the evaluation of offers. Teaming Arrangements are permitted with Federal Supply Schedule Contractors in accordance with Federal Acquisition Regulation (FAR) 9.6.

This BPA will further decrease costs, reduce paperwork, and save time by eliminating the need for repetitive, individual purchases from the schedule contract. The end result is to create a purchasing mechanism for the ordering activity that works better and costs less.

Signatures

\_\_\_\_\_  
Ordering Activity                      Date

\_\_\_\_\_  
Contractor                              Date

BPA NUMBER \_\_\_\_\_

**(CUSTOMER NAME)  
BLANKET PURCHASE AGREEMENT**

Pursuant to GSA Federal Supply Schedule Contract Number(s) \_\_\_\_\_, Blanket Purchase Agreements, the Contractor agrees to the following terms of a Blanket Purchase Agreement (BPA) EXCLUSIVELY WITH (ordering activity):

- (1) The following contract items can be ordered under this BPA. All orders placed against this BPA are subject to the terms and conditions of the contract, except as noted below:

MODEL NUMBER/PART NUMBER

\_\_\_\_\_

\*SPECIAL BPA DISCOUNT/PRICE

\_\_\_\_\_

- (2) Delivery:

DESTINATION

\_\_\_\_\_

DELIVERY SCHEDULES / DATES

\_\_\_\_\_

- (3) The ordering activity estimates, but does not guarantee, that the volume of purchases through this agreement will be \_\_\_\_\_.
- (4) This BPA does not obligate any funds.
- (5) This BPA expires on \_\_\_\_\_ or at the end of the contract period, whichever is earlier.
- (6) The following office(s) is hereby authorized to place orders under this BPA:

OFFICE

\_\_\_\_\_

POINT OF CONTACT

\_\_\_\_\_

- (7) Orders will be placed against this BPA via Electronic Data Interchange (EDI), FAX, or paper.
- (8) Unless otherwise agreed to, all deliveries under this BPA must be accompanied by delivery tickets or sales slips that must contain the following information as a minimum:
  - a) Name of Contractor;
  - b) Contract Number;
  - c) BPA Number;
  - d) Model Number or National Stock Number (NSN);
  - e) Purchase Order Number;
  - f) Date of Purchase;
  - g) Quantity, Unit Price, and Extension of Each Item (unit prices and extensions need not be shown when incompatible with the use of automated systems; provided, that the invoice is itemized to show the information); and
  - h) Date of Shipment.
- (9) The requirements of a proper invoice are specified in the Federal Supply Schedule contract. Invoices will be submitted to the address specified within the purchase order transmission issued against this BPA.
- (10) The terms and conditions included in this BPA apply to all purchases made pursuant to it. In the event of an inconsistency between the provisions of this BPA and the Contractor's invoice, the provisions of this BPA will take precedence.

**BASIC GUIDELINES FOR USING "CONTRACTOR TEAM ARRANGEMENTS"**

Federal Supply Schedule Contractors may use "Contractor Team Arrangements" (see FAR 9.6) to provide solutions when responding to a ordering activity requirements.

These Team Arrangements can be included under a Blanket Purchase Agreement (BPA). BPAs are permitted under all Federal Supply Schedule contracts.

Orders under a Team Arrangement are subject to terms and conditions or the Federal Supply Schedule Contract.

Participation in a Team Arrangement is limited to Federal Supply Schedule Contractors.

Customers should refer to FAR 9.6 for specific details on Team Arrangements.

Here is a general outline on how it works:

- The customer identifies their requirements.
- Federal Supply Schedule Contractors may individually meet the customer's needs, or - Federal Supply Schedule Contractors may individually submit a Schedules "Team Solution" to meet the customer's requirement.
- Customers make a best value selection.

Item# Item #20-0507  
Munis Contract# \_\_\_\_\_

**CITY OF SANTA FE  
AMENDMENT No. 1 TO  
Immix Technology Inc, AGREEMENT  
ITEM#20-0306**

This AMENDMENT No. 1 (the "Amendment") amends the CITY OF SANTA FE Immix Technology AGREEMENT, dated 6/24/20 (the "Agreement"), between the City of Santa Fe (the "City") and Immix Technology Inc., (the "Contractor"). The date of this Amendment shall be the date when it is executed by the City and the Contractor whichever occurs last.

**RECITALS:**

A. Under the terms of the Agreement, Contractor has agreed to provide the Kronos Workforce Telestaff Software Enterprise Licensing, Bidding Functionality and Cloud Hosting Services 7/1/2020 – 6/30/2023.

B. Pursuant to Article 8 of the Agreement, and for good and valuable consideration, the receipt and sufficiency of which are acknowledged by the parties, the City and the Contractor agree as follows:

1. **SCOPE OF SERVICES**

Article 2 of the Agreement is amended to add Kronos Workforce Telestaff, so that Article 2 reads as follows: Kronos Workforce Telestaff Software Enterprise Licensing, Bidding Functionality and Cloud Hosting Services 7/1/2020 – 6/30/2023 as described in Exhibit "J" attached hereto and incorporated herein. The relevant portions of GSA Contract #GS-35F-0265X, Terms and Conditions, and State Price Agreement are also attached hereto.

2. COMPENSATION.

Article 3, paragraph A of the Agreement is amended to increase the amount of compensation by a total of \$111,204.38 including Gross Receipts Tax so that Article 3, paragraph A reads in its entirety as follows:

<u>Deliverable item:</u>	<u>U/I (unit of issue)</u>	<u>Price</u>
05 Workforce Telestaff Bidding v5 7/1/2020 to 6/30/2021		\$ 2,286.60
06 Workforce Telestaff Enterprise v5 7/1/2020 to 6/30/2021		\$30,436.20
07 Workforce Telestaff Global Access v5 7/1/2020 to 6/30/2021		\$ 1,176.60
08 Workforce TeleStaff Bidding v5 v5 7/1/2021 to 6/30/2022		\$ 2,375.40
09 Workforce Telestaff Enterprise v5 7/1/2021 to 6/30/2022		\$31,635.00
10 Workforce Telestaff Global Access v5 7/1/2021 to 6/30/2022		\$ 1,221.00
11 Workforce TeleStaff Bidding v5 v5 7/1/2022 to 6/30/2023		\$ 2,486.40
12 Workforce Telestaff Enterprise v5 7/1/2022 to 6/30/2023		\$32,900.40
13 Workforce Telestaff Global Access v5 7/1/2022 to 6/30/2023		\$ 1,265.40

The total compensation under this Agreement shall not exceed four hundred ninety four thousand seven hundred twenty and ninety cents (\$494,720.90) including applicable gross receipts taxes as described in Exhibit “J” attached hereto and incorporated herein.

3. AGREEMENT IN FULL FORCE.

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

IN WITNESS WHEREOF, the parties have executed this Amendment No. 1 to the

Agreement as of the dates set forth below.

CITY OF SANTA FE:



ALAN WEBBER, MAYOR

DATE: Oct 15, 2020

CONTRACTOR:  
Immix Technology Inc

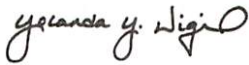
NAME

TITLE

DATE: \_\_\_\_\_  
CRS#03140957001

Registration # 20-227362

ATTEST:



YOLANDA Y. VIGIL, CITY CLERK

GB Mtg 09/30/2020



CITY ATTORNEY'S OFFICE:



SENIOR ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:



MARY MCCOY, FINANCE DIRECTOR

620,620/3600,530710

Org. Name/Org.#



Agreement as of the dates set forth below.

CITY OF SANTA FE:

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

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

ATTEST:

\_\_\_\_\_  
YOLANDA Y. VIGIL, CITY CLERK

CITY ATTORNEY'S OFFICE:

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

APPROVED FOR FINANCES:

\_\_\_\_\_  
MARY MCCOY, FINANCE DIRECTOR  
620,620/3600,530710  
Org. Name/Org.#

CONTRACTOR:

Immix Technology Inc

  
\_\_\_\_\_  
NAME Vaughn Harman

\_\_\_\_\_  
Sr. Director  
TITLE

DATE: July 17, 2020  
CRS#03140957001

Registration # 20-227362

# City of Santa Fe, New Mexico

# memo

**DATE:** August 20, 2020

**TO:** City Council  
Mary McCoy, Chief Financial Officer

**Via:** Joshua Elicio, ITT Director      Joshua Elicio, ITT Director      Digitally signed by Joshua Elicio  
ITT Director      Date: 2020.08.25 13:26:09 -0600

**From:** David C. Tapia, Contracts Administrator

**ITEM & ISSUE:**

Request for Approval of Amendment 1 to the Immix Technology Agreement Item # 20-0306 Contract #3201928 for the Kronos Workforce Telestaff Cloud Hosting Services for a 3 year contract procured through Immix Technology on GSA GS-35F-0265X. The current Immix Technology contract specific to Kronos Workforce Telestaff for the Fire Department expired on 5/31/2020 and are requesting a new 3 year contract to go from 7/1/2020 - 6/30/2023. Procurement method is GSA GS-35F-0265X. Product is Workforce Telestaff (\$111,204.38) from Kronos Inc, through Immix Technology Inc.

**BACKGROUND**

The City implemented a Kronos Workforce Telestaff solution back in 2016 for the City Fire Department that added shift bidding and advanced work scheduling capabilities. It is a three year agreement that ended on 5/31/20. This request is to approve a new 3 year agreement for the Enterprise Licensing, Bidding Functionality and Cloud Hosting Services.

Immix Technology Inc., has a GSA GS-35F-0265X that will be the procurement method used for this purchase. Existing purchase order # 22000999 has a sufficient amount available to pay for the gap in services from May 31, 2020 – June 30, 2020. This methodology was utilized to true up the termination date with the original contract and the end of the fiscal year.

**Operating Budget for Annual Subscription Fees:**

Munis Fund Number: 620, Munis Org Number: 6203600, Munis Object Code: 530710, Amount \$111,204.38 (3 years)

**ACTION REQUESTED:**

Approval of Amendment 1 for Enterprise licensing, Bidding Functionality and Cloud Hosting Services for Kronos Workforce Telestaff through Immix Technology Inc. (\$111,204.38)

**DOCUMENTS:**

Immix Sales Quote # QUO-1129175-H9Y5C8  
GSA Contract GS-35F-0265X (selected pages) Term Through March 2, 2021  
New PSA Contract Item # 20-0306



# City of Santa Fe, New Mexico

200 Lincoln Avenue, P.O. Box 909, Santa Fe, NM 87504-0909

www.santafenm.gov

Alan Webber, Mayor

Councilors:

- Signe I. Lindell, Mayor Pro Tem, District 1
- Renee Villarreal, District 1
- Peter N. Ives, District 2
- Carol Romero-Wirth, District 2
- Roman "Tiger" Abeyta, District 3
- Chris Rivera, District 3
- Mike Harris, District 4
- JoAnne Vigil Coppler, District 4

## MEMORANDUM

Date: August 6, 2020

To: **Immix Technology, Inc**

Attn: **Vinu Mohan**

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

RE: GSA Contract **GS-35F-0265X, General Services Administration Federal Supply Service Multiple Award Schedule Authorized Federal Supply Schedule Pricelist**

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

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

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

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

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

Vaughn Harman, Sr. Director

vaughn\_harman@immixgroup.com

Print Name, Title

Email Address

immixGroup, Inc.

Signature

Company Name

8/7/2020

Date

Address



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

**Section to be completed by department for each contract or contract amendment**

1 **FOR: ORIGINAL CONTRACT**  or **CONTRACT AMENDMENT**

2 Name of Contractor Immix technology Inc. Reseller for KRONOS

3 Complete information requested  Plus GRT

Inclusive of GRT

Original Contract Amount: \$383,516.62

Termination Date: June 30, 2023

Approved by Council Date: June 24, 2020

or by City Manager Date: \_\_\_\_\_

**Contract is for:** Enterprise Licensing, Bidding Functionality and Cloud Hosting Services for Kronos  
Telestaff, Time Keeping and Attendance Software

Amendment # 1 to the Original Contract# 3201928 Item # 20-0306

Increase/(Decrease) Amount \$ \$111,204.38

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

Approved by Council \_\_\_\_\_

or by City Manager Date: \_\_\_\_\_

**Amendment is for:**

-----

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

Inclusive of GRT

Amount \$ 383,516.62 of original Contract# 3201928 Item# 20-0306 Termination Date: 6/30/2023

Reason: \_\_\_\_\_

Amount \$ 111,204.38 amendment # 1 Termination Date: 6/30/2023

Reason: Include Telestaff Software for Shift Bidding Public Safety

Amount \$ \_\_\_\_\_ amendment # \_\_\_\_\_ Termination Date: \_\_\_\_\_

Reason: \_\_\_\_\_

Amount \$ \_\_\_\_\_ amendment # \_\_\_\_\_ Termination Date: \_\_\_\_\_

Reason: \_\_\_\_\_

Total of Original Contract plus all amendments: \$ \$494,721.00



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

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

RFP# 16/22 Date: January 29, 2016  
 RFQ  \_\_\_\_\_ Date: \_\_\_\_\_  
 Sole Source  \_\_\_\_\_ Date: \_\_\_\_\_  
 Other GS-35F-0265X Term March 2, 2020 through March 2, 2021

**6 Procurement History:** First year of a new 3 year contract (5th year of initial contract 16-0902/16-0903)  
 example: (First year of 4 year contract)

*Fran Dunaway*  
 Fran Dunaway (Aug 25, 2020 15:38 MDT)

**Purchasing Officer Review**

Comments or Exceptions: GSA/ letter attached.

**7 Funding Source:** ITT Enterprise Fund, Software Subscriptic **BU/Line Item:** 620, 6203600, 530710  
*Alexis Lotero* Fund, Org, Object  
 Alexis Lotero (Aug 25, 2020 15:22 MDT)

**Budget Officer Approval**

Comments or Exceptions: \_\_\_\_\_

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

\_\_\_\_\_  
 (Memo may be attached to explain detail.)

**9 Staff Contact who completed this form:** David Tapia

Phone # 955-5523

**10 Certificate of Insurance attached.** (if original Contract)

**Submit to City Attorney for review/signature**  
**Forward to Finance Director for review/signature**  
**Return to originating Department for Committee(s) review or forward to City Manager for review and approval (depending on dollar level).**

**To be recorded by City Clerk:**

Contract # \_\_\_\_\_

Date of contract Executed (i.e., signed by all parties): \_\_\_\_\_

Note: If further information needs to be included, attach a separate memo.

**Comments:**

## CITY OF SANTA FE OTHER METHOD PROCUREMENT CHECKLIST

Contractor Name: Immix Technology Inc. Kronos Telestaff

Procurement Title: Amendment to Immix Contract with City of Santa Fe 3201928 Item# 20-0306

Other Methods: State Price Agreement  Cooperative  Sole Source  Exempt  Other  #GS-35F-0265X, Term Through March 2, 2021

Department Requesting/Staff Member David C. Tapia

**Procurement Requirements:**

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

**REQUIRED DOCUMENTS FOR APPROVAL BY PURCHASING\***

YES	N/A	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Approved Procurement Checklist (by Purchasing)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Departments Recommendation of Award Memo addressed to Finance
<input type="checkbox"/>	<input checked="" type="checkbox"/>	State Price Agreement
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Cooperative Agreement
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Sole Source Request and Determination Form
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Contractors Exempt Letter
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Purchasing Officers approval for exempt procurement
<input type="checkbox"/>	<input checked="" type="checkbox"/>	BAR
<input type="checkbox"/>	<input checked="" type="checkbox"/>	FIR
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Contract, Agreement or Amendment
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Current Business Registration and CRS numbers on contract or agreement
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Summary of Contracts and Agreements form
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Certificate of Insurance
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Other: <u>Original Contract Attached</u> <span style="float: right;">GS-35F-0265X</span>

David C. Tapia  
Department Rep Printed Name and Title

David C. Tapia  
Department Rep Signature attesting that all information included

  
Fran Dunaway (Aug 25, 2020 15:38 MDT)

Purchasing Officer attesting that all information is reviewed

**REQUIRED DOCUMENTS FOR OTHER METHOD FILE\***

YES	N/A	
<input type="checkbox"/>	<input type="checkbox"/>	State Price Agreement
<input type="checkbox"/>	<input type="checkbox"/>	Cooperative Agreement

\*

- |                                     |                          |  |
|-------------------------------------|--------------------------|--|
| <input type="checkbox"/>            | <input type="checkbox"/> | Sole source Request and Determination Form             |
| <input type="checkbox"/>            | <input type="checkbox"/> | Contractors Exempt Letter                              |
| <input type="checkbox"/>            | <input type="checkbox"/> | Purchasing Officers approval of exempt procurement     |
| <input type="checkbox"/>            | <input type="checkbox"/> | Copies of all Sole Source submittals                   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Other: GS-35F-0265X, <u>Term Through March 2, 2021</u> |

**AWARD\***

YES    N/A

- |                                     |                          |  |
|-------------------------------------|--------------------------|--|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Fully executed Memo to Committees from the Department with recommendation of award |
| <input type="checkbox"/>            | <input type="checkbox"/> | Other: _____   |

**CONTRACT\***

YES    N/A

- |                                     |                          |   |
|-------------------------------------|--------------------------|---|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Copy of Executed Contract                             |
| <input type="checkbox"/>            | <input type="checkbox"/> | Copy of all documentation presented to the Committees |
| <input type="checkbox"/>            | <input type="checkbox"/> | Finalized Council Committee Minutes                   |
| <input type="checkbox"/>            | <input type="checkbox"/> | Other: _____  |

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

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

David C. Tapia

\_\_\_\_\_  
 Department Rep Printed Name and Title  
 David C. Tapia

\_\_\_\_\_  
 Department Rep Signature attesting that all information included

# Sales Quotation

Manuel Gonzales  
CITY OF SANTA FE  
, PH: 505-231-1749  
mmgonzales@santafenm.gov

**Contract No.:** GS-35F-0265X  
**CAGE Code:** 3CA29  
**DUNS No.:** 09-869-2374  
**TAX ID#:** 54-1912608  
**Terms:** NET 30  
**FOB:** Destination

**Quote Number:** QUO-1129175-H9Y5C8  
**Quote Date:** 8/5/2020  
**Expiration Date:** 9/25/2020

**Order Address:**  
immixTechnology, Inc.  
8444 Westpark Drive, Suite 200  
McLean, VA 22102  
PH: 703-752-0610 FX: 703-752-0611

**immixTechnology, Inc.** Mohan, Vinu  
**Contact:** Vinu\_Mohan@immixgroup.com

**Manufacturer Quote #:**  
**Manufacturer Ref #:** 6105679

**Manufacturer Contact:** Kelly, Jennifer  
978-947-2843 jennifer.kelly@kronos.com

\*\*\*\*\*FUTURE YEARS PRICING FOR BUDGETING PURPOSE ONLY\*\*\*\*\*

BILLING: MONTHLY IN ARREARS

Group 1 = 30 days (6/01/20 - 6/30/20) = \$3,022.94 W/ TAX

Group 2 = "YEAR 1" (07/01/20 – 06/30/21) = \$35,636.74 W/ TAX

Group 3 = "YEAR 2" (07/01/21 – 06/30/22) = \$37,037.01 W/ TAX

Group 4 = "YEAR 3" (07/01/22 -06/30/23) = \$38,530.63 W/ TAX

TOTAL = \$114,227.32 W/TAX

Item	Part Number	Contract	Trans Type	Product Description	Qty	Price	Extended Price
1	8604489-000-SAAS	GS-35F-0265X	XAAS	WORKFORCE TELESTAFF BIDDING- PEPM V7.1+ (30 Days)** TRUSTED PRODUCT **	185	\$1.0800	\$199.80
Period of Performance: 6/1/2020 to 6/30/2020.							
2	8604488-000-SAAS	GS-35F-0265X	XAAS	WORKFORCE TELESTAFF ENTERPRISE - PEPM V7.1+ (30 Days)** TRUSTED PRODUCT **	185	\$4.9400	\$913.90
Period of Performance: 6/1/2020 to 6/30/2020.							
3	8604495-000-SAAS	GS-35F-0265X	XAAS	WORKFORCE TELESTAFF GLOBAL ACCESS- PEPM V7.1+ (30 Days)** TRUSTED PRODUCT **	185	\$0.5500	\$101.75
Period of Performance: 6/1/2020 to 6/30/2020.							
4	HOSTING-69	GS-35F-0265X	XAAS	Cloud Hosting Workforce TeleStaff Enterprise Base Fee Per Month (ONE MONTH ONLY)** TRUSTED PRODUCT **	1	\$1,745.2000	\$1,745.20
Period of Performance: 6/1/2020 to 6/30/2021.							
<b>Group Total:</b>							<b>\$2,960.65</b>

# Sales Quotation

<b>Continued</b>
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Item	Part Number	Contract	Trans Type	Product Description	Qty	Price	Extended Price
5	8604489-000-SAAS	GS-35F-0265X	XAAS	WORKFORCE TELESTAFF BIDDING- PEPM V7.1+ (185 Lic x 12 Months)** TRUSTED PRODUCT **	2220	\$1.0300	\$2,286.60
Period of Performance: 7/1/2020 to 6/30/2021.							
6	8604488-000-SAAS	GS-35F-0265X	XAAS	WORKFORCE TELESTAFF ENTERPRISE - PEPM V7.1+ (185 Lic x 12 Months)** TRUSTED PRODUCT **	2220	\$13.7100	\$30,436.20
Period of Performance: 7/1/2020 to 6/30/2021.							
7	8604495-000-SAAS	GS-35F-0265X	XAAS	WORKFORCE TELESTAFF GLOBAL ACCESS- PEPM V7.1+ (185 Lic x 12 Months)** TRUSTED PRODUCT **	2220	\$0.5300	\$1,176.60
Period of Performance: 7/1/2020 to 6/30/2021.							
<b>Group Total:</b>							<b>\$33,899.40</b>
8	8604489-000-SAAS	GS-35F-0265X	XAAS	WORKFORCE TELESTAFF BIDDING- PEPM V7.1+ (185 Lic x 12 Months)** TRUSTED PRODUCT **	2220	\$1.0700	\$2,375.40
Period of Performance: 7/1/2021 to 6/30/2022.							
9	8604488-000-SAAS	GS-35F-0265X	XAAS	WORKFORCE TELESTAFF ENTERPRISE - PEPM V7.1+ (185 Lic x 12 Months)** TRUSTED PRODUCT **	2220	\$14.2500	\$31,635.00
Period of Performance: 7/1/2021 to 6/30/2022.							
10	8604495-000-SAAS	GS-35F-0265X	XAAS	WORKFORCE TELESTAFF GLOBAL ACCESS- PEPM V7.1+ (185 Lic x 12 Months) ** TRUSTED PRODUCT **	2220	\$0.5500	\$1,221.00
Period of Performance: 7/1/2021 to 6/30/2022.							
<b>Group Total:</b>							<b>\$35,231.40</b>
11	8604489-000-SAAS	GS-35F-0265X	XAAS	WORKFORCE TELESTAFF BIDDING- PEPM V7.1+ (185 Lic x 12 Months)** TRUSTED PRODUCT **	2220	\$1.1200	\$2,486.40
Period of Performance: 7/1/2022 to 6/30/2023.							
12	8604488-000-SAAS	GS-35F-0265X	XAAS	WORKFORCE TELESTAFF ENTERPRISE - PEPM V7.1+ (185 Lic x 12 Months)** TRUSTED PRODUCT **	2220	\$14.8200	\$32,900.40
Period of Performance: 7/1/2022 to 6/30/2023.							
13	8604495-000-SAAS	GS-35F-0265X	XAAS	WORKFORCE TELESTAFF GLOBAL ACCESS- PEPM V7.1+ (185 Lic x 12 Months)** TRUSTED PRODUCT **	2220	\$0.5700	\$1,265.40
Period of Performance: 7/1/2022 to 6/30/2023.							
<b>Group Total:</b>							<b>\$36,652.20</b>
<b>ANYTHING AS A SERVICE</b>							<b>\$108,743.65</b>
<b>Grand Total</b>							<b>\$108,743.65</b>

SID: 6105679  
POP: 06/01/2020 - 6/30/2023

Subject to the Terms and Conditions of GSA MAS Contract Number GS-35F-0265X; See GSA eLibrary:  
<http://www.gsaelibrary.gsa.gov/ElibMain/home.do>

Taxes: Sales tax shall be added at the time of an invoice, unless a copy of a valid tax exemption or resale certificate is provided.

All Purchase Orders must include: End User Name, Phone Number, Email Address, Purchase Order Number, Government Contract Number or Our Quote Number, Bill-To and Ship-To Address (Cannot ship to a PO Box), Period of Performance (if applicable), and a Signature of a duly Authorized Representative.

The identified line items are Trusted Products under the immixGroup Trusted Supplier Program.  
immixGroup Trusted Supplier Program Policies, Commitments and Guarantees/Warranties can be obtained at:  
[http://www.immixgroup.com/uploadedFiles/Trusted-Supplier-Program\\_Guarantee-and-Warranty.pdf](http://www.immixgroup.com/uploadedFiles/Trusted-Supplier-Program_Guarantee-and-Warranty.pdf)

# immixTechnology, Inc.

a subsidiary of  immixGroup

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*General Services Administration  
Federal Supply Service  
Multiple Award Schedule  
Authorized Federal Supply Schedule Pricelist  
GS-35F-0265X*

*Period Covered by Contract: March 3, 2011 through March 2, 2021.*

*Pricelist current through Modification #PO-2258 dated July 23, 2020.*

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**GENERAL SERVICES ADMINISTRATION  
FEDERAL SUPPLY SERVICE  
MULTIPLE AWARD SCHEDULE  
AUTHORIZED FEDERAL SUPPLY SCHEDULE PRICE  
LIST**

*On-line access to contract ordering information, terms and conditions, up-to-date pricing, and the option to create an electronic delivery order are available through GSA Advantage!®, a menu-driven database system. The INTERNET address GSA Advantage!® is: [GSAAdvantage.gov](http://GSAAdvantage.gov).*

**Contract Number:**  
GS-35F-0265X

For more information on ordering from Federal Supply Schedules click on the FSS Schedules button at <https://www.gsa.gov/buying-selling/purchasing-programs/gsa-schedules>.

**Contract Period:**  
March 3, 2011 through March 2, 2021

Pricelist current through Modification #PO-2258 dated July 23, 2020.

**Contractor:**  
immixTechnology, Inc.  
8444 Westpark Drive, Suite 200  
McLean, VA 22102

**Phone:**  
703-752-0610

**Email:**  
[GSAteam@immixgroup.com](mailto:GSAteam@immixgroup.com)

**Website:**  
<https://www.immixgroup.com/contract-vehicles/gsa/it-70/0265X/>

**Business Size:**  
Other than small

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**CUSTOMER INFORMATION**

**1a. Table of awarded special item number(s) with appropriate cross-reference to item descriptions and awarded price(s).**

SIN	SIN Title
811212	Maintenance of Equipment, Repair Services and/or Repair/Spare Parts
511210	Software Licenses
54151	Software Maintenance Services
518210C	Cloud and Cloud-Related IT Professional Services
541519CDM	Continuous Diagnostics and Mitigation (CDM) Tools
611420	Information Technology Training
54151ECOM	Electronic Commerce and Subscription Services
517312	Wireless Mobility Solutions
33411	Purchasing of new electronic equipment

**1b. Identification of the lowest priced model number and lowest unit price for that model for each special item number awarded in the contract. This price is the Government price based on a unit of one, exclusive of any quantity/dollar volume, prompt payment, or any other concession affecting price. Those contracts that have unit prices based on the geographic location of the customer, should show the range of the lowest price, and cite the areas to which the prices apply.**

See attached authorized price list – Attachment B

**1c. If the Contractor is proposing hourly rates, a description of all corresponding commercial job titles, experience, functional responsibility and education for those types of employees or subcontractors who will perform services shall be provided. If hourly rates are not applicable, indicate “Not applicable” for this item.**

Not Applicable

**2. Maximum order.**

SIN	SIN Title	Maximum Order (\$)
811212	Maintenance of Equipment, Repair Services and/or Repair/Spare Parts	500,000
511210	Software Licenses	500,000
54151	Software Maintenance Services	500,000
518210C	Cloud and Cloud-Related IT Professional Services	500,000
541519CDM	Continuous Diagnostics and Mitigation (CDM) Tools	500,000
611420	Information Technology Training	250,000
54151ECOM	Electronic Commerce and Subscription Services	500,000
517312	Wireless Mobility Solutions	500,000
33411	Purchasing of new electronic equipment	500,000

**3. Minimum order.**

\$100.00

**4. Geographic coverage (delivery area).**

Domestic delivery

**5. Point(s) of production (city, county, and State or foreign country).**

For a current list of all Authorized Service and Distribution points by Manufacturer, visit: <https://www.immixgroup.com/contract-vehicles/gsa/it-70/0265X/>

**6. Discount from list prices or statement of net price.**

Prices shown herein are Net (discounts deducted)

**7. Quantity discounts.**

None unless otherwise specified in the pricelist

**8. Prompt payment terms. Note: Prompt payment terms must be followed by the statement "Information for Ordering Offices: Prompt payment terms cannot be negotiated out of the contractual agreement in exchange for other concessions."**

0% - Net 30 days from receipt of invoice or date of acceptance, whichever is later

**9a. Notification that Government purchase cards are accepted at or below the micro-purchase threshold.**

Government purchase cards are accepted at or below the micro-purchase threshold but above the Minimum order threshold.

**9b. Notification whether Government purchase cards are accepted or not accepted above the micro-purchase threshold.**

Government purchase cards are accepted above the micro-purchase threshold

**10. Foreign items (list items by country of origin).**

See attached authorized price list – Attachment B

**11a. Time of delivery. (Contractor insert number of days.)**

The Contractor shall deliver to destination within thirty (30) calendar days after receipt of order (ARO), unless set forth otherwise on the Schedule Contract Pricelist to this schedule pricelist appended hereto and incorporated herein

**11b. Expedited Delivery. The Contractor will insert the sentence "Items available for expedited delivery are noted in this price list." under this heading. The Contractor may use a symbol of its choosing to highlight items in its price lists that have expedited delivery.**

Quicker delivery times than those set forth in the Schedule Contract Pricelist are available from the Contractor based on the availability of product inventory. Improved delivery times in the number of days after receipt of an order (ARO) if available, are as negotiated between the ordering activity and the Contractor or its Authorized Government Resellers

**11c. Overnight and 2-day delivery. The Contractor will indicate whether overnight and 2-day delivery are available. Also, the Contractor will indicate that the schedule customer may contact the Contractor for rates for overnight and 2-day delivery.**

Unless otherwise specified by Manufacturer in the Schedule Contract Pricelist, when ordering activities require overnight or 2-day delivery, ordering activities are encouraged to contact the Contractor for the purpose of obtaining accelerated delivery. Overnight and 2-day delivery times are subject to the availability of product inventory

**11d. Urgent Requirements. The Contractor will note in its price list the "Urgent Requirements" clause of its contract and advise agencies that they can also contact the Contractor's representative to affect a faster delivery.**

When the Federal Supply Schedule contract delivery period does not meet the bona fide urgent delivery requirements of an ordering activity, ordering activities are encouraged, if time permits, to contact the Contractor for the purpose of obtaining accelerated delivery. The Contractor shall reply to the inquiry within 3 workdays after receipt. (Telephonic replies shall be confirmed by the Contractor in writing.) If the Contractor offers an accelerated delivery time acceptable to the Ordering Activity, any order(s) placed pursuant to the agreed upon accelerated delivery time frame shall be delivered within this shorter delivery time and in accordance with all other terms and conditions of the contract

**12. F.O.B. point(s).**

Destination

**13a. Ordering address(es).**

immixTechnology, Inc.  
8444 Westpark Drive, Suite 200  
McLean, VA 22102

Or

See Authorized Dealers Listing by Manufacturer for Ordering Address and Contact Information at: <https://www.immixgroup.com/contract-vehicles/gsa/it-70/0265X/>

**13b. Ordering procedures: For supplies and services, the ordering procedures, information on Blanket Purchase Agreements (BPA's) are found in Federal Acquisition Regulation (FAR) 8.405-3.**

#### 14. Payment address(es).

immixTechnology, Inc.  
8444 Westpark Drive, Suite 200  
McLean, VA 22102

Or

See Authorized Dealers Listing by Manufacturer for Ordering Address and Contact Information at:  
<https://www.immixgroup.com/contract-vehicles/gsa/it-70/0265X/>

#### 15. Warranty provision.

See attached Contractor Supplemental Pricelist Information and Incorporated Terms – Attachment A

#### 16. Export packing charges, if applicable.

Not applicable

#### 17. Terms and conditions of Government purchase card acceptance (any thresholds above the micro-purchase level).

None

#### 18. Terms and conditions of rental, maintenance, and repair (if applicable).

See attached Contractor Supplemental Pricelist Information and Incorporated Terms – Attachment A

#### 19. Terms and conditions of installation (if applicable).

See attached Contractor Supplemental Pricelist Information and Incorporated Terms – Attachment A

#### 20. Terms and conditions of repair parts indicating date of parts price lists and any discounts from list prices (if applicable).

See attached Contractor Supplemental Pricelist Information and Incorporated Terms – Attachment A

#### 20a. Terms and conditions for any other services (if applicable).

See attached Contractor Supplemental Pricelist Information and Incorporated Terms – Attachment A

#### 21. List of service and distribution points (if applicable).

For a current list of all Authorized Service and Distribution points by Manufacturer, visit: <https://www.immixgroup.com/contract-vehicles/gsa/it-70/0265X/>

#### 22. List of participating dealers (if applicable).

For a current list of all Authorized Service and Distribution points by Manufacturer, visit: <https://www.immixgroup.com/contract-vehicles/gsa/it-70/0265X/>

#### 23. Preventive maintenance (if applicable).

See attached Contractor Supplemental Pricelist Information and Incorporated Terms – Attachment A

#### 24a. Special attributes such as environmental attributes (e.g., recycled content, energy efficiency, and/or reduced pollutants).

Please contact immixTechnology, Inc. at  
[GSAteam@immixgroup.com](mailto:GSAteam@immixgroup.com)

**24b. If applicable, indicate that Section 508 compliance information is available on Electronic and Information Technology (EIT) supplies and services and show where full details can be found (e.g. contractor's website or other location.) The EIT standards can be found at:**  
[www.Section508.gov/](http://www.Section508.gov/).

Please contact immixTechnology, Inc. at  
[GSAteam@immixgroup.com](mailto:GSAteam@immixgroup.com)

#### 25. Data Universal Number System (DUNS) number.

098692374

#### 26. Notification regarding registration in System for Award Management (SAM) database.

Registration active

#### 27. Integration:

The Non-Disclosure provisions set forth in Section 9b.(7), the IP Infringement provisions set forth in Section 9b.(9) and the Limitation of Liability provisions set forth in Section 3c. of the Terms and Conditions Applicable to Software Licenses (Special Item Number 511210) and Software Maintenance Services (Special Item Number 54151) of General Purpose Commercial Information Technology Software are hereby incorporated into and made a part of the terms applicable to all SINs.

#### 28. Glossary of Definitions:

- a. "Contractor" means immixTechnology, Inc.
- b. "Contractor and its affiliates" and "Contractor or its affiliates" refers to the Contractor, its chief executives, directors, officers, subsidiaries, affiliates, subcontractors at any tier, and consultants and any joint venture involving the Contractor, any entity into or with which the Contractor subsequently merges or affiliates, or any other successor or assignee of the Contractor.
- c. "Manufacturer" shall mean a manufacturer, supplier or producer of Equipment (as defined below) or a publisher or developer of Software or related Training Materials (as defined below) provided to Contractor through a letter of supply to be licensed or sold to Ordering Activities under this contract.
- d. "Ordering Activity" shall mean, 1) any entity authorized to use GSA sources of supply and services as set forth in GSA Directive OGP 4800.2I or such later issued version, and 2) any entity acting on behalf of an Ordering Activity pursuant to a properly issued letter of authorization per Section 24 above – "Prime Contractor Ordering from Federal Supply Schedules" under Information for Ordering Activities applicable to All Special Item Numbers.

#### 29. Responsibilities of Contractor:

The parties understand and agree that Contractor acts as a reseller of all Equipment, Software, Documentation, and services offered under this contract. With regard to Equipment, Software, and Documentation, Contractor represents that it has the requisite right and authority under its reseller agreements with the Manufacturers

to offer the products and grant the rights specified in this contract, and Manufacturers shall have no privity of contract with an Ordering Activity hereunder. With regard to services, while some or all of the services ordered hereunder may be physically performed by Manufacturer, Service Provider, or other third-party personnel (as is specified under applicable SINs) acting under a subcontract or similar arrangement with Contractor, and while the scope and price of such services are defined by the applicable provider's policies (such as Maintenance Services Policies, Electronic Commerce Service Policies, or Wireless Services plans), Contractor remains solely responsible to the Ordering Activity for all such performance.

**TERMS AND CONDITIONS APPLICABLE TO PURCHASE OF GENERAL-PURPOSE COMMERCIAL INFORMATION TECHNOLOGY HARDWARE SUBCATEGORY, PURCHASING OF NEW ELECTRONIC EQUIPMENT (SPECIAL ITEM NUMBER 33411)**

**1. GLOSSARY OF DEFINITIONS**

- a. **“Documentation”** shall mean Manufacturer’s then current help guides, specifications and operating manuals issued by Manufacturer and made generally available by Manufacturer for the Equipment whether on-line or in hard copy.
- b. **“Equipment”** shall mean the computer hardware identified on Attachment B to this schedule pricelist.

**2. MATERIAL AND WORKMANSHIP**

All Equipment furnished hereunder must substantially perform the function for which it is intended as set forth in the accompanying Documentation.

**3. ORDER**

Written orders, EDI orders (GSA Advantage! and FACNET), credit card orders, and orders placed under blanket purchase agreements (BPA) agreements shall be the basis for purchase in accordance with the provisions of this contract. If time of delivery extends beyond the expiration date of the contract, the Contractor will be obligated to meet the delivery and installation date specified in the original order.

For credit card orders and BPAs, telephone orders are permissible.

**4. TRANSPORTATION OF EQUIPMENT**

**FOB DESTINATION.** Prices cover Equipment delivery to destination, for any location within the geographic scope of this contract.

**5. INSTALLATION AND TECHNICAL SERVICES**

- a. **INSTALLATION.** When the Equipment provided under this contract is not normally self-installable, the Contractor its Manufacturer or other authorized service provider’s technical personnel shall be available to the Ordering Activity, at the Ordering Activity’s location, to install the Equipment and to train Ordering Activity personnel in the use and maintenance of the Equipment. The charges, for such services are listed by Manufacturer, in the schedule pricelist.
- b. **OPERATING AND MAINTENANCE MANUALS.** The Contractor or its Manufacturer

shall furnish the Ordering Activity with one (1) copy of all Documentation, which is normally provided with the Equipment being purchased. For Documentation only available on-line, Contractor or its Manufacturer shall provide Ordering Activity access to such Documentation.

**6. INSPECTION/ACCEPTANCE**

The Contractor shall only deliver those items ordered that substantially conform to the requirements of this contract and the applicable Manufacturer’s Documentation. Therefore, items delivered shall be deemed accepted upon delivery to Ordering Activity’s designated receiving facility. The Ordering Activity reserves the right to inspect or test any equipment that has been delivered. The Ordering Activity may require repair or replacement of nonconforming equipment at no increase in contract price. The ordering activity must exercise its post-acceptance rights (1) within the applicable warranty period as set forth below; and (2) before any substantial change occurs in the condition of the item, unless the change is due to the defect in the item.

**7. WARRANTY**

- a. Unless specified otherwise in this contract, the warranties extended to the Ordering Activity for Equipment and Documentation, and the exclusions and disclaimers applicable to such warranties, shall be as set forth on Attachment A to this schedule pricelist (Contractor Supplemental Pricelist Information and Incorporated Terms). Notwithstanding anything to the contrary that may be marked on or provided with the Equipment or Documentation, the parties understand and agree that such warranties, exclusions and disclaimers follow the applicable Manufacturer’s standard commercial warranties, exclusions and disclaimers but are provided to the Ordering Activity by the Contractor, who will be responsible to the Ordering Activity for all compliance, service and remedies thereunder.
- b. **Limitation of Liability**
  - i. **Exclusion of Consequential Damages.** EXCEPT FOR A) A CLAIM OF IP INFRINGEMENT HEREUNDER, OR B) AS PROVIDED IN SUBSECTION (b)(iii) BELOW, IN NO EVENT SHALL CONTRACTOR BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES, INCLUDING WITHOUT LIMITATION DAMAGES FOR LOSS OF PROFITS, DATA OR USE, INCURRED BY EITHER PARTY OR ANY THIRD PARTY, WHETHER IN AN ACTION IN CONTRACT OR TORT, EVEN IF THE OTHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
  - ii. **Limitation of Direct Damages.** Except for a) a claim of IP Infringement, hereunder, or b) as provided in subsection (b)(iii) below, the aggregate and cumulative liability of

Contractor for damages hereunder shall in no event exceed the amount of fees paid by Ordering Activity under the order giving rise to such liability, and if such damages relate to particular Equipment such liability shall be limited to fees paid for the relevant Equipment.

- iii. Non-Applicability to Statutory or Regulatory Rights. Nothing herein shall operate to impair or prejudice the U.S. Government's right (a) to recover for fraud or crimes arising out of or relating to this contract under any Federal fraud statute, including without limitation the False Claims Act (31 USC §§3729 through 3733), or (b) to express remedies provided under any FAR, GSAR or Schedule 70 solicitation clauses incorporated into this contract, including without limitation the GSAR 552.215-72 Price Adjustment – Failure to Provide Accurate Information (August 1997) or GSAR 552.238-75 Price Reductions (May 2004) Alternate I (May 2003).

- c. Inspection and repair of defective Equipment under this warranty may be performed, at the option of the Contractor, at a service facility/plant authorized by the Contractor. The Ordering Activity may not return defective Equipment to the Contractor, the Manufacturer or its authorized service provider for repair or replacement without prior consultation and instruction.

## 8. PURCHASE PRICE FOR ORDERED EQUIPMENT

The purchase price that the Ordering Activity will be charged will be the Ordering Activity purchase price in effect at the time of order placement (which shall not exceed the price agreed to at the time of award of the GSA Schedule contract, as may be revised from time to time through a contract modification agreed to and issued by the GSA Schedule contracting officer), or the Ordering Activity purchase price in effect on the installation date (or delivery date when installation is not applicable), whichever is less. Provided, however, that the Ordering Activity shall only be entitled to a lower price if the installation date is no longer than thirty (30) days after the date of order placement.

## 9. RESPONSIBILITIES OF THE CONTRACTOR

The Contractor shall comply with all laws, ordinances, and regulations (Federal, State, City or otherwise) covering work of this character, and shall include all costs, if any, of such compliance in the prices quoted in this offer.

## 10. TRADE-IN OF INFORMATION TECHNOLOGY EQUIPMENT

When an Ordering Activity determines that Information Technology Equipment will be replaced, the Ordering Activity shall follow the contracting policies and procedures in the Federal Acquisition Regulation (FAR), the policies and procedures regarding disposition of information technology excess personal property in the Federal Property Management Regulations (FPMR) (41 CFR 101-43.6), and the policies and procedures on exchange/sale contained in the FPMR (41 CFR part 101-46).

## TERMS AND CONDITIONS APPLICABLE TO PURCHASE OF GENERAL-PURPOSE COMMERCIAL INFORMATION TECHNOLOGY HARDWARE SUBCATEGORY, COMPUTER AND OFFICE MACHINE REPAIR AND MAINTENANCE (SPECIAL ITEM NUMBER 811212)

### 1. GLOSSARY OF DEFINITIONS

- a. **“Documentation”** shall mean Manufacturer’s then current help guides, specifications and operating manuals issued by Manufacturer and made generally available by Manufacturer for the Equipment whether on-line or in hard copy.
- b. **“Maintenance Services”** shall mean the services provided by Contractor through an applicable Manufacturer under this contract in accordance with the Manufacturer’s then current Maintenance Services Policy.
- c. **“Maintenance Services Policy”** shall mean the commercial terms describing a Manufacturer’s standard maintenance and support offerings, policies and procedures for its Equipment, a copy of which is set forth in Attachment A to this schedule pricelist.
- d. **“Equipment”** shall mean the computer hardware identified on Attachment B to this schedule pricelist.

### 2. SERVICE AREAS

- a. The types/levels of maintenance, geographic scope of availability, and applicable rates vary by Manufacturer and are generally set forth in an applicable Manufacturer’s Maintenance Services Policy. If any additional charge is to apply because of distance from the Contractor’s service locations, the mileage rate or other distance factor shall be negotiated at the Task Order level.
- b. When repair services cannot be performed at the Ordering Activity installation site, the repair services will be performed at the Contractor’s, Manufacturer’s or authorized service provider’s plant(s).

### 3. MAINTENANCE ORDER

- a. Agencies may use written orders, EDI orders, credit card orders, or BPAs, for ordering maintenance under this contract. The Contractor shall confirm orders within fifteen (15) calendar days from the date of receipt, except that confirmation of orders shall be considered automatic for renewals for maintenance (Special Item Number 132-12). Automatic acceptance of order renewals for maintenance service shall apply for machines which may have been discontinued from use for temporary periods of time not longer than 120 calendar days. If the order is not confirmed by the Contractor as prescribed by this paragraph, the order shall be considered to be confirmed by the Contractor.
- b. The Contractor shall honor orders for Maintenance Services for the duration of the contract period or a lesser period of time, for the Equipment shown in the schedule pricelist.

Maintenance Services shall commence on a mutually agreed upon date, which will be written into the maintenance order. Maintenance orders shall not be made effective before the expiration of any applicable maintenance and parts guarantee/warranty period associated with the purchase of Equipment. Orders for Maintenance Service shall not extend beyond the end of the contract period.

- c. Maintenance Services may be discontinued by the Ordering Activity on thirty (30) calendar days written notice, or shorter notice when agreed to by the Contractor; such notice to become effective thirty (30) calendar days from the date on the notification. However, the Ordering Activity may extend the original discontinuance date upon written notice to the Contractor, provided that such notice is furnished at least ten (10) calendar days prior to the original discontinuance date.
- d. Annual Funding. When annually appropriated funds are cited on a maintenance order, the period of maintenance shall automatically expire on September 30th of the contract period, or at the end of the contract period, whichever occurs first. Renewal of a maintenance order citing the new appropriation shall be required, if maintenance is to continue during any remainder of the contract period.
- e. Cross-year Funding Within Contract Period. Where an Ordering Activity's specific appropriation authority provides for funds in excess of a 12-month, fiscal year period, the Ordering Activity may place an order under this schedule contract for a period up to the expiration of the contract period, notwithstanding the intervening fiscal years.
- f. Ordering Activities should notify the Contractor in writing thirty (30) calendar days prior to the expiration of Maintenance Services, if maintenance is to be terminated at that time. Orders for continued maintenance will be required if maintenance is to be continued during the subsequent period.

#### 4. REPAIR SERVICE AND REPAIR PARTS/SPARE PARTS ORDERS

Repair service and repair parts/spare parts orders are not available under the scope of this schedule contract.

#### 5. LOSS OR DAMAGE

- a. When the Contractor, through the Manufacturer, or its authorized service provider removes equipment to its establishment for repairs, the Contractor shall be responsible for any damage or loss, from the time the Equipment is removed from the Ordering Activity installation, until the equipment is returned to such installation.
- b. When Equipment is returned by Ordering Activity to the Contractor through the Manufacturer's or its authorized service provider's facility for repairs, the Ordering Activity shall be responsible for any loss or damage to the Equipment being returned by the Ordering Activity for repair.

Contractor shall only be responsible for any loss or damage while the Equipment is at the Contractor's or its Manufacturer's or authorized service provider's facility and until it is returned to the Ordering Activity's location.

#### 6. SCOPE

- a. In exchange for the applicable fees, the Contractor, through the Manufacturer or its authorized service provider shall provide Maintenance Services for all Equipment listed herein, as requested by the Ordering Activity during the contract term. Repair service and repair parts/spare parts shall apply exclusively to the Equipment types/models within the scope of this Information Technology Schedule.
- b. Equipment placed under Maintenance Service shall be in good operating condition.
  - 1) In order to determine that the Equipment is in good operating condition, the Equipment shall be subject to inspection by the Contractor through the Manufacturer or its authorized service provider without charge to the Ordering Activity.
  - 2) Costs of any repairs performed for the purpose of placing the Equipment in good operating condition shall be borne by the Contractor, provided the Equipment was under the Contractor's guarantee/warranty or maintenance responsibility prior to the effective date of the maintenance order.
  - 3) If the Equipment was not under the Contractor's responsibility, the costs necessary to place the Equipment in proper operating condition shall be borne by the Ordering Activity, in accordance with the provisions of Special Item Number 132-12 (or outside the scope of this contract).
  - 4) Contractor shall have no obligation to provide Maintenance Services for Equipment that has been modified by Ordering Activity, is in disrepair or subject to any other exclusions as set out in Manufacturer's Maintenance Services Policy.

#### 7. RESPONSIBILITIES OF THE ORDERING ACTIVITY

- a. Ordering Activity personnel shall not perform maintenance or attempt repairs to Equipment while such Equipment is under the purview of a maintenance order, unless agreed to by the Contractor. The Ordering Activity will follow Contractor's designated procedures when returning Equipment to Contractor's, Manufacturer's or its authorized service provider's facility for repairs.
- b. Subject to security regulations, the Ordering Activity shall permit access to the Equipment, which is to be maintained or repaired by

Contractor, Manufacturer or its authorized service provider.

- c. If the Ordering Activity desires a factory authorized/certified service personnel, then this should be clearly stated in the task or delivery order.

## 8. RESPONSIBILITIES OF THE CONTRACTOR

- a. For Equipment not covered by a maintenance contract or warranty, the Contractor, through the Manufacturer's or its authorized service provider's repair service personnel shall complete repairs as soon as reasonably possible after notification by the Ordering Activity that service is required.
- b. If the Ordering Activity task or delivery order specifies factory authorized/certified service personnel then the Contractor is obligated to provide such factory authorized/certified service personnel for the Equipment to be repaired or serviced, unless otherwise agreed to in advance between the Ordering Activity and the Contractor.

## 9. MAINTENANCE RATE PROVISIONS

- a. For Equipment under monthly Maintenance Services, the Contractor shall bear all costs of maintenance, including labor, parts, and such other expenses as are necessary to keep the Equipment in good operating condition, provided that the required repairs are not occasioned by fault or negligence of the Ordering Activity.
- b. **REGULAR HOURS.** The basic monthly rate for each makes and model of Equipment shall entitle the Ordering Activity to the Maintenance Services as set forth in the applicable Manufacturer's Maintenance Services Policy.
- c. **AFTER HOURS.** Should the Ordering Activity require that maintenance be performed outside of Regular Hours, charges for such maintenance, if any, will be specified in the pricelist or in the applicable Manufacturer's Maintenance Services Policy. Periods of less than one hour will be prorated to the nearest quarter hour.
- d. **TRAVEL AND TRANSPORTATION.** If any charge is to apply, over and above the regular maintenance rates, because of the distance between the Ordering Activity location and the Contractor's service area, the charge will be negotiated at the Task Order level.
- e. **QUANTITY DISCOUNTS.** Quantity discounts from listed Maintenance Services rates for multiple Equipment owned and/or leased by a Ordering Activity are not provided under this schedule contract unless otherwise specified by a Manufacturer in the pricelist.

## 10. REPAIR SERVICE RATE PROVISIONS

Repair service rate fees and provisions for Equipment not under monthly Maintenance Services are not available under the scope of this schedule contract.

## 11. REPAIR PARTS/SPARE PARTS RATE PROVISIONS

Repair parts/spare parts rate provisions after the expiration of the guarantee/warranty provisions are not available under the scope of this schedule contract.

## 12. GUARANTEE/WARRANTY—REPAIR SERVICE AND REPAIR PARTS/SPARE PARTS

Guarantee/warranty-repair parts/spare parts after the expiration of the guarantee/warranty provisions are not available under the scope of this schedule contract.

## 13. INVOICES AND PAYMENTS

Invoices for Maintenance Services shall be submitted by the Contractor on a quarterly or monthly basis, after the completion of such period. Maintenance charges must be paid in arrears (31 U.S.C. 3324). PROMPT PAYMENT DISCOUNT, IF APPLICABLE, SHALL BE SHOWN ON THE INVOICE.

Payment for Maintenance Services of less than one month's duration shall be prorated at 1/30th of the monthly rate for each calendar day.

## TERMS AND CONDITIONS APPLICABLE TO PURCHASE OF GENERAL-PURPOSE COMMERCIAL INFORMATION TECHNOLOGY SOFTWARE SUBCATEGORY, SOFTWARE LICENSES (SPECIAL ITEM NUMBER 511210) AND SOFTWARE MAINTENANCE SERVICES (SPECIAL ITEM NUMBER 54151)

### 1. GLOSSARY OF DEFINITIONS

- a. **"Documentation"** shall mean Manufacturer's then current help guides, and manuals issued by Manufacturer and made generally available by Manufacturer for the Software whether on-line or in hard copy. Documentation shall include any updated Documentation that Manufacturer provides with any updates.
- b. **"Maintenance Services"** shall mean the Software maintenance and support services provided by Contractor through an applicable Manufacturer under this contract in accordance with the Manufacturer's then current Maintenance Services Policy.
- c. **"Maintenance Services Policy"** shall mean the commercial terms describing a Manufacturer's standard Software maintenance and support offerings, policies and procedures, a copy of which is located on Attachment A to this schedule pricelist.
- d. **"Software"** shall mean (i) the version of the computer program identified on Attachment B and (ii) updates to such programs.

### 2. INSPECTION/ACCEPTANCE

The Contractor shall only deliver those items ordered that substantially conform to the requirements of this contract and the Software's Documentation. Therefore, items delivered shall be deemed accepted upon delivery. The Ordering Activity reserves the right to inspect or test any Software that has been delivered. The Ordering Activity may require repair or replacement of nonconforming Software at no increase in contract price. The Ordering Activity must exercise its post-acceptance rights (1)

within the warranty period as set forth below; and (2) before any substantial change occurs in the condition of the Software, unless the change is due to the defect in the Software.

### 3. GUARANTEE/WARRANTY

a. Unless specified otherwise in this contract, the warranties extended to the Ordering Activity for Software and Documentation, and the exclusions and disclaimers applicable to such warranties, shall be as set forth on Attachment A to this schedule pricelist (Contractor Supplemental Pricelist Information and Incorporated Terms). Notwithstanding anything to the contrary that may be marked on or provided with the Software or Documentation, the parties understand and agree that such warranties, exclusions and disclaimers follow the applicable Manufacturer's standard commercial warranties, exclusions and disclaimers but are provided to the Ordering Activity by the Contractor, who will be responsible to the Ordering Activity for all compliance, service and remedies thereunder.

b. Limitation of Liability.

- (1) Exclusion of Consequential Damages. EXCEPT FOR A) A CLAIM OF IP INFRINGEMENT HEREUNDER, OR B) AS PROVIDED IN (b)(iii) BELOW, IN NO EVENT SHALL CONTRACTOR BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES, INCLUDING WITHOUT LIMITATION DAMAGES FOR LOSS OF PROFITS, DATA OR USE, INCURRED BY EITHER PARTY OR ANY THIRD PARTY, WHETHER IN AN ACTION IN CONTRACT OR TORT, EVEN IF THE OTHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES provided however, that in the event Ordering Activity makes unauthorized copies of the Software, Contractor shall be entitled to recover the full amount of any license fees that would relate to such copies.
- (2) Limitation of Direct Damages. Except for a) a claim of IP Infringement hereunder, or b) as provided in (b)(iii) below, the aggregate and cumulative liability of Contractor and licensors for damages hereunder shall in no event exceed the amount of fees paid by Ordering Activity under the order giving rise to such liability, and if such damages relate to particular Software or Maintenance Services, such liability shall be limited to fees paid for the relevant Software or Maintenance Services giving rise to the liability.
- (3) Non-Applicability to Statutory or Regulatory Rights. Nothing herein shall operate to impair or prejudice the U.S. Government's right (a) to recover

for fraud or crimes arising out of or relating to this contract under any Federal fraud statute, including without limitation the False Claims Act (31 USC §§3729 through 3733), or (b) to express remedies provided under any FAR, GSAR or Schedule 70 solicitation clauses incorporated into this contract, including without limitation the GSAR 552.215-72 Price Adjustment – Failure to Provide Accurate Information (August 1997) or GSAR 552.238-75 Price Reductions (May 2004) Alternate I (May 2003).

### 4. TECHNICAL SERVICES

A hot line technical support number for the purpose of providing user assistance and guidance to the Ordering Activity in the implementation of the Software may be provided as part of Maintenance Services.

### 5. SOFTWARE MAINTENANCE

a. Software maintenance as it is defined:

- (1) Software Maintenance as a Product (SIN 511210)

Software maintenance as a product includes the publishing of bug/defect fixes via patches and updates/upgrades in function and technology to maintain the operability and usability of the software product. It may also include other no charge support that is included in the purchase price of the product in the commercial marketplace. No charge support includes items such as user blogs, discussion forums, on-line help libraries and FAQs (Frequently Asked Questions), hosted chat rooms, and limited telephone, email and/or web-based general technical support for user's self-diagnostics.

Software maintenance as a product does NOT include the creation, design, implementation, integration, etc. of a software package. These examples are considered software maintenance as a service.

Software Maintenance as a product is billed at the time of purchase.

- (2) Software Maintenance as a Service (SIN 54151)

Software maintenance as a service creates, designs, implements, and/or integrates customized changes to software that solve one or more problems and is not included with the price of the software. Software maintenance as a service includes person-to-person communications regardless of the medium used to communicate: telephone support, on-

line technical support, customized support, and/or technical expertise which are charged commercially. Software maintenance as a service is billed arrears in accordance with 31 U.S.C. 3324.

Software maintenance as a service is billed in arrears in accordance with 31 U.S.C. 3324.

- b. If purchased by Ordering Activity, Contractor, through the applicable Manufacturer, shall provide Maintenance Services for the Software pursuant to the applicable Manufacturer's then current Maintenance Services Policy. Fees or rates for such Maintenance Services are set forth in Attachment B.
- c. Invoices for maintenance service shall be submitted by the Contractor on a quarterly or monthly basis, after the completion of such period. Maintenance charges must be paid in arrears (31 U.S.C. 3324) for Maintenance as a Service. PROMPT PAYMENT DISCOUNT, IF APPLICABLE, SHALL BE SHOWN ON THE INVOICE.

**6. PERIODS OF TERM LICENSES AND MAINTENANCE**

- a. The Contractor shall honor orders for periods for the duration of the contract period or a lesser period of time.
- b. Term licenses and/or maintenance may be discontinued by the Ordering Activity on thirty (30) calendar days written notice to the Contractor.
- c. Annual Funding. When annually appropriated funds are cited on an order for term licenses and/or maintenance, the period of the term licenses and/or maintenance shall automatically expire on September 30 of the contract period, or at the end of the contract period, whichever occurs first. Renewal of the term licenses and/or maintenance orders citing the new appropriation shall be required, if the term licenses and/or maintenance is to be continued during any remainder of the contract period.
- d. Cross-Year Funding Within Contract Period. Where an Ordering Activity's specific appropriation authority provides for funds in excess of a 12-month (fiscal year) period, the Ordering Activity may place an order under this schedule contract for a period up to the expiration of the contract period, notwithstanding the intervening fiscal years.
- e. Ordering Activities should notify the Contractor in writing thirty (30) calendar days prior to the expiration of an order, if the term licenses and/or maintenance is to be terminated at that time. Orders for the continuation of term licenses and/or maintenance will be required if the term licenses and/or maintenance is to be continued during the subsequent period.

**7. CONVERSION FROM TERM LICENSE TO PERPETUAL LICENSE**

Conversion from term licenses to perpetual licenses for any or all Software is not available under the scope of this contract.

Outside the scope of this contract, the Ordering Activity may contact the Manufacturer directly to discuss the permissibility, costs and operation of such conversion(s). Contractor agrees to reasonably assist Ordering Activity in this regard.

**8. TERM LICENSE CESSATION**

If a term Software license granted hereunder terminates for any reason, Ordering Activity shall (i) cease using the applicable Software, Documentation, and related Confidential Information, and (ii) certify to Contractor within thirty (30) days after termination that Ordering Activity has destroyed, or has returned to Contractor or its Manufacturer the Software, Documentation, related Confidential Information of Contractor and all copies thereof, whether or not modified or merged into other materials.

**9. UTILIZATION LIMITATIONS (SIN 511210 AND SIN 54151)**

- a. Software acquisition is limited to commercial computer software defined in FAR Part 2.101.
- b. When acquired by the Ordering Activity, commercial computer Software and related Documentation shall be subject to the following:
  - (1) Title to and ownership of the Software and Documentation shall remain with the Contractor or its Manufacturer or licensors, unless otherwise specified. Contractor and its Manufacturers reserve all rights in and to the Software and Documentation not expressly granted to Ordering Activity herein.
  - (2) United States Government Legends. The Software, Documentation and any other technical data provided hereunder is commercial in nature and developed solely at private expense. The Software is delivered as "Commercial Computer Software" as defined in DFARS 252.227-7014 (June 1995) or as a "Commercial Item" as defined in FAR 2.101(a) and as such is provided with only such rights as are provided in Manufacturer's standard commercial license for the Software. Technical data is provided with limited rights only as provided in DFAR 252.227-7015 (Nov. 1995) or FAR 52.227-14 (June 1987), whichever is applicable.

Contractor grants Ordering Activity only those utilization rights (and reserves the same utilization limitations) as specified in the applicable Manufacturer's commercial license terms, a description of which is set forth on Attachment A to this schedule pricelist and incorporated herein.

Notwithstanding the forgoing, Contractor acknowledges and agrees that Ordering Activity shall have the minimum restricted rights as set forth in 9.b(4) below.

- (3) Except as is provided in paragraph 9.b(2) above, the Ordering Activity shall not provide or otherwise make available the Software or Documentation, or any portion thereof, in any form, to any third party without the prior written approval of the Contractor. Third parties do not include prime Contractors, subcontractors and agents of the Ordering Activity who have the Ordering Activity's permission to use the licensed software and documentation at the facility, and who have agreed to use the licensed Software and Documentation only in accordance with these restrictions. This provision does not limit the right of the Ordering activity to use Software, Documentation, or information therein, which the Ordering Activity may already have or obtains without restrictions.
- (4) The Ordering Activity shall have the right to use the computer Software and Documentation with the computer for which it is acquired at any other facility to which that computer may be transferred, or in cases of Disaster Recovery, the Ordering Activity has the right to transfer the Software to another site if the Ordering Activity site for which it is acquired is deemed to be unsafe for Ordering Activity personnel; to use the computer Software and Documentation with a backup computer when the primary computer is inoperative; and to copy computer Software for safekeeping (archive) or backup purposes; to modify the software and documentation or combine it with other software, provided that the unmodified portions shall remain subject to these restrictions.
- (5) "Commercial Computer Software" may be marked with the Contractor's standard commercial restricted rights legend, but the schedule contract and schedule pricelist, including this clause, "Utilization Limitations" are the only governing terms and conditions, and shall take precedence and supersede any different or additional terms and conditions included in the standard commercial legend.
- (6) The Software and Documentation hereunder is offered by the Contractor under licenses customarily provided to the public. The Contractor does not

furnish technical information related to commercial computer Software (or commercial computer software Documentation) that is not customarily provided to the public. Further, the Contractor does not relinquish rights to use, modify, reproduce, release, perform, display, or disclose commercial computer Software (or commercial computer software Documentation) except as mutually agreed to by the parties. See 48 CFR 12.212.

- (7) Nondisclosure. Ordering Activity may have access to information that is confidential to Contractor or its Manufacturers ("Confidential Information"). Confidential Information shall include any information that is clearly identified in writing at the time of disclosure as confidential as well as any information that, based on the circumstances under which it was disclosed, a reasonable person would believe to be confidential. Contractor's Confidential Information shall include, but not be limited to, the Software, Documentation, all materials provided to Ordering Activity in the course of performing Maintenance Services hereunder, formulas, methods, know how, processes, designs, new products, developmental work, marketing requirements, marketing plans, customer names, prospective customer names, and the terms and pricing hereunder, regardless of whether such information is identified as confidential. Confidential Information includes all information received from third parties that Contractor is obligated to treat as confidential.

Confidential Information shall not include information that (i) is or becomes a part of the public domain through no act or omission of the other party; (ii) was in the other party's lawful possession prior to the disclosure and had not been obtained by the other party either directly or indirectly from the disclosing party; (iii) is lawfully disclosed to the other party by a third party without restriction on disclosure; (iv) is independently developed by the other party without use of or reference to the other party's Confidential Information. In addition, if Ordering Activity recommends to Contractor additional features, functionality, or performance or if Contractor retains generalized information hereunder that Contractor or its Manufacturer subsequently incorporates into its product or service offerings, then with respect to such recommendations and information, Ordering Activity hereby (a) grants

Contractor a worldwide, non-exclusive, royalty-free, perpetual right and license to use and incorporate such recommendations and such information into such offerings, and (b) acknowledges that all right and title to such offerings incorporating such recommendations and information shall be the sole and exclusive property of Contractor or its Manufacturer and all such recommendations and information shall be free from any confidentiality restrictions that might otherwise be imposed upon Contractor pursuant to this section.

Further, this section will not be construed to prohibit disclosure of Confidential Information to the extent that such disclosure is required by law or valid order of a court or other governmental authority.

Ordering Activity shall not disclose the results of any performance tests of the Software to any third party without Contractor's prior written approval. Ordering Activity agrees to hold Confidential Information in confidence and to take all reasonable steps to ensure that Confidential Information is not disclosed or distributed by its employees or agents in breach of these Terms and Conditions. Ordering Activity acknowledges and agrees that, due to the unique nature of Confidential Information, there can be no adequate remedy at law for breach of this section, and that such breach would cause irreparable harm to Contractor; therefore, Contractor shall be entitled to seek immediate injunctive relief, in addition to whatever remedies it might have at law or under these terms and conditions.

- (8) Verification. At Contractor's written request, but not more frequently than annually, Ordering Activity shall furnish Contractor with a document signed by Ordering Activity's authorized representative verifying that the Software is being used pursuant to the provisions of this contract. To the extent permitted by and subject to an Ordering Activity's security requirements (including, but not limited to, use of cleared personnel, badging and other requirements). Contractor reserves the right to audit Ordering Activity's use of the Software no more than once annually at Contractor's expense. Contractor shall schedule any audit at least thirty (30) days in advance. Any such audit shall be conducted during regular business hour at Ordering Activity's facilities and shall not unreasonably

interfere with Ordering Activity's business.

- (9) Intellectual Property Infringement. If a third party makes a claim against Ordering Activity that the Software directly infringes any patent, copyright, or trademark or misappropriate any trade secret ("IP Claim"); Contractor will (i) assist in defending Ordering Activity against the IP Claim at Contractor's cost and expense, and (ii) pay all costs, damages and expenses (including reasonable legal fees) finally awarded against Ordering Activity by a court of competent jurisdiction or agreed to in a written settlement agreement signed by Contractor arising out of such IP Claim; provided that: (i) Ordering Activity promptly notifies Contractor in writing no later than sixty (60) days after Ordering Activity's receipt of notification of a potential claim and (ii) Ordering Activity provides Contractor, at Contractor's request and expense, with the assistance, information and authority necessary to perform Contractor's obligations under this Section. Notwithstanding the foregoing, Contractor shall have no liability for any claim of infringement based on (a) the use of a superseded or altered release of the Software if the infringement would have been avoided by the use of a current unaltered release of the Software, (b) the modification of the Software, (c) the use of the Software other than in accordance with the Documentation or this contract, or (d) any materials or information provided to Contractor by Ordering Activity, for which Ordering Activity shall be solely responsible.

If the Software is held to infringe or are believed by Contractor to infringe, Contractor shall have the option, at its expense, to (a) replace or modify the Software to be non-infringing, or (b) obtain for Ordering Activity a license to continue using the Software. If it is not commercially reasonable to perform either of the foregoing options, then Contractor may terminate the Program license for the infringing Software and refund the license fees paid for the Software upon return of the Software by Ordering Activity. This section states Contractor's entire liability and Ordering Activity's exclusive remedy for any claim of infringement.

- (10) Delivery. All Software and Documentation provided by Contractor hereunder shall be deemed to be delivered by Contractor: 1) Upon physical delivery, or 2) Once the Software is made available to Ordering

Activity via electronic download by provision of a license key, link to a website, FTP site or similar site from which the Ordering Activity can electronically download or otherwise access the Software and Documentation.

**10. SOFTWARE CONVERSIONS**

Conversion from one version of the Software to another such as the result of a change in operating system, or from one computer system to another is not available under the scope of the contract.

Outside the scope of this contract, the Ordering Activity may contact the Manufacturer directly to discuss the permissibility, costs and operation of such conversion(s). Contractor agrees to reasonably assist Ordering Activity in this regard.

**11. DESCRIPTIONS AND EQUIPMENT COMPATIBILITY**

For information concerning supported hardware or compatibility requirements the Ordering Activity is advised to contact the Contractor or the applicable Manufacturer.

**12. RIGHT TO COPY PRICING**

Right-to-copy license pricing is not available under the scope of this contract unless specifically specified in the pricelist. The Ordering Activity must contact the Manufacturer directly to discuss the applicability and associated costs of right-to-copy pricing.

**TERMS AND CONDITIONS APPLICABLE TO PURCHASE OF GENERAL-PURPOSE COMMERCIAL INFORMATION TECHNOLOGY SOLUTIONS SUBCATEGORY, CLOUD AND CLOUD-RELATED IT PROFESSIONAL SERVICES (SPECIAL ITEM NUMBER 518210C)**

**1. SCOPE**

The prices, terms and conditions stated under Special Item Number (SIN) 518210C Cloud Computing Services apply exclusively to Cloud Computing Services within the scope of this Information Technology Schedule.

This SIN provides ordering activities with access to technical services that run-in cloud environments and meet the NIST Definition of Cloud Computing Essential Characteristics. Services relating to or impinging on cloud that do not meet all NIST essential characteristics should be listed in other SINs.

The scope of this SIN is limited to cloud capabilities provided entirely as a service. Hardware, software and other artifacts supporting the physical construction of a private or other cloud are out of scope for this SIN. Currently, an Ordering Activity can procure the hardware and software needed to build on premise cloud functionality, through combining different services on other Federal Supply Schedule SINs (e.g. 54151S).

Sub-categories in scope for this SIN are the three NIST Service Models: Software as a Service (SaaS), Platform as a Service (PaaS), and Infrastructure as a Service (IaaS). Offerors may optionally select a single sub-category that best fits a proposed cloud service offering. Only one sub-category may be selected per each proposed cloud service offering. Offerors may elect to submit multiple cloud service offerings, each with its own single sub-category. The selection of one of three sub-categories does not

prevent Offerors from competing for orders under the other two sub-categories.

See service model guidance for advice on sub-category selection.

Sub-category selection within this SIN is optional for any individual cloud service offering, and new cloud computing technologies that do not align with the aforementioned three sub-categories may be included without a sub-category selection so long as they comply with the essential characteristics of cloud computing as outlined by NIST.

See Table 1 for a representation of the scope and sub-categories.

**Table 1: Cloud Computing Services SIN**

SIN Description	Sub-Categories <sup>1</sup>
<ul style="list-style-type: none"> <li>• Commercially available cloud computing services</li> <li>• Meets the National Institute for Standards and Technology (NIST) definition of Cloud Computing essential characteristics</li> <li>• Open to all deployment models (private, public, community or hybrid), vendors specify deployment models</li> </ul>	<p><b>1. Software as a Service (SaaS):</b> Consumer uses provider’s applications on cloud infrastructure. Does not manage/control platform or infrastructure. Limited application level configuration may be available.</p> <p><b>2. Platform as a Service (PaaS):</b> Consumer deploys applications onto cloud platform service using provider-supplied tools. Has control over deployed applications and some limited platform configuration but does not manage the platform or infrastructure.</p> <p><b>3. Infrastructure as a Service (IaaS):</b> Consumer provisions computing resources. Has control over OS, storage, platform, deployed applications and some limited infrastructure configuration, but does not manage the infrastructure.</p>
<p><sup>1</sup> Offerors may optionally select the single sub-category that best fits each cloud service offering, per Service Model Guidance, or select no sub-category if the offering does not fit an existing NIST service model.</p>	

**2. DESCRIPTION OF CLOUD COMPUTING SERVICES AND PRICING**

a. Service Description Requirements for Listing Contractors

The description requirements below are in addition to the overall Schedule 70 evaluation criteria described in SCP-FSS-001-N Instructions Applicable to New Offerors (Alternate I – MAR 2016) or SCP-FSS-001-S Instructions Applicable to Successful FSS Program Contractors, as applicable, SCP-FSS-004 and other relevant publications.

Refer to overall Federal Supply Schedule requirements for timelines related to description and other schedule updates, including but not limited to clauses 552.238-81 – section E and clause I-FSS-600.

Table 2 summarizes the additional Contractor-provided description requirements for services proposed under the Cloud Computing Services SIN. All mandatory description requirements must be complete, and adequate according to evaluation criteria.

In addition, there is one “Optional” reporting description which exists to provide convenient service selection by relevant criteria. Where provided, optional description requirements must be complete and adequate according to evaluation criteria:

- (1) The NIST Service Model provides sub-categories for the Cloud SIN and is strongly encouraged, but not required. The Service Model based sub-categories provide this SIN with a structure to assist ordering activities in locating and comparing services of interest. Contractors may optionally select the single service model most closely corresponding to the specific service offering.
- (2) If a sub-category is selected it will be evaluated with respect to the NIST Service Model definitions and guidelines in “Guidance for Contractors”.

b. Pricing of Cloud Computing Services

All current pricing requirements for Schedule 70, including provision SCP-FSS-001-N (Section III Price Proposal), SCP-FSS-001-S, SCP-FSS-004 (Section III Price Proposal), and clause I-FSS-600 Contract Price Lists, apply. At the current time there is no provision for reducing or eliminating standard price list posting requirements to accommodate rapid cloud price fluctuations.

In addition to standard pricing requirements, all pricing models must have the core capability to meet the NIST Essential Cloud Characteristics, particularly with respect to on-demand self-service, while allowing alternate variations at the task order level at agency discretion, pursuant to the guidance on NIST Essential Characteristics.

**3. RESPONSIBILITIES OF THE CONTRACTOR**

The Contractor shall comply with all laws, ordinances, and regulations (Federal, State, City, or otherwise) covering work of this character.

a. Acceptance Testing

Any required Acceptance Test Plans and Procedures shall be negotiated by the Ordering Activity at task order level. The Contractor shall perform acceptance testing of the systems for Ordering Activity approval in accordance with the approved test procedures.

b. Training

If training is provided commercially the Contractor shall provide normal commercial installation, operation, maintenance, and engineering interface training on the system. Contractor is responsible for indicating if there are separate training charges.

c. Information Assurance/Security Requirements

The contractor shall meet information assurance/security requirements in accordance with the Ordering Activity requirements at the Task Order level.

d. Related Professional Services

The Contractor is responsible for working with the Ordering Activity to identify related professional services and any other services available on other SINs that may be associated with deploying a complete cloud solution. Any additional substantial and ongoing professional services related to the offering such as integration, migration, and other cloud professional services are out of scope for this SIN.

e. Performance of Cloud Computing Services

The Contractor shall respond to Ordering Activity requirements at the Task Order level with proposed capabilities to Ordering Activity performance specifications or indicate that only standard specifications are offered. In all cases the

**Table 2: Cloud Service Description Requirements**

#	Descriptions Requirement	Reporting Type	Instructions
1	Provide a brief written description of how the proposed cloud computing services satisfies each individual essential NIST Characteristic	Mandatory	The cloud service must be capable of satisfying each of the five NIST essential Characteristics as outlined in NIST Special Publication 800-145. See ‘GUIDANCE FOR CONTRACTORS: NIST Essential Characteristics’ below in this document for detailed overall direction, as well as guidance on inheriting essential characteristics.
2	Select NIST deployment models for the cloud computing service proposed.	Mandatory	Contractors must select at least one NIST deployment model as outlined in NIST Special Publication 800- 145 describing how the proposed cloud computing service is deployed. Select multiple deployment models if the service is offered in more than one deployment model. See ‘GUIDANCE FOR CONTRACTORS: NIST Deployment Model’ below in this document for detailed direction on how to best categorize a service for the NIST deployment models.
3	Optionally select the most appropriate NIST service model that will be the designated sub-category or may select no sub-category.	Optional	Contractor may select a single NIST Service model to sub-categorize the service as outlined in NIST Special Publication 800-145. Sub-category selection is optional but recommended. See ‘GUIDANCE FOR CONTRACTORS: NIST Service Model’ below in this document for detailed direction on how to best categorize a service for the NIST IaaS, PaaS, and SaaS service models.

Contractor shall clearly indicate standard service levels, performance and scale capabilities.

The Contractor shall provide appropriate cloud computing services on the date and to the extent and scope agreed to by the Contractor and the Ordering Activity.

f. Reporting

The Contractor shall respond to Ordering Activity requirements and specify general reporting capabilities available for the Ordering Activity to verify performance, cost and availability.

In accordance with commercial practices, the Contractor may furnish the Ordering Activity/user with a monthly summary Ordering Activity report.

#### 4. RESPONSIBILITIES OF THE ORDERING ACTIVITY

The Ordering Activity is responsible for indicating the cloud computing services requirements unique to the Ordering Activity. Additional requirements should not contradict existing SIN or IT Schedule 70 Terms and Conditions. Ordering Activities should include (as applicable) Terms & Conditions to address Pricing, Security, Data Ownership, Geographic Restrictions, Privacy, SLAs, etc.

Cloud services typically operate under a shared responsibility model, with some responsibilities assigned to the Cloud Service Provider (CSP), some assigned to the Ordering Activity, and others shared between the two. The distribution of responsibilities will vary between providers and across service models. Ordering activities should engage with CSPs to fully understand and evaluate the shared responsibility model proposed. Federal Risk and Authorization Management Program (FedRAMP) documentation will be helpful regarding the security aspects of shared responsibilities, but operational aspects may require additional discussion with the provider.

a. Ordering Activity Information Assurance/Security Requirements Guidance

- (1) The Ordering Activity is responsible for ensuring to the maximum extent practicable that each requirement issued is in compliance with the Federal Information Security Management Act (FISMA) as applicable.
- (2) The Ordering Activity shall assign a required impact level for confidentiality, integrity and availability (CIA) prior to issuing the initial statement of work.<sup>1</sup>

The Contractor must be capable of meeting at least the minimum-security requirements assigned against a low-impact information system in each CIA assessment area (per FIPS 200) and must detail the FISMA capabilities

of the system in each of CIA assessment area.

- (3) Agency level FISMA certification, accreditation, and evaluation activities are the responsibility of the Ordering Activity. The Ordering Activity reserves the right to independently evaluate, audit, and verify the FISMA compliance for any proposed or awarded Cloud Computing Services.
- (4) The Ordering Activity has final responsibility for assessing the FedRAMP status of the service, complying with and making a risk-based decision to grant an Authorization to Operate (ATO) for the cloud computing service, and continuous monitoring. A memorandum issued by the Office of Management and Budget (OMB) on Dec 8, 2011 outlines the responsibilities of Executive departments and agencies in the context of FedRAMP compliance.<sup>2</sup>
- (5) Ordering activities are responsible for determining any additional information assurance and security related requirements based on the nature of the application and relevant mandates.

b. Deployment Model

If a particular deployment model (Private, Public, Community, or Hybrid) is desired, Ordering Activities are responsible for identifying the desired model(s). Alternately, Ordering Activities could identify requirements and assess Contractor responses to determine the most appropriate deployment model(s).

c. Delivery Schedule

The Ordering Activity shall specify the delivery schedule as part of the initial requirement. The Delivery Schedule options are found in Information for Ordering Activities Applicable to All Special Item Numbers.

d. Interoperability

Ordering Activities are responsible for identifying interoperability requirements. Ordering Activities should clearly delineate requirements for API implementation and standards conformance.

e. Performance of Cloud Computing Services

The Ordering Activity should clearly indicate any custom minimum service levels, performance and scale requirements as part of the initial requirement.

<sup>1</sup> Per Federal Information Processing Standards Publication 199 & 200 (FIPS 199, "Standards for Security Categorization of Federal Information and Information Systems") (FIPS 200, "Minimum Security Requirements for Federal Information and Information Systems")

<sup>2</sup> MEMORANDUM FOR CHIEF INFORMATION OFFICERS: Security Authorization of Information Systems in Cloud Computing Environments, December 8, 2011

f. Reporting

The Ordering Activity should clearly indicate any cost, performance or availability reporting as part of the initial requirement.

g. Privacy

The Ordering Activity should specify the privacy characteristics of their service and engage with the Contractor to determine if the cloud service is capable of meeting Ordering Activity requirements. For example, a requirement could be requiring assurance that the service is capable of safeguarding Personally Identifiable Information (PII), in accordance with NIST SP 800-1224<sup>3</sup> and OMB memos M-06-16<sup>4</sup> and M-07-16<sup>5</sup>. An Ordering Activity will determine what data elements constitute PII according to OMB Policy, NIST Guidance and Ordering Activity policy.

h. Accessibility

The Ordering Activity should specify the accessibility characteristics of their service and engage with the Contractor to determine the cloud service is capable of meeting Ordering Activity requirements. For example, a requirement could require assurance that the service is capable of providing accessibility based on Section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d).

i. Geographic Requirements

Ordering activities are responsible for specifying any geographic requirements and engaging with the Contractor to determine that the cloud services offered have the capabilities to meet geographic requirements for all anticipated task orders. Common geographic concerns could include whether service data, processes and related artifacts can be confined on request to the United States and its territories, or the continental United States (CONUS).

j. Data Ownership and Retrieval and Intellectual Property

Intellectual property rights are not typically transferred in a cloud model. In general, CSPs retain ownership of the Intellectual Property (IP) underlying their services and the customer retains ownership of its intellectual property. The CSP gives the customer a license to use the cloud services for the duration of the contract without transferring rights. The government retains ownership of the IP and data they bring to the customized use of the service as spelled out in the FAR and related materials.

General considerations of data ownership and retrieval are covered under the terms of Schedule 70 and the FAR and other laws, ordinances, and regulations (Federal, State, City, or otherwise).

Because of considerations arising from cloud shared responsibility models, ordering activities should engage with the Contractor to develop more cloud-specific understandings of the boundaries between data owned by the government and that owned by the cloud service provider, and the specific terms of data retrieval.

In all cases, the Ordering Activity should enter into an agreement with a clear and enforceable understanding of the boundaries between government and cloud service provider data, and the form, format and mode of delivery for each kind of data belonging to the government.

The Ordering Activity should expect that the Contractor shall transfer data to the government at the government's request at any time, and in all cases when the service or order is terminated for any reason, by means, in formats and within a scope clearly understood at the initiation of the service. Example cases that might require clarification include status and mode of delivery for:

- Configuration information created by the government and affecting the government's use of the cloud provider's service.
- Virtual machine configurations created by the government but operating on the cloud provider's service.
- Profile, configuration and other metadata used to configure SaaS application services or PaaS platform services.

The key is to determine in advance the ownership of classes of data and the means by which Government owned data can be returned to the Government.

k. Service Location Distribution

The Ordering Activity should determine requirements for continuity of operations and performance and engage with the Contractor to ensure that cloud services have adequate service location distribution to meet anticipated requirements. Typical concerns include ensuring that:

- (1) Physical locations underlying the cloud are numerous enough to provide continuity of operations and geographically separate enough to avoid an anticipated single point of failure within the scope of anticipated emergency events.
- (2) Service endpoints for the cloud are able to meet anticipated performance

<sup>3</sup> NIST SP 800-122, "Guide to Protecting the Confidentiality of Personally Identifiable Information (PII)"

<sup>4</sup> OMB memo M-06-16: Protection of Sensitive Agency Information Hyperlink: <http://www.whitehouse.gov/sites/default/files/omb/memoranda/fy2006/m06-16.pdf>

<sup>5</sup> OMB Memo M-07-16: Safeguarding Against and Responding to the Breach of Personally Identifiable Information. Hyperlink: <http://www.whitehouse.gov/sites/default/files/omb/memoranda/fy2007/m07-16.pdf>

requirements in terms of geographic proximity to service requestors.

Note that cloud providers may address concerns in the form of minimum distance between service locations, general regions where service locations are available, etc.

**I. Related Professional Services**

Ordering activities should engage with Contractors to discuss the availability of limited assistance with initial setup, training and access to the services that may be available through this SIN.

Any additional substantial and ongoing professional services related to the offering such as integration, migration, and other cloud professional services are out of scope for this SIN. Ordering activities should consult the appropriate GSA professional services schedule.

**TERMS AND CONDITIONS APPLICABLE TO PURCHASE OF GENERAL-PURPOSE COMMERCIAL INFORMATION TECHNOLOGY SOLUTIONS SUBCATEGORY, CONTINUOUS DIAGNOSTICS AND MITIGATION (CDM) TOOLS (SPECIAL ITEM NUMBER 541519CDM)**

**1. GLOSSARY OF DEFINITIONS**

- a. **“Documentation”** shall mean Manufacturer’s then current help guides, specifications and operating manuals issued by Manufacturer and made generally available by Manufacturer for the Equipment and/or Software whether on-line or in hard copy.
- b. **“Equipment”** shall mean the computer hardware identified on Attachment B to this schedule pricelist.
- c. **“Equipment Maintenance Services”** shall mean the Equipment maintenance services provided by Contractor through an applicable Manufacturer under this contract in accordance with the Manufacturer’s then-current Maintenance Services Policy.
- d. **“Software Maintenance Services”** shall mean the Software maintenance and support services provided by Contractor through an applicable Manufacturer under this contract in accordance with the Manufacturer’s then current Maintenance Services Policy.
- e. **“Maintenance Services Policy”** shall mean the commercial terms describing a Manufacturer’s standard Equipment or Software maintenance and support offerings, policies and procedures, a copy of which is located on Attachment A to this schedule pricelist.
- f. **“Services”** shall mean services associated with products, other than Software Maintenance Services, Equipment Maintenance Services, and training.

- g. **“Software”** shall mean (i) the version of the computer program identified on Attachment B and (ii) updates to such programs.

**2. SCOPE**

- a. Special Item Number (SIN) 541519CDM Continuous Diagnostics and Mitigation (CDM) Tools is a solutions SIN. This SIN includes both Equipment and Software products and any associated services for the products to include installation, maintenance, and training.
- b. In addition to the terms and conditions of this CDM SIN: the terms and conditions of SIN 33411 shall apply to the purchase of Equipment provided under the CDM SIN; the terms and conditions of SIN 811212 shall apply to Equipment Maintenance Services provided under the CDM SIN; the terms and conditions of SINs 511210 and 54151 shall apply to Software and Software Maintenance Services provided under the CDM SIN; and the terms and conditions of SIN 611420 shall apply to the purchase of training courses provided under the CDM SIN.
- c. 541519CDM - Continuous Diagnostics and Mitigation Tools - SUBJECT TO COOPERATIVE PURCHASING - Includes Continuous Diagnostics and Mitigation (CDM) Approved Products List (APL) Equipment and Software products/tools and associated Services and Maintenance Services. The full complement of CDM subcategories includes tools, associated Maintenance Services, and other related activities such as training.
- d. The 5 subcategories CDM capabilities specified under this SIN are:
  - (1) Manage “What is on the network?”: Identifies the existence of hardware, software, configuration characteristics and known security vulnerabilities.
  - (2) Manage “Who is on the network?”: Identifies and determines the users or systems with access authorization, authenticated permissions and granted resource rights.
  - (3) Manage “How is the network protected?”: Determines the user/system actions and behavior at the network boundaries and within the computing infrastructure.
  - (4) Manage “What is happening on the network?”: Prepares for events/incidents, gathers data from appropriate sources; and identifies incidents through analysis of data.
  - (5) Emerging Tools and Technology: Includes CDM cybersecurity tools and technology not in any other subcategory.

5 subcategories represent the scope of the CDM program and reflect widely exercised functional

and operational scenarios that CDM is interested in identifying, monitoring and addressing from a security perspective.

To provide a holistic security approach, these capabilities adhere to the National Institute of Science and Technology (NIST) Cybersecurity Framework security functions to identify, protect, detect, respond and recover. CDM also supports and can be used in the NIST Risk Management Framework (RMF) to achieve ongoing assessment and authorization.

As shown in Table 1, the 5 CDM Tools SIN subcategories cover the previous CDM BPA 15 CDM Tool Functional Areas (TFAs) and allow for future innovation.

**Table 1: SIN to TFA mapping**

5 SIN Subcategories	15 CDM BPA TFAs
1. Manage “What is on the network?”	<ul style="list-style-type: none"> <li>● TFA 1 – Hardware Asset Management</li> <li>● TFA 2 – Software Asset Management</li> <li>● TFA 3 – Configuration Settings Management</li> <li>● TFA 4 – Vulnerability Management</li> </ul>
2. Manage “Who is on the network?”	<ul style="list-style-type: none"> <li>● TFA 6 – Manage Trust in People Granted Access</li> <li>● TFA 7 – Manage Security-Related Behavior</li> <li>● TFA 8 – Manage Credential and Authentication</li> <li>● TFA 9 – Manage Account/Access/Manage Privileges</li> </ul>
3. Manage “How is the boundary protected?” for BOUND	<ul style="list-style-type: none"> <li>● TFA 5 – Manage Network Access Controls</li> </ul>
4. Manage “What is happening on the network?” for MNGEVT	<ul style="list-style-type: none"> <li>● TFA 10 – Prepare for Contingencies and Incidents</li> <li>● TFA 11 – Respond to Contingencies and Incidents</li> </ul>
4. Manage “What is happening on the network?” for DBS	<ul style="list-style-type: none"> <li>● TFA 12 – Design and Build in Requirements Policy and Planning</li> <li>● TFA 13 – Design and Build in Quality</li> </ul>
4. Manage “What is happening on the network?” for OMI	<ul style="list-style-type: none"> <li>● TFA 14 – Manage Audit Information</li> <li>● TFA 15 – Manage Operation Security</li> </ul>
5. Emerging Tools and Technologies	Future innovations

**(1) Manage “What is on the network?”**

Focus: The primary focus of Manage Assets is to identify “What is on the network?”; that is, to identify the existence of hardware, software, configuration characteristics and known security vulnerabilities.

Manage hardware and software baseline system inventory is based on Phase 1 Hardware Asset Management (HWAM) and Software Asset Management (SWAM) requirements that requires the discovery and identification of devices to define a baseline of inventory hardware and software assets to establish the Agency’s span of control.

Hardware and software configurations are based on Phase 1 Configuration Settings Management (CSM) requirements to ensure

that hardware and software (specifically the operating system and installed applications) assets are securely configured and hardened.

Manage vulnerabilities is based on Phase 1 Vulnerability Management (VUL) requirements to identify and manage vulnerabilities in software installed on network devices to minimize exploitation of known software weaknesses.

These CDM capabilities cover verification and validation for the existence of hardware infrastructure devices; the accurate identification of approved software components; verification and validation that hardware devices have the correct security configuration settings, and system platform is hardened to reduce the platform attack surface; and the identification and management of risks presented by known software weaknesses that are subject to exploitation.

These CDM capabilities support the Cybersecurity Framework functions of: identify, protect and detect.

**(2) Manage “Who is on the network?”**

Focus: The primary focus of Manage People is to determine “Who is on the network?”; that is, identify and determine the users or systems with authorized access.

Manage People is based on Phase 2 PRIV, CRED, TRUST and BEHAVE requirements that require the management of users/accounts as an asset to assure the appropriate individual has the right access to the right resource.

This CDM capability covers the verification and validation of allowed user privileges, issuance and management of user owned credentials, appropriate user security behavior training, trustworthiness, authenticated permissions, and management of resource access rights granted to users.

These CDM capabilities support the Cybersecurity Framework functions of: identify, protect and detect.

**(3) Manage “How is the boundary protected?”**

Focus: The primary focus of Mangle Boundary Protection is to determine “How is the boundary protected?”; that is, to determine the user/system actions and behavior at the physical/logical network boundaries and within the computing infrastructure.

“How is the boundary protected?” is based on Phase 3 BOUND requirements to defend physical and logical network boundaries and identify abnormal behavior (of networks and users) that may identify that an incident has occurred.

This CDM capability covers verification and validation of logical and physical network interfaces to reduce intrusive, malicious, and disruptive attacks; cryptographic mechanisms ensure confidentiality and integrity of data on the network; and methods to identify security incidents.

These CDM capabilities support the Cybersecurity Framework functions of: identify, protect and detect.

**(4) Manage “What is happening on the network?”**

Due to the complexity to manage “What is happening on the network?”; this area is covered by three focus areas:

- a. Manage Events (MNGEVT)
- b. Operate, Monitor and Improve (OMI)
- c. Design and Build in Security (DBS)

**Manage Events**

Focus: Manage Events is responsible for preparing for events/incidents, gathering appropriate audit data from appropriate sources, identifying incidents through analysis of data, and performing ongoing assessment.

Manage Events is based on the Phase 3 MNGEVT requirements to prepare for incidents/events (through processes, policies, and procedures), gather appropriate audit/log data from appropriate sources, and identify events/incidents (network and user abnormal behavior) through the analysis of audit/log data.

Manage Events supports the runtime collection of attributes (actual state) and continuous monitoring of the policies related to attributes for Ongoing Assessment (actual state vs. desired state) to enhance current or apply new security and privacy controls and countermeasures. The results of the Ongoing Assessment will be used as inputs to OMI Ongoing Authorization risk assessment process to determine if the level of risk remains acceptable for a given information system to support continued authorization and operation.

Ongoing Assessment is the continuous process of comparing security related attributes between the Actual State and the Desired State. This comparison is performed by the CDM Policy Decision Point (PDP). The discrepancy between Actual State and Desired state impacts the security posture of the implementation of NIST SP 800-53 controls and countermeasures. The results of the Ongoing Assessment are used to evaluate the changes in risk posture associated with the discrepancy. Ideally, the Ongoing Assessment process is fully automated with the Desired State being encoded in the CDM PDP and the Actual State being measured using CDM sensors.

This CDM capability covers verification and validation of processes, policies, and procedures supporting cybersecurity preparation, audit and log data collection, security analysis of audit/log data, incident reporting to provide forensic evidence of malicious or suspicious behavior, and ongoing assessment.

To provide a holistic security approach, this capability adheres to the Cybersecurity Framework security functions to identify, protect, detect, respond and recover CDM also supports and can be used in the NIST Risk Management Framework (RMF) to achieve ongoing assessment and authorization.

### **Operate, Monitor and Improve**

Focus: Operate, Monitor and Improve is responsible for audit data aggregation, correlation, and analysis, incident prioritization and response, and post-incident activities (e.g., information sharing).

Operate, Monitor and Improve is based on Phase 3 OMI requirements for audit data aggregation, correlation and analysis, incident prioritization and response, and post incident activities (e.g., information sharing).

Ongoing Authorization is the continuous evaluation of the change in risk level related to changes in security policies concerning static object attributes (i.e., actual state and desired state) for threat behaviors that impact the security posture. This impact to security is measured by capturing changes in existing safeguards (e.g., NIST SP 800-53 controls and countermeasures) and identification of new component weaknesses and vulnerabilities.

This CDM capability covers verification and validation of processes/procedures to aggregate, correlate, and analyze audit/log data, to prioritize incidents and associated response actions, to quickly mitigate the impact of an incidents, to take appropriate remediation actions to eliminate the impact (restore normal

operations) of the same incident, to support information sharing and collaboration (both internal and external) to minimize or prevent impact of future incidents, and ongoing authorization.

To provide a holistic security approach, this capability adheres to the Cybersecurity Framework security functions to identify, protect, detect, respond and recover. CDM also supports and can be used in the NIST Risk Management Framework (RMF) to achieve ongoing assessment and authorization.

### **Design and Build in Security**

Focus: Design and Build in Security is responsible for preventing exploitable vulnerabilities from being effective in the software/system while in development or deployment. The Design and Build in Security process is focused on identifying, controlling and removing weaknesses/vulnerabilities from the software/system. Exploitable vulnerabilities may include software/system design, coding errors, software/system designs that leave a large and complex attack surface that cannot be defended, and weaknesses that can only be exploited during system/software execution.

Design and Build in Security is based on the Phase 3 DBS requirements that extend the focus of Phase 1 Software Asset Management and Vulnerability Management to achieve a level of confidence that software is free from vulnerabilities, either intentionally designed into the software or accidentally inserted at any time during its life cycle and that the software functions in the intended manner.

The U.S. government and critical infrastructure sectors are increasingly dependent on commercial products and systems, which present significant benefits including low cost, interoperability, rapid innovation, a variety of product features, and choice among competing vendors. However, with some of these benefits there is an increase in the risk of a threat event which can directly or indirectly affect the supply chain, which often go undetected, and may result in risks to the acquirer. The purpose of Supply Chain Risk Management (SCRM) is to enable the provisioning of the least vulnerable solutions to agencies, through a robust assessment of supply chain risks, communication about those risks to the agencies, and appropriate response and monitoring of those risks throughout the entire system lifespan.

This CDM capability covers verification and validation of processes/procedures to prevent and detect software vulnerabilities, to determine the provenance of system components, and to measure software assurance for built and acquired software components.

To provide a holistic security approach, this capability adheres to the Cybersecurity Framework security functions to identify, protect, detect, respond and recover to security infractions due to malicious behavior and unintentional user actions during normal operations.

### **(5) Emerging Tools and Technologies**

Focus: Innovative capabilities to cybersecurity not currently encompassed by the other capability areas.

## **3. STANDARDS COMPLIANCE**

Contractors providing offerings through the CDM Tools SIN must provide compliant products and services in accordance with the laws and standards cited herein. Additional laws and standards may be applicable to specific orders and Blanket Purchase Agreements.

**4. ORDER**

- a. Written orders, EDI orders (GSA Advantage! and FACNET), credit card orders, and orders placed under blanket purchase agreements (BPA) agreements shall be the basis for purchase in accordance with the provisions of this contract. If time of delivery extends beyond the expiration date of the contract, the Contractor will be obligated to meet the delivery and installation date specified in the original order.
- b. All delivery or task orders are subject to the terms and conditions of the contract. In the event of conflict between an order and the contract, the contract will take precedence.

**5. ENTERPRISE USER LICENSE AGREEMENTS REQUIREMENTS (EULA)/COMMERCIAL SUPPLIER AGREEMENTS (CSAs)**

The Contractor shall provide all Commercial Supplier Agreements (CSAs) to include End User License Agreements (EULAs) or Terms of Service (ToS) in an editable Microsoft Office (Word) format.

**6. TECHNICAL SERVICES**

A hotline technical support number for the purpose of providing user assistance and guidance in the implementation of any software provided as part of Equipment Maintenance Services or Software Maintenance Services.

**7. PERFORMANCE OF SERVICES ASSOCIATED WITH PRODUCTS**

- a. The Contractor shall commence performance of Services on the date agreed to by the Contractor and the Ordering Activity.
- b. The Contractor agrees to render Services during normal working hours, unless otherwise agreed to by the Contractor and the Ordering Activity.
- c. The Ordering Activity should include the criteria for satisfactory completion of each order. Services shall be completed in a good and workmanlike manner.
- d. Any Contractor travel required in the performance of the CDM Tools SIN for a specific requirement at the order level must comply with the Federal Travel Regulation or Joint Travel Regulations, as applicable, in effect on the date(s) the travel is performed. Established Federal Government per diem rates will apply to all Contractor travel. Contractors cannot use GSA city pair contracts. All travel will be agreed upon with the Ordering Activity prior to the Contractor's travel.

**8. RESPONSIBILITIES OF THE CONTRACTOR**

- a. The Contractor shall comply with all laws, ordinances, and regulations (Federal, State, City, or otherwise) covering work of this character. If the end product of an order is custom-developed software, FAR 52.227-14 Rights in Data may apply.

- b. The Contractor shall comply with contract clause (FAR 52.204-21) for the basic safeguarding of contractor information systems that process, store, or transmit Federal contract information (as defined in the contract clause) received by the Contractor in performance of the contract.

**9. INVOICES FOR SERVICES**

The Contractor, upon completion of the Services ordered, shall submit invoices. FAR 52.212-4 in the contract contains terms for commercial items. Progress payments may be authorized by the ordering activity on individual orders if appropriate. Progress payments shall be based upon completion of defined milestones or interim products. Invoices shall be submitted monthly for recurring Services performed during the preceding month

**10. DESCRIPTION OF PRODUCTS AND SERVICES AND PRICING**

The Contractor shall provide a description of offerings under CDM Tools SIN in the same manner as the Contractor sells to its commercial and Ordering Activity customers. The Contractor shall provide pricing and a description with part numbers for products and the associated services that have been approved as part of the Product Qualification Requirements of the SIN. Any applicable delivery and licensing terms should be included.

**11. TOTAL SOLUTION**

Labor categories/qualifications are not included in this SIN; however, ordering activities may acquire a total solution to meet a specific requirement for an order or BPA involving multiple Federal Supply Schedule SINs. Contractors report the sales to GSA under the SINs the items are sold. For example, an agency may post an RFQ requesting a total solution anticipating offerings from multiple SINs, such as IT Professional Services 54151S or Highly Adaptive Cybersecurity Services (HACS) 54151HACS along with CDM Tools 541519CDM for products and product associated services.

**TERMS AND CONDITIONS APPLICABLE TO PURCHASE OF GENERAL-PURPOSE COMMERCIAL INFORMATION TECHNOLOGY TRAINING SUBCATEGORY, INFORMATION TECHNOLOGY TRAINING (SPECIAL ITEM NUMBER 611420)**

**1. GLOSSARY OF DEFINITIONS**

- a. **“Training Materials”** shall mean the, manuals, handbooks, texts, handouts, etc. normally provided with course offerings.
- b. **“Training Catalog”** shall mean the document setting out a description of the training services and courses offered along with the related policies and procedures in regard to such training.

**2. SCOPE**

- a. The Contractor through the Manufacturer shall provide training courses normally available to commercial customers, which will permit Ordering Activity users to make full, efficient use of general-purpose commercial IT products. Training is restricted to training courses for those products within the scope of this solicitation.
- b. The Contractor shall provide training at the Contractor's or Manufacturer's facility and/or at

the Ordering Activity's location, as agreed to by the Contractor and the Ordering Activity.

### 3. ORDER

Written orders, EDI orders (GSA Advantage! and FACNET), credit card orders, and orders placed under blanket purchase agreements (BPAs) shall be the basis for the purchase of training courses in accordance with the terms of this contract. Orders shall include the student's name, course title, course date and time, and contracted dollar amount of the course.

### 4. TIME OF DELIVERY

The Contractor or its Manufacturer shall conduct training on the date (time, day, month, and year) agreed to by the Contractor and the Ordering Activity.

### 5. CANCELLATION AND RESCHEDULING

- a. Terms and conditions governing a Manufacturer's cancellation and rescheduling policies are as set forth in the applicable Manufacturer's Training Catalog.
- b. The Ordering Activity reserves the right to substitute one student for another up to the first day of class.
- c. In the event the Contractor is unable to conduct training on the date agreed to by the Contractor and the Ordering Activity, Contractor must notify the Ordering Activity at least seventy-two (72) hours before the scheduled training date.

### 6. FOLLOW-UP SUPPORT

Follow-up support to training courses is not available under the scope of this schedule contract unless expressly set forth in an applicable Manufacturer's Training Catalog and, in that case, follow-support shall be provided as stated therein.

### 7. PRICE FOR TRAINING

The price that the Ordering Activity will be charged will be the Ordering Activity training price in effect at the time of order placement, or the Ordering Activity price in effect at the time the training course is conducted, whichever is less.

### 8. INVOICES AND PAYMENT

Invoices for training shall be submitted by the Contractor after Ordering Activity completion of the training course. Charges for training must be paid in arrears (31 U.S.C. 3324). PROMPT PAYMENT DISCOUNT, IF APPLICABLE, SHALL BE SHOWN ON THE INVOICE.

### 9. FORMAT AND CONTENT OF TRAINING

- a. The Contractor or its Manufacturer shall provide the Training Materials normally provided with course offerings. Unless stated otherwise in an applicable Manufacturer's Training Catalog, such documentation will become the property of the student upon completion of the training class, provided, however, Contractor and or its Manufacturer shall retain all right, title and interest to the intellectual property rights contained therein (e.g., copyrights) and provided further, however, that such Training Materials

shall be considered the Confidential Information of Manufacturer and subject to the non-disclosure provisions set forth above in the terms applicable to SINs 511210 and 54151.

- b. For hands-on training courses, there must be a one-to-one assignment of IT equipment to students.
- c. The Contractor shall provide each student with a Certificate of Training at the completion of each training course.
- d. The Training Catalog shall provide most of the following information for each training course offered:
  - (1) The course title and a brief description of the course content, to include the course format (e.g., lecture, discussion, hands-on training);
  - (2) The length of the course;
  - (3) Mandatory and desirable prerequisites for student enrollment;
  - (4) The minimum and maximum number of students per class;
  - (5) The locations where the course is offered;
  - (6) Class schedules; and
  - (7) Price (per student, per class (if applicable)).
- e. For those courses conducted at the Ordering Activity's location, instructor travel charges (if applicable), including mileage and daily living expenses (e.g., per diem charges) are governed by Pub. L. 99-234 and FAR Part 31.205-46, and are reimbursable by the ordering activity on orders placed under the Multiple Award Schedule, as applicable, in effect on the date(s) the travel is performed. Contractors cannot use GSA city pair contracts. The Industrial Funding Fee does NOT apply to travel and per diem charges.
- f. For Online Training Courses, a copy of all training material must be available for electronic download by the students.

### 10. "NO CHARGE" TRAINING

"No charge" training is not available under the scope of this schedule contract.

**TERMS AND CONDITIONS APPLICABLE TO PURCHASE OF GENERAL-PURPOSE COMMERCIAL INFORMATION TECHNOLOGY ELECTRONIC COMMERCE SUBCATEGORY, ELECTRONIC COMMERCE AND SUBSCRIPTION SERVICES (SPECIAL ITEM NUMBER 54151ECOM)**

### 1. GLOSSARY OF DEFINITIONS

- a. "Service Provider" shall mean a provider of the Electronic Commerce Services

offered to Contractor through a letter of supply to be sold to Ordering Activities under this contract.

- b. "Statement of Work" shall mean the mutually agreed upon document between Contractor and Ordering Activity setting forth the description of services to be performed including milestones, any specifications and evaluation criteria.

## 2. SCOPE

- a. The prices, terms and conditions stated under Special Item Number 54151ECOM Electronic Commerce (EC) Services apply exclusively to EC Services within the scope of this Information Technology Schedule.
- b. The Contractor, through Service Provider, shall provide services at a location, as agreed to by the Contractor and the Ordering Activity.

## 3. PERFORMANCE INCENTIVES I-FSS-60 Performance Incentives (April 2000)

- a. Performance incentives may be agreed upon between the Contractor and the Ordering Activity on individual fixed price orders or Blanket Purchase Agreements under this contract.
- b. The Ordering Activity must establish a maximum performance incentive price for the services and/or total solutions on individual orders or Blanket Purchase Agreements.
- c. Incentives should be designed to relate results achieved by the contractor to specified targets. To the maximum extent practicable, Ordering Activities shall consider establishing incentives where performance is critical to the Ordering Activity's mission and incentives are likely to motivate the contractor. Incentives shall be based on objectively measurable tasks.

## 4. ORDER

- a. Agencies may use written orders, EDI orders, blanket purchase agreements, individual purchase orders, or task orders for ordering services under this contract. Blanket Purchase Agreements shall not extend beyond the end of the contract period; all services and delivery shall be made, and the contract terms and conditions shall continue in effect until the completion of the order. Orders for tasks which extend beyond the fiscal year for which funds are available shall include FAR 52.232-19 (Deviation – May 2003) Availability of Funds for the Next Fiscal Year. The purchase order shall specify the availability of funds and the period for which funds are available.

- b. All task orders are subject to the terms and conditions of the contract. In the event of conflict between a task order and the contract, the contract will take precedence.

## 5. PERFORMANCE OF SERVICES

- a. The Contractor shall commence performance of services on the date agreed to by the Contractor and the Ordering Activity.
- b. The Ordering Activity should include the criteria for satisfactory completion for each task in the Statement of Work or Delivery Order. Services shall be completed in a good and workmanlike manner.
- c. Any Contractor travel required in the performance of EC Services must comply with the Federal Travel Regulation or Joint Travel Regulations, as applicable, in effect on the date(s) the travel is performed. Established Federal Government per diem rates will apply to all Contractor travel. Contractors cannot use GSA city pair contracts.

## 6. STOP-WORK ORDER (FAR 52.242-15) (AUG 1989)

- a. The Contracting Officer may, at any time, by written order to the Contractor, require the Contractor to stop all, or any part, of the work called for by this contract for a period of 90 days after the order is delivered to the Contractor, and for any further period to which the parties may agree. The order shall be specifically identified as a stop-work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Within a period of 90 days after a stop-work is delivered to the Contractor, or within any extension of that period to which the parties shall have agreed, the Contracting Officer shall either:
  - i. Cancel the stop-work order; or
  - ii. Terminate the work covered by the order as provided in the Default, or the Termination for Convenience of the Government, clause of this contract.
- b. If a stop-work order issued under this clause is canceled or the period of the order or any extension thereof expires, the Contractor shall resume work. The Contracting Officer shall make an equitable adjustment in the delivery schedule or contract price, or both, and the contract shall be modified, in writing, accordingly, if-
- c. The stop-work order results in an increase in the time required for, or in the Contractor's cost properly allocable to, the performance of any part of this contract; and

- d. The Contractor asserts its right to the adjustment within 30 days after the end of the period of work stoppage; provided, that, if the Contracting Officer decides the facts justify the action, the Contracting Officer may receive and act upon the claim submitted at any time before final payment under this contract.
- e. If a stop-work order is not canceled and the work covered by the order is terminated for the convenience of the Government, the Contracting Officer shall allow reasonable costs resulting from the stop-work order in arriving at the termination settlement.

## 7. INSPECTION OF SERVICES

The Inspection of Services—Fixed Price (AUG 1996) (Deviation – May 2003) clause at FAR 52.246-4 applies to firm-fixed price orders placed under this contract. The Inspection—Time and Materials and Labor-Hour (MAY 2001) (Deviation – May 2003) clause at FAR 52.246-6 applies to time and materials and labor-hour orders placed under this contract.

## 8. RESPONSIBILITIES OF THE CONTRACTOR

The Contractor shall comply with all laws, ordinances, and regulations (Federal, State, City, or otherwise) covering work of this character. If the end product (i.e., deliverable) of a Statement of Work is custom developed software, then FAR 52.227-14 (Deviation – May 2003) Rights in Data – General, may apply.

## 9. RESPONSIBILITIES OF THE ORDERING ACTIVITY

Subject to security regulations, the Ordering Activity shall permit Contractor access to all facilities necessary to perform the requisite EC Services.

## 10. INDEPENDENT CONTRACTOR

All EC Services performed by the Contractor under the terms of this contract shall be as an independent Contractor, and not as an agent or employee of the Ordering Activity.

## 11. ORGANIZATIONAL CONFLICTS OF INTEREST

- a. Definitions.

An “Organizational conflict of interest” exists when the nature of the work to be performed under a proposed Ordering Activity contract, without some restriction on ordering activities by the Contractor and its affiliates, may either (i) result in an unfair competitive advantage to the Contractor or its affiliates or (ii) impair the Contractor’s or its affiliates’ objectivity in performing contract work.
- b. To avoid an organizational or financial conflict of interest and to avoid prejudicing the best interests of the Ordering Activity, ordering activities may place restrictions on the Contractors, its affiliates, chief executives, directors, subsidiaries and subcontractors at any tier when placing orders against schedule contracts. Such restrictions shall be consistent with FAR 9.505 and shall be designed to avoid, neutralize, or mitigate organizational

conflicts of interest that might otherwise exist in situations related to individual orders placed against the schedule contract. Examples of situations, which may require restrictions, are provided at FAR 9.508.

## 12. INVOICES

The Contractor, upon completion of the work ordered, shall submit invoices for EC services. Progress payments may be authorized by the Ordering Activity on individual orders if appropriate. Progress payments shall be based upon completion of defined milestones or interim products. Invoices shall be submitted monthly for recurring services performed during the preceding month.

## 13. PAYMENTS

- a. For firm-fixed price orders the Ordering Activity shall pay the Contractor, upon submission of proper invoices or vouchers, the prices stipulated in this contract for service rendered and accepted. Progress payments shall be made only when authorized by the order. For time and materials orders, the Payments under Time and Materials and Labor Hour Contracts at FAR 52.212-4 (MAR 2009) (ALTERNATE I – OCT 2008) (DEVIATION I – FEB 2007) applies to time and materials orders placed under this contract. For labor hour orders, the Payment under Time and Materials and Labor Hour Contracts at FAR 52.212-4 (MAR 2009) (ALTERNATE I – OCT 2008) (DEVIATION I – FEB 2007) applies to labor hour orders placed under this contract. 52.216-31(Feb 2007) Time-and-Materials/Labor-Hour Proposal Requirements—Commercial Item Acquisition. As prescribed in 16.601(e)(3), insert the following provision:
- b. The Government contemplates award of a Time-and-Materials or Labor-Hour type of contract resulting from this solicitation.
- c. The offeror must specify fixed hourly rates in its offer that include wages, overhead, general and administrative expenses, and profit. The offeror must specify whether the fixed hourly rate for each labor category applies to labor performed by—
  - i. The offeror;
  - ii. Subcontractors; and/or
  - iii. Divisions, subsidiaries, or affiliates of the offeror under a common control.

## 14. INCIDENTAL SUPPORT COSTS

Incidental support costs are available outside the scope of this contract. The costs will be negotiated separately with the Ordering Activity in accordance with the guidelines set forth in the FAR.

## 15. APPROVAL OF SUBCONTRACTS

The Ordering Activity understands that Contractor, as an authorized reseller, will ultimately subcontract or furnish any of the work called for in a task order or Statement of Work through an applicable Service Provider.

## 16. DESCRIPTION OF ELECTRONIC COMMERCE (EC) SERVICES AND PRICING

- a. A description of each type of EC Service offered under Special Item Numbers 54151ECOM E-Commerce is set forth in Attachment A. Services and rates should be presented in the same manner as the Contractor sells to its commercial customers and other Ordering Activity customers.
- b. Pricing for all EC Services shall be in accordance with the Contractor's customary commercial practices: e.g., hourly rates, monthly rates, term rates, unit prices and/or fixed prices.

### TERMS AND CONDITIONS APPLICABLE TO PURCHASE OF GENERAL-PURPOSE COMMERCIAL INFORMATION TECHNOLOGY TELECOMMUNICATIONS SUBCATEGORY, WIRELESS MOBILITY SOLUTIONS (SPECIAL ITEM NUMBER 517312)

#### 1. GLOSSARY OF DEFINITIONS

- a. "Service Provider" shall mean a provider of the Wireless Services offered to Contractor through a letter of supply to be sold to Ordering Activities under this contract.

#### 2. ACCEPTANCE TESTING

The Contractor shall provide acceptance test plans and procedures for ordering activity approval. The Contractor shall perform acceptance testing of the systems for ordering activity approval in accordance with the approved test procedures.

#### 3. EQUIPMENT

The Contractor shall make available cellular voice and data devices. The cellular devices offered shall be compatible with the cellular access standards employed within the geographical scope of contract.

The Contractor shall provide programming of any cellular telephone device, including Contractor-provided and ordering activity-furnished devices, that conforms to the cellular service furnished by the Contractor.

#### 4. WARRANTY

The Contractor shall provide a warranty covering each Contractor-provided device. The minimum duration of the warranty shall be the duration of the manufacturer's commercial warranty.

The warranty shall commence upon the later of the following:

- a. Activation of the user's service
- b. Installation/delivery of the equipment

The Contractor, by repair or replacement of the defective item, shall use reasonable commercial efforts to complete all warranty services promptly upon notification of the defect. Warranty service shall be deemed complete when the user has possession of the repaired or replaced item. If the Contractor renders warranty service by replacement, the user shall return the defective item(s) to the Contractor as soon as possible but not later than ten (10) working days after notification.

## 5. MANAGEMENT AND OPERATIONS PRICING

The Contractor shall provide management and operations pricing on a uniform basis. All management and operations requirements for which pricing elements are not specified shall be provided as part of the basic service.

## 6. TRAINING

The Contractor shall provide normal commercial installation, operation, maintenance, and engineering interface training on the system at the prices specified in Attachment B.

## 7. MONTHLY REPORTS

In accordance with commercial practices, the Contractor may furnish the Ordering Activity/user with a monthly summary Ordering Activity report.

## 8. WIRELESS SERVICE PLAN

The wireless service plans offered by Contractor hereunder are listed by applicable Service Provider in Attachment A.

### USA COMMITMENT TO PROMOTE SMALL BUSINESS PARTICIPATION PROCUREMENT PROGRAMS

#### PREAMBLE

(Name of Company) provides commercial products and services to ordering activities. We are committed to promoting participation of small, small disadvantaged and women-owned small businesses in our contracts. We pledge to provide opportunities to the small business community through reselling opportunities, mentor-protégé programs, joint ventures, teaming arrangements, and subcontracting.

#### COMMITMENT

To actively seek and partner with small businesses.

To identify, qualify, mentor and develop small, small disadvantaged and women-owned small businesses by purchasing from these businesses whenever practical.

To develop and promote company policy initiatives that demonstrate our support for awarding contracts and subcontracts to small business concerns.

To undertake significant efforts to determine the potential of small, small disadvantaged and women-owned small business to supply products and services to our company.

To insure procurement opportunities are designed to permit the maximum possible participation of small, small disadvantaged, and women-owned small businesses.

To attend business opportunity workshops, minority business enterprise seminars, trade fairs, procurement conferences, etc., to identify and increase small businesses with whom to partner.

To publicize in our marketing publications our interest in meeting small businesses that may be interested in subcontracting opportunities.

We signify our commitment to work in partnership with small, small disadvantaged and women-owned small businesses to promote and increase their participation in ordering activity contracts.



Here is a general outline on how it works:

- The customer identifies their requirements.
- Federal Supply Schedule Contractors may individually meet the customer's needs, or - Federal Supply Schedule Contractors may individually submit a Schedules "Team Solution" to meet the customer's requirement.
- Customers make a best value selection.

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**ATTACHMENT A - CONTRACTOR SUPPLEMENTAL PRICELIST INFORMATION AND TERMS**

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**ATTACHMENT A  
CONTRACTOR SUPPLEMENTAL PRICELIST INFORMATION AND TERMS**

*INSTRUCTIONS: Select the Manufacturer whose supplemental pricelist information and terms you want to view.*

Manufacturer Name	
<a href="#">Anakam, Inc.</a>	<a href="#">Micro Focus</a>
<a href="#">BeyondTrust Software, Inc.</a>	<a href="#">MSC Software Corporation</a>
<a href="#">Bivio Networks, Inc.</a>	<a href="#">Napatech, Inc.</a>
<a href="#">BT Federal</a>	<a href="#">Nehemiah Security</a>
<a href="#">Cambium Networks</a>	<a href="#">Oracle America, Inc.</a>
<a href="#">Carbon Black (FKA Bit9, Inc.)</a>	<a href="#">Oversight Systems, Inc.</a>
<a href="#">Citrix Online, LLC (GetGo, Inc.)</a>	<a href="#">The Paciello Group</a>
<a href="#">Convergys Customer Management Group, Inc.</a>	<a href="#">Parasoft Corporation</a>
<a href="#">Dataguise, Inc.</a>	<a href="#">Pegasystems, Inc.</a>
<a href="#">Decision Lens, Inc.</a>	<a href="#">Pitney Bowes Software, Inc.</a>
<a href="#">DS Government Solutions Corp.</a>	<a href="#">Planview, Inc.</a>
<a href="#">Dvnatrace, LLC</a>	<a href="#">Pragma Systems, Inc.</a>
<a href="#">Egenera, Inc.</a>	<a href="#">PTC, Inc.</a>
<a href="#">Entco Government Software, LLC.</a>	<a href="#">QlikTech</a>
<a href="#">FireMon, LLC</a>	<a href="#">Qualys, Inc.</a>
<a href="#">Flexera Software, Inc.</a>	<a href="#">RedSeal Systems, Inc.</a>
<a href="#">ForeScout Technologies, Inc.</a>	<a href="#">RES Software, Inc.</a>
<a href="#">Freedom Scientific</a>	<a href="#">SailPoint Technologies, Inc.</a>
<a href="#">Gigamon</a>	<a href="#">SecureLogix Corporation</a>
<a href="#">Hewlett-Packard Company</a>	<a href="#">Serena Software, Inc.</a>
<a href="#">IBM</a>	<a href="#">Silver Peak Systems, Inc.</a>
<a href="#">Infor, Inc.</a>	<a href="#">Thunderhead, Inc.</a>
<a href="#">Information Builders, Inc.</a>	<a href="#">Upland Software</a>
<a href="#">Kaseva</a>	<a href="#">Verint Americas, Inc.</a>
<a href="#">Klas Telecom, Inc.</a>	<a href="#">Worksoft</a>
<a href="#">Kronos Incorporated</a>	<a href="#">ZvLab North America, LLC</a>
<a href="#">MarkLogic Corporation</a>	

Anakam, Inc.  
11710 Plaza America Drive  
Suite 500  
Reston, VA 20193

## immixTechnology Rider to Product Specific License Terms and Conditions (for U.S. Government End Users)

1. **Scope.** This Rider and the attached Anakam, Inc. ("Manufacturer") product specific license terms establish the terms and conditions enabling immixTechnology ("Contractor") to provide Manufacturer's information technology products and services to Ordering Activities under immixTechnology's GSA MAS IT70 contract number GS-35F-0265X (the "Schedule Contract"). Installation and use of the information technology shall be in accordance with this Rider and Manufacturer Specific Terms attached hereto, unless an Ordering Activity determines that it requires different terms of use and Manufacturer agrees in writing to such terms in a valid delivery order placed pursuant to the Schedule Contract.
2. **Applicability.** Whereas GSA and immixTechnology agreed at the time of Schedule Contract award upon a base set of terms and conditions applicable to all manufacturers and items represented on the Schedule Contract; and Whereas, the parties further agreed that all product specific license, warranty and software maintenance terms and conditions would be submitted at the time each new manufacturer was to be added to the Schedule Contract; Now, Therefore, the parties hereby agree that the product specific license, warranty and software maintenance terms set forth in Attachment A hereto (the "Manufacturer Specific Terms" or the "Attachment A Terms") are incorporated into the Schedule Contract, but only to the extent that they are consistent with federal law (e.g., the Anti-Deficiency Act (31 U.S.C. § 1341), the Contracts Disputes Act of 1978 (41 U.S.C. §§ 7101 *et seq.*), the Prompt Payment Act (31 U.S.C. §§ 3901 *et seq.*), the Anti-Assignment statutes (31 U.S.C. § 3727 and 41 U.S.C. § 15), DOJ's jurisdictional statute 28 U.S.C. § 516 (Conduct of Litigation Reserved to the Department of Justice (DOJ), and 28 U.S.C. § 1498 (Patent and copyright cases)). To the extent any Attachment A Terms are inconsistent with federal law (See, FAR 12.212(a)), such inconsistent terms shall be superseded, unenforceable and of no legal force or effect in all resultant orders under the Schedule Contract, including but not limited to the following provisions:
  - a) **Contracting Parties.** The GSA Customer ("Licensee") is the "Ordering Activity", defined as the entity authorized to order under GSA MAS contracts as set forth in GSA ORDER ADM 4800.2G (Feb 2011), as may be revised from time to time.
  - b) **Changes to Work and Delays.** Subject to GSAR Clause 552.243-72, Modifications (Federal Supply Schedule) (July 2000) (Deviation I – SEPT 2010), and 52.212-4(f) Excusable Delays (JUN 2010) regarding which the GSAR and the FAR provisions take precedence.
  - c) **Contract Formation.** Subject to FAR 1.601(a) and FAR 43.102, the GSA Customer Purchase Order must be signed by a duly warranted Contracting Officer, in writing. The same requirement applies to contract modifications affecting the rights of the parties. All terms and conditions intended to bind the Government must be included within the contract signed by the Government.
  - d) **Termination.** Clauses in the Manufacturer Specific Terms referencing termination or cancellation are superseded and not applicable to any GSA Customer order. Termination shall be governed by the FAR, the underlying GSA Schedule Contract and the terms in any applicable GSA Customer Purchase Orders. If the Contractor believes the GSA Customer to be in breach, it must file a claim with the Contracting Officer and continue to diligently pursue performance. In commercial item contracting under FAR 12.302(b), the FAR provisions dealing with disputes and continued performance cannot be changed by the Contracting Officer.
  - e) **Choice of Law.** Subject to the Contracts Disputes Act, the validity, interpretation and enforcement of this Rider shall be governed by and construed in accordance with the laws of the United States. In the event the Uniform Computer Information Transactions Act (UCITA) or any similar federal laws or regulations are enacted, to the extent allowed by federal law, they will not apply to this Rider or the underlying Schedule Contract.
  - f) **Equitable remedies.** Equitable remedies are generally not awarded against the Government absent a statute providing therefore. In the absence of a direct citation to such a statute, all clauses in the Manufacturer Specific Terms referencing equitable remedies are superseded and not applicable to any GSA Customer order.
  - g) **Unilateral Termination.** Unilateral termination by the Contractor does not apply to a GSA Customer Purchase Order and all clauses in the Manufacturer Specific Terms referencing unilateral termination rights of the Manufacturer are hereby superseded.
  - h) **Unreasonable Delay.** Subject to FAR 52.212-4(f) Excusable delays, the Contractor shall be liable for default unless the nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence such as, acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.

- i) **Assignment.** All clauses regarding the Contractor's assignment are subject to FAR 52.232-23, Assignment of Claims (JAN 1986) and FAR 42.12 Novation and Change-of-Name Agreements (Sep. 2013). All clauses governing the Contractor's assignment in the Manufacturer Specific Terms are hereby superseded.
- j) **Waiver of Jury Trial.** Waivers of Jury Trials are subject to FAR 52.233-1 Disputes (JULY 2002). The Government will not agree to waive any right that it may have under federal law. All clauses governing a waiver of jury trial in the Manufacturer Specific Terms are hereby superseded.
- k) **Government Indemnities.** This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered. The Interim FAR Rule dated June 21, 2013 and the Office of Legal Counsel opinion dated March 12, 2012 prohibit such indemnifications. All Manufacturer Specific Terms referencing customer indemnities are hereby superseded.
- l) **Contractor Indemnities.** All Manufacturer Specific Terms that violate DOJ's jurisdictional statute (28 U.S.C. § 516) by requiring that the Government give sole control over the litigation and/or settlement to the Contractor are hereby superseded. Nothing contained in the Manufacturer's Specific terms shall be construed in derogation of the U.S. Department of Justice's right to defend any claim or action brought against the U.S., pursuant to its jurisdictional statute.
- m) **Renewals.** All Manufacturer Specific Terms that provide for automatic renewals violate the Anti-Deficiency Act and are hereby superseded. This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered.
- n) **Future Fees or Penalties.** All Manufacturer Specific Terms that require the Government to pay any future fees, charges or penalties are hereby superseded unless specifically authorized by existing statutes, such as the Prompt Payment Act (31 U.S.C. § 3901 et seq.) or Equal Access To Justice Act (5 U.S.C. § 504; 28 U.S.C. § 2412).
- o) **Taxes.** Taxes are subject to FAR 52.212-4(k), which provides that the contract price includes all applicable federal, state, local taxes and duties. Contractor shall state separately on its invoices, taxes excluded from the fees, and the GSA Customer agrees to either pay the amount of the taxes (based on the current value of the equipment or services) to Contractor or provide it evidence necessary to sustain an exemption, in accordance with FAR 52.229-1 and FAR 52.229-3.
- p) **Third Party Terms.** When the end user is an instrumentality of the U.S., no license terms bind the GSA Customer unless included verbatim (not by reference) in the EULA, and the EULA is made an attachment to the underlying GSA Schedule Contract. All terms and conditions affecting the GSA Customer must be contained in a writing signed by a duly warranted Contracting Officer. Any third party manufacturer shall be brought into the negotiation, or the components acquired separately under federally-compatible agreements, if any. All Manufacturer Specific Terms that incorporate third party terms by reference are hereby superseded.
- q) **Dispute Resolution and Standing.** Any disputes relating to the Manufacturer Specific Terms or to this Rider shall be resolved in accordance with the FAR, the underlying GSA Schedule Contract, any applicable GSA Customer Purchase Orders, and the Contract Disputes Act. The Ordering Activity expressly acknowledges that ImmixTechnology as contractor, on behalf of the Manufacturer, shall have standing to bring such claim under the Contract Disputes Act.
- r) **Advertisements and Endorsements.** Pursuant to GSAR 552.203-71, use of the name or logo of any U.S. Government entity is prohibited. All Manufacturer Specific Terms that allow the Contractor to use the name or logo of a Government entity are hereby superseded.
- s) **Public Access to Information.** immixTechnology agrees that the attached Manufacturer Specific Terms and this Rider contain no confidential or proprietary information and acknowledges the Rider shall be available to the public.
- t) **Confidentiality.** Any provisions in the attached Manufacturer Specific Terms that require the Ordering Activity to keep certain information confidential are subject to the Freedom of Information Act (5 U.S.C. § 552), and any order by a United States Federal Court. When the end user is an instrumentality of the U.S. Government, neither this Rider, the Manufacturer's Specific Terms nor the Schedule Price List shall be deemed "confidential information" notwithstanding marking to that effect. Notwithstanding anything in this Rider, the Manufacturer's Specific Terms or the Schedule Contract to the contrary, the GSA Customer may retain such Confidential Information as required by law, regulation or its bonafide document retention procedures for legal, regulatory or compliance purposes; provided however, that such retained Confidential Information will continue to be subject to the confidentiality obligations of this Rider, the Manufacturer's Specific Terms and the Schedule Contract.

- u) **Alternate Dispute Resolution.** The GSA Customer cannot be forced to mediate or arbitrate. Arbitration requires prior guidance by the head of a federal agency promulgated via administrative rulemaking according to 5 U.S.C. § 575(c). GSA has not issued any because it considers the Board of Contract Appeals to be an adequate, binding ADR alternative. All Manufacturer Specific Terms that allow the Contractor to choose arbitration, mediation or other forms of alternate dispute resolution are hereby superseded.
  - v) **Ownership of Derivative Works.** Provisions purporting to vest exclusive ownership of all derivative works in the licensor of the standard software on which such works may be based are superseded. Ownership of derivative works should be as set forth in the copyright statute, 17 U.S.C. § 103 and the FAR clause at 52.227-14, but at a minimum, the GSA Customer shall receive unlimited rights to use such derivative works at no further cost.
3. **Order of Precedence/Conflict.** To the extent there is a conflict between the terms of this Rider and the terms of the underlying Schedule Contract or a conflict between the terms of this Rider and the terms of an applicable GSA Customer Purchase Order, the terms of the GSA Schedule Contract or any specific, negotiated terms on the GSA Customer Purchase Order shall control over the terms of this Rider. Any capitalized terms used herein but not defined, shall have the meaning assigned to them in the underlying Schedule Contract.

**ATTACHMENT A  
CONTRACTOR SUPPLEMENTAL PRICELIST INFORMATION AND TERMS**

**ANAKAM, INC.**

**ANAKAM LICENSE, WARRANTY AND SUPPORT TERMS**

**Section 1 - SOFTWARE LICENSE AND SERVICES AGREEMENT**

**1. DEFINITIONS**

- **"Affiliate(s)"** shall mean, with respect to the Ordering Activity: (1) all business units and divisions of Ordering Activity, and (2) any entity controlled by, controlling, or under common control with Ordering Activity. Such entity shall be deemed to be an "Affiliate" only so long as such control exists. Upon request, Ordering Activity agrees to confirm the Affiliate status of a particular entity.
- **"Anakam Materials"** shall mean any materials provided to Ordering Activity by Anakam in the course of performing Services other than Maintenance Services.
- **"Ancillary Program(s)"** shall mean the third party materials delivered with the Programs as specified in one or more Order Forms or the Documentation.
- **"Commencement Date"** shall mean the date on which the Program(s) specified in an Order Form is first delivered to

Ordering Activity.

- **"Documentation"** shall mean Anakam's then current on-line help, guides, and manuals published by Anakam and made generally available by Anakam for the Programs. Documentation shall include any updated Documentation that Anakam provides with Updates.
  - **"Maintenance Services"** shall mean the services provided by Anakam pursuant to its then current Maintenance Services Policy.
- **"Order Form(s)"** shall mean a document by which Ordering Activity orders Program licenses and related Services and which is executed by the parties. Each Order Form shall incorporate this Agreement by reference.
- **"Program(s)"** shall mean (i) the version of the Anakam software identified as Program(s) specified in an Order Form, and (ii) Updates to such Programs. Programs shall not include Ancillary Programs.
- **"Services"** shall mean all services provided by Anakam under this Agreement, including Maintenance Services, Training Services, the Programs, Ancillary Programs, Documentation and Anakam Materials.
- **"Supported Platform"** shall mean the hardware and software platforms (e.g., database server systems, application server systems, and client systems) that operate with the Programs as expressly set forth in the Documentation.
- **"Update(s)"** shall mean (a) subsequent releases of the Programs that Anakam makes generally available to its Ordering Activities, and that (i) add new features, functionality, and/or improved performance, (ii) operate on new or other databases, operating systems, or client or server platforms, or (iii) add new foreign language capabilities; (b) bug or error fixes, patches,



# CERTIFICATE OF LIABILITY INSURANCE

DATE(MM/DD/YYYY)  
07/30/2020

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

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

<b>PRODUCER</b> Aon Risk Services Northeast, Inc. New York NY Office One Liberty Plaza 165 Broadway, Suite 3201 New York NY 10006 USA	<b>CONTACT NAME:</b> PHONE (A/C. No. Ext): (866) 283-7122      FAX (A/C. No.): (800) 363-0105		
	<b>E-MAIL ADDRESS:</b>		
<b>INSURED</b> Arrow Electronics, Inc. and Subsidiaries immixGroup, Inc.; immixTechnology Inc.; EC America 9201 East Dry Creek Road Centennial CO 80112 USA	<b>INSURER(S) AFFORDING COVERAGE</b>		<b>NAIC #</b>
	INSURER A: ACE Fire Underwriters Insurance Co.		20702
	INSURER B: Indemnity Insurance Co of North America		43575
	INSURER C: ACE American Insurance Company		22667
	INSURER D: Federal Insurance Company		20281
	INSURER E: Allianz Global Risks US Insurance Co.		35300
INSURER F:			

Holder Identifier :

**COVERAGES**      **CERTIFICATE NUMBER:** 570083375031      **REVISION NUMBER:**

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

Limits shown are as requested

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
C	<input checked="" type="checkbox"/> <b>COMMERCIAL GENERAL LIABILITY</b> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:			XSLG71451616 SIR applies per policy terms & conditions	06/15/2020	06/15/2021	EACH OCCURRENCE \$2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$2,000,000 MED EXP (Any one person) PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$4,000,000 PRODUCTS - COM/OP AGG \$4,000,000
B	<input checked="" type="checkbox"/> <b>AUTOMOBILE LIABILITY</b> <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY			CAL H25306545	06/15/2020	06/15/2021	COMBINED SINGLE LIMIT (Ea accident) \$2,000,000 BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)
D	<input checked="" type="checkbox"/> <b>UMBRELLA LIAB</b> <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input type="checkbox"/> RETENTION			79656842	06/15/2020	06/15/2021	EACH OCCURRENCE \$10,000,000 AGGREGATE \$10,000,000
B A C	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> <input type="checkbox"/> ANY PROPRIETOR / PARTNER / EXECUTIVE OFFICER/MEMBER (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N	N/A	WLR C66921980 C66926709 C66922029 C66921943	01/01/2020 01/01/2020 01/01/2020 01/01/2020	01/01/2021 01/01/2021 01/01/2021 01/01/2021	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE-EA EMPLOYEE \$1,000,000 E.L. DISEASE-POLICY LIMIT \$1,000,000

Certificate No : 570083375031

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

<b>CERTIFICATE HOLDER</b>  Arrow Electronics, Inc. and Subsidiaries ; Immix Technology Inc.; EC America 9201 E. Dry Creek Road Centennial CO 80112 USA	<b>CANCELLATION</b> SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE  <i>Aon Risk Services Northeast Inc</i>

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ITEM # 20-0304

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

**City of Santa Fe Contract  
Between IMMIX Technology and the City of Santa Fe**

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

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

1. Definitions

A. "Under the terms of the Agreement, Contractor has agreed to provide Kronos Time and Attendance software and services.

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

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

2. Scope of Services

A. Kronos Software as a Service (SaaS) and Software Subscription Services 7/1/2020 – 6/30/2023 as described in Exhibit "I" attached hereto and incorporated herein. The relevant portions of GSA Contract #GS-35F-0265X, Terms and Conditions, and State Price Agreement are also attached hereto.

3. Compensation

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

<u>Deliverable item:</u>	<u>U/I (unit of issue)</u>	<u>Price</u>
01 Subscription Services 7/1/2020 – 6/30/2023		\$383,516.62

The total compensation under this Agreement shall not exceed three hundred eighty three thousand five hundred sixteen dollars and fifty two cents (\$383,516.52) including applicable gross receipts taxes as described in quote number (QUO-1109691-G4M3P3) attached hereto and incorporated herein.

4. **Payment Provisions**

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

- A. **Acceptance** - In accordance with Section 13-1-158 NMSA 1978, the City shall determine if the product or services provided meet specifications. Until the products or services have been accepted in writing by the City, the City shall not pay for any products or services. Unless otherwise agreed upon between the City and the Contractor, within thirty (30) days from the date the City receives written notice from the Contractor that payment is requested for services or within thirty (30) days from the receipt of products, the City shall issue a written certification (by letter or email) of complete or partial acceptance or rejection of the products or services. Unless the City gives notice of rejection within the specified time period, the products or services will be deemed to have been accepted.
- B. **Payment of Invoice** - Upon acceptance that the products or services have been received and accepted, payment shall be tendered to the Contractor within thirty (30) days after the date of invoice. After the thirtieth day from the date that written certification of acceptance is issued, late payment charges shall be paid on the unpaid balance due on the contract to the Contractor at the rate of 1.5 % per month. Contractor may submit invoices for payment no more frequently than monthly. Payment will be made to the Contractor's designated mailing address. Payment on each invoice shall be due within 30 days from the date of the acceptance of the invoice. The City agrees to pay in full the balance shown on each account's statement, by the due date shown on said statement.

5. **Term**

**THIS AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED IN WRITING BY THE CITY.** This Agreement shall begin on date approved by the City, and end on 06/30/2023 The City reserves the right to renew the contract on an annual basis by mutual Agreement not exceed a total of four years in accordance with NMSA 1978, §§ 13-1-150 through 152.

6. **Default and Force Majeure**

The City reserves the right to cancel all or any part of any orders placed under this contract without cost to the City, if the Contractor fails to meet the provisions of this contract and, except as otherwise provided herein, to hold the Contractor liable for any excess cost occasioned by the City due to the Contractor's default. The Contractor shall not be liable for any excess costs if failure to perform the order arises out of causes beyond the control and without the fault or negligence of the Contractor; such causes include, but are not restricted to, acts of

God or the public enemy, acts of the State or Federal Government, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather and defaults of sub-contractors due to any of the above, unless the City shall determine that the supplies or services to be furnished by the sub-contractor were obtainable from other sources in sufficient time to permit the Contractor to meet the required delivery scheduled. The rights and remedies of the City provided in this paragraph shall not be exclusive and are in addition to any other rights now being provided by law or under this contract.

7. **Termination**

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

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

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

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

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

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

8. **Amendment**

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

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

9. **Status of Contractor**

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

10. **Assignment**

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

11. **Subcontracting**

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

12. **Non-Collusion**

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

13. **Inspection of Plant**

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

14. **Commercial Warranty**

The Contractor agrees that the tangible personal property or services furnished under this Agreement shall be covered by the most favorable commercial warranties the Contractor gives to any customer for such tangible personal property or services, and that the rights and remedies

provided herein shall extend to the City and are in addition to and do not limit any rights afforded to the City by any other clause of this order. Contractor agrees not to disclaim warranties of fitness for a particular purpose or merchantability.

15. **Condition of Proposed Items**

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

16. **Records and Audit**

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

17. **Appropriations**

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

18. **Release**

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

19. **Confidentiality**

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

20. **Conflict of Interest**

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

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

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

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

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

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

22. **Scope of Agreement; Merger**

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

23. **Notice**

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

24. **Equal Opportunity Compliance**

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

25. **Indemnification**

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

26. **New Mexico Tort Claims Act**

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

27. **Applicable Law**

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

28. **Limitation of Liability**

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

29. **Incorporation by Reference and Precedence**

In the event of a dispute under this Agreement, applicable documents will be referred to for the purpose of clarification or for additional detail in the following order of precedence: (1) the terms and conditions of GSA Contract number GS-35F-0265X; (2) the NM state price agreement; (3) this Agreement; (4) the Quote attached to this agreement.

30. **Workers' Compensation**

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

31. **Inspection**

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

32. **Inspection of Services**

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

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

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

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

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

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

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

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

33. **Insurance**

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

A. **Commercial General Liability insurance** shall be written on an occurrence basis and be 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 or trademark in the United States or Puerto Rico, and shall pay all costs, damages and attorneys' fees that a court finally awards as a result of any such claim. In addition, if any third party obtains a judgment against the City based upon Contractor's trade secret infringement relating to any product or services provided under this Agreement, the Contractor agrees to reimburse the City for all costs, attorneys' fees and amount of the judgment. To qualify for such defense and or payment, the City shall:

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

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

- 1) provide the City the right to continue using the product or service and fully indemnify the City against all claims that may arise out of the City's use of the product or service;
- 2) replace or modify the product or service so that it becomes non-infringing;

or,

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

**38. Survival**

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

**39. Disclosure Regarding Responsibility**

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

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

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

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

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

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

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

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

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

**41. Notification**

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

To the City:

City of Santa Fe/IT Department  
P.O. Box 909  
Santa Fe, NM 87504-0909

To the Contractor:

IMMIX Technology, Inc.  
8444 Westpark Drive, Ste. 200  
McLean, VA 22102

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

To the Contractor:

IMMIX Technology, Inc.  
8444 Westpark Drive, Ste. 200  
McLean, VA 22102

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

**42. Succession**

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

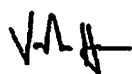
IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date of the signature by the required approval authorities below.

CITY OF SANTA FE:

  
ALAN WEBBER, MAYOR

DATE: July 1, 2020

CONTRACTOR:  
IMMIXTECHNOLOGY, INC.

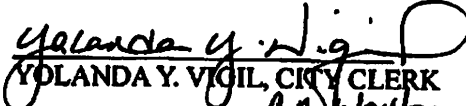
Vaughn Harman   
NAME

Sr. Director  
TITLE

DATE: June 4, 2020  
CRS# 03140957001

Registration # 20-227362

ATTEST:

  
YOLANDA Y. VIGIL, CITY CLERK  
6/8 6/24/20

CITY ATTORNEY'S OFFICE:

Marcos Martinez  
Marcos Martinez (Jun 5, 2020 10:11 AM)

SENIOR ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:



MARY MCCOY, FINANCE DIRECTOR

620, 6203600, 530710  
Org.Name/Org.#









# GB ITT A1 to IMMIX to add TeleStaff

Final Audit Report

2020-08-25

Created:	2020-08-25
By:	YODEL CATANACH (yocatanach@ci.santa-fe.nm.us)
Status:	Signed
Transaction ID:	CBJCHBCAABAAGfCbKFvJ7taCIYd2QITuPyPaK6cQ6KRd

## "GB ITT A1 to IMMIX to add TeleStaff" History

-  Document created by YODEL CATANACH (yocatanach@ci.santa-fe.nm.us)  
2020-08-25 - 8:36:08 PM GMT- IP address: 63.232.20.2
-  Document emailed to Alexis Lotero (aclotero@santafenm.gov) for signature  
2020-08-25 - 8:46:41 PM GMT
-  Email viewed by Alexis Lotero (aclotero@santafenm.gov)  
2020-08-25 - 9:20:28 PM GMT- IP address: 104.47.65.254
-  Document e-signed by Alexis Lotero (aclotero@santafenm.gov)  
Signature Date: 2020-08-25 - 9:22:08 PM GMT - Time Source: server- IP address: 63.232.20.2
-  Document emailed to Fran Dunaway (fadunaway@santafenm.gov) for signature  
2020-08-25 - 9:22:10 PM GMT
-  Email viewed by Fran Dunaway (fadunaway@santafenm.gov)  
2020-08-25 - 9:35:06 PM GMT- IP address: 104.47.64.254
-  Document e-signed by Fran Dunaway (fadunaway@santafenm.gov)  
Signature Date: 2020-08-25 - 9:38:50 PM GMT - Time Source: server- IP address: 63.232.20.2
-  Signed document emailed to Fran Dunaway (fadunaway@santafenm.gov), Alexis Lotero (aclotero@santafenm.gov), YODEL CATANACH (yocatanach@ci.santa-fe.nm.us), and dctapia@santafenm.gov  
2020-08-25 - 9:38:50 PM GMT



<b>ACTION SHEET</b>	
<b>PUBLIC WORKS AND UTILITES COMMITTEE MEETING OF 09/08/2020</b>	
<b>ISSUE NO. 9A</b>	
<p>Request for Approval of Amendment 1 to the Immix Technology Agreement Item # 20-0306 Contract #3201928 for the Kronos Workforce Telestaff Cloud Hosting Services for a 3 year Contract Procured Through Immix Technology on GSA GS-35F-0265X in the Amount of \$111,204.38 Budgeted in ITT Applications Software Subscriptions 6203600.530710 (Manuel Gonzales, ITT Project Manager, <a href="mailto:mmgonzales@santafenm.gov">mmgonzales@santafenm.gov</a> 955-5531)</p>	
<b>COMMITTEE REVIEW</b>	
<p>Finance Committee (Scheduled) 09/21/2020            Governing Body (Scheduled) 09/30/2020</p>	
<b>PUBLIC WORKS AND UTILITES COMMITTEE ACTION: Approved on Consent Agenda.</b>	
<b>SPECIAL CONDITIONS OR AMENDMENTS:</b>	
<b>STAFF FOLLOW UP:</b>	

<b>VOTE:</b>	<b>FOR</b>	<b>AGAINST</b>	<b>ABSTAIN</b>
COUNCILOR RIVERA, CHAIR	X		
COUNCILOR GARCIA	X		
COUNCILOR ABEYTA	X		
COUNCILOR LINDELL	X		
COUNCILOR VIGIL COPPLER	X		

**ACTION SHEET**  
**ITEM FROM FINANCE COMMITTEE MEETING OF 09/21/20**  
**FOR CITY COUNCIL MEETING OF 09/30/20**

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

**COMMITTEE REVIEW**

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

**FINANCE COMMITTEE ACTION:**

APPROVED ON CONSENT

**FUNDING SOURCE:**

**SPECIAL CONDITIONS OR AMENDMENTS**

VOTE	FOR	AGAINST	ABSTAIN
COUNCILOR ROMERO-WIRTH	x		
COUNCILOR CASSUTT-SANCHEZ	x		
COUNCILOR LINDELL	x		
COUNCILOR VILLARREAL	x		
CHAIRPERSON ABEYTA	x		

**Signature:** Geralyn Cardenas  
Geralyn Cardenas (Oct 15, 2020 13:51 MDT)

**Email:** [gfcardenas@santafenm.gov](mailto:gfcardenas@santafenm.gov)












# GB ITT 20-0507 IMMIXTECHNOLOGY

Final Audit Report

2020-10-19

Created:	2020-10-07
By:	YODEL CATANACH (yocatanach@ci.santa-fe.nm.us)
Status:	Signed
Transaction ID:	CBJCHBCAABAAyV2nbBkBJ2HQqNgXM-GwGFoU0kkeHhuV

## "GB ITT 20-0507 IMMIXTECHNOLOGY" History

-  Document created by YODEL CATANACH (yocatanach@ci.santa-fe.nm.us)  
2020-10-07 - 10:25:23 PM GMT- IP address: 63.232.20.2
-  Document emailed to Mary McCoy (mtmccoy@santafenm.gov) for signature  
2020-10-07 - 10:39:56 PM GMT
-  Email viewed by Mary McCoy (mtmccoy@santafenm.gov)  
2020-10-09 - 10:04:11 PM GMT- IP address: 104.47.65.254
-  Document e-signed by Mary McCoy (mtmccoy@santafenm.gov)  
Signature Date: 2020-10-09 - 10:04:32 PM GMT - Time Source: server- IP address: 63.232.20.2
-  Document emailed to Geralyn Cardenas (gfcardenas@santafenm.gov) for signature  
2020-10-09 - 10:04:35 PM GMT
-  Email viewed by Geralyn Cardenas (gfcardenas@santafenm.gov)  
2020-10-15 - 7:51:01 PM GMT- IP address: 104.47.64.254
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Signature Date: 2020-10-15 - 7:51:48 PM GMT - Time Source: server- IP address: 63.232.20.2
-  Document emailed to Alan Webber (amwebber@santafenm.gov) for signature  
2020-10-15 - 7:51:51 PM GMT
-  Email viewed by Alan Webber (amwebber@santafenm.gov)  
2020-10-16 - 2:28:11 AM GMT- IP address: 76.127.55.244
-  Document e-signed by Alan Webber (amwebber@santafenm.gov)  
Signature Date: 2020-10-16 - 2:28:45 AM GMT - Time Source: server- IP address: 76.127.55.244
-  Document emailed to Yolanda Vigil (yyvigil@santafenm.gov) for signature  
2020-10-16 - 2:28:47 AM GMT



POWERED BY  
Adobe Sign

 Email viewed by Yolanda Vigil (yyvigil@santafenm.gov)

2020-10-19 - 3:23:32 PM GMT- IP address: 104.47.64.254

 Document e-signed by Yolanda Vigil (yyvigil@santafenm.gov)

Signature Date: 2020-10-19 - 3:23:45 PM GMT - Time Source: server- IP address: 63.232.20.2

 Agreement completed.

2020-10-19 - 3:23:45 PM GMT





# CERTIFICATE OF LIABILITY INSURANCE

DATE(MM/DD/YYYY)  
06/15/2022

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

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

<b>PRODUCER</b> Aon Risk Services Northeast, Inc. New York NY Office One Liberty Plaza 165 Broadway, Suite 3201 New York NY 10006 USA	<b>CONTACT NAME:</b> PHONE (A/C. No. Ext): (866) 283-7122      FAX (A/C. No.): (800) 363-0105		
	<b>E-MAIL ADDRESS:</b>		
<b>INSURED</b> Arrow Electronics, Inc. immixGroup, Inc.; immix Technology Inc. 9201 E. Dry Creek Road Centennial CO 80112 USA	<b>INSURER(S) AFFORDING COVERAGE</b>		<b>NAIC #</b>
	INSURER A: ACE American Insurance Company		22667
	INSURER B: Indemnity Insurance Co of North America		43575
	INSURER C: ACE Fire Underwriters Insurance Co.		20702
	INSURER D: ACE Property & Casualty Insurance Co.		20699
	INSURER E: American Guarantee & Liability Ins Co		26247
INSURER F:			

**COVERAGES**      **CERTIFICATE NUMBER:** 570093624789      **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. Limits shown are as requested

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS		
B	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:			OGLG4735321A SIR applies per policy terms & conditions	06/15/2022	06/15/2023	EACH OCCURRENCE	\$1,000,000	
							DAMAGE TO RENTED PREMISES (Ea occurrence)	\$1,000,000	
							MED EXP (Any one person)	\$10,000	
							PERSONAL & ADV INJURY	\$1,000,000	
							GENERAL AGGREGATE	\$2,000,000	
							PRODUCTS - COMP/OP AGG	\$2,000,000	
B	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY  <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS ONLY			CAL H10762650	06/15/2022	06/15/2023	COMBINED SINGLE LIMIT (Ea accident)	\$2,000,000	
							BODILY INJURY (Per person)		
							BODILY INJURY (Per accident)		
							PROPERTY DAMAGE (Per accident)		
D	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION			G72526442002 SIR applies per policy terms & conditions	06/15/2022	06/15/2023	EACH OCCURRENCE	\$10,000,000	
							AGGREGATE	\$10,000,000	
B	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR / PARTNER / EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	WLRC50731820	06/15/2022	06/15/2023	<input checked="" type="checkbox"/> PER STATUTE	<input type="checkbox"/> OTH	
SCFC5073187A				06/15/2022	06/15/2023	E.L. EACH ACCIDENT		\$1,000,000	
WLRC50731716				06/15/2022	06/15/2023	E.L. DISEASE-EA EMPLOYEE		\$1,000,000	
							E.L. DISEASE-POLICY LIMIT		\$1,000,000

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

**CERTIFICATE HOLDER****CANCELLATION**

Arrow Electronics, Inc. and Subsidiaries ; Immix Technology Inc.; EC America 9201 E. Dry Creek Road Centennial CO 80112 USA	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE  <i>Aon Risk Services Northeast, Inc.</i>

Holder Identifier :

570093624789

Certificate No :





# ADDITIONAL REMARKS SCHEDULE

AGENCY Aon Risk Services Northeast, Inc.		NAMED INSURED Arrow Electronics, Inc.	
POLICY NUMBER See Certificate Number: 570093624789			
CARRIER See Certificate Number: 570093624789	NAIC CODE	EFFECTIVE DATE:	

**ADDITIONAL REMARKS**

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

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER	
INSURER	
INSURER	
INSURER	

**ADDITIONAL POLICIES**

If a policy below does not include limit information, refer to the corresponding policy on the ACORD certificate form for policy limits.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS	
	EXCESS LIABILITY							
E				AXF014766904	06/15/2022	06/15/2023	Aggregate	\$5,000,000
							Each Occurrence	\$5,000,000

NEW BUSINESS LICENSE

- Summary
- Details
- Location
- Additional Info
- Workflow
- Linked Records
- Holds
- Contacts (1)
- Fees (1)
- Bonds
- Activities
- Files
- Print Documents
- Tasks
- Internal Notes
- Inspection Cases
- Communication
- History

233502 • IMMIXTECHNOLOGY INC • IMMIXTECHNOLOGY INC • Fees Due

License Type	Classification	Industry Classification	Issued by	License Year
Business License - Renewable	Out of Jurisdiction Business License	-		2022
Application Date	Expiration Date	Invoice Date	Last Renewal Date	
09/01/2022		09/01/2022		

\$ 0.00

PAY FEES

**Recent Activity**


**Payment Received**

Amount: \$10.00  
Date: 09/08/2022

**Business Details**

Business Name IMMIXTECHNOLOGY INC	DBA IMMIXTECHNOLOGY INC
Business Type Corporation	Status Applied
Location Commercial	Open Date

**Location**



<b>Main Address</b> 8444 WESTMARK DR STE 200 MCLEAN, VA 22102	<b>Main Parcel</b> No Main Parcel
--	--------------------------------------

NO ZONES

**SN IMMIXTECHNOLOGY INC**  
NEEDLEMAN, STEWARD  
68878

**Owner**

Business Phone  
703-6631922

Email

Main address  
8444 WESTPARK DR S Unit:STE 200 MCLEAN, VA 22102

Title  
OWNER

**Previous Licenses**

[Information icon]

SM

Sanam

5m ago · Additional comments · Translate

Hi Tony, we have completed the request from SantaFe, but we have yet to receive update from SantaFe, we will follow up with them tomorrow and keep you posted.



# City of Santa Fe Business License EnerGov

HOME

» BUSINESS LICENSE NEW APPLICATION

Thank you for applying for a new/renewal business license with the City of Santa Fe. We are reviewing your application and will follow up with you via email within 7- 10 business days.

You can also visit us at **City Hall at 200 Lincoln Avenue, Business Registration, Room 124** (first floor), between 8am-5pm, Monday through Friday during the licensing process. We will provide you with any additional licensing or permitting requirements. **Please note: our busiest hours are**

If you park at the Convention Center garage, your ticket can be validated for up to one hour at the Business Registration Office.

We look forward to welcoming you to the Santa Fe business community!

Thank you.



# City of Santa Fe, New Mexico

## Memorandum



**DATE:** August 26, 2022

**TO:** Finance Committee  
Quality of Life Committee  
Governing Body

**VIA:** Kyra Ochoa, Community Health and Safety Director *Kyra Ochoa*  
Maria Sanchez-Tucker, Community Services Director *Maria Tucker*  
Kyra Ochoa (Aug 26, 2022 14:17 MDT)

**FROM:** Gino Rinaldi, Senior Services Division Director *GR*  
Gino Rinaldi (Aug 26, 2022 13:17 MDT)

**ITEM AND ISSUE:**

Request for the Approval of North Central New Mexico Economic Development District, Non-Metro Area Agency on Aging (AAA) State Funding in the Total Amount of \$109,484 for the Nutrition Services Incentive Program (NSIP), term ending June 30, 2023; North Central New Mexico Economic Development District, Non-Metro Area Agency on Aging (AAA) ; Gino Rinaldi, [grinaldi@santafenm.gov](mailto:grinaldi@santafenm.gov), 505-955-4710.

**BACKGROUND AND SUMMARY:**

The Nutrition Service Incentive Program funds will be used to purchase raw food supplies for meal preparation for eligible senior citizens participating in our meal program. The contract funds represent cash payment to the City of Santa Fe for Fiscal Year 2023. Furthermore, this grant is funded at 100% Federal dollars which will subsidize the City's general fund account for its intended purpose.

**PROCUREMENT METHOD:**

N/A

**CONTRACT NUMBER:**

The FY23 Munis contract number is 3203556  
PL# SSD2324103 (CM), SSD2324102 (HD)

**FUNDING SOURCE:**

The funding source is:

**Fund Name/Number:** Senior Citizens Grants/Fund 241  
**Munis Org Name/Number:** Senior Center Programs/2410114  
**Munis Object Name/Number:** US AAOa, Food/490715(revenue), 530400(expense)

**ACTION REQUESTED:**

Community Health and Safety Department respectfully requests your review and approval.



# City of Santa Fe

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

### Section to be completed by department

1. Munis Contract # \_\_\_\_\_

Contractor: North Central New Mexico Economic Development District-Non Metro AAA

Description: NCNMEDD Non-Metro AAA Nutrition Service Incentive Program. Grant award in the amount of \$109,484. Procurement method utilized will be under the State Price agreement for Sysco, Ben E. Keith, Shamrock, and Labatt.

Contract  Agreement  Lease / Rent  Amendment

Term Start Date: 07/01/2022 Term End Date: 06/31/2023

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

**Contract / Lease: 2022-2023-60026-N** .....

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

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

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

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

**Amendment is for:** .....

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

**3. Procurement History:** \_\_\_\_\_

*[Signature]* Sep 2, 2022  
Purchasing Officer Review: \_\_\_\_\_ Date: \_\_\_\_\_  
Comment & Exceptions: no cost to city

**4. Funding Source: Federal Funds (2410114, 490715 Revenue)** Org / Object: 2410114/530400 Exp.

*Andy Hopkins* Sep 1, 2022  
Andy Hopkins (Sep 1, 2022 14:02 MDT)  
Budget Officer Approval: \_\_\_\_\_ Date: \_\_\_\_\_  
Comment & Exceptions: \_\_\_\_\_

Staff Contact who completed this form: Anya Alarid Phone # 505-955-4744

Email: aalarid@santafenm.gov

To be recorded by City Clerk:

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

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



# CITY OF SANTA FE PROCUREMENT CHECKLIST

Contractor Name: North Central New Mexico Economic Development District-Non Metro AAA

Procurement Title: FY 22 Nutrition Services Incentive Program (NSIP)

Procurement Method: State Price Agreement  Cooperative  Sole Source  Other

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

Department Requesting Senior Services Staff Name Anya Alarid

### Procurement Requirements:

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

### REQUIRED DOCUMENTS FOR APPROVAL BY PURCHASING\*

YES N/A

- 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:

<u>Anya Alarid</u>	<u>Program Manager</u>	<u>08/09/2022</u>
Department Rep Printed Name (attesting that all information included)	Title	Date
	Contracts Supervisor	Sep 2, 2022
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.

**North Central New Mexico Economic Development District  
Non-Metro Area Agency on Aging**

**NUTRITION SERVICE INCENTIVE PROGRAM (NSIP)  
SUBRECIPIENT CONTRACTOR SUB-AWARD**

This Agreement is made and entered into this 1<sup>st</sup> day of July 2022, by and between the North Central New Mexico Economic Development District (NCNMEDD) Non-Metro Area Agency on Aging (Non-Metro AAA), hereinafter referred to as the "Agency" and City of Santa Fe, hereinafter referred to as the "Subrecipient Contractor."

**PURPOSE**

The Nutrition Services Incentive Program (NSIP) provides incentives for the effective delivery of nutritious meals to older individuals. NSIP funds allow nutrition programs to increase the number of meals served.

The purpose of this Agreement is to allocate funds in support of the provision of congregate and home delivered meals provided under Title IIIC of the Older Americans Act (OAA). The Subrecipient Contractor must be a recipient of Title III funding or Title III matching funds.

**IT IS AGREED BETWEEN PARTIES:**

**1. Scope of Work**

The subrecipient Contractor will:

- A. Establish procedures to ensure that such cash payments are used solely for the purchase of United States agriculture commodities and other foods produced in the United States for the use in the senior nutrition program. No imported foods, or food items containing imported products, may be purchased with these funds. e.g., coffee, tea, cocoa, and bananas.
- B. Ensure that NSIP funds are used exclusively for the purchase of food, not meal preparation, and may not be used for administrative costs.
- C. Ensure that meals furnished under contractual agreement with food service management companies, caterers, restaurants, or institutions, contain foods or commodities of United States origin; imported foods may not be purchased with these funds.
- D. Encourage the purchase and use of locally sourced farm fresh food products that meet the nutritional standards of the Agency. Subrecipient Contractors must ensure that the farm food products meet the New Mexico Environment Department requirements.
- E. Ensure that each meal complies with the most recent Federal and State nutritional guidelines and requirements.

- F. **Maintain accounting records for NSIP separate and apart from other accounting records maintained for other nutrition funding sources (i.e., Title IIIC-1 and Title IIIC-2 and other cash used for the purchase of food).**
- G. **Report monthly to the Agency on forms provided by the Agency and submit such other reports deemed necessary by the agency.**
  - a) **Submit timely and accurate consumer/client tracking service documents (rosters and transmittals) as required by the AAA by the close of business on the fifth (5<sup>th</sup>) workday of each month following the last day of the month in which services were provided. If the fifth (5<sup>th</sup>) falls on a weekend or AAA holiday, the information will be delivered, recorded or submitted by close of business on the next business day.**
- H. **Submit monthly expenditure reports and supporting backup documentation (receipts or invoices) by the fifth (5<sup>th</sup>) workday of each month following the last day of the month in which services were provided. If the fifth (5<sup>th</sup>) falls on a weekend or AAA holiday, the information will be delivered, recorded or submitted by close of business on the next business day. Supporting documents must include:**
  - a. **The vendor's name, address and contact information.**
  - b. **Internal transaction number**
  - c. **The purchased items with a description of each product along with the corresponding quantity.**
  - d. **The price for each item and any applicable discount given and the total amount of the sale items.**
  - e. **NSIP items must be identified with an "N" or "NSIP" on the invoice.**
  - f. **Senior center or meal site to which received the delivery, their full name, address, and contact information.**
- I. **Maintain documented NSIP eligibility for all meals reported. Meal counts, as recorded in the service database, must be accurate, unduplicated and include no meals that do not meet the requirements for NSIP eligibility.**
- J. **Maintain and retain for three (3) years from close of the federal fiscal year to which they pertain, complete and accurate records of all amounts received and disbursed under this Agreement.**
- K. **Allow the Agency to monitor periodically the Subrecipient Contractor's fiscal accountability of NSIP.**
- L. **Be subject to state and federal audit requirements, as the contract of which this scope of work is a part, is funded with federal funds. The Subrecipient Contractor is considered an independent contractor of NSIP federal financial assistance, subject to audit requirements under Title II Part 200 of the Code of Federal Regulations, formerly known as Office of Management and Budget, Circular A-133 and Government Audit Standards.**

- M. Ensure eligible consumers are assessed and information recorded in the service database.
- N. Ensure efforts given to serving eligible persons with the greatest social or economic need, with particular attention to minority individuals with low incomes. Efforts must also be given to targeting individuals with Alzheimer's disease and related disorders, with severe disabilities or at-risk of institutionalization and their caregivers.
- O. The Agency recommends these funds be expended prior to Title III-C funds.

2. **Compensation**

- A. The total amount payable under this Agreement shall not exceed **\$109,484.00** for the purchase of foods produced in the United States, for use in senior nutrition programs. The Subrecipient Contractor is responsible for notifying the Agency when the services provided under this Agreement reach the total compensation amount. In no event will the Subrecipient 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. Assistance Listing Number: 93.053

3. **Gross Receipts Tax**

Not applicable. Tax exempt.

4. **Term**

This Agreement shall begin on July 1, 2022, and terminate on June 30, 2023, unless terminated pursuant to paragraph 5 or paragraph 6 or for any other reason allowed by law.

5. **Termination**

- A. This Agreement may be terminated by the Agency without cause upon written notice delivered to the Subrecipient Contractor at least thirty days (30) days prior to the intended date of termination. By such termination, neither party may nullify obligations already incurred for performance prior to the date of termination. This Agreement may be terminated immediately upon written notice to the Subrecipient Contractor if the Subrecipient Contractor becomes unable to perform the services contracted for, as determined by the Agency, or if, during the term of this Agreement, the Subrecipient Contractor or any of its officers, employees or agents, is indicted for fraud, embezzlement or other crime due to misuse of state funds or due to the Appropriations paragraph herein, or if the Subrecipient Contractor fails to comply with any of the terms contained herein or is in breach of this Agreement. This provision is not exclusive and does not waive the Agency's other legal rights and remedies caused by the Subrecipient Contractor's default or breach of this Agreement. This Agreement may also be terminated by the Subrecipient Contractor upon thirty (30) days written notice to the Agency.

- B. **Termination Management**: Immediately upon receipt by either the Agency or the Subrecipient Contractor of notice of termination of this Agreement, the Subrecipient Contractor shall: 1) not incur any further obligations for services or any another expenditure of funds under this Agreement without written approval of the Agency; 2) comply with all directives issued by the Agency in the notice of termination as to the performance of work under this Agreement; and 3) take such action as the Agency shall direct for the protection, preservation, retention or transfer of all property and records generated under this Agreement. Any non-expendable personal property or equipment provided to or purchased by the Subrecipient Contractor with contract funds shall become property of the Agency upon termination and shall be submitted to the Agency as soon as practicable.

6. **Appropriations**

The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the U.S. Congress and/or Legislature of New Mexico for the performance of this Agreement. If sufficient appropriations and authorization are not made, the Agreement shall terminate upon written notice being given to the Subrecipient Contractor. The Agency's decisions as to whether sufficient appropriations are available shall be accepted by the Subrecipient Contractor and shall be final.

7. **Status of Subrecipient Contractor**

The Subrecipient Contractor and its agents and employees are independent subrecipient contractors performing services for the Agency and are not employees of the Agency. The Subrecipient Contractor and its agents and employees shall not accrue leave, retirement, insurance, bonding, use of Agency vehicles, or any other benefits afforded to employees of the Agency as a result of this Agreement. The Subrecipient Contractor acknowledges that all sums received hereunder are reportable for income tax purposes.

8. **Assignment**

The Subrecipient 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 Agency.

9. **Subcontracting**

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

10. **Records and Audit**

- A. The Subrecipient Contractor shall maintain detailed 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 Agency, the Aging & Long-Term Services Department (ALTSD), the Department of Finance and Administration, and the State Auditor. The Agency shall have the right to audit billings both before and after payment. Payment under this Agreement shall not foreclose the right of the Agency to recover excessive, improper, or illegal payments.

B. The Subrecipient Contractor will provide a financial and compliance audit report to the Agency covering the period July 1, 2022, to June 30, 2023. The audit reports provided to the Agency must include a copy of the Auditor's management letter. The audit report shall be conducted by a certified public accountant in compliance with the Single Audit Act and shall encompass the following provisions.

a) The subrecipient contractor, expending equal to \$750,000 but less than or equal to \$250,000 in combined federal funds, shall have an audit conducted in accordance with the Code of Federal Regulations, Title 2, Subtitle A, Chapter II, Part 200. The audit report shall include a schedule of administrative and program expenses for each separate title or program (Title IIIB, Title IIIC-1, Title IIIC-2, Title IIID, Title IIIE, NSIP, etc.) which facilitates a reconciliation of audited costs to the final report.

b) Submittal of the audit report for governmental entities shall be within ten (10) working days after release by the New Mexico State Auditor's Office. For non-governmental entities, the audit report is due four (4) months after the end of the entity's fiscal year.

**11. Release**

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

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

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

**13. Conflict of Interest**

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

**14. Equal Opportunity Compliance**

The Subrecipient Contractor agrees to abide by all federal and state laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws of the State of New Mexico, the Subrecipient Contractor 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 Subrecipient Contractor is found not to be in compliance with these requirements during the life of this Agreement, Subrecipient Contractor agrees to take appropriate steps to correct these deficiencies.

**15. Confidentiality**

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

Disclosure of confidential information shall only be made in accordance with the Inspection of Public Records Act or the applicable state or federal law or regulations.

**16. Amendment**

This Agreement shall not be altered, changed, or amended except by instrument in writing executed by the parties hereto.

**17. 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.

**18. Penalties for Violation of Law**

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

**19. Applicable Laws**

This Agreement shall be governed by the laws and regulations of the (a) State of New Mexico (b) Older Americans Act of 1965, as amended, (c) the Agricultural Act of 1949 as amended; and (d) any other applicable laws and regulation of the federal government.

**20. 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.

**21. 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.

**22. 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 Agency:  
NCNMEDD – Non-Metro AAA  
Attention: Neil Segotta, AAA Director  
3900 Paseo del Sol  
Santa Fe, New Mexico 87507

To the Subrecipient Contractor:

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**23. Indemnification**

Neither party shall be responsible for liability incurred as a result of the other party's acts or omissions in connection with this Agreement. Any liability incurred in connection with this Agreement is subject to the immunities and limitation of the New Mexico Tort Claims Act.

**24. Authority**

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

**25. Signatures:**

For the faithful performance of the terms of this agreement, the parties affix their signatures and bind themselves effective July 1, 2022.

City of Santa Fe  
Legal Name of Subrecipient Contractor

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed/Typed Name of Signatory

\_\_\_\_\_  
Date

NCNMEDD Non-Metro Area Agency on Aging  
Name of Area Agency on Aging

Monica Abeita  
Signature

Monica Abeita, Executive Director  
Printed/Typed Name of Signatory

07/01/2022  
Date

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

CITY OF SANTA FE:

\_\_\_\_\_  
ALAN M. WEBBER, MAYOR

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

ATTEST:

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

CITY ATTORNEY'S OFFICE:

Marcos Martinez  
Marcos Martinez (Jul 26, 2022 14:27 MDT)

\_\_\_\_\_  
MARCOS MARTINEZ, SENIOR ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

\_\_\_\_\_  
ALEXIS LOTERO, INTERIM FINANCE DIRECTOR

VARIOUS/TBD 2410114, +90715(rev) / 2410114, 530400(exp) AH  
ORG/OBJECT AH



# State of New Mexico General Services Department

## Price Agreement

**Awarded Vendor:**  
5 Vendors – See Page 6

Price Agreement Number: 20-00000-22-00043

Payment Terms: Net 30

F.O.B.: Destination

Delivery: See Page 6

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

Procurement Specialist: Karen G. Acosta Gonzalez *KGA*

Telephone No.: (505) 372-9264

Email: Karen.Acosta-Gonzal@state.nm.us

**Invoice:**  
As Requested

Title: **Statewide Food (Dairy, Eggs, Frozen Food, Meat, Poultry, Fresh Product and Staple Food)**

Term: **April 12, 2022 – April 11, 2023**

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

**Accepted for the State of New Mexico**

*Valerie Paulk*

Date: 4/12/2022

Mark Hayden, New Mexico State Purchasing Agent

× **This Agreement was signed on behalf of the State Purchasing Agent**

State of New Mexico  
General Services Department  
Purchasing Division  
Price Agreement #: 20-00000-22-00043

**Awarded Vendors:**

**(AA) 0000044061  
Ben E Keith Foods  
PO Box 791  
Fort Worth, TX 76101  
505-843-7766  
csaguilar@benekeith.com**

**Delivery: As Requested**

**(AB) 0000045793  
DFA Dairy Brands Fluid LLC  
dba Creamland Dairies  
PO Box 31001  
Pasadena, CA 91110  
(505) 314-6766  
888-215-7774  
leeray.salazar@dfamilk.com  
creamland\_customerservice@dfamilk.com**

**Delivery: Delivery will be FOB Destination - No Delivery Fees**

**(AC) 0000096265  
Labatt New Mexico LLC  
dba Labatt Food Service  
221 Airport Drive NW  
Albuquerque, NM 87121  
505-831-1411 x 7646  
spierson@labattfood.com**

**Delivery: Designated delivery days and time windows will be agreed upon between Labatt and each delivery location. Orders will need to be submitted a minimum of 24 hours prior to the requested delivery day.**

**(AD) 0000054645  
Shamrock Foods Company  
PO Box 843539  
Los Angeles, CA 90084  
505-331-0730  
kelly\_musselman@shamrockfoods.com**

**Delivery: 2 Shamrock Way NW, Albuquerque, NM 87120**

**(AE) 0000114400  
Sysco USA I, Inc  
dba Sysco New Mexico  
PO Box 25887  
Albuquerque, NM 87125-5887  
505-761-1287  
505-239-9232  
anita.lucero@sysco.com  
sheri.kollar-baca@sysco.com**

**Delivery: FOB Destination**